

Stephanie Watson, Attorney



- 1 Traffic Safety Resource Prosecutor (2013-Present)
- 2 Missouri Bar Member (2005-Present)
- 3 University of Nebraska School of Law (J.D. 2005)
- 4 University of Minnesota (BSB 2002)

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Courtroom Preparation and Testimony for the Toxicologist


STEPHANIE WATSON, Attorney



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Disclosures

The speaker has no disclosures.



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Learning Objectives

- 1 Outline the expectations and limitations of expert testimony
- 2 Identify best practices to prepare the toxicologist for courtroom testimony
- 3 Discuss strategies for effective direct and cross examination

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What is an Expert Witness?



General Definition
An expert witness is a qualified professional who provides specialized knowledge, opinions, or analysis in a legal case to help the court understand complex issues

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Types of Witnesses


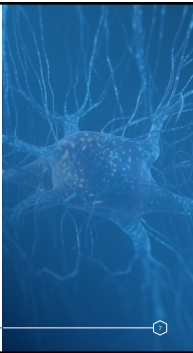
Expert Provides testimony using their training, education, and/or experience to offer informed opinions	Fact Provides testimony about events they personally observed or experienced
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Federal Rules of Evidence - Rule 702

- a) the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue;
- b) the testimony is based on sufficient facts or data;
- c) the testimony is the product of reliable principles and methods; and
- d) the expert's opinion reflects a reliable application of the principles and methods to the facts of the case.


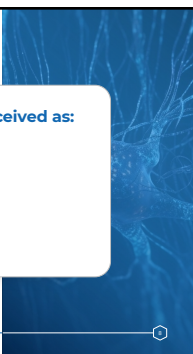



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The Importance of Preparation


Witnesses who are prepared are perceived as:

- Knowledgeable
- Credible
- Professional


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Review All Materials



Preparation Materials

- Reports
- Case File
- Evidence
- Training Manuals
- Lab Manuals
- Transcripts



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Review All Materials

Defense Expert Report



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Courtroom Preparation

Curriculum Vitae

- Up to date
- Accurate

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Courtroom Preparation

Meeting with the Prosecutor


- Review Evidence
- Educate the Prosecutor
- Ask Questions

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Pre-Trial Meeting

Review Evidence



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Questions to ask the Prosecutor

- What can I bring to the stand?
- Is there anything I'm not allowed to talk about?
- Am I allowed to observe the trial?

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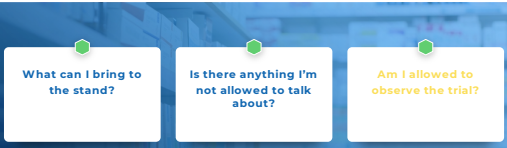
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Pre-Trial Meeting

Educating the Prosecutor

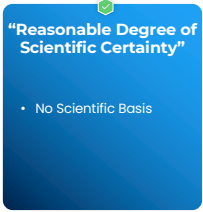


- Training/Experience
- Expertise
- Basis of Opinion
- Limitations on Testimony

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Educating the Prosecutor



"Reasonable Degree of Scientific Certainty"

- No Scientific Basis



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Types of Hearings

- Frye/Daubert Hearing**
Legal procedures used to determine the admissibility of expert scientific testimony in court
- Motion to Suppress**
Hearing regarding defense motion to exclude evidence from trial
- Trial**
Procedure to determine if defendant is guilty or not guilty



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Direct Exam

- Establish Credibility and Knowledge
- Connect with Jurors
- Explain Testing Protocol and Results
- Admit Evidence



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Establish Credibility and Knowledge



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Connecting With Jurors

- Eye Contact
- Do Not Fidget
- Appearance and Posture Matter
- Do Not "Hide" in the Witness Chair
- Speak Clearly and Use Simple Terms



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Connecting With Jurors

Eye Contact

- Voice Projection
- Trustworthiness

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Connecting With Jurors

Do Not Fidget

- Negative perception by jurors
- Try to stay relaxed

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Connecting With Jurors

Appearance and Posture

- Dress appropriately
- Sit up straight

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Connecting With Jurors

✓

Do Not Hide

- Negative perception by jurors
- Try to stay open

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Connecting With Jurors

✓

Speak Clearly

- Slow down
- Speak up
- Use simple terminology

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Getting Evidence Admitted



Admissibility Requirements
Relevant, material, authenticated, reliable

Evidence/Exhibits
Chemical test results, videos, diagrams, drugs, etc.

Chain of Custody

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Weight vs. Admissibility

- Judge Decides Admissibility**
Is this evidence admissible?
- Jury Decides Weight**
How much importance or credibility does this evidence have?



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Conclusion of Successful Direct Exam

- Credibility
- Evidence Admitted
- Connection with Jurors
- Jurors understand Test Results

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Surviving Cross Examination





Prepare, Prepare, Prepare
Review all reports, transcripts, manuals, studies



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Surviving Cross Examination





 **Demeanor Matters**



 

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Surviving Cross Examination





 **Do Not Argue**



 

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Surviving Cross Examination





 **Master the Poker Face**



 

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Surviving Cross Examination





 **Concede When Necessary**



 

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Surviving Cross Examination






 **Stay in Your Lane**
Do NOT testify beyond your own training, education, knowledge and experience

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Cross Examination Tactics

 Isn't it true that the prosecutor talked to you before the trial about some concerns they had with the case?

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Cross Examination Tactics

“ Isn't it true that a person who has been diagnosed with ADD *will* exhibit symptoms similar to a person who is under the influence of cannabis?
Vs
Isn't it true that a person who has been diagnosed with ADD *may* exhibit symptoms similar to a person who is under the influence of cannabis?

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Cross Examination Tactics

“ • Isn't it true that you don't know if any mistakes were made during the blood collection process?

• Isn't it true that if the proper procedure was not used to withdraw the blood that could affect the reliability of the results?

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Cross Examination Tactics

• Be aware of words like "always," "never," "all," "none," "every," "completely," or "will."

• Such answers leave no room for nuance, exceptions, or alternative possibilities

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General Tips for Testifying

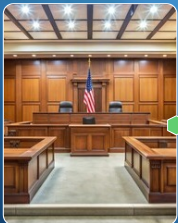


- Always tell the truth.
- Do not use the word accident.
- Ask to review report when needed.
- Ask to review materials attorney is referring to.

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General Tips for Testifying



Be confident!!!

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CONTACT ME

Stephanie Watson

Stephanie.Watson@prosecutors.mo.gov

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