

Expert Witness Testifying for Wi-Fi Networks

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What is an Expert Witness?

- Witness in a court case, brought in as an outside expert
- Recognized professional and authority in a specific technical field
- Outside objective observer
(no involvement in the original project)
- Person who can speak with knowledge, authority, and truthfulness
- Both sides will typically supply their own expert witnesses

Core Issues that Generate a Court Case

- **Breach of Contract**
 - Failure to pay for equipment installed and/or services provided
 - Failure to deploy to specifications
 - Failure to follow any legal / regulatory guidelines
 - Failure of performance
- **Significant Damages**
 - Financial
 - Property (e.g. failure of security monitoring)
 - Loss of Life (e.g. failure of medical monitoring)

Core Problems Underlying a Court Case

- Bad Documentation
 - Poorly defined requirements and/or constraints
 - Poorly defined deliverables (badly written contracts, statements of work, etc.)
 - Poor expectations of performance
- Failure (or improper expectations) of network performance and/or service(s) provided
- Lack of proper technical expertise by one (or often both) parties
- Usually both sides have some elements of fault

Qualifications of a Wi-Fi Expert Witness (1)

- Recognized leader and authority in wired and wireless networking
- Solid Education / College Degrees
- Certifications
(e.g. CWNE, relevant CWDP, CWAP, CWSPs, CompTIA certifications, relevant vendor-specific certifications)
- Previous experience as an Expert Witness a plus

Qualifications of an Expert Witness (2)

- Demonstrated work experience directly applicable to the case issues (more is better)
- Breadth of knowledge and expertise (Wi-Fi by itself is rarely enough)
- Publications
 - Blogs
 - Conference Talks
 - Lectures / Teaching
 - Publications (technical papers, books, etc.)

Step 1: Forensic Analysis

- Requirements Analysis
 - Documents: RFPs, Contracts, Statements of Work
 - Determine quality of requirements
 - Determine if one or both sides over-constrained
- Design Analysis: Predictive Model
- Passive / Active Site Surveys
 - Requires physical access to site
 - Network in case may or may not still be deployed
 - Usually a "representative sample" is sufficient

Step 2: Deposition

Process

- Set in a law office with opposing attorney interviewing you
- Everything said is recorded by court reporter
- Your client and attorney are generally in the room, but generally will not intervene except to object to the form or content of specific questions
- Deposition can readily last several hours (can span multiple days in complex cases)

Step 2: Deposition

First Line of Attack: Your CREDIBILITY

- Review of academic and professional credentials and work experience
- Quiz of your knowledge
- Review of any public domain materials (e.g. blogs, publications, social media)
- Review of your independence / objectiveness from the case

Your Goal: Demonstrate that you are the expert authority you claim to be.

Step 2: Deposition

Second Line of Attack: Your Conclusions

- Review of your reports / forensic analysis
- Attempt to “poke holes” in your analysis or conclusions
- Attempt to divert attention to unrelated / peripherally-related topics that help the other side

Your Goal: Communicate the conclusions that support your case, even if the other side is trying to avoid those topics.

Step 3: Trial

- Most cases settle (trials are expensive)
- Similar to deposition, but with a judge (and potentially a jury)
- Anticipate what questions you will be asked
 - Attacks on your credibility and conclusions
 - Attacks on any inconsistencies in the deposition and/or forensic analysis and reports
 - You usually cannot introduce any “new facts”
 - Review your own deposition several times
 - Review depositions of opposing Expert Witnesses

Even mistakes have to look like part of a brilliant plan!

Tips for Being Successful

Deposition and Trial (1)

- The opposing attorney is NOT YOUR FRIEND
- The opposing attorney will try to trip you up
 - Double negatives
 - Compound questions
 - May be verbally abusive
- Keep answers factual or based on professional experience
- Do not get rattled: Feel free to pause or ask lawyer to clarify or rephrase (opposing attorneys hate this, and it can throw them off their stride)

Tips for Being Successful

Deposition and Trial (2)

- Do not volunteer information - answer only what is asked (harder to do than it sounds)
- Avoid technobabble: keep your answers understandable and reasonably non-technical
- Watch out for inconsistencies in your responses
- You are not unbiased – you are working for one particular side in the case

At trial: The judge (and jury) are your audience. Face them. Convince them of your expertise and the credibility of your conclusions.