

ACTEC FLORIDA FELLOWS INSTITUTE  
CLASS V

# DISCOVERY AND EXPERT WITNESSES

TEN TAKEAWAYS ON THE TOPIC

*PRESENTED BY AMY B. BELLER  
February 24, 2021*

# 1

# KNOW YOUR RIGHTS



#2

**HAVE A PLAN!**

# OFFENSIVE DISCOVERY

- WHAT DO YOU NEED TO PROVE?
- HOW DO YOU THINK YOU WILL BE ABLE TO PROVE IT?
- HAVE AN INTEGRATED DISCOVERY PLAN
- REQUEST FOR ADMISSIONS (DON'T IGNORE ADMISSIONS TO ALLEGATIONS IN COMPLAINT)
- INTERROGATORIES
- REQUEST TO PRODUCE

# DEFENSIVE DISCOVERY

- WHAT'VE THEY GOT?
- DON'T FORGET TO LOOK FOR BOTH THE STRENGTHS AND WEAKNESSES OF THEIR CASE

#3

**CONSIDER  
THE SCOPE OF  
DISCOVERY**





#4

**YOU MIGHT SEEK  
PRE-ACTION  
DISCOVERY**

- **PURE BILL OF DISCOVERY  
VS. PRIVACY INTERESTS**

- **DEPOSITION BEFORE ACTION  
UNDER FLA. R. CIV. P. 1.290**

#5

**USE DISCOVERY  
WISELY AT TRIAL**



#6

**THINK ABOUT  
PRIVILEGE  
ISSUES**





#7

**EXPERT  
TESTIMONY:  
Know the  
Governing Standard**



# DAUBERT STANDARD

## (procedural rule as of 2019)

Judge must determine whether expert testimony is relevant to the issue at hand and whether it rests on a reliable foundation. Five factors to consider:

1. Whether theory or technique can or has been tested
2. Whether it has been subjected to peer review and publication
3. Known or potential error rate
4. Existence and maintenance of standards controlling operation
5. Is there widespread acceptance in the scientific community

#8

**COMPLY WITH REQUIRED  
DISCLOSURE  
RELATING TO  
EXPERT WITNESSES**









#10

**USE OPINION  
TESTIMONY  
OF LAYPERSON  
WITNESSES**

# **RULE 90.701 - FLORIDA EVIDENCE CODE**

**Lay persons can give opinion testimony  
about matters which do not require special  
knowledge, skill, experience or training.**



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Thanks for your attention.