Silencing the Hired Gun: Do juror perceptions of expert witnesses depend on who is asking the tough questions?

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STATEMENT OF THE PROBLEM

- A hired gun is a witness who, in exchange for their fee, takes the position their client (e.g., the attorney) wants them to take (Easton, 2000).

- Hired guns are neither trusted nor believed (Cooper & Neuhaus, 2000).

- Ethically acting experts base their opinions on a combination of objective psychological assessments, clinical interviews, and clinical experience, whereas hired guns focus on providing the strongest and most helpful opinion possible for the retaining attorney with the goal of assisting the attorney with “winning” the case.

- Although actual hired guns are thought to be rare, cross-examining attorneys commonly try to portray opposing experts as hired guns.

- It is important for ethical experts to avoid being labeled as a hired gun and present the most compelling testimony possible within ethical bounds.

PRESENT STUDY – Research Questions

- Is labeling an expert as a hired gun a function of which side retains them?
  - Hypothesis: Experts will be rated as hired guns more when retained by the defense than the plaintiff.

- What aspects of credibility are affected by labeling an expert as a hired gun?
  - Credibility has four components: Likeability, trustworthiness, knowledge, and confidence (Brodsky, Griffin, & Cramer, 2010).
  - Hypothesis: The trustworthiness component of credibility will be most affected by being labeled a hired gun.

DESIGN

STIMULI

- Expert Testimony Presentation: A video of direct and cross-examination testimony of a mock-expert witness. Participants were randomly assigned to condition.

PROCEDURE

- 163 Participants

  - Read Fact Summary of Civil Case
  - Watched video of expert witness testimony
  - Completed Questionnaires

RESULTS

- Is labeling an expert a hired gun a function of which side retains the expert?
  - Potentially. The expert was perceived as slightly more of a hired gun when retained by the defense (M = 11.12, SD = 0.34) than when retained by the plaintiff (M = 11.96, SD = 0.34), F(1, 161) = 3.03, p = .08.

- How is credibility affected when an expert is labeled a “hired gun”?
  - As the perception of being a “hired gun” increased, the expert was considered less credible (r = .28, t [161] = 2.56, p = .01) less trustworthy (r = .27, t [161] = 4.19, p < .001), and less knowledgeable (r = .27, t [161] = 2.79, p = .006). This perception did not impact likeability or confidence ratings.

Implications

- Experts hired by the defense are viewed as slightly less objective than experts hired by the plaintiff.
  - Small actual difference between conditions, results need replication.

- This may be because there was no opposing expert in this study. Mock-jurors only had one source of information.

- Experts should be mindful of this when retained by the defense and be prepared to counter or minimize this perception.

- We replicated previous research that suggests hired guns are not trusted, and we were further able to show hired guns are viewed as less knowledgeable and credible.

- This study shows that hired guns are viewed as just as likeable and confident as other experts.

Future Directions

- Examine the hired gun phenomena in criminal cases.

- Evaluate effective and ineffective responses to “hired gun” questions in an attempt to protect an expert’s credibility.

- Does narrative responding reduce jurors’ unfounded impression that an expert is a hired gun?