

**QUESTION 5      THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK II**

After Deborah suffered physical and mental injuries in a car-train crash, she sued RR Railroad Company for damages. Deborah claims she sustained neck and back injuries. She also claims she suffers from post-traumatic stress disorder (PTSD), which includes flashbacks and psychological inability to cope with the sound or sight of trains.

In support of her claim for these mental and physical damages, Deborah wants to present at trial her treating psychologist, Dr. Fran, as an expert witness. Dr. Fran has counseled PTSD patients for ten years. Dr. Fran is to opine that the PTSD, the flashbacks, and the difficulty with trains relate to the accident and that these maladies will continue for years. She will also testify that the PTSD symptoms exacerbate Deborah's neck and back injuries. Deborah also wants to present her 22-year-old daughter, Jennifer, who has lived with her since the accident, to testify she has witnessed her mother screaming incoherently and then turning silent for hours after hearing or seeing a moving train.

RR seeks to keep Dr. Fran from testifying. RR argues that Dr. Fran is not qualified to render an opinion on any of Deborah's injuries because she is only a psychologist (a college and post-college graduate of psychology and counseling) and not a psychiatrist (a medical doctor educated in psychology and diseases of the mind).

RR also challenges Jennifer's testimony on the basis she is (1) "too biased" and (2) "completely lacks the necessary qualifications" to testify as to her observations of Deborah.

On the subject of flashbacks, RR wants to present Dr. Bill, who did not see Deborah for diagnosis and treatment. Rather, Dr. Bill saw Deborah one time at RR's request for purposes of testifying at trial. Dr. Bill will testify Deborah told him she fabricated the flashbacks. Deborah objects to Dr. Bill quoting her as inadmissible hearsay.

1. Should the court allow Dr. Fran to testify to none, one, or both of her opinions over RR's objection? Explain your answer.

2. Should Jennifer be able to testify at all and, if so, should she be able to say what she saw her mother experiencing? Explain your answer.

3. Should the court allow Dr. Bill to testify over Deborah's hearsay objection? Explain your answer.

**\*\*\*\*\*THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK II\*\*\*\*\***