

REAL ESTATE EXPERT WITNESSES, LLC

Real Estate Expert Witness Markey Survey

Real Estate Expert Witnesses, LLC (“REEW”) sought to better understand the size and scope of the real estate expert witness market and therefore conducted a brief 10 question survey to 103 different real estate expert witnesses. Over a 90-day period, REEW received back 20 responses for a 19.4% response rate. The 83 potential respondents received who failed to respond were sent four follow up emails in an effort to increase the response rate. The findings contained herein are solely based on the survey results provided by the 20 respondents.

The survey asked the following 10 simple questions:

- 1) How many expert engagements did you conduct in 2018?
- 2) How many expert engagements do you anticipate in 2019?
- 3) How many years have you been an expert witness?
- 4) What is your largest lead source?
- 5) Are you actively seeking more cases?
- 6) What do you do with cases that do not fit your expertise?
- 7) What is the largest challenge you have in your expert witness business?
- 8) Do you typically receive a nonrefundable retainer?
- 9) How many hours do you bill for the average expert engagement?
- 10) What is your average rate for non-witness time?

In 2018, the average expert witness completed just 15.3 engagements, or just over one per month. The average figure was somewhat skewed based on the data received as one respondent completed 73 cases in 2018. As such, the median may be a more accurate figure as to the average number of cases completed per year. Per the survey results, the median number of expert engagements per year is 10.

The trends for anticipated number of cases in 2019 closely mirrors the 2018 results. The average expert witness intends to complete 16.6 matters in 2019. This data was also skewed from that same respondent as they anticipated 75 engagements in 2019. The median anticipated number of engagements for 2019 was 12.

The average and median are in close alignment as to the average years’ experience as an expert. The average and median were 20.5 and 20 years, respectively. REEW spoke via phone to over 75% of the respondents and found that most real estate expert witnesses with greater than 20 years of experience, are either retired (and conducting litigation consulting on a part-time basis) or aim to retire in less than ten years. Interestingly, respondents with less than 20 years of expert experience expected to average 12 matters in 2019 whereas respondents over 20 years’ experience anticipated an average of 22 matters.

Over 45% of real estate expert witnesses receive most of their engagements from expert witness directories and more than 25% stated that their primary source of business is repeat business. The remaining 30% was evenly split between direct web traffic and other. The respondents who claimed other,

per follow up conversations with REEW, cited networking and local bar associations as their primary referral source.

Most real estate expert witnesses are seeking additional cases with only two responding that they were not. One such respondent informed REEW that they intend to retire in the next 12-18 months and therefore are not seeking any additional matters.

Over 70% of real estate expert witnesses refer cases which do not fit their skill set with almost 24% refusing the cases and not providing referrals. REEW sought to understand why 25% of expert witnesses do not refer out business which is not a fit for their skill set. The answer was simple...they do not know to whom cases should be referred. REEW has collected the skill sets and contact information for numerous referral partners. In the event a case does not meet REEW's skill set, we possess the information and referral information for the appropriate expert in the field.

The survey found that real estate expert witnesses have several primary challenges in their business practice. The largest challenge is time – either balancing their own time or extremely short leads times from engaging attorneys. Marketing was the second largest challenge. Most real estate experts appear to be relying on their website or expert directories to source new engagements. The final challenge noted by expert witnesses was geography. Based on the nature of the issues at hand, most real estate experts believe they can opine on a nationwide basis as the true issues which are subject to litigation have little to do with the locality. As one expert REEW spoke with stated “some lawyers do not understand that just cause the expert is located in their backyard, that they are not necessarily the best expert for the case as qualified experts are able to opine nationally with the sole exception of a hyper-local market issue.”

Sixty percent of real estate expert witnesses receive a non-refundable retainer. In REEW's follow up dialog with the remaining 35%, most were unaware that a non-refundable retainer was available to them. Interesting, over 71% of these respondents (who do not receive non-refundable retainers) have greater than 20 years of expert experience. One respondent received a partially non-refundable retainer. Most respondents who receive a non-refundable retainer stated that hourly billings were charged against the retainer rather than the retainer sitting in a trust account as collateral for invoices.

In REEW's opinion, the most interesting results came from the average number of hours billed on the average engagement. The average hours billed per the survey was 61 hours per matter, however, there was one respondent who suggested they spend 300 hours on the average engagement. The median number of hours billed was 50. In speaking with numerous experts, REEW learned that most experts did not like this question. The reason was straightforward – some cases have outsized amounts of discovery (and/or time) that causes billing to be higher whereas cases with less reviewable discovery and/or shorter timeframes had less billable hours.

Finally, in terms of average hourly rate, REEW presented survey participants with four hourly rate brackets: (i) under \$250 per hour, (ii) between \$250 and \$350 per hour; (iii) between \$350 and \$500 per hour; and (iv) over \$500 per hour. Based on the survey results, the dividing line for compensation appears to be \$350 per hour as 55% of respondents receive over \$350 per hour, with approximately 10% receiving over \$500 an hour. Conversely, 45% receive less than \$350 an hour, with only 5% receiving under \$250 per hour.

REEW intends to conduct a second real estate expert witness survey later in 2019. Please feel free to reach out to us at 312-307-1429 or jr@realestateexpertwitnesses.com with suggested questions or feedback on this market study.

REEW was formed in Jeffrey Rothbart. Mr. Rothbart is a seasoned real estate executive with over 15 years of direct experience in all aspects of commercial and residential real estate. Generally, Mr. Rothbart's experience includes, but is not limited to, land and property acquisition, zoning and entitlements, development, general contracting, valuation, acquisitions, debt and equity finance, asset and property management, leasing, sustainability and dispositions. Mr. Rothbart has experience with both domestic and international real estate as well as most property types. Mr. Rothbart is an Illinois licensed attorney, possess and LL.M. in Taxation, is a licensed IL real estate broker and has been an Adjunct Professor of Law for over 10 years.

Mr. Rothbart has participated in over \$3,000,000 of commercial real estate transactions across property type and geography, formed over \$200,000,000 in real estate joint ventures, managed over 11,000,000 SF of commercial real estate assets, procured over \$500,000,000 in equity and debt investments and negotiated over 200 leases totaling more than 2,000,000 SF.

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