

1. Comment on sitting in on other expert's evaluations:

We must specify that the expert is on the other side. I have frequently sat in on a colleague's examination when we worked together or when my student or fellow conducted an examination. However, sitting in on an adversary's exam may pose some problems. First, it is best to do so either with an express agreement from the opposing attorney or by court order. We have litigated a case wherein the plaintiff objected to the defendant's attorney sitting in and argued that it compromised the examination. The expert had no difficulty having his own psychologist or student sit in, but believed the presence of the opposing attorney would negatively affect his exam. He cited Bob Simon's article "Three's a Crowd" but acknowledged that his opinion was not affected in several previous cases in which the opposing attorney sat in.

I often prefer to have a respected colleague sit in on my examinations. There are specific cases in which the plaintiff may prefer to have her husband or boyfriend present in cases of sexual harassment at work or a woman who has been sexually assaulted or inappropriately touched by her treating psychiatrist. In one such case the plaintiff, a clear borderline personality disorder, had a senior colleague sit in on the four hour examination and I was delighted he was present as her "champion". She continually praised him and insulted me during he examination, but worse, she lied about me in court stating that I made inappropriate comments to her and touched her inappropriately. My colleague testified that I did no such behavior and that she was not truthful. She lost her case due to her lies and I was relieved that he was present to witness no harmful behavior.

I have also sat in when a prosecution appointed expert examined a defendant that I had diagnosed as schizophrenic and incompetent as well as meeting he legal test for insanity in that jurisdiction. His exam was thorough and he concluded as I did.

In summary, there is nothing wrong with sitting in on another expert's examination as long as there is authority or agreement and the guest behaves in a professional manner. In some cases it may be therapeutic for the examinee and a decreased risk for the examiner.

2. When is it appropriate to comment on an evaluatee's credibility?

Neil, with respect to making comments on the credibility of an examinee, It is certainly appropriate if the plaintiff or defendant is a blatant liar. The credibility of the expert is at risk if no comment is made . However, the manner in which the comments are made is important. If one's own attorney's client is untruthful, it is better to convey this opinion to the attorney verbally and the attorney may not

wish to have a report of such prevarication. If the credibility of the opposing attorney's client is in question, there are professional ways to express this opinion. I prefer to say the examinee is malingering if that is the case as that diagnosis is a medical term and not a blatant pejorative comment. Clearly, the examiner must give examples to prove his conclusion. If malingering is not the issue, but lying is, one may say in a professional way that the examinee is exaggerating, using "puffery" or is inconsistent from one interview to the next. One may point out the various tales given without blatantly calling the examinee a "liar." On occasion, a plaintiff may sue the examiner for making such a comment that may inflame the jury. He may not win the suit, but defending any suit is stressful and should be avoided if possible.

To summarize, one must be credible in one's professional capacity in forensic work, even if it means commenting on the credibility of the examinee. It is best to do so in a professional manner and not use pejorative words such as "liar" but medical terms as malingering, manipulative, inconsistent or embellishing. Maintaining one's professional demeanor in such cases will be more effective and reduce risk of harm.