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Trial Reporter

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Experts

LegalTECH: Do Your Homework

Use Technology to Research Their Expert (and Yours)



John J. Cord

There are three times when you need to sit down and thoroughly research experts: (1) before your expert designation; (2) after defendants' expert designation; and (3) again right before trial (to make sure nothing new has popped up). There are a host of resources out there to get the job done and to assist you to find the right expert or to locate key impeachment evidence. Many of these resources are technological, but some "classic" avenues are also listed. Use this checklist to ensure your expert is top-notch, and to lay the foundation to annihilate the defendants' experts at deposition or trial.

• **Google/Search Engine Search:** Basic facts about experts, including academic training, credentials, articles, publications, disciplinary actions and litigation can be collected from the Internet. Use this to find out if the expert has a website, or if the expert is listed on the website of academic institutions or other businesses.

• **News Websites:** Check the expert's local newspaper website to see if any articles have been written about him.

• **Court Websites:** Check the on-line criminal and civil dockets in counties where the expert lives and works to find actions involving dishonesty (fraud, perjury, forgery, etc.). Consider hiring private investigator or retired police officer, if necessary.

• **Prior Testimony, Reports and Financial Information:** There are a host of resources available to help you find this important information. These include:

A. Expert Reports: Federal rules require counsel to identify prior testimony of their experts. Contact plaintiffs' counsel in those cases for prior depositions and trial testimony.

B. MAJ Listserve Requests: Ask your MAJ fellows for their experiences and resources regarding the expert. You must be signed up to receive these messages.

- **General:** majmember@lyris.depoconnect.com
- **Auto Negligence:** maj-autoneg@lyris.depoconnect.com
- **Disability Benefits:** maj-disabilitybenefits@lyris.depoconnect.com
- **Family Law:** maj-family@lists.trialsmyth.com
- **Medical Negligence:** maj-medneg@lyris.depoconnect.com
- **New Lawyers:** majnewlawyers@lists.trialsmyth.com
- **Nursing Home:** maj-nursinghome@lyris.depoconnect.com
- **WorkersComp:** maj-workerscomp@lyris.depoconnect.com

C. MAJ Listserve Archives:

1. Go to the MAJ website and log on (www.marylandassociationforjustice.com)
2. Move the mouse pointer over "My MAJ" on the top blue bar
3. Click "Listserv"
4. Click "Search List Messages"
5. Enter search criteria (by name or message keywords)
6. Click "Search"

D. MAJ Document Bank:

1. Go to the MAJ website and login (www.marylandassociationforjustice.com)
2. Move the mouse pointer over "My MAJ" on the top blue bar
3. Highlight "Depositions and Documents"
4. Click "Search"
5. Click "Search MAJ Document Banks"
6. Select the Document Bank, Cause of Action, and Type of Document.
7. Enter search criteria, and click "Search."

E. MAJ Defense Expert Database (DED):

1. Go to the MAJ website and login (www.marylandassociationforjustice.com)
2. Move the mouse pointer over "My MAJ" on the top blue bar
3. Highlight "Depositions and Documents"
4. Click "Search"
5. Click "Search Defense Expert Database (DED)"
6. Select the Defense Expert, Defense Attorney, and/or the Defense Law Firm
7. Click "Search Experts"

F. AAJ Listserve Requests: You must be signed up to receive these messages. All AAJ listserv addresses are located at http://www.justice.org/cps/rde/xchg/justice/hs.xsl/749.htm#All_List_E-Mail_Addresses. Useful addresses include:

- **Motor Liability:** motorliability@list.justice.org
- **Product Liability:** prodlia@list.justice.org
- **Professional Negligence:** profneg@list.justice.org
- **Workers Compensation:** workcomp@list.justice.org
- **Expert Witness:** expwitness@list.justice.org
- **Medical Malpractice:** medmal@list.justice.org
- **Birth Trauma:** birth_trauma@lists.trialsmyth.com

G. AAJ Exchange: A research and litigation support service with databases containing depositions, court documents, case abstracts, and more. Association members who are plaintiff lawyers can search for free, and several pricing plans are available for obtaining documents. http://exchange.justice.org/exchange/product_search.asp

H. TrialSmith (formerly DepoConnect): A single search can provide information from depositions and court testimony, messages from listservs across the country, medical database searches, and public records. www.trialsmyth.com

I. Your Firm's Archived Files: Your firm should have a single location for expert information, including depositions, useful reports, exhibits, and impeachment materials. Update this information after the conclusion of every case.

J. Other State Trial Lawyer Associations: Contact local counsel in the witness's home state, and ask them to post messages to state TLA websites on your behalf.

K. Westlaw/Lexis: Although you must subscribe to use Westlaw and Lexis, you can search them for testimonial history information in any state court, as well as the federal courts. For example, you might find that an expert you are preparing to depose failed a Daubert challenge in a prior case. Databases to search include:

1. Federal and state cases
2. Court documents
3. Business and news
4. Expert databases

L. Jury Verdicts: Search for jury verdicts where the expert testified. The National Association of State Jury Verdict Publishers lists experts with links to the local publication that contains specific information. www.juryverdicts.com

• **Your Experts:** Check with your own expert witness about defense witnesses—they often have useful information.

• **Curriculum Vitae:**

A. Compare it to prior versions to make sure nothing has been omitted. If something is missing, investigate why.

B. Confirm that the expert is indeed a member in good standing of all organizations or associations listed. Check to see if those associations have ethical standards for testimony, or views on your issues contrary to those of the expert.

C. Examine the publications to see if any are relevant to your issues.

• **Publications:** Search for anything published by the expert.

A. Textbooks: If the expert edited a textbook, look for articles included that are contrary to his opinions. If his article is included in a textbook, find other articles in the same text that are contrary to his opinions.

B. Articles: Make sure the expert's citations are legitimate. If peer-reviewed, find out what other experts say about the article. Useful locations to search for articles include:

1. **PubMed:** The PubMed database is part of the National Library of Medicine and was designed by publishers of biomedical literature as an access and reference tool. www.ncbi.nlm.nih.gov/PubMed.

2. **MedScope:** The MedScope database is run by WebMD, and features articles on all topics of medicine. Registration is free. www.medscape.com.

• **Property/Business:** Search the property and business websites of the expert's home state. In Maryland, this is: State Department of Assessments and Taxation (SDAT) (<http://www.dat.state.md.us/>)

• **Social Networking:** Check to see if the expert maintains a Facebook, MySpace, LinkedIn, or Twitter account. See if the expert posts anything on on-line dating sites. Frequently you can view information by signing up for accounts, or have a friend check them out.

Use this checklist and leave no stone unturned in your quest for valuable expert information. If you do, you will know if your expert has any skeletons in his closet, and you will be well armed to disarm the defendants' experts at deposition and trial.

Biography

John J. Cord (Miller & Zois, LLC) graduated from the University of Colorado School of Law. He concentrates his practice on assisting victims of automobile negligence, medical malpractice, and defective products. He is licensed to practice in Maryland, the District of Columbia, Pennsylvania, Georgia and Minnesota. He is a member of the American Association for Justice and is a former chair of the MAJ Technology Committee. Read his blog at www.drugrecalllawyer.com, and follow him on Twitter at @johnjohncord.

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