

Just an Expert, or Able to Testify About Private Money

Expert Witness Testimony Requires an Ability to Communicate

IRVINE, CA, UNITED STATES, April 28, 2023 /EINPresswire.com/ -- Expert witness testimony requires more than specialized knowledge in a specific field.



Teaching the case to the jury is critical for the private money expert witness."

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Not all private money or hard money lending experts are able to testify as an expert witness in litigation or arbitration involving the making, arranging, or loan servicing of a mortgage. Expert witness testimony requires the ability to effectively communicate opinions regarding standards of care, general business practices in real estate

lending, loan servicing, and issues relating to investors in whole loans, [fractionalized trust deeds](#), or mortgage funds.

Assisting the Triers of Fact:

The expert must be able to clearly and effectively communicate their opinions and the facts substantiating those opinions, in a manner that assists the triers of fact.

In cases involving private (hard) money lending, I've often heard attorneys comment on the importance of experts being able to "teach the case to the jury," and to other triers of fact. This means, using one's expertise, but also having the ability to teach the "mechanics" and methods of private money lending to assist those who must make decisions about the real estate litigation in loans referred to as "hard money."

The triers of fact generally come from different fields and backgrounds and have limited time for any trial, and particularly, to listen to any one expert. Experts who speak intelligently, but in complex and "inside-industry" terms, and whose opinions are presented in a long-drawn-out format, may have difficulty retaining the focus of the triers of fact. Any brilliant statements they make may be lost if not understood by members of a jury, or by a judge or arbitrator.

Experts in mortgage lending may fall into three categories, with various abilities to be effective and truly helpful to the triers of fact:

Category One: The Qualified Professional, Experts at What They Do

Professionals that have extensive knowledge in private (hard) money lending, expertise in various areas of the field, years of experience, and who are outstanding in their profession may be qualified at what they do but may not have the greater level involvement in their industry, nor the ability to testify effectively about any opinions they may form, so they may not be useful as an expert witness.

Although their “inside knowledge” of the industry is extensive, they haven’t “looked in from the outside” sufficiently to assist non-participants in the industry in understanding the complexities of mortgage lending.

Category Two: The “Expanded” Professional, with a “Higher-Level” Perspective

Here, the expert described in the first section has expanded their professional involvement beyond the specific professional activity to areas that provide the professional with a higher-level perspective of their profession. They often have familiarity with the economic, legal, and social impacts of their field. Some have written articles, spoken at seminars in their field, written educational content, taught continuing education classes, and/or have been involved in trade associations or organizations relative to the profession, resulting in their having a higher level of recognition in their field.

While these characteristics contribute to expertise, this type of expert may still not be able to testify meaningfully as an expert witness in private money lending-related depositions, arbitrations, or trials. Where they have a greater, broader knowledge of their field, as well as more perspective about how their profession is viewed and understood by those outside the industry, they may still lack the ability to effectively communicate critical concepts in a tight format, and in what is usually a limited time span.

Category Three: The Communicator / Expert Witness

In private money lending, as in any field, there are complexities outside of what non-professionals in that field encounter on any regular basis. Added to that is the fact that unlike, for example, auto loans, not everyone is familiar with private money lending or even its existence. This category of expert understands their field as a professional, is involved in the industry in general, and is able to understand how “outsiders,” such as members of a jury, might see and understand the industry. This gives them the ability to distill their opinions and related information into communication that the triers of fact can understand and provides them with sufficient tools to be able to make the best decisions in the real estate mortgage litigation before them.

In summary, industry experts who have developed the ability to teach, communicate, and to simplify complex topics so that others can understand, will be of the greatest assistance to the

triers of fact.

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