

# Issues for the Land Surveyor as an Expert Witness



Mid-East Chapter TAPS  
CER -1902-18



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# Why to Get Involved in Court Cases?

Lucrative

Interesting

Lots of man-hours for PLS

Losing Attorneys want to hire you

Losing Clients want to hire you

# Why NOT to Get Involved in Court Cases?

Keeps you away from other tasks

Make a lot of enemies

Get yelled out at a lot

Get yelled out at a lot

Get yelled out at a lot

# Types of Court Cases

Boundary dispute

Personal injury

# Surveyor's Role

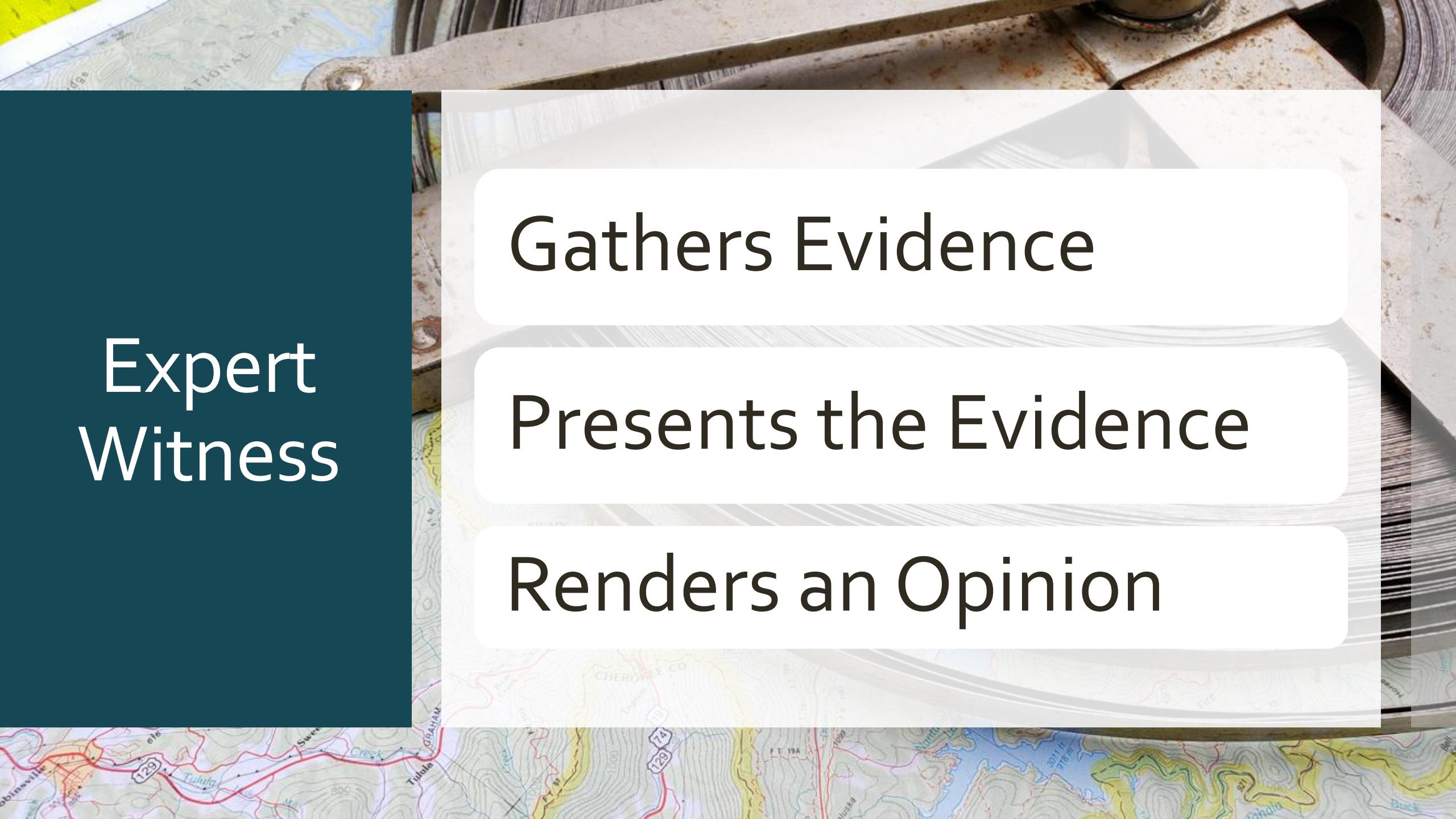
Expert Witness

Fact Witness

Consultant

Affidavit

Friend of Court



Expert  
Witness

Gathers Evidence

Presents the Evidence

Renders an Opinion

# Fact Witness

Gathers Evidence that  
will be used by another  
to render an opinion.



# Consultant

Advises the Legal Team. A consultant will not testify and holds a similar standing as the attorneys.

# Affidavit

A written statement confirmed by oath or affirmation, for use as evidence in court

Friend  
of the  
Court

Appointed or hired by  
the court as an Expert  
Witness. Takes  
instruction from the  
court and not from  
either attorney.

# Important Rules

Rules of Evidence

Discovery

Hearsay

Subpoena

# Rules of Evidence

Relevance

Admissibility

Weight

Credibility

“Best Evidence”

# Discovery

In the law of common law jurisdictions, is a pre-trial procedure in a lawsuit in which each party, through the law of civil procedure, can obtain evidence from the other party/parties by means of discovery devices such as a request for answers to interrogatories, request for production of documents, request for admissions and depositions.

Hearsay

## RULE 602: Lack of Personal Knowledge

# Hearsay

A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may, but need not, consist of the witness' own testimony. This rule is subject to the provisions of Rule 703 relating to opinion testimony by expert witnesses.

# Hearsay

Under Rule 703, experts may base an opinion on the factual findings of others. Also, party admissions need not be based on first-hand knowledge.

# Subpoena

**Witnesses.** A subpoena shall state the court's name and the title of the proceeding and command each person to whom it is directed to attend and give testimony at the time and place and for the party the subpoena specifies.

**Documents and Objects.** A subpoena may order a person to produce the books, papers, documents, or other objects the subpoena designates.

# Order of Events

1. Hired by plaintiff or defendant
2. Determine course of Action
3. Conduct research
4. Perform Field Work
5. Present conclusions to legal team

# Order of Events

6. Prepare/Submit reports and maps
7. Motions and interrogatories
8. Affidavits and Deposition
9. Court
10. Get paid, hopefully

Testimony

Affidavit

Deposition

Court Room

# Things to Remember

- 1. YOU are not an ADVOCATE**
- 2. YOU are the only expert on surveying and land law in the room.**
- 3. That's the ONLY thing in which you have expertise.**
- 4. Your only friend is the Judge.**
- 5. Don't debate with a litigator.**

# Thank you

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