

What Makes Your Expert Witness the Best Witness? Social Science Research on Credibility and Influence Points the Way

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The adversarial nature of a jury trial leads many of our clients to ask: “Will my expert come across better than theirs?” This is a justifiable concern since jurors’ decisions about liability and damages often hinge almost entirely on the testimony and credibility of the expert witnesses.

Evaluating a potential expert based on credentials and experience is only half the analysis. Particularly when an expert is addressing a complex subject, jurors may have difficulty understanding the technicalities associated with their explanation and rely instead [on heuristics—like credibility—for evaluating the testimony](#). In other words, the jurors rely on their opinion of the expert rather than the expert’s opinion. As a result, attorneys must attend to the expert’s projected credibility in addition to the content of their testimony.

[Credibility is the foundational element](#) that enables experts to successfully persuade jurors, and it has been the subject of social scientific research for decades. Through the combined efforts of The Focal Point and IMS ExpertServices, we are able to offer our clients the best possible experts for any given case. This article discusses some of the social science research on credibility that informs our recommendations and training methods.

Knowledge

Knowledge is the primary reason experts are called to testify; their expertise is supposed to be beyond question and ensures that their testimony informs the jurors. [The domain of knowledge coalesces educational credentials, publications, and experience](#), each of which make an expert look great on paper. But knowledge is also a product of [clarity in explanations, moderate assertiveness, and familiarity with the intricacies of the case](#). These latter factors serve to distinguish a good expert from a great one. Addressing each of these items during witness selection and preparation is critical to the success of a case presentation.

Experts may look great on paper yet fail in front of the jury. An expert may be the preeminent expert in a given field, but if they cannot clearly explain the concepts to the jury, their persuasive power is lost. When an expert folds on cross-examination and fails to assert counterpoints, the jurors often believe the opposing counselors have “beaten” the expert and discount his testimony.

Not all experts take the time to ensure they can convey their knowledge. Some experts will fail to personally learn the case, and they may hand the work off to an associate. Either at deposition or at trial, these experts lose credibility when they cannot command the facts in a way that coincides with attorneys' case analyses.

The best way for [expert witnesses to showcase the extent of their qualified knowledge](#) is to act as teachers for the jury. Experts should be consistent and coherent as they enlighten the jurors on a concept, they should demonstrate reasonable confidence in their own conclusions and opinions, and exhibit case-specific knowledge to complement their topical knowledge.

Trustworthiness

Trustworthiness is a characteristic that is crucial to jurors' decisions as to whether to believe or dismiss expert testimony. While jurors may recognize that experts are inherently biased—after all, each expert appears as either a “defense witness” or a “plaintiff witness” rather than a “neutral witness”—the extent to which jurors trust their testimony is tied to a number of factors.

For one, the above described perception of expertise is likely associated with perceived trustworthiness, as these factors tend to be quite interrelated. An expert who embodies a patient and considerate teacher is likely to be perceived as quite trustworthy.

Second, an expert's demeanor on the stand influences jurors' evaluation of her trustworthiness. There are nonverbal cues that are traditionally thought to be indicative of honesty or dishonesty. For example, [one study found that an expert witness' ability to maintain eye contact with both the attorneys and jurors](#) was predictive of credibility ratings.

Third, empirical research has shown that the number of times an expert has testified and their compensation are both associated with perceptions of believability—also known [as the “hired gun effect.”](#) Often this effect arises when there is a huge disparity between the amounts opposing experts are compensated. For instance, jurors may be suspicious of an expert in an antitrust case who receives \$300,000, while the opposing expert is paid \$30,000. To combat jurors' perceptions that a higher paid witness is simply a hired gun, the witness's testimony must assure jurors that payment is merited due to the witness's exceptional level of expertise.

Dynamism

The ability of a witness to exude charisma and dynamism is hugely important. Many experts are asked to expound upon complex and arcane concepts which are difficult for juror laypersons to comprehend. In these instances, jurors rely on heuristic cues like credibility to guide their evaluation of the testimony. An expert witness may endear themselves to a jury by [using simple terms or metaphors, by integrating demonstratives, and by remaining patient and steadfast during cross examination.](#)

In essence, an effective expert is not perceived as merely a trustworthy intellect, but as someone who is considerate enough to take the time to convey their knowledge in ways the audience can understand. For example, jurors may understand very little of the testimony from technical jargon-heavy experts, but their dynamism, coupled with a display of their deep passion for and mastery of the subject matter, will frequently carry the day.

Likability

Finally, there is the rather broad question of whether an expert is likable. It is indeed rare that a knowledgeable, trustworthy, and dynamic witness will be unlikable, but most lawyers have encountered at least one arrogant or rude expert. Likability has been found to be tied to both perceptions of trustworthiness and credibility as a whole, according to [an experiment in which actors testified as either likable or unlikable expert witnesses](#).

Many attorneys have experienced a sinking feeling while watching jurors react negatively to an expert who offers a sarcastic response during cross examination. The expert witness who is disliked by a jury will torpedo their own testimony. While jurors might believe the expert is very competent and knowledgeable, they may dismiss the testimony on the basis of their dislike for the expert. Worse still, they may channel this dislike to the party that the expert represents. Jurors assess the likability of witnesses based upon their friendliness; the level of respect they show to the parties, the jury, and the court; their ability to use informal language, and [the various nonverbal behaviors they exhibit, like eye contact and vocal inflection](#).

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