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DEERING'S CALIFORNIA CODE ANNOTATED  
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\*\*\* THIS SECTION IS CURRENT THROUGH THE 2011 SUPPLEMENT \*\*\*  
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SPECIAL NOTICE: CHAPTERS ENACTED BETWEEN OCTOBER 20, 2009, AND  
NOVEMBER 2, 2010, ARE SUBJECT TO REPEAL BY PROPOSITION 22.

EVIDENCE CODE  
Division 6. Witnesses  
Chapter 3. Expert Witnesses  
Article 1. Expert Witnesses Generally

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*Cal Evid Code § 722 (2010)*

**§ 722. Credibility of expert witness**

- (a) The fact of the appointment of an expert witness by the court may be revealed to the trier of fact.
- (b) The compensation and expenses paid or to be paid to an expert witness by the party calling him is a proper subject of inquiry by any adverse party as relevant to the credibility of the witness and the weight of his testimony.

**HISTORY:**

Enacted Stats 1965 ch 299 § 2, operative January 1, 1967.

**NOTES:**

**Historical Derivation:**

Former CCP § 1256.2, as added Stats 1957 ch 1850 § 1.

**Law Revision Commission Comments:**

**1965**

## Cal Evid Code § 722

Subdivision (a) of Section 722 codifies a rule recognized in the California decisions. *People v. Cornell*, 203 Cal. 144, 263 Pac. 216 (1928); *People v. Strong*, 114 Cal. App. 522, 300 Pac. 84 (1931).

Subdivision (b) of Section 722 restates the substance of Section 1256.2 of the Code of Civil Procedure. Section 1256.2, however, applies only in condemnation cases, while Section 722 is not so limited. It is uncertain whether the California law in other fields of litigation is as stated in Section 722. At least one California case has held that an expert could be asked whether he was being compensated but that he could not be asked the amount of the compensation. *People v. Tomalty*, 14 Cal. App. 224, 111 Pac. 513 (1910). However, the decision may have been based on the discretionary right of the trial judge to curtail collateral inquiry.

In any event, the rule enunciated in Section 722 is a desirable rule. The tendency of some experts to become advocates for the party employing them has been recognized. 2 Wigmore, Evidence § 563 (3d ed. 1940); Friedenthal, Discovery and Use of an Adverse Party's Expert Information, 14 Stan. L. Rev. 455 (1962). The jury can better appraise the extent to which bias may have influenced an expert's opinion if it is informed of the amount of his fee--and, hence, the extent of his possible feeling of obligation to the party calling him.

**Cross References:**

"Trier of fact": *Ev C* § 235.

Requirement that testimony be of matter concerning which witness has personal knowledge: *Ev C* § 702.

Credibility of witnesses: *Ev C* §§ 780 et seq.

**Collateral References:**

*Cal. Forms Pleading & Practice* (Matthew Bender(R)) ch 551 "Trial".

*Cotchett, California Courtroom Evidence*, § 16.12 (Matthew Bender).

Matthew Bender (R) Practice Guide: Cal. Trial and Post Trial Civil Procedure § 11.67[2].

1 Witkin Cal. Evidence (4th ed) Opinion Evidence § 82.

3 Witkin Cal. Evidence (4th ed) Presentation at Trial §§ 251, 252.

Jefferson's California Evidence Benchbook, 3rd Edition (CEB, 2003) §§ 49.84, 49.85.

**Law Review Articles:**

Need for pretrial discovery of expert witnesses by reason of unreliability of "advocate-expert". 14 Stan LR 455.

**Annotations:**

Cross-examination of expert witness as to fees, compensation, and the like. 33 ALR2d 1170.

**Hierarchy Notes:**

Evid Code Note

Div. 6, Ch. 3, Art. 1 Note

**LexisNexis 50 State Surveys, Legislation & Regulations**

Expert Witnesses

## NOTES OF DECISIONS 1. Compensation

**1. Compensation**

In an action against the manufacturer of a motor vehicle and others to recover for personal injuries sustained in a single-vehicle accident, the trial court's error in precluding defendants from inquiring on cross-examination of plaintiffs' expert witnesses as to two specific questions concerning their compensation, was not reversible error, where defendants were not prevented generally from inquiring into the subject, and where the trial court's ruling did not inhibit defendants in attacking the credibility of plaintiffs' expert. *Brokopp v. Ford Motor Co.* (1977, Cal App 4th Dist) 71 Cal App 3d 841, 139 Cal Rptr 888, 1977 Cal App LEXIS 1662, 93 ALR3d 537.

In an action in which an inmate, who was convicted of murder and rape and sentenced to death, filed a motion for an evidentiary hearing, the inmate's argument that expert witnesses who testified in the People's case were not subject to the impeachment provisions of *Ev C* § 722(b), and that this disparate treatment between prosecution and defense experts amounted to a constitutional violation was unsuccessful where (1) all of these experts except the serologist were employed by the Kern County government; and (2) accordingly, they would not have had their fees or expenses paid for by the party calling them, within the meaning of § 722(b). *Berryman v. Ayers* (2007, ED Cal) 2007 US Dist LEXIS 51738.