Legal Bite Question of the Issue
Expert Witness: To be or not to be?

By Frank Recker, DDS, JD

Q: One of my patients and his attorney asked if I would serve as an expert witness in a malpractice suit against the patient’s former dentist regarding implant treatment. Is there any reason that I should not?

A: First let me say that I support anyone’s right to seek redress for any injury through the court system. But having said that, you need to think, and be very cautious, before throwing stones at another dentist.

Within the past week, I took the deposition of a general dentist who was the patient’s expert against my dentist-client relative to implant treatment. While under oath, the “expert” could not tell me the accepted implant modalities, the types of bone and how various bone types could affect implant choice and placement. He was not able to delineate where he obtained any education, training or experience in implant dentistry, other than an occasional dental society lecture. When I asked him to describe placement of subperiosteal implants, he said that they were just another type of implant that went “into” the bone.

He began to chastise my client’s fabrication of a lower, implant supported “over-denture” by saying the dentures were made about 11 mm “over closed” in vertical relationship. But he could not explain why the patient was repeatedly breaking the new lower, implant-supported denture (with a new 11 mm, additional vertical opening) made by him!

When I reviewed his billings to the dental insurance company (which he never dreamed I would do), I questioned his charges for “laboratory relines” and other lab required repairs when in fact he had only performed chairside, acrylic repairs. He had also “misplaced” his laboratory prescriptions, which are required to be maintained by law.

To add insult to injury, he had failed to write down any diagnosis upon his first “comprehensive exam” of the patient, failed to formulate or document even one treatment plan, and failed to record any perio probing around the implants placed by my client. These were just a few lapses. His patient records were, to be
blunt, abysmal, and he finally conceded that **HIS** records fell below the standard of care in multiple respects.

After the deposition had ended and he was asked if he wanted to review his testimony after the court reporter had transcribed it, he asked the plaintiff’s attorney if any of the answers he gave could be “changed!” When the patient/plaintiff’s attorney said “no,” the ‘expert’ replied, “then why should I review it?”

The obvious moral of the story is simple: If you want to serve as an expert witness against another dentist, make sure your own house is in order before doing so. Otherwise, it could very well come back to haunt you. The “expert” in this case could now face charges of insurance fraud and substandard care by the dental board.