

February 20, 2023

Why Serving as an Expert Witness Makes You a More Competent Land Surveyor

In my personal experience, many land surveyors that are contacted by attorneys decline the opportunity to serve as an expert witness. The reasons why the surveyor chooses not to accept the expert work are varied, ranging from the concern that their new client will be too demanding on their time to the apprehension that their surveying work will be scrutinized by opposing counsel.

These concerns are well founded: serving as an expert witness is time-consuming. Any work produced by a surveyor expert will most certainly be closely examined by an opposing attorney and their expert, and most importantly, just because you're a good surveyor does not automatically make you a good expert witness.

But in my humble opinion, the benefits of serving as an expert witness vastly outweigh the potential liabilities. This short article will explain how serving as a land surveyor expert witness has benefited me professionally and how I believe that the same practice may benefit you as well.

Serving as a land surveyor expert witness requires you to read, understand, and critique the primary and secondary sources that underly the land surveying profession. According to the *Daubert* standard of expert witness qualification, your opinions must be based on scientifically valid reasoning which can properly be applied to the facts at issue. That means your expert opinions should cite surveying textbooks, Board rules & regulations, and/or state court cases related to surveying. You may have read *Brown's*, but once you have to use that textbook as a foundation for an expert opinion, you will know *Brown's* like you wrote it yourself.

Serving as a land surveyor expert witness requires you to deeply understand and methodically follow the standards of practice published by the Board of Land Surveying in whatever state you practice in. As a Florida surveyor, how much of F.A.C. 5J-17 can you quote? Probably not much. But after providing an expert opinion regarding possible negligent acts of a fellow surveyor and quoting seventeen different sections of 5J-17 in that report, I sometimes see the text of 5J-17.051 in my dreams. Reading is not learning; you must apply the surveying codes to a particular situation to understand the code's intent, purpose, and application.

Serving as a land surveyor expert witness requires you to be a good communicator, both through oral and written forms of communication, in addition to practicing the art and the science of land surveying. I believe that a great expert witness teaches non-surveyors such as judges, juries, and attorneys about our great profession. Conveying subject matter information to non-surveyors is often frustrating because the use of technical jargon will only confuse people. But if you can take a highly technical subject (i.e., the priority of calls) and reduce it to its most basic form, then explain how that subject directly relates to the lawsuit at hand, then you enhance your knowledge as well.

Completing the same types of surveys, in the same geographic area, for the same purposes, year after year will not significantly enhance your ability to produce great work. On the other hand, if you are constantly challenged by new civil cases, new disputes, novel theories put forth by the parties, you will quickly grow your knowledge and ability as a Professional Surveyor. Therefore, the next time an attorney contacts you with a potential expert witness opportunity, I encourage you to seriously consider saying "yes."

Article by Charles "Tony" Nettleman III, Esq, PhD, PSM

Tony is a land surveying engineer and attorney who teaches continuing education courses for attorneys and land surveyors; provides online test preparation modules to help surveyors become licensed in all 50 states; and serves as an expert witness in boundary, easement, title, and riparian



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“Why Serving as an Expert Witness Makes You a More Competent Land Surveyor” Comments

Jeremiah Cunningham

February 23, 2023 at 12:10 pm - Reply to Comment

Thank you for your insight, Tony! I have always been excited to create relationships with attorneys for many of the reasons you present. I find that expert witness work is a partnership between myself and an attorney. Their expertise can make or break a case, and a good attorney will make the court procedures and rules work in my favor. Sometimes it is still uncomfortable analyzing my colleagues’ work critically in expert cases, but I think that the skills and knowledge I gain in return improve my work and help me train and mentor my staff. Thanks again… and sweet dreams of 5J-17.051.

Joseph Paiva

February 23, 2023 at 12:11 pm - Reply to Comment

Agreed, Tony! What I can add to the experience is that being an expert witness, long before you get to trial, if it even gets to trial, is the process of distilling what you are going to say as part of your testimony. This means being clear, accurate, unambiguous and able to support your statements with quotes from textbooks, board statutes, rules and regs and court cases. This process of “teaching” the lawyers and judge helps improve your own skills in your surveying practice.