Expert Witness ***by Charles McGarvey***
Roof Surveys and Informational Services

The longer you're in the roofing industry as a roofing contractor, the greater the chance that you will either need an expert witness or will be asked to become an expert witness during a legal proceeding. Regardless of the reason, there are several things to keep in mind.

First, the legal definition of an "expert witness" can be generally associated with the OSHA "qualified person" definition. Both definitions include an individual who, through education or experience, has extensive knowledge of a professional field or industry.

How is an expert witness defined during a roofing system litigation? If you are highly educated in the construction industry, such as a professional architect or engineer, you may meet the education definition; and if you have spent a lifetime in the roofing industry as a contractor, roofer, or manufacturer's representative, you may meet the experience requirement.

However, what do the differences mean during a legal proceeding when a roofing system has failed or other problems arise?

If you are a professional, your educational experience will be acknowledged, but because you have never actually installed roofing systems and don't have years of hands-on field experience, you may be discredited as someone who only knows what you learned from a book.

And if you are a contractor, roofer, or manufacturer's representative, you may be discredited as not being educated as a professional; so, you cannot possibly understand the construction industry, let alone a roofing system installation.

Regardless of which side of the dispute you may be on, you cannot win the argument, so don't try. The legal profession must protect its clients, and it is not personally attacking an expert witness but is simply trying to win the litigation for its client.

And what is the main responsibility of an "Expert Witness"?

Contrary to some people's understanding, it is not just about representing a client's position, but about telling the truth based on education or experience, which may happen to align with the client's position.

So, if you ever need to hire an expert witness and that person does not agree 100% with your position, or if you're hired as an expert witness and know that there are possible issues with your client's position, don't expect a pleasant outcome in a legal proceeding. Why? Because there are at least two sides to every story, and legal proceedings have a way of showing the opposite side of a problem by bringing out the weakness of an expert witness whose testimony is not 100% committed to his client's position.

But what does it mean to be 100% committed to a client's position?

It does not mean answering every question to make a client happy or being afraid to answer a question with "I don't know." On the contrary, an expert witness knows there are different sides to a disagreement and should clearly explain to his client that he is not all-knowing and that there may be questions the client may not like his answers to. But the answers will be truthful, including his final conclusion, which is 100% committed to his client's position.

Source
Roof Surveys and Informational Services
106 Diane Dr.
Broomall, Pa.
Charles McGarvey
610-587-1384