

Expert Witness Services

Richard B. Cook, FAIA, and William F. Dexter

Excerpt from *The Architect's Handbook of Professional Practice*, Update 2004

Members of the legal profession frequently seek architects with in-depth knowledge of the technical and contractual aspects of architecture practice. Their expertise is used to support the prosecution and defense of claims in legal disputes relating to the built environment.

Never before have design and construction professionals found themselves defending so much of their work in the courts. In dollar volume alone, recent claims of design errors and omissions and defective construction and workmanship have exceeded all other claim areas. Attorneys representing both claimants and defendants in these claims often need to locate, qualify, and retain members of the architecture community to serve as expert witnesses.

What is an expert witness? An expert witness is anyone having special knowledge, skill, experience, training, or education in a particular field. In cases related to building design and construction, architect experts can serve a broad client population by offering unique insights on a variety of technical and contractual matters. The value of expert witnesses should not be underestimated.

Some might ask, "Why would architects want to provide expert witness services?" While there are numerous reasons to enter this line of work, several stand out. Certainly, there is no question that we live in an era of specialization. The architecture profession now includes specialties such as health care, entertainment, and high-tech manufacturing, among others. Serving as an expert witness in the dispute resolution process offers architects a chance to leverage their specialized professional knowledge, gained through years of practice, study, and training. Another significant reason that an architect may want to consider being an expert witness is the opportunity to educate the legal community about the subtleties of the architecture profession.

RICHARD B. COOK is a principal of Stowell Cook Frolichstein, an architectural planning firm in Chicago. He is a member of the AIA Documents Committee and has more than 40 years of practice experience. **WILLIAM F. DEXTER** is a nationally recognized construction risk management consultant and owner of W. F. Dexter Co. in San Luis Obispo, California. He is a veteran panelist for the American Arbitration Association and serves as a special master for the California Superior Court.

Summary

Expert Witness Services

Why a Client May Need These Services

- To support the prosecution or defense of claims in legal cases
- To provide information that will help determine if a client has a legal case
- To support a client during arbitration of a claim

Knowledge and Skills Required

- In-depth knowledge of the relevant subject
- Ability to speak and write convincingly in nontechnical language
- Strong investigative and research skills
- Expertise in analyzing and evaluating technical and practical aspects of a case
- Ability to perform under pressure in hearings and other legal proceedings

Representative Process Tasks

- Review and analyze case information
- Conduct investigations as needed
- Present findings and opinions in report(s)
- Provide oral testimony

► Statistics from the CNA/Schinnerer A/E professional liability program show that claims against architecture and A/E firms have risen steadily over the past several years. Between 1997 and 2001, the number of claims for firms carrying professional liability insurance grew from 21.9 to 24.6 per 100 firms covered.

Some Basic Legal Terms

Expert witnesses encounter many legal terms. Following are definitions of a few basic ones. For a comprehensive source of legal terms, consult the current edition of *Black's Law Dictionary*.

- Brief:** A written document, generally prepared by a lawyer, setting forth the facts, legal points, and arguments to persuade a court about the merits of or defenses to a claim.
- Deposition:** Pretrial testimony given under oath by a party or witness in the form of oral questions and answers, which is recorded and may in certain circumstances be used during a trial or arbitration proceeding.
- Discovery:** The process by which parties to a lawsuit obtain from each other and from other witnesses evidence they expect to use as part of their presentations in court or that they may use in relation to the other party's claims or defenses.
- Impeachment of witness:** An attack on the credibility of a witness.
- Interrogatories:** A series of written questions sent to the opposing party and answered by that party under oath.
- Joinder:** Uniting two or more elements into one, such as the joinder of parties as co-plaintiffs or codefendants in a suit or as parties to arbitration.
- Standard of care:** In a professional liability case, this refers to the ordinary and reasonable degree of care required of a prudent professional under the circumstances. It is the measure by which behavior is judged in determining legal duties and rights in such a case.

CLIENT NEEDS

Most of today's technically complicated legal cases are not resolved without expert testimony. However, not all people who use the resources of an expert witness or consultant are involved in a dispute. Quite often the expert will be retained to advise a client about some aspect of a building's performance or failure so that the client can evaluate whether to proceed with a complaint against another party. The expert must tread carefully in such situations, as his or her initial opinions may make the difference between an out-of-court settlement and a full-fledged lawsuit.

Who Is the Client?

The word "client" is a nebulous term in cases involving liability for building design and construction. For example, for the attorney in an insurance defense case, the client is the insured party. The insurance carrier that hires the attorney is also a client but is not the recipient of legal representation. In this scenario, the insurance carrier hires the attorney to represent the insured and participates in settlement negotiations. The attorney renders legal services in the interest of the insured. In some cases, an insurance carrier will also retain "coverage counsel" for the purpose of evaluating whether the policy actually provides coverage for the stated claim. In this respect, coverage counsel is providing legal representation to the carrier. In noninsurance matters the client is the party that hires an attorney to file a claim or defend against one.

For the architect expert, the client is typically the attorney who will retain him or her for technical consulting and expert testimony. For the purpose of this article, unless otherwise stated, the word "client" is used in subsequent paragraphs to refer to the attorney who retains the expert witness.

Why Clients Use Architects as Expert Witnesses

Architects are most frequently asked to advise attorneys, generally during the pretrial phase of a case. Attorneys seeking to understand or become more informed about an architectural or technical design concept may engage an architect to provide insight, advice, and information. In some cases, a seasoned forensic consultant will coordinate the efforts of other experts to ensure a uniform fabric of opinion and technical interpretation.

The architect expert witness may also provide testimony in conjunction with a dispute. This service is usually provided during discovery and again at the evidentiary hearing or trial. Until the discovery cutoff date set by the court, the opposing counsel has the right to depose an expert hired by the other party. The oral deposition (which is often videotaped) is an opportunity for the opposition to ask an expert about the opinions he or she is prepared to render at trial. Giving depositions, then, is a critical component of the expert witness's tasks.

Following are examples of what architects may be asked to do when serving as expert witnesses.

Interpreting Construction Documents

Attorneys are generally unfamiliar with the graphic representation that architects use in construction drawings and often only vaguely understand drawings entered as evidence. Therefore, attorneys look to an expert to explain what the construction drawings are intended to communicate. During testimony, the expert might be required to explain the drawings to jurors and should be prepared for thorough cross-examination by opposing counsel.

Investigating Design Errors and Omissions

An expert witness may be employed to investigate a faulty design and determine what is wrong with it. Lawsuits that stem from an error or omission in building design are usually brought against a design professional and require the expert architect to certify that the drawings being investigated fall below the standard of care. Many architects refuse to testify against other designers as a matter of principle. Attorneys will persist, however, until they find an architect who will testify that there are design and drawing deficiencies.

Interpreting Code Language

Code and zoning issues are almost always open to interpretation, a fact that sometimes leads to a lawsuit. Such cases, which require investigation and interpretation of code language, may be well suited to an architect expert in the relevant issue.

Investigating Claims for Delay

Virtually every owner of a construction project will experience some form of monetary consequence if there is a delay in completing a project. Whether the project involves a shift in operations from an old facility to a new one or the grand opening of a much-advertised retail center, claims for delay are a major portion of the complaints filed by commercial owners. These cases usually involve contractor scheduling problems, excused delays caused by weather, owner-caused delays resulting from change orders, problems stemming from site conditions, material unavailability, labor problems, or building authority work stoppage. The expert architect will be asked to investigate and opine whether the causes of a claim for delay are legitimate. These cases can be complex and require identifying and accounting for both excused and unexcused delays.

Investigating Personal Injury Claims

Lawsuits in this category usually necessitate early involvement of the architect. If the injury resulted from a material or installation defect, the architect can provide technical analysis, involving investigation and testing of the material involved. Quite often, this type of claim involves an Occupational Safety and Health Administration (OSHA) violation affecting job site safety. Unless the architect expert is well versed in OSHA regulations, such claims are best handled by a safety or occupational health consultant familiar with the applicable codes. Other personal injury claims stem from building code violations. The architect expert typically is very qualified to provide this type of research and analysis.

Investigating Construction Defects

Most lawsuits filed against builders and architects fall into this category. Claims for construction defects touch every segment of the A/E/C industry. After a property owner files a suit against a contractor, a flurry of claims against third parties begins. During this

► Architects will not generally be qualified to serve as expert witnesses on cases that involve construction safety issues or construction means and methods, which are contracting responsibilities.

phase of a suit, the contractor/developer typically sues all of the subcontractors, the architect, and anyone else who participated in the process. The architect or architecture firm may then allege claims against its consultants. The architect expert is qualified to provide analysis of many of these claims. Construction defects can be related to the design of an architectural detail, implementation by the contractor, code violations, substitution of materials or fixtures, early deterioration or failure of equipment, disregard of manufacturer's specifications, or many other issues.

Advising on the Mitigation of Construction Defects

Mitigation of potential or actual claims is a challenging assignment that architects are well qualified to carry out. The architect expert is frequently called upon to suggest remedies for construction conditions or failures that will not involve complete disassembly of a building or component.

A man's opinions are generally of much more value than his arguments.

Oliver Wendell Holmes Sr.

Risks Inherent in This Service

Every analysis and word of testimony an expert presents at deposition and trial becomes part of a permanent record. Experts who attempt to satisfy a client rather than providing objective analysis risk contradicting themselves when giving testimony in the future. Diligent attorneys eager to impeach an expert during trial commonly search for previous opinions that contradict what an expert has stated in the current case. The risk a client-attorney assumes when hiring an expert is that previous testimony given by the expert may impeach his or her credibility. To avoid such conflicts, it is imperative that the expert always assume the role of impartial encyclopedia of technical knowledge.

► Above all, the architect expert should be careful not to take an assignment that is clearly outside his or her expertise.

Who Provides Expert Witness Services

As for any type of architectural service, architects acquire expert witness assignments largely by gaining a reputation for high-quality service and establishing strong personal relationships with clients. Both large and small architecture and engineering firms provide expert witness services. Larger A/E and other interdisciplinary firms are more able to draw upon their own personnel for investigative work rather than using consultants.

Many firms outside the architecture profession also offer expert witness services related to building issues. Examples include consulting firms that specialize in specific aspects of construction such as roofing, asbestos removal, noise control, and so on. These firms may employ architects and engineers, but they do not provide architectural design services. Some firms providing expert witness services may offer related services such as materials testing.

SKILLS

Specialized and in-depth architectural knowledge and analytical capability are core requisites of being an expert witness. In addition, the testimony aspect of expert witness work draws upon other abilities and calls for a special temperament.

The Value of a Qualified and Credible Expert

The information and opinions developed by an expert witness can help an attorney achieve an out-of-court settlement. After reviewing and discussing an expert witness's report, the opposing attorney may advise his or her client to settle without going to trial. A well-documented, well-prepared analysis of claims can be so compelling that the opposition becomes aware of the frailty of their position. In federal cases, plaintiffs' attorneys are required to have a written report prepared by an expert outlining and discussing any technical issues involved in a case. If a report is not required, the attorney may limit the expert's opinions to testimony given during a deposition.

Sample Areas of Expertise

Following is a sampling of subjects for which architect expert opinions may be needed in legal cases involving claims about building design, construction, and use:

Accessibility compliance (ADA)	Project management
Building code compliance	Masonry
Coatings and adhesives	Materials testing
Concrete	Mitigating construction defects
Contracts	Noise control
Cost analysis	Permits
Damage evaluation	Personal injury
Defects	Roofing
Delays	Safety
Egress	Standard of care
Errors and omissions	Swimming pools
Failure analysis	Ventilation
Flooring	Windows
Foundations	Woodwork (architectural)
Fraud	

Professional and Practice Qualifications

The expert witness must have above all else impeccable professional integrity. Other credentials include having an excellent reputation, being available to do the work in a responsive manner, and displaying a positive attitude. Writing professional articles, lecturing, and participating in professional events can add to the credibility of the expert.

For each case, the client-attorney will want to be satisfied that the background and experience of a potential expert witness is appropriate. For example, if the case involves motion picture theaters and the architect has worked on dozens of motion picture theaters, the architect's knowledge will be valuable. For cases involving contractual disputes, attorneys will seek an architect with in-depth project management and contractual experience.

Project and management knowledge alone, however, does not make an effective expert witness. The expert must also have the ability to synthesize and interpret information, to write clearly, and to be persuasive when testifying.

Analytical Skills

An expert witness has to formulate opinions from a variety of facts and evidence provided by the client-attorney. After reviewing and assimilating this material, the expert develops a position for the case. The attorney uses this information to settle the case out of court or to support arguments in court.

To aid in forming an opinion, the analysis phase may sometimes require on-site inspections to verify conditions and gather data. For example, a ceiling assembly may be taken apart to inspect the condition of the framing above. Cores may be needed to test roofing material or concrete slabs. When invasive on-site measures are done under the direction of the architect expert, the site should be restored to its original condition. In some cases, the opposing attorney will limit the time for a visit to the subject site. Any testing or observation must be accomplished within the stipulated time frame.

During an investigation, experts from related disciplines—such as structural engineers—might be valuable resources for an attorney. A case may, for example, involve structural design issues. To provide a greater understanding of those issues, an engineer could be brought in to address a particular question during the pretrial phase.

Investigative activities sometimes require the use of specialized instruments to measure and obtain specific data. For example, in slip and fall cases associated with poorly lighted settings, a light meter can record illumination down to one-hundredth of a foot-

An expert is one who knows more and more about less and less.

Nicolas Murray Butler

candle. In water intrusion claims, a moisture meter may provide helpful data regarding the performance of wall flashing or window frames. The data obtained can be used in a report, or it may be given orally by testimony in deposition or in court.

The investigative phase of a case may require testing of materials (e.g., the composition of the substrate under a tile floor or testing for the presence of mold). For these and other kinds of testing, the expert witness engages qualified consultants and laboratories. As with all investigative tasks, tests must be completed within the time frame stipulated.

Communication Skills

Communication skills are important in the work of the expert witness. Experts will be asked to write reports delineating their opinions for the case. The logic of the analysis must be impeccably presented and understandable to a layperson. Correct grammar and perfect spelling are essential. Written reports must be well organized to clearly communicate all findings and opinions. Some attorneys may request the expert to make his or her opinions less technical so that the judge and jury can more easily understand them.

Public speaking skills are essential when the expert provides oral testimony in depositions or in court. Attorneys will frequently suggest approaches and strategies to guide the testimony of an expert witness.

Through testifying experience, the expert learns to recognize the possible goals of an opposing attorney. These goals may range from attempting to learn everything you have researched and will express at trial, to attempting to impugn your credentials or your research, to limiting the scope of your testimony at trial. The opposing attorney is entitled to know everything the expert will testify to at the time of trial. The expert, however, needs to carefully consider whether to expand on an answer that is outside what is asked. The expert may give away too much information prior to the actual trial.

During the trial the situation is different. The expert must convince the jury, in lay terms, that his or her opinions reflect the true merits of the case. Using analogies and citing examples can be a highly effective way to help a jury understand complex issues. If the opposing attorney attempts to cut short an expert's explanation, the judge will often allow the expert to complete the explanation.

Of particular interest are the rules of evidence, which are complex and can have serious consequences for the uninitiated expert. The Federal Rules of Evidence provide that experts with scientific, technical, or other specialized knowledge who will help a judge or jury understand the evidence or a fact at issue may testify in the form of an opinion. Federal courts exclude expert testimony on matters that are within the realm of common experience. For this reason, the expert becomes a valuable resource for attorneys, who want to admit information into evidence that would otherwise be restricted.

Guidelines for Expert Witness Testimony

- Present analysis and opinions in a clear, organized manner, preferably in short sentences that make it easier for judge and jury to grasp what is being said.
- Remain cool and objective at all times. Calm performance under the pressure of cross-examination by an opposing attorney is a major requirement for giving depositions, participating in arbitration, and appearing in court trials.
- Never become defensive or argumentative. The expert is present only to educate the trier of fact. When answering the opposing attorney's questions, think of your role as that of a teacher.
- Interact with individual jurors, arbitrators, and judges in a positive fashion, remembering that a jury will expect the expert to be impartial and to present accurate and correct information.
- Be mindful of deportment. Quite often, an attorney will make a small joke or interject some humor during a trial. Seasoned experts recommend, however, that the architect expert maintain a serious demeanor when presenting testimony.

Rules of Evidence: An Overview

Rules of evidence are, as the name indicates, the rules by which a court determines what evidence is admissible at trial. In the United States, federal courts follow the Federal Rules of Evidence, while state courts generally follow their own rules. See, for example, the evidence rules of California, Indiana, or the State of Washington. State rules of evidence are generally imposed by the state legislature upon the state courts.

In establishing what is admissible, many rules of evidence concentrate first on the relevancy of the offered evidence. For more detail, see Article IV of the Federal Rules of Evidence. (The full text of the Federal Rules of Evidence can be found at www.law.cornell.edu/rules/fre/overview.html.)

Rules of evidence also allocate among the parties the burden of producing evidence and the burden of persuading the court. See, for example, Article III of the Federal Rules of Evidence or Division 5 of the California Evidence Code.

The Federal Rules of Evidence also address the admissibility of oral testimony, as does Division Eight of the California Evidence Code.

Exhibits and Props for Oral Testimony

The adage “A picture is worth a thousand words” is as true in court as it is in a classroom. For this reason, experts frequently highlight and support their testimony with models, exhibits, and other props. Such aids can be used to demonstrate, educate, inform, and persuade jurors and judges about key aspects of a case.

A flip chart is a useful device to make impromptu observations or to amplify and add clarity to a response. An advantage of the flip chart is that it can be preserved and taken into the jury room for further review by the panel of jurors. The use of a white board, on the other hand, is less desirable, since notes may be easily erased.

Detailed drawings and three-dimensional models of an entire building or a portion of the building are sometimes used to illustrate conditions or settings relevant to the case. Some experts may personally create models themselves. Others will hire a model builder for this purpose.

Other exhibits during testimony may include photographs, slides, or videos. A PowerPoint presentation using a laptop computer is another method for presenting findings and opinions.

Promoting Expert Witness Services

All client-attorneys will request your curriculum vitae (CV) to review your qualifications in detail. However, a one-page biographical profile provides a useful tool to market

The Curriculum Vitae

Attorneys do not use resumes. Instead, they use a more detailed document called the curriculum vitae (CV). The Latin phrase, loosely translated as “life story,” refers to a document that details an individual’s qualifications and previous projects and activities. The CV should include information about work experience; education and training (both formal and on the job); certifications and licenses held; publications, such as articles and books; lecturing and speaking experience; professional affiliations and memberships; patents held; honors and awards received; and consulting and expert testimony experience. In a separate attachment, projects and expert witness assignments should be listed in chronological order. A billing rate schedule for services may also be submitted with the CV.

Needless to say, all information in a CV must be truthful and accurate. When a law firm designates an expert witness for a case, copies of the expert’s CV are typically sent to every party’s attorney. If the expert is deposed, he or she will be examined at length about the information in the CV, which is usually entered as evidence in a trial.

expert services. This profile can briefly describe your area of expertise, education, work experience, and related information to support your credentials and position as an expert.

Promoting expert witness services is not that different from promoting traditional architecture services. The same level of commitment and dedication is required, and a number of strategies may be used for each. Here are several possible ways to begin:

- Try to meet attorneys who can either hire you directly or lead you to others who might need your knowledge and qualifications. Ask the attorney for your architecture practice for names of other attorneys who hire architect experts. Identify the leading law firms in your community that have attorneys specializing in construction law. Write to them and include a copy of your biographical profile.
- Become involved in organizations that will introduce you to attorneys. Organizations such as the American Arbitration Association (AAA), the American Bar Association (ABA), and state and local bar associations are excellent places to start.
- Join the ABA as an associate member. Many attorneys working in construction litigation are members of the ABA Forum on the Construction Industry.
- Volunteer to speak at monthly meetings of the local bar association. Speaking on issues salient to construction defect litigation or about your particular area of expertise can tie into legal education initiatives that many states require for attorneys.
- Become involved in AIA knowledge communities (committees or professional interest areas) that address your areas of expertise.

Some architecture firms will promote the expert witness aspect of their practice more vigorously than others (e.g., through brochures, Web sites, special events, etc.). Regardless of the strategy and promotion techniques used, marketing expert witness services boils down to meeting a core group of attorneys and becoming involved in activities that provide good exposure. This exposure—along with a completed case or two—will gradually establish recognition of the architect or architecture firm as an expert witness.

The first expert witness assignments an architect receives will likely be cases in the local community. As your experience grows, a local attorney may recommend you to an out-of-state attorney looking for experts.

Until an architect acquires some experience as an expert witness, references will be peers from a relevant professional association and from an employer. Later, the names of clients, judges, parties to lawsuits, and faculty members may be added.

PROCESS

No two legal cases involving expert witness services are exactly alike, yet the workflow of each generally follows a similar route. The major activities and steps involved in a hypothetical case are outlined here.

Preliminaries

When an attorney calls about a case, he or she will first want to determine whether you have a conflict of interest. A conflict might occur if you are doing work for the opposing attorney, are working on the subject of the dispute, or know the opposing party in the litigation. Next, the attorney will want to learn about cases you have worked on, your rate, and your availability. If you and the attorney feel you have the knowledge and ability needed for the work, you will discuss its scope, the terms of your contract, and your fees.

Currently, the AIA offers no contracts applicable to expert witness work. A legal agreement may be accomplished with a letter or a customized contract that includes some or all of the following sections:

► Knowing when to turn down work can be as important as knowing when to accept it. Do not accept assignments for which you are not qualified.

- Retention clause
- Services to be performed
- Confidentiality
- Compensation
- Expenses
- Billings
- Termination
- Dispute resolution
- Governing law

When taking a plaintiff's case, request a retainer with the signed agreement from the attorney. Most defense cases will not provide a retainer. Since insurance carriers are paying the fees, bills will typically be submitted to the attorney and paid directly to the expert by the carrier. Even with regular billing (e.g., monthly, quarterly, etc.), attorneys may not pay expert witness fees until their client pays them (this is similar to how architects pay their consultants). Keep in mind, however, that the expert commonly works for the attorney, rather than the attorney's client. Regardless of the outcome of a case, the attorney must pay the expert.

Deposition dates are generally established by agreement between the attorneys, while the court date is set by the judge. As well, the court sets the date by which an attorney must provide an expert report. An attorney can ask for and often receive a date change if the expert has a conflict.

Case Preparation

Once retained by an attorney (especially when the attorney's client is an architect), the architect expert will most likely receive a copy of the project architect's file, depositions, and other data relevant to the case. If the case involves a dispute charging the architect of record, you may receive drawings, specifications, and applicable shop drawings. It is important to request all materials necessary to conduct a complete analysis.

Case preparation can include assisting the attorney by suggesting sources of evidence, conducting on-site investigations and testing, preparing deposition and interrogatory questions, briefing other witnesses, preparing props and exhibits, and helping develop a case strategy. An attorney who has never tried a case involving a construction issue may ask the expert to help in every phase of the case. This could include outlining the issues, recommending questions for depositions, attending the depositions of opposing experts, and preparing demonstrative evidence and exhibits to be used in court. The expert might also explain the exhibits in court.

Report Preparation

Once a case has been prepared and its salient points identified, the expert may be asked to prepare a written report. (Written reports are a standard requirement in federal courts and may be required in state courts.) Organize points to be covered in an outline before you start writing, and remember that the narrative sequence must lead to a conclusion. Before you commit an opinion to writing, it is prudent to discuss the contents with your client-attorney to ensure it is complete, compelling, and persuasive.

In some instances, an expert witness may be asked to provide written opinions based on a review of the evidence in a case. However, attorneys are often reluctant to have their expert commit opinions to paper too early in the process. Despite the fact that new information may warrant a revised opinion, at the time of trial opposing counsel will not hesitate to use any change in opinion to attempt to discredit an expert before a jury. The process of justice is often a matter not just of who is "right" but of which team puts the best case before the jury.

Depositions and Other Testimony

Every expert should be thoroughly versed in the ground rules of giving a deposition. Opposing counsel will carefully examine and question an expert on every component of his or her report during a deposition, along with previous cases and projects the expert has worked on. Following the deposition, a transcript will be published and presented to the expert to verify for accuracy and signature. The testimony in the transcript may be

read back at the time of trial in an attempt to impeach the expert (e.g., if the expert's trial testimony differs from what was said during deposition).

Detailed, extensive, and thorough preparation is required of all experts and attorneys preparing a case. The time an expert spends in preparation always pays off exponentially at the trial or arbitration hearing.

A REWARDING DIMENSION

Architects working full- or part-time or who are semiretired may find offering expert witness services appealing. However, remember there is downtime associated with practically every expert witness case. Anticipating this will permit you to continue other day-to-day work without too much interruption. Be aware, though, that large, complex cases may remove the expert from practice duties for two or three months while a trial is under way.

Some architects will become involved in expert witness work as they achieve mid-level positions or when their own practices have matured. Others become expert witnesses after they reach senior positions or when they have begun retirement but want to keep a hand in practice. Regardless of where you are in your career path, serving as an expert witness could add a new and rewarding dimension to your professional life.

All necessary truth is its own evidence.

Emerson

“Expert Witness Services” was originally published in *The Architect’s Handbook of Professional Practice, Update 2004*, ©2004 by the American Institute of Architects, published by John Wiley & Sons, Inc.

The AIA provides a contract document designed especially for alternative architectural services.

B102–2007, Standard Form of Agreement Between Owner and Architect without a Predefined Scope of Architect’s Services.

AIA Document B102–2007 is a standard form of agreement between owner and architect that contains terms and conditions and compensation details. B102–2007 does not include a scope of architect’s services, which must be inserted in Article 1 or attached as an exhibit. Special terms and conditions that modify the agreement may be included in Article 8.

The separation of the scope of services from the owner/architect agreement allows users the freedom to append alternative scopes of services.

AIA Document B102–2007 replaces and serves the same purpose as AIA Document B141–1997 Part 1.

For more information about AIA Contract Documents, visit www.aia.org/contractdocs/about

May 2011 The American Institute of Architects