# PIONEERING
## EXCELLENCE IN PERSUASION STRATEGIES

STATE OF THE ART PREPARATION
FOR THE MEDICAL DEFENDANT

**70** years of combined experience in medical negligence litigation. In a typical year our three litigation consultants will work with over 200 medical providers to help prepare them for testimony.

# OUR EXTENSIVE MEDICAL NEGLIGENCE EXPERIENCE

Persuasion Strategies is an integrated team of nationally recognized litigation consultants dedicated to maximizing the effectiveness of advocacy. Our history reflects our extensive experience, true innovation, and proven results.

Nearly 30 years ago we helped pioneer a Litigation Education Retreat program for medical providers sued for professional negligence. Our success in helping medical witnesses credibly and effectively testify has been expanded to include individual witness work helping to prepare medical providers for deposition and trial testimony. We have created video vignettes of an actor and actress demonstrating credible and non-credible communication cues and we use these along with videotaped feedback of *your* witness to teach incrementally and facilitate witness learning.

Members of Persuasion Strategies have many years of jury trial experience in medical malpractice and medical negligence litigation involving a broad range of cases. We work on more than 100 medical negligence matters on behalf of the defense every year, assisting with mock jury and focus group research, strategy consultation, witness preparation for deposition, and trial testimony, and jury selection assistance.

## FLAT FEE FOR WITNESS PREPARATION
## $2,900 - $6,700

*(Local/Video - Extended Travel & Review)*

For the past 15 years we have systematically surveyed jurors and judges to understand the persuasive needs of fact finders. We maintain a database of juror attitudes and opinions regarding medical negligence litigation and we use this information to give concrete recommendations to witnesses to convey the three "C's" of Confidence, Competence, and Compassion when testifying.

For example, our research corroborates public opinion studies that indicate approximately one-third of jurors believe people who file medical malpractice lawsuits are looking for "easy money."

**51%** of jurors say medical treatments often create as many problems as they solve (Pew Research Center).

In contrast to these opinions, approximately 60 percent of jurors believe hospitals and medical professionals will do anything they can to cover for another's mistake.

**50%** of jurors believe the quality of U.S. hospital care is decreasing.

We use our experience in medical malpractice litigation to evaluate which "juror baselines" will be most prevalent in an individual case and how to strategically deselect unfavorable jurors while protecting favorable jurors from a plaintiff's peremptory strike.

# A MEDICAL PROFESSIONAL'S GUIDE TO BECOMING YOUR OWN BEST WITNESS

We train medical professionals to be effective witnesses by teaching them essential communication skills to apply when giving deposition testimony and helping them learn techniques for handling the trial questioning tactics of plaintiff's attorneys.

### YOUR CONTROL: FOLLOW A FOUR STAGE MODEL

1. Listen ▶ Understanding
2. Then, retrieve the infromation ▶ Thought
3. Then, form the response in words ▶ Words
4. Then, speak ▶ Speech

Our research and experience confirms that jurors draw inferences about how a provider practices medicine based on how they testify.

## WITNESSES LEARN HOW TO:

- Employ credible verbal and nonverbal cues when testifying to avoid obstacles to a fair perception.

| If the witness conveys... | Observers will infer... |
|---|---|
| Arrogance | They made a snap judgment with this patient. |
| Evasiveness | They did something wrong and they don't want to answer. |
| Uncertainty | They don't know much about medicine. |
| Aloofness | They don't care about this and therefore paid little attention to the patient. |
| Doubt | Did they do the right thing for this patient? |

- Convey witness confidence and compassion so fact finders want to find in your client's favor.
- Effectively defend against the Plaintiff's "reptile strategy" which aims to influence jury decision-making by using tactics to activate jurors' survival instincts in hopes that they will make decisions based on fear rather than logic and reasoning.

### IF YOUR GUT INSTINCTS AND THE EVIDENCE SUPPORTING A PARTICULAR DECISION WERE IN CONFLICT, WHICH WOULD YOU TEND TO FOLLOW?

## OUR CONSULTING TEAM

### Kevin R. Boully, Ph.D. | Senior Litigation Consultant

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Dr. Kevin Boully has been active in litigation consulting since 2001. His doctoral education in legal communication focuses on persuasion, small group influence, and jury decision making. Dr. Boully has led jury research and provided strategic advice to litigation counsel on a full range of cases. Dr. Boully has been Associate Editor and advisor to the American Society of Trial Consultants' jury research and courtroom communication publication, *The Jury Expert*. Dr. Boully is an avid writer and published author including a book entitled *Patently Persuasive* for the American Bar Association Section of Intellectual Property. Outside of work, Kevin likes to fly-fish, climb mountains, spend time with his family and watch the dogs hog the furniture.

### Shelley C. Spiecker, Ph.D. | Senior Litigation Consultant

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Dr. Shelley Spiecker has been advising attorneys on case strategy and litigation persuasion for over 25 years. With a doctorate in legal communication, Dr. Spiecker has extensive experience in persuading legal fact finders including judges, jurors and arbitrators and advising litigators on how to strategically present issues and arguments. She helps transform individuals from a wide variety of backgrounds into credible and effective witnesses, designs and analyzes research findings, and gives clients a strategic advantage in jury selection. She is a nationally-recognized speaker on litigation-related topics. She also enjoys running, hiking, skiing, and spending time with her husband and two children.

### Ken Broda-Bahm, Ph.D. | Senior Litigation Consultant

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Dr. Ken Broda-Bahm has provided research and strategic advice on several hundred cases across the country for the past 20 years, applying a doctorate in communication emphasizing the areas of legal persuasion and rhetoric. As a tenured Associate Professor of Communication Studies, Dr. Broda-Bahm has taught courses including legal communication, argumentation, persuasion, and research methods. He has trained and consulted in 19 countries around the world and is a past President of the American Society of Trial Consultants. Ken is a lover of new ideas, exotic places, innovative gadgets, and good arguments. He is married to the other Dr. Broda-Bahm (wife, Chris), and is the proud dad of his figure-skating and guitar-playing daughter Sadie.

## SERVICES

Our services in medical negligence matters include:

- Witness Preparation
- Case Strategy
- Case Messaging
- Theme Development
- Juror Risk Analysis
- CLE Presentations
- Jury Selection
- Opening/Closing Statement
- Video Production
- Oral Voir Dire
- Demonstratives
- Trial Monitoring
- Mock Trial
- Focus Group Research
- Case Assessment
- Supplemental Juror Questionnaire Design

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