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# Site-specific inspection plan

## Preparing for and executing the site inspection



Cooper

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The lawyer stood on a berm, a river on one side and green fields the other. A bald eagle lifted off from a nearby tree, putting some distance from the lawyer and site inspection team. A man had been killed by the field. The expert team was there to parse the failures that led to his electrocution.

### Preparation

The site inspection is a significant information-gathering opportunity. The extent of information ranges from simple measurements and photos to much more invasive visits. Most inspections require working with opposing counsel to define inspection parameters. If those parameters cannot be agreed upon, one then involves the court (preferably before rather than after the inspection). It helps to think through the inspection's potentialities. If one has not already retained experts, now is the time. Next, ask the experts what they'd like to accomplish with an inspection. Do they need equipment depowered? Will they want to fly drones? How much time will they need? No matter how much time they estimate, the inspection will usually take 50% longer. Lots of experts and more lawyers? Longer still. In the planning phase ask the experts if they think there are any other areas of expertise needed. The mechanical engineer may feel an electrical engineer is needed during a product inspection, for example.

Once one has gathered all this information, set time aside for a visualization. Yes, just like high-level athletes. You're at the site. The inspection is proceeding. The experts are gathering data. How does it all come together? What's missing? What obstacles could come to pass? What did you fail to consider? What unexpected learning do you gain? Note these. Once all this is done draft a detailed inspection notice. Be overinclusive so there are no surprise onsite fights. If one cannot agree to the terms, conduct the motion practice before rather than after.

### Optimist Murphy

Expect failures. Reconfirm the inspection at least once in the week before the inspection. Are folks flying in? Reduce transit issues by avoiding day-of flights. Have all mobile numbers programmed and provide one's own mobile to everyone so that if people have a hard time finding the location, there's a way to make contact. This includes opposing counsel or whomever is serving as entry agent if one is going through a locked gate or front door. If opposing counsel won't be present or will be junior, without authority, establish a way to reach a decision maker for any issues. The justification for this is cost savings on all sides. A cratered inspection will undoubtedly result in all sides spending more money than is necessary. Consider packing one's own fail-safes. While experts are supposed to be self-sufficient, experts are human and can still make mistakes. A camera, extra SD cards, charging pack, chargers, and measuring tape can come in handy. On the camera front, consider taking one's own photos.



There can be umpteen experts at an inspection, each taking hundreds of photos, and the one essential angle ends up being the one photo not taken. The fail-safe material complements the usual weather-dependent materials. A sunhat, sunblock, boots, layers, and water. Standing outside for hours is generally always hotter or colder than one expects. Those hours can be miserable without proper gear.

### Scene it all before

No matter how experienced the team, there tends to be a transitionary energy when one arrives onsite. Acknowledge this to oneself and help the team transition into the inspection with a team huddle. What is everyone going to do, how are they going to do it, and do they need any assistance from anyone? Shadow the experts whose information one most needs to learn. This is a liability and causation deep-learning opportunity. Don't waste it chatting with opposing counsel about their golf game. There's also the emotional component. Something awful happened here. Acknowledge it. Take time to simply be where the incident happened. If one cannot do it physically, then get as close as one safely can and visualize it. Use those five senses to gather what one needs to help the jury understand the event's brutality. Throughout the inspection remain curious and open to outcome. Ask dumb questions. Some of the best information, including issues the experts did not think of, come from maintaining that awareness and being unafraid of asking things that might seem silly or obvious.

As the event concludes, bring the expert team back into an ending huddle. Confirm that everyone got everything they needed. Are there any immediate to-dos from the inspection? More discovery? Specific individuals or designated agents that need to be noticed for deposition? Are there any ongoing safety risks that should be brought to opposing counsel's attention? This latter bit happens with surprising frequency.

### Outro

Back to our lawyer standing along the river. After four rounds of, "We're wrapping up," followed by finding other notable items, the team finished its inspection. Lots learned, and lots to gather. The lawyer started the trek back to the office for the gathering.

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