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Testifying or Non-Testifying? The Mortgage Expert Witness

Joffrey Long, Mortgage Expert Witness, describes two important - yet different ways that a mortgage expert can help resolve mortgage litigation.

LOS ANGELES, CA, U.S., December 26, 2013 /EINPresswire.com/ -- The most common type of expert witness is the testifying expert witness. These experts, in most courts, provide either oral testimony at depositions, arbitrations and trials, provide written reports or declarations that are used at trial, or in other ways their work, opinions and communications are generally open to all parties to the dispute.

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>
> *Joffrey Long*

Another type of expert is used in some cases. The second type of expert is a "non-testifying expert." They generally work "behind the scenes," usually for one of the disputing parties to the matter.

"A non-testifying mortgage expert can be of great value to a case. Sometimes the expert's testimony isn't needed, but their knowledge and input is essential," says Joffrey Long, who has served as both a non-testifying and a testifying mortgage and loan servicing expert witness.

A non testifying mortgage expert may assist the parties to a dispute by:

• Analyzing complaints, documentation from the case, depositions of parties and other available
information to assist in expanding possible areas of discovery.

• Assisting counsel in understanding matters that are specific to an area of mortgage lending or loan
servicing.

• Expert witness knowledge can help identify duties, relationships and standards of care that were, or
could have been followed, based on the expert's knowledge or experience in a specific area.

• Identifying questions that retaining counsel may ask in the depositions of other experts and of parties
in dispute regarding a mortgage.

• Expert Witness insight may be provided, into general practices being implemented under new loan servicing
changes to RESPA and requirements and regulations under the Dodd-Frank Act.

As a non-testifying expert, the communications between counsel and the non-testifying expert are generally not discoverable, as with a testifying expert. However, should the status of the non-testifying expert change to that of a testifying expert, all previous, as well as current communications between the expert and counsel, or between the expert and the retaining client become discoverable.

Should any of the following events occur, the expert's status changes to that of a testifying expert, and as previously mentioned, all communications, e-mails, and writings between the expert and counsel may be discoverable by the other party to the dispute.

These events would include:

• The expert is designated by counsel, informing other parties to the dispute that one party intends to
call upon the expert to testify in court.

• The expert completes a report, declaration, or any other form of communication that indicates to others
the opinions of the expert, and provides information about, or the actual information sources that the
expert relied upon in forming the opinions, and one party notifies the other that they intend to introduce this item at trial.

• The expert, in any other way, communicates or causes to be communicated, an opinion about the matter,
and any party to the matter makes known their intent to introduce the communications at trial.

Joffrey Long is a lender and loan servicer who also provides mortgage expert witness testimony, as well as consultation.

His background includes:

• 35 years in the mortgage lending and loan servicing fields

• Past President, and current Education Chair and Director of the California Mortgage

Association

• President of Southwest Bancorp, a real estate lending, brokerage and loan servicing company

• Author of numerous articles on real estate finance, and of several mortgage education courses

NOTE: None of the content provided is to be considered a legal opinion. Laws and court practices may vary from court to court and from situation to situation. Please verify any information in this article with qualified counsel. Joffrey Long is not an attorney and does not give legal advice.

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