

# TRIAL TECHNOLOGY LITIGATION SUPPORT PODCAST

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- RH: Welcome to another episode of the Litigation Support Trial Technology podcast, Rob Helt here with you, and I want to say that I'm glad we're finally back after a short hiatus. Things have been incredibly busy. Today, I am without my co-host Jason Broadway. On today's show, I have the opportunity to go into an area that we have not broached the subject of over the past three years that we've been doing the show, and that is expert witnesses. I've never had an opportunity to really sit down and talk to an expert, and so the opportunity presented itself and I of course jumped on it to talk with Gary Tenzer, who is Principal/Co-founder of George Smith Partners. Gary is an experienced expert witness, having served as a litigation consultant, an expert witness in over 300 cases. He served as an expert witness in diverse real estate litigation matters. He's knowledgeable in the legal matters affecting real estate financing and transactions, real estate, bankruptcy and mortgage brokerage issues, and so I finally get an opportunity to talk with an expert. Gary, welcome to the show.
- GT: Thank you. Nice to be here.
- RH: Tell me a little bit about how you got your start in the finance world, because being a capital advisor, working on real estate litigation, working on legal matters affecting real estate financing, obviously makes you some type of a numbers guy. How did you get into that business?
- GT: I did my undergraduate work in economics and urban land urban land economics at UC Berkeley. I earned a Bachelor of Arts degree and did a double master's degree; an MBA in finance, and a second masters called a Master of Science in Business (MSBA), in real estate finance at University of Southern California. After I graduated, I was introduced to a gentleman named George Smith. George had the reputation being the dean of real estate finance in the western U.S. and a nationwide reputation that as a brilliant real estate financier. I was introduced to George and he asked me to come work for him and be his assistant and that's how I got into the real estate finance business.
- GT: With the technical background and academic background I had, he gave me an opportunity and said, "come work for me and I'll give you a Ph.D. in real estate finance." The Ph.D. was really his way of saying, I'll teach you what the real world

is all about. What you learned is academic and now I'll teach you what really happens when people really do deals. That is how I got into the business.

RH: How does that lead you into becoming an expert witness? Because here's the thing, there's an old saying that says those who can, do and those who can't, teach and I've always felt that expert witnesses are teachers, but that doesn't mean that they can't do the work. For instance, I know an economics professor in Arkansas, a gentleman by the name of Ralph Scott, who is an economist and of course, he crunches the numbers on economic loss for a case in a personal injury or medical malpractice case, and he'll take those numbers and he'll reduce them to present value and the money that would be earned over time and if it was invested in tips, bonds and things like that, and he's a professor and he teaches but he also understands how to do this. How did you end up getting into actually testifying in cases?

GT: Well, let me give you a little bit about the primary business that I'm in, which is the commercial real estate finance business. George Smith, Gary Mozer, Steve Bram and I co-founded George Smith Partners. We are in the business of arranging commercial real estate financing. We're an intermediary and our clients are developers and investors of commercial real estate. We arrange approximately \$2 to \$3 billion a year in commercial real estate financing. That's what I do day to day. I am in the business of financing commercial real estate, and I will personally arrange somewhere between \$500 Million to \$700 Million of financing a year in commercial real estate. That's primarily what I do.

GT: The expert witness work is something of a side business. I do it through the auspices of George Smith Partners; but, it's an adjunct to my primary business. It enables me to testify from the perspective of a working expert. I'm not a theoretician or an academic. I'm not testifying as somebody who just has some opinions about what's going on in the finance markets; I'm in the finance market every day. I'm speaking about what is actually going on in the market from the perspective of somebody who's in the market day to day, knowing what investors and lenders are doing, how money is priced, what type of programs they have, how deals are being structured, and what's really going on.

RH: Take me through the types of cases that you primarily work on, Gary, what types, because a lot of what we see is we see intellectual property patent cases. We see personal injury, catastrophic injury, brain injury cases and medical malpractice is a lot of trial technology consultants, that's a lot of what we see. What areas are you primarily focused on, what type of case walks in the door and says, hey, I need Gary Tenzer?

GT: It really varies. They're all commercial real estate related. Usually they have a finance component, but not necessarily. Sometimes I'm asked to opine about a brokerage dispute because I have a real estate broker's license. So, I've been asked to opine about whether a broker acted in a way that they were supposed

to behave, did they do their fiduciary duty and follow a professional standard of care in role as a broker. That would be an example of a non-finance real estate case.

RH: Let me ask you something, I don't want to interrupt you there and we'll get back to that but like it or not, they use the care. I know that in some cases, in medical malpractice cases for instance, there's a standard of care that's breached. How would one breach the care in a brokerage dispute like that? What is an example of a breach there?

GT: Okay, as an example, a broker has a duty to disclose a latent defect in a property. Let's say the Broker has constructive notice that a building has a specific defect in it. If they were aware that there is some sort of toxic contamination and they were involved in a sale transaction and they did not disclose that to the buyer, or the seller did not disclose it to a lender that the toxic condition existed, and the buyer buys the building or a lender lends on the building ignorant of that condition. Then, either the buyer or lender later find out that the toxic condition existed, the seller and broker were aware of it but was undisclosed. Obviously that building is worth less with that toxic condition than it would have been without that condition. There's clearly damage to the value of the asset and therefore, that broker has breached his standard of care and duty to disclose that toxic condition, and that would be a breach of a broker's responsibility.

RH: Now you deal with like bankruptcy and things like that as well, when you have real estate bankruptcies?

GT: Yes, but, first, let me circle back. You asked me earlier how I got into being an expert witness. What happened was, the real estate finance businesses is cyclical. There are times when interest rates are up and when lenders are not as active or real estate financing is not as active. There was a period in the mid 80s during the Savings and Loan crisis where there were a lot of deals going bad and there was a lot of real estate litigation. George Smith was very well known by real estate lawyers and real estate litigators and there were a lot of real estate bankruptcies happening. On several occasions, George was asked by bankruptcy lawyers to be an expert witness in real estate bankruptcies. The key role that an expert plays in real estate bankruptcy is as an interest rate expert to opine on the market rate of interest on the restructured post-bankruptcy loan. There's also a need for an appraisal expert for the determination of value.

GT: There'll be an interest rate expert on both sides, so the Lender has an expert and the Borrower has one as well. Usually, I take represent the Lender, not the Borrower, but that's not always the case. Sometimes, I do represent the Borrower in a real estate bankruptcy. Each time that George was asked to testify in a bankruptcy or other matter he asked me to do the research for him. I was happy to assist him and do the research; I found the litigation very interesting and

intellectually stimulating. George was doing the testimony and I was doing all the back-room research.

GT: When the commercial real estate finance business started coming back, and the market became very functional again, George really wanted to spend time doing deals and didn't want to serve as an expert witness anymore. He asked me that if he was requested to do future expert work if I'd be interested. If so, he would turn it over to me. I said, sure, I'd like that. One day a lawyer called, and George referred the case to me. The next thing that I knew, I was an expert witness in a case. My first case was a bankruptcy case and I had to figure out what I had to do. I read the reports that George had written and I followed his format. Then there was another case and another case, and it's now 25 years or 30 years later and I've been involved in over 300 cases and over 100 courtroom testimonies, and the attorneys' calls keep coming in.

RH: When you mention lenders, I guess the way we could describe that would be normally in a lawsuit. You have a plaintiff and you have a defendant. You would be doing primarily most of your work on the side of the defendant, correct?

GT: Well, in a bankruptcy, there's not a plaintiff and a defendant. There's a debtor and creditor.

RH: Right, right, but that's on a bankruptcy case but let's say that you're talking about, whether and I guess it's mostly bankruptcy cases that you're dealing with then, right?

GT: No, I wouldn't say that. I'd say probably that tends to be cyclical. The economy has been strong in the past 10 years. There have been relatively few real estate bankruptcies and also some things were changed after the rash of real estate bankruptcies that occurred in the mid-2000s around the Great Recession.

RH: When the bubble went crazy and all the adjustable rate mortgages were out and you had the predatory lending?

GT: Actually, the biggest rash of real estate bankruptcies occurred after the Savings and Loan crisis in the late 80's, before then it made all sorts of sense for real estate owners to file bankruptcy and do what was called a cram down on the lender to restructure the loan, which hurt the Lender quite a bit. Then the Lenders got wise and they started changing the loan documents so that it became much more onerous for the Borrower to file bankruptcy is it made the sponsors personally liable for damages. The next time there was a big recession, which was around 2008, borrowers were much less likely to file bankruptcy. They had to work out the loans differently and bankruptcy was not as quick an exit strategy for them. Real estate bankruptcies have not been that common of occurrence in the last 15 or 20 years.

- RH: How much of this stuff Gary makes it to court, actually makes it into a courtroom with a presiding judge or magistrate or whatever? How much of this actually makes it into court?
- GT: The bankruptcies or general litigation?
- RH: Any general litigation that you're doing inside of this finance world, how much of it makes it because the reason I asked Gary is because in the fields that I said earlier, the sphere and scope of what most of us play in, we have a percentage out there that is not real, but I'm going to say a number and it's not a real number, but it's real close, and that is 97% to 98% of cases settle well before they ever see a courtroom. What is it for that, but let me say this, if 97% of the cases I mentioned earlier settle, I know that almost 80% of workers' compensation cases actually go to an administrative law judge and they get their day in court. It's kind of the flip side over there. What is it like for you guys over in that finance area, how much actually sees a courtroom?
- GT: My sense of it, at least the ones I've seen, the bankruptcies usually do go to court. I rarely see the bankruptcy settle. I was involved in one earlier this year that did settle; I'm told now the settlement may be set aside and the case now may go back to trial. That was on a land deal in Sacramento. I don't know what the status is of that case but I was prepared to testify in that in trial and I may have to get prepared to do that again.
- GT: I would say most of the bankruptcies do go to trial, though. On the civil litigation, I'd say two thirds settle and maybe a third go to trial.
- RH: It's still the same. It's still a larger percentage of settling than it is go.
- GT: I would say it's probably a good ratio. I certainly get to the deposition stage on virtually every case. Whether I need to testify at trial is not required in all cases, true.
- RH: When you go in and you're going to be, a lawyer calls you, they want to use you as an expert in their case and they've got a copy of your curriculum vitae and you go through the deposition process and let's say you're going to go testify at trial. One of the things that is said about you is that you're very proficient in giving testimony about jury and bench trials and you're very skilled at explaining complicated financing concepts and issues in a way that the court and jurors can understand and relate. Let's be honest here, finance litigation, dealing with these types of things that you're in with these real estate matters can be very complicated. How do you best break that down for the court and the jurors to understand?
- GT: I try to take it very slow. I assume the role of a teacher, and I don't talk down to people, I recognize that the audience is the jury. I find that judges do not know

this stuff. When I got into doing expert work, I assumed the judges would have known more about basic finance and basic business. I find the judges usually are not that sophisticated, so I take it very slowly, I take it step by step. It's very important that I spend time with the lawyers in advance to take me through my testimony. This is before the trial. I want to teach the attorneys on how they're going to lead me through the testimony and how I am going to answer the questions to bring out the story that I'm going to tell. It's like I'm unpeeling an onion. How does that story develop? How to take it step by step? Let me build the theory. Let me build the case and explain it step by step.

- GT: I want to try and explain it to the jury, as I would be explaining it to my mother, who, probably could not balance a checkbook. I must make it very clear. I recognize that probably the most sophisticated financing that people on a jury have done is maybe financed their own house. They typically would have no familiarity with how a construction loan would work or how structured finance works or even knows what that is. Those are the things I would have to explain very carefully and go step by step.
- RH: When you're like, let's move this over now to our area of being trial technology consultants and that is how do you present that or how do you see the best way to present that, the supporting numbers to your testimony or whatever that story is? What do you find Gary to be the best way to present that to a jury?
- GT: It varies. Sometimes I'll use PowerPoint although I find that people don't like PowerPoint. They find it dry. It turns them off.
- RH: I think people find poorly developed PowerPoints to be that way. I think that when you have a professional develop it, it's the difference in watching Celine Dion sing versus watching someone do Celine Dion songs in karaoke. There's a huge difference.
- GT: Yeah, right, big difference, and if the attorneys have the budget to do a professional presentation, have somebody help me do that presentation, I certainly prefer using that at the trial.
- RH: The tech people.
- GT: I would like to have them put together the presentation and sometimes, it's using graphics. There are charts, diagrams, flow charts that let me show how to build my story and it may be some combination of other elements that support my conclusions. Sometimes, the judges want me to use a flip chart, which I hate doing because my handwriting's not very good, but I'll do my best with that and I'll take it as slowly as I can.
- RH: Let me ask you this. Do you find Gary that if you are going to sit here and break down a series of calculations, and you were just going to tell someone how this

broke down and how a fiduciary breach occurred, telling them would retain, they would retain a certain amount, but telling them and showing them, they would retain more. Is there any way you can even do your job without showing someone?

GT: It depends upon what I'm trying to explain. If what I'm explaining is the duty of a broker is to disclose a latent defect. I don't know that I must show that or maybe I would just have a chart that lists the duties of a broker are A, B, C, D and this is where the failure was. But if it's a finance case, if it's something with numbers, I would want to show the numbers and because that's something that people cannot conceptualize or keep in their head. It's especially important if I know they're going to take that exhibit back to the jury room.

RH: Do you find it to be easier using numbers because numbers are really unbiased. Numbers have no agenda. The numbers are the numbers and figures normally don't lie, so do you find it easier because then, your credibility isn't challenged to do numbers?

GT: I'm not using numbers in the way that let's say a scientist would use numbers to measure something. I'm using numbers because I'm saying that the building had a value of \$50 million and there was a \$42 million loan on it, and that meant there was \$8 million of equity. Maybe I do a bar chart that would show here it's \$50 million in value, \$8 million in equity, \$42 million in debt, and there'd be different colors representing those things or a pie chart or something to diagram that, but you'd put numbers to that pie chart.

GT: It's not measuring the velocity of a car going to an intersection or something like that, it's quantifying values and rates of return and that are metrics that are relevant to finance. As soon as I tell people that, their eyes roll up in the back of their head. That's very dry and you have to try and make it relevant when you explain to somebody what an interest rate is and a rate of growth is and what a rate of return is. You have to explain it in a way that they can relate to it. If you can't talk about it like a college professor does. You have to explain it to them in a way like they can relate to it such as, the cost of something they would buy in the store, that they deal with every day, and then they can understand the concept in that way.

RH: Well because I mean if you turn on Alan Greenspan, I'm done, right? I'm done. I'm not really a numbers guy. I don't understand the way things work but if you can put it in terms of technology and you say, okay, well, it's like buying a computer and that can be, I could certainly understand that. Obviously, from what you're saying, that's kind of what you do. You break down the issues, and you put them in real world terms where people can understand. I've always felt that that's one of the things that lawyers sometimes do is they get lost in the minutiae of things and they completely lose the 12 people in the box, who the 12 people in the box normally have an average education level of high school at best.



- GT: Let me say something else here. I think the biggest mistake that lawyers make, is bringing experts in too late. Frequently I'll get a call from a lawyer who says, "I read your CV, you're excellent, I'd love to hire you. The trial is in six weeks. I'll need to designate you by tomorrow". That means to me that they waited to the last minute and it's too late to really do any strategy or any planning. Where they really should be hiring me is at the very beginning of the case when they first get the case and they start strategizing for the case.
- GT: I'll give you an example. I was involved in a case about three or four years ago, working with a very prominent law firm in California. I met with the head litigator and the staff of about 10 attorneys in the case. There was a large amount of money at stake. I don't remember the exact amount now, but it was approximately \$25 million, \$30 million. The case involved a loan that had gone bad. The senior attorney took me into a conference room where three walls had whiteboards on them. He started sketching out flow charts and diagrams on the three whiteboards. It took him about an hour to sketch this whole thing out. When he got through with it, I thought I was looking at either the recipe for DNA of the human body or the formula for the atomic bomb.
- GT: It was very complex. I said, let me try and repeat this back to you. I summarized the first portion of the case and I summarized the next portion and then the next and said, look, isn't this issue here the crux of the case? He said, yes, that's the crux of the case. I said, isn't like 95% of the issue here? He said, yes. I said if you can eliminate this part and that part, doesn't this really stand on its own? He said, well, I guess it really does. I said, so why don't we just focus on this and leave the other parts out. He said, you know, I think that really does make some sense. That's where we focused our energy and our efforts and so, by my coming in early and helping him focus the case and simplify the case, it was a much more effective presentation. If I came in later in the case, I couldn't have done that. He would have been too far down the road, but this happens. I much prefer to get brought in early in the case where I can strategize.
- GT: Let me tell you an example of another case where that didn't happen. I was called on a Thursday afternoon by a lawyer in New York, and they said that they retain a real estate finance expert to testify in a very major real estate bankruptcy. They said that I would need to testify at a deposition next Tuesday and they had to designate me by the end of business that day. I thought, this can't be good. It was a very large bankruptcy. If I recall, it was a \$25 million loan on an approximate \$50 million asset, a 50% loan to value. The loan was on a office building in New York City and it was a very aggressive lender that was foreclosing and the Borrower put it to bankruptcy.
- GT: I negotiated my deal to be retained and had all the documents FedEx-to me and emailed to me. I worked all weekend, wrote my report and prepared. When I got to New York I told the attorneys that I wanted to meet with them upon my arrival. I flew in on Monday for a Tuesday deposition. I arrived at Kennedy at two o'clock



and told the attorneys that I'll be at the hotel at three and I wanted to meet with them to prep for the following day's depo. I was prepared to work with them all night to be prepped for the deposition at nine the next morning. He said no, we don't think we need to meet with you. I think you know the case well and you'll be fine.

GT: I went to the deposition and the attorneys on the other side were from one of the finest law firms in the city. The lead attorney cut me to ribbons, and rightly so. The attorneys that I was working with just did not prepare me well for what was in front of me.

GT: Well, you think they would have learned because I had to go back to testify in court the following week to be cross examined on my written report which was used as by the court as my direct testimony. The same thing happened, I said to my attorneys "look, you know, the deposition didn't go well, I really need to meet with you and really do a very intensive prep session". "No, they said, you know the case. We've talked about it, we've gone through the deposition, you know the answers." So, the next day, I'm sitting on the on the witness stand, and the opposing attorney asked me yes/no questions which I'd start to answer. I wanted to elaborate the answer and he would keep cutting me off. He wouldn't let me finish my answer. He kept cutting me off. Now this would be a clue from my side to make a note to ask me about this in a redirect, what were you going to say? A good attorney would have had two hours of redirects for me to let me finish my testimony, after I got through being cut to ribbons by the opposing side. But, my side just rested.

GT: When I got done with my testimony, I left the courtroom, went back to JFK and took a plane back to Los Angeles. I found out the next week that my side lost, and for good reason, because the lawyers were not prepared. They did not prepare their expert. It was a bad case to begin with, but it was just so poorly lawyered, and they just did not prepare the expert well and I couldn't prepare them for my answers. I still don't know if I could have saved it if I was well prepared because the facts were not good.

RH: Did they pay your bill?

GT: Yes, they paid me in advance. I only work on retainer.

RH: Well, I know that over on our side of the trial technology side, we have that a lot of times where if I've never worked with a lawyer or they don't know how to work with me, I will try to explain to them that here's the way you call for an exhibit. Here's the way you call for a document. This is when you ask for a zoom or a call out or a highlight on a document or if you want a video deposition designation, if you're going to impeach someone with their deposition, here's how you do it. Call in to me to throw that part of the video up at a moment's notice, and a lot of times they still, they either don't have time to meet with me or they just think

they're going to wing it and I agree with you in the fact that that's the one way you can get caught blindsided is for a lawyer to not prepare you, and in your example, a good lawyer would have objected and said, your honor, could the witness please finish his answer?

GT: Either that or redirect.

RH: In redirect, you know, if it's like, okay, well, just answer the question yes or no, Mr. Tenzer, if I hear that I know okay, he had you answer the question, yes or no but Mr. Tenzer, the answer was not really yes or no, was it? Expand on that for me, , I remember being with an economist at four in the morning one time. We had kept going all night long getting prepared in a very complex issue, and so I completely understand where you're going there. Let me ask you, do you prefer to testify for one side or the other or do you care?

GT: In terms of bankruptcy, I usually testify for the creditor, which is the Lender in a bankruptcy rather than the Debtor, which is the borrower who is trying to get relief from the debt that they owe Lender. The reason I'd rather be on the Creditor side is that I have to go back to those lenders all the time and negotiate with them on behalf of my clients to borrow money, so I don't want those lenders angry at me.

RH: Yeah, you don't want to bite the hand that feeds you.

GT: That's right. Now saying that, I have taken on some debtor cases. In fact, I was the expert witness in the General Growth Properties bankruptcy case. General Growth Properties was, and, I think it still is, the largest regional mall company in the country, perhaps the world, known as GGP. They filed bankruptcy in 2010 and with \$27 Billion in debt, it was the largest commercial real estate bankruptcy in history. I was their real estate finance expert witness on that bankruptcy.

RH: That was the case there from, isn't it Cedar Rapids, Iowa where General Growth Properties is?

GT: They were founded there, yes.

RH: I remember part of that case because of the way that all went down and happened. That was a large, large, large bankruptcy deal.

GT: Yes, very.

RH: There were the Las Vegas properties and there were defaults on those properties.

GT: They had properties all over the country.

- RH: There was the Rouse acquisition. That was a very big case and I knew there were some graphical boards that were done for the exhibits one through eight or whatever, and those boards were actually done by a friend of mine, so I remember.
- GT: If I recall, their lead counsel was Kirkland & Ellis. I think there was a co-counsel. I'm trying to recall who the co-counsel was. That may have been Akin Gump. I just don't recall completely currently.
- RH: Well, yeah, and I think it was like there were so many different trials because there was debtor and possession financing in that. I mean, that was just a mess. You have a group, let's talk about this. You have a group called "The Experteam" that you are a part of. Tell me a little bit about these guys and what you guys do collectively as a group.
- GT: One of the problems of being an expert witness is how do you let people know you're in this business. I get myself known by networking. I meet with lawyers and I try and network with them. I go to where lawyers are. I'll make lunch presentations to real estate transactional lawyers and litigators at law firms and bar associations. But, mostly, I get referrals through word of mouth or through real estate lawyers that I do transactional work with who are asked by litigators, do you know somebody who is an expert witness in real estate finance?
- GT: The litigator may ask one of their finance partners or their real estate transactional partners if they know somebody and they may refer them to me. But it's hard because you may meet a lawyer and he says, boy, you're great. You're exactly who I would like to use someday if I ever need an expert with your specific expertise and if I have a case that has issues that need you. The problem is that they may never need you. They may never need you ever in their career or you work with a lawyer and he thinks you're terrific and you develop a great relationship with them; but, they may never have another case that requires your expertise again.
- GT: It's not like, a medical malpractice lawyer that always needs a doctor with a particular specialty that does have medical malpractice work and can work repeatedly doing expert witness work for the medical malpractice lawyer.
- RH: Well, that reminds me, do you fall under in that type of litigation that you're in, do you fall under the same type of qualifications where you can be, you have to get over a Daubert challenge for instance?
- GT: Yes, and I never had a problem.
- RH: You've never been excluded?
- GT: No, I've never been excluded.

- RH: Nice, and that's hard. I mean, not all experts can say that and a lot of times, it's poor lawyering that will get you excluded. It's not necessarily your testimony.
- GT: I have never been excluded, for that matter, I've never been challenged.
- RH: As an expert, do you find that it's harder to talk to the jury than it is to talk to the lawyer? I know a lot of times you'll see a lot of experts where they're paying attention to the lawyer when the question's asked, but then as soon as the question's over, they turn, they look at the jury and they talk to them. Is that something that just all experts do or do you find that?
- GT: I don't know about all experts; I know I do it. I know that that's my audience.
- RH: Yeah, so you just kind of focus on them.
- GT: Yes, I focus on the jury and the judge, I pay attention to the judge too.
- RH: Now do you change your cadence, or do you change your flow or how long or short your answer is based on what you see a jury doing?
- GT: Yes, I watch their body language.
- RH: Talk about that for a minute.
- GT: I look to see if they're getting bored, if they're leaning forward, if they're leaning back, if they're taking notes, if they're falling asleep and I maintain a professional stature. I don't kid around. I don't try and be a wise guy. I don't make light of anything. I don't make smart ass remarks or jokes. I play it very straight up but I'm watching for their reactions to things and if they seem lost. If necessary, I'll go back and explain something another time again and it's hard to tell. A lot of it is just you how do you read people.
- GT: Let me go back and finish the question about The Experteam, I didn't finish that. I was saying that it's difficult to reach out and to get your name known and what I realized is that sometimes, it's better to broaden your approach to getting your name out there. The question was how to do that. It occurred to me that it may make sense to loosely affiliate with some other professionals.
- GT: For instance, I'd be on a case with an appraiser who is a person who I have high respect for, he's a friend of mine and I know he's an excellent experienced expert. I said to him, lets team up and we'll do some joint marketing. You have lawyers that you know, and I have lawyers that I know. We can introduce each other and that would help both of us increase our exposure. Then; I realized that there are other areas of commercial real estate in which neither of us are expert that we could affiliate with one other person who could bring in that expertise it would round us out. So, we brought in an experienced shopping center developer who

had some expert witness experience to be our expert on development issues to be the third member of our newly formed team.

GT: Then we added another gentleman who had extensive experience as an expert witness specializing on leasing issues. So the four of us have now teamed up and have branded ourselves, "The Experteam". We work independently. A client can retain one of us, two of us, three of us all of us or none of us. We each have our own retention agreements. We each have our own rates and fees, but we market ourselves together as a team. We visit with law firms and we'll do a one hour lunch presentation where we will talk about what's going on in our own areas of commercial real estate so the lawyers get exposed to what's going on in the real world. I'll talk about what's going on the finance markets. The developer will talk about what's going on development and the retail business, the developer will discuss zoning and entitlement issues, etc.

GT: Then we'll talk a bit about some of the expert witness cases in which we've been involved. In particular, we discuss cases in which we've worked together and where the synergy as experts has been very instrumental to the success of the case. What's happened is we found that in many instances, lawyers have hired us as a team. We'll provide a two- or three-hour meeting with the lawyer, without charge, and we'll act as a sounding board early on in a case. Typically, they'll discuss the case and we'll help them figure out which expert or experts they need or what they need, because a lot of times, the lawyers, which are not real estate experts, have no idea what specific real estate issues are relevant to their case.

GT: Is it evaluation issue? Is it a finance issue? What are the real issues? What are the issues that matter in the case and we help them figure that out early on, and then we make recommendations on how we could be helpful to them and then they decide how they want to retain us and if we look at that as, that will get out as a marketing cost to us, that free time.

RH: If anybody that's listening to this show wanted to contact you, Gary, because they've got some kind of case like this or they know somebody who has a case like this, which let's be honest, this business, whether being an expert witness or being a trial technology consultant like myself or being a court reporter or board vendor or any of these things, it's a relationship business and it's literally based on referrals. I know that our referral engine, that is our number one source of everything. I did a trial with this lawyer and this lawyer told another lawyer and that's how it grows.

GT: It works through referrals.

RH: Absolutely, and so if somebody wanted to contact you or they know somebody who needs your services, Gary, what's the best way for somebody to get in touch with you?

- GT: To reach me, the best way would be to call me. My direct line is 310-867-2903 or send me an email at [gtenzer@gspartners.com](mailto:gtenzer@gspartners.com) or look at the George Smith Partners website, [www.gspartners.com/services/litigation-support](http://www.gspartners.com/services/litigation-support) . The other place that one could go for information is to go to the Experteam website at [www.theexperteam.com](http://www.theexperteam.com). I have a page on there with my CV and other information. We also have short videos and bios on the website of the Experteam for each of the four team members. There one can also find our contact information, as well.
- RH: Well Gary, thank you very much for coming on the show. I always, I do these things and I've said this on many shows before and I know my listeners get tired of hearing it. What I have always tried to do is I'll have a conversation with someone and everybody else out there gets to be a fly on the wall to that conversation. Now, they may not be interested in this particular subject, but we can never stop learning and learning things and growing our own referral networks and learning about things. I mean, knowledge is certainly power, and so I want to thank you for taking your time to come on the show. I know it's not a technologically sexy show, but certainly there's some nuggets in there about expert witness testimony and how you need to be prepared and things like that. Thank you very much for coming on and joining us.
- RH: For my guest Gary Tenzer with George Smith Partners and The ExperTeam, I'm Robb Helt, and we'll see you again in the next episode of the Litigation Support Trial Technology podcast.