



The Land Surveyor as Expert Witness

- ***Are you familiar with the knowledge and skills required for effective performance as an expert witness?***
- ***Will you be relying on an expert witness in a boundary issue?***
- ***Do you want to improve this area of your practice?***

The line between advocate and expert is a topic which has attracted attention from the courts across Canada. In the last year there have been several reported cases in which the land surveyor was rebuked for not understanding the role when testifying as an expert. Here is a sample of the criticisms from our courts:

- “[The surveyor’s] approach to his retainer was not that of an independent expert with his duty being to the court.” *Reiner v. Truxa*, 2013 ONSC 6009 (CanLII)
- “In my opinion, [the surveyor] failed in his duty to remain impartial.” *Black v. Norris and Registrar General of Land Titles*, 2012 NBQB 346 (CanLII)
- “The evidence of an expert who advocates for a client’s position, simply because it is his client’s position, loses considerable value and will ultimately be a waste of the Court’s time if rejected outright due to partisanship.” *Bailey v. Barbour*, 2013 ONSC 4731

Having participated as an expert witness a few times, I know that it can be a very intimidating experience. But this is a way to showcase the role of the surveyor in society. Surveyors should not run away from such opportunities but should be well prepared and this is the way to obtain valuable information to not be caught off guard by savvy lawyers.

- Jean-Claude Tétreault,
Executive Director, ACLS

So what is the surveyor to do? And how can the lawyer ensure that the expert’s testimony is used to assist the court?

Developed in collaboration with [GeoEd](#), and geared towards both lawyers and land surveyors, this e-learning course explores all aspects surrounding the preparation of the professional land surveyor in Canada to assist – as an expert witness – the decision maker in a legal proceeding.

The annotated sets of reading materials, downloadable videos, links to web resources, and exercises are designed to further your understanding of:

- the purpose, duties, ethics and limitations of the expert witness and the roles of the parties, the judge and counsel;
- the factors in determining whether you can serve as an expert witness and accept a retainer to that end;
- the requirements of an expert's report;
- how to prepare for an appearance before a court/board/tribunal.



The fee for 3 months' online access is \$475+HST. Go to 4pointlearning.ca to register¹. If registering someone else or a group, download the [Registration Form](#). If you have questions, please call 519-837-2556 or email inquiry@4pointlearning.ca.

¹ You will be asked to login. If you have not already created an account, see registration [instructions](#).