

Autographs and the Age of Experts

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MANGRAVITI, James J., Jr., Steven BABITSKY, and Nadine Nasser DONOVAN. *How to Be an Effective Expert Witness at Deposition and Trial: The SEAK Guide to Testifying as an Expert Witness.* Falmouth, MA: SEAK, Inc., 2016. Small 4to. Hardbound. xv, 475pp. **\$150.00.**

How to Be an Effective Expert Witness at Deposition and Trial impresses with its almost 500 pages' worth of hands-on, in-depth, in-the-trenches advice and instruction that anyone appearing in court or any legal proceeding as an expert witness ignores at their own peril. Its price is typical of specialized textbooks, and as far as law-related books go I hazard it's far more readable than most.

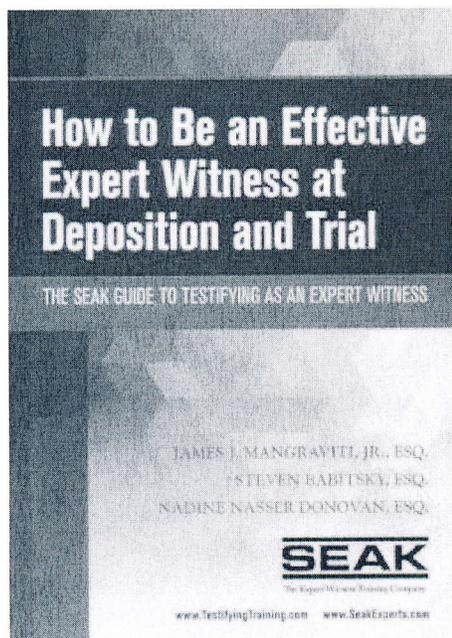
Any couch potato has watched expert witnesses on countless television courtroom dramas – *Law and Order*, *L.A. Law*, *The Good Wife*, dozens more – to courtroom films ranging from *Kramer vs. Kramer* to *A Few Good Men*. On the screen they're generally grossly stereotyped into the arrogant but clueless know-it-all brought in to ruin the hero or heroine's cause or the lovable, street-smart brainiac who foils opposing counsel and saves the day – in the case of *My Cousin Vinnie* there's one of each.

What impresses this reviewer about *How to Be an Effective Expert Witness at Deposition and Trial* is the thorough, no-stone-unturned practicality of their approach. No aspect of the expert witness court appearance, from his or her business name,

business logo, marketing materials, you name it – goes untouched. Mangraviti, Babitsky and Donovan delve into every conceivable question opposing counsel may ask, the ruses they may use to trick you (such as the “bumble and fumble” gambit). Consider some of their section headings: “Do Not Respond to Counsel’s Pregnant Pauses,” “Beware of Open-Ended Questions,” “Don’t Be Tricked Into Speculating,” “Force Counsel to Explain Ambiguous Questions” and so on.

Your CV – curriculum vitae – likewise comes under microscopic inspection. Opposition will question every qualification, critique every claim, challenge every assumption in an attempt to get a proposed expert witness disqualified or at least to bring down faith in their expertise. The faintest whiff of exaggeration, of braggadocio, of inconsistency, can bring a serious challenge. The authors’ exhaustive coaching on preparing a CV that’s “bulletproof” in the eyes of the law is eye-opening and extraordinarily useful. If you don’t have the chops to appear as an expert witness, here’s one of the first places where it will immediately become evident.

An inordinate amount of visual and verbal coaching takes place. Again, a perusal of subject headings gives you a good idea of the level of detail the authors go into: “Don’t Exaggerate, Speculate, Guess or Estimate,” “Pause Before Answering,” “Avoid Gesturing,” “Don’t Show Weakness,” “Remain Calm, Cool, and Collected,” “Act Dignified and Polite,” “Act Naturally,” “Don’t Lose Your Temper,” “Avoid Sounding Arrogant,” “Avoid Absolute Words,” “Use Hedge Words With Care,” “Do Not Ramble,” “Avoid Slang,” “Encourage Opposing Counsel to Lose His Cool” – I barely scratch the surface here. Expert witnessing is definitely not for the thin-skinned. Sloppy verbal habits – “um”ing, “you know”ing, “yeah” instead of “yes,” etc. – can have a real impact in a deposition or courtroom setting. How you look, how you present yourself, how you speak and more all come under close scrutiny and criticism. The amount of minutiae is truly extraordinary – but for good reason.



Throughout *How to Be an Effective Expert Witness at Deposition and Trial* the authors use an enormous array of actual deposition and courtroom transcripts to illuminate every single point. They follow each with their “Practical Pointer” that concisely spells out what the expert did right – or just as often wrong, and how to correct it. Such real-world examples – and there are a massive bulk of them – are invaluable and one of the elements that make this

book indispensable. Sure it’s critical to be informed *Do this* and *Don’t do that* about a thousand different things major and minor. But to be told and then *shown* these things with spot-on relevant actual transcripts? Devastatingly effective – and far more likely to stick in the reader’s mind.

How you face this avalanche of advice and criticism, though, is this: “Know the facts cold.” What gives really great expert witnesses their ability to perform well in the face of such intense scrutiny is this:

Having a commanding knowledge of the facts of the case will give you peace of mind and self-confidence. If you find yourself floundering, a good way to recover is often to come back to the facts of the case at hand. A thorough knowledge of the facts will permit you to disabuse counsel who tries to misstate, mischaracterize, or take facts out of context. A sound knowledge of the facts is an invaluable tool you can use to excel during your cross-examination.

Expert witnessing is serious business, the authors repeatedly stress, with serious legal repercussions to those who fail to practice it honestly and ethically. In other words, you'd better be the expert you claim to be and prepared to prove it at every turn.

How to Be an Effective Expert Witness at Deposition and Trial prompts us to ruminate, in my case to use this fine manual as a jumping off point (o.k., a soap box) to consider the nature of autograph expertise. As I read through it, imagining the rare court case in which autographs and historical documents might play a role, it's clear that the aura of expertise in which some in the autograph world seek to envelope themselves would not only *not* hold up in court, but the self-proclaimed expert title that bombards us daily would be laughed out of court. Perhaps this does a disservice to Mangraviti, Babitsky and Donovan – their textbook is, after all, designed to instruct professionals in many disciplines: largely physicians and medical specialists of every conceivable specialty, but also, engineers, academics, scientists, on and on. But also on occasion even historical document and antiquarian book people.

We live in the age of experts. Never before has the word “expert” been bandied about so freely and casually as in our age. The internet of course has facilitated much of this abuse. Not only does it make it easier than ever for self-promoters to create an air of credibility and respectability to those with nonexistent or questionable qualifications. It creates an atmosphere in which people find it more necessary than ever to ululate “Expert!” to make themselves heard above the din of the internet.

Expert witnessing in the autograph world is largely confined to those engaged in scientific forensics from a laboratory setting and often involves misdeeds with financial instruments (forged and altered checks, wills and such). Forensic document examiners represent a more readily quantifiable qualification than the “softer” qualifications of other historical document professionals, yet while experienced autograph dealers, curators, archivists and other professionals do utilize many of the same criteria as the forensic

folks they also bring certain skills to the task lacking by the forensic scientists. The historian's ability to place a document in its historical context can help judge authenticity from a valid perspective that no laboratory can duplicate. None of the legendary autograph dealers of the twentieth century (Mary Benjamin, Thomas Madigan and other highly-regarded experts), not to mention renowned archivists and curators, held forensic certifications of your typical expert witnesses. Both forensic experts and historical document professionals, however, bring similar and often overlapping qualifications to the field of expert witnessing.

Funny that if you scroll through lengthy lists of experienced expert witnesses, most of them in specialized medical fields, you find hundreds of three-, four-, and five-letter acronyms of hard-earned certifications. C.M.R.S., F.A.A.P., R.H.I.A., F.A.S.N., S.F.H.M., F.A.C.S., C.I.M.E., F.I.C.S., C.R.R.N., ad nauseum – but nowhere among them do you find B.I.S.S., the “Because I Said So” mentality that some in the historical document realm bring to the table as justification for proclaiming or condemning authenticity. This hallmark of the less-than-knowledgeable cannot take the place of detailed analysis from experienced autograph persons explaining why a given document is or is not authentic. In the end the best advice is simply to beware the so-called experts who do not or cannot demonstrate that title through their actions: by educational talks, articles, relevant memberships, and the willingness to render in-depth opinions based on long experience.

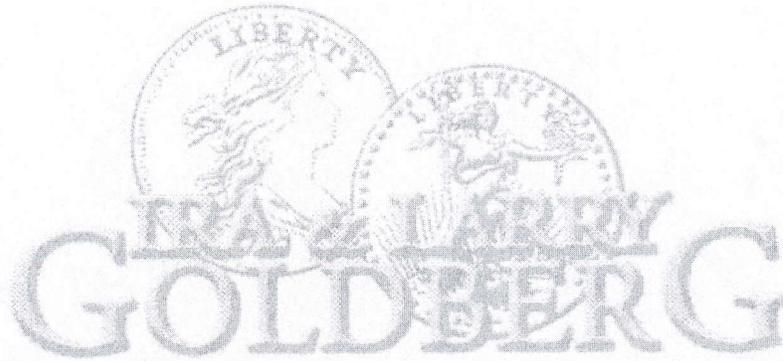
Seek and ye shall find – or, rather, SEAK (from this book's subtitle) and you shall find. Mangraviti, Babitsky and Donovan are all principals in this expert witness training firm whose acronym means “Skills, Education, Achievement, Knowledge.” *How to Be an Effective Expert Witness at Deposition and Trial* as it may apply to anyone maintaining “expert” status in the world of historical documents is provocative and enlightening. Even though most of us active in this realm in any capacity (dealers, archivists, curators, collectors) have little or no interaction with the law and will never

appear in a deposition or courtroom, all of the above may wish to consider studying what it tells us about the true nature of expertise – if only to inspire all to take our vocation or avocation seriously and confirm our commitment to deserve the title “expert” in our field.

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