

**EXERCISE****ETHICAL ISSUES WORKING WITH EXPERTS*****Background***

You're on a litigation team preparing a class action lawsuit involving a corporation's disposal of toxic chemicals. Your team has retained Dr. J.T. Bardis to consult on the case and advise you of developments in studies about the chemicals' toxicity. You're also considering retaining Dr. Vik Singh to provide his expert opinion that the toxic chemicals caused your clients' injuries.

Your team was meeting with Dr. Singh yesterday to discuss retaining him. Just as everyone was getting their coffee and settling in, a member of your e-discovery team knocked on the door and came in. She asked an associate on your team a question about the relevance of certain search terms. In answering the question, the associate disclosed part of the strategy for the litigation.

***Instructions***

Come prepared to discuss these questions:

- What do you need to disclose about Dr. Bardis to opposing counsel?
- If you decided later to have Dr. Bardis testify, what consequences might that have for you?
- Say you hire Dr. Singh to provide an expert report. Is it okay to send him a memo that you claimed work product over? Or a document that you withheld in discovery because you claimed privilege over it?
- Are you concerned about the conversation that took place in the meeting?