

A stockholder sued a corporation for losses he allegedly suffered when the price of the corporation's publicly traded stock dropped. The price drop occurred shortly after it was publicly revealed that the corporation had released false earnings reports. At trial, the stockholder seeks to testify that, in his opinion, the drop in the corporation's stock price was directly attributable to the public revelation about the false earnings reports. The stockholder has conceded that he has no formal education or training in economics or the stock market.

Should the stockholder be permitted to testify to his opinion?

- A. No, because he is not qualified to offer opinion testimony based on scientific, technical, or other specialized knowledge relating to stock price changes. (55%)
- B. No, because his personal interest in the outcome of the action renders his opinion insufficiently probative. (3%)
- C. Yes, because his opinion is rationally based on his perception as a stockholder and will be helpful to the trier of fact. (37%)
- D. Yes, because property owners such as the stockholder are entitled to express an opinion on changes in the value of their property. (3%)

Incorrect

Correct answer A

55% Answered correctly

55 secs Time Spent

2023 Version

Explanation:

Witness testimony

	Fact testimony	Opinion testimony
Lay witness	Personal knowledge of factual matter	Prohibited unless common-sense impression that: is rationally based on witness's perception helps clarify witness's testimony or fact issue <i>and</i> is not based on scientific/technical/specialized knowledge
Expert witness		Admissible from qualified* expert who: testifies based on sufficient facts or data acquired by reliable principles & methods has reasonable degree of certainty in opinion <i>and</i> helps trier of fact understand evidence or fact issue

*Has knowledge, skill, experience, training, or education in substantive area.

A **lay witness** (ie, nonexpert witness) **can testify** as to his/her **opinion if** that opinion is: rationally based on the witness's perception—ie, firsthand knowledge, observations, or experiences

helpful to clearly understand the witness's testimony or determine a fact in issue *and*

not based on the **scientific, technical**, or other **specialized knowledge** that would be required of an expert witness.

Here, the stockholder (a lay witness) seeks to testify that, in his opinion, the drop in the corporation's stock price was directly attributable to the public revelation about the false earnings reports. That testimony requires scientific, technical, or other specialized knowledge relating to the cause of stock price changes. And since the stockholder conceded that he has no formal education or training in economics or the stock market, he is *not* qualified to offer his opinion and should not be permitted to do so.

(Choice B) A witness's personal interest in the outcome of an action does not automatically render the witness's opinion insufficiently probative. However, a personal interest may affect the weight given to the witness's testimony by the trier of fact.

(Choice C) The stockholder's opinion about the cause of the stock price drop is *not* rationally based on his perception as a stockholder. Instead, the testimony requires specialized knowledge relating to the cause of stock market price changes. And since the stockholder lacks such knowledge, his opinion is inadmissible.

(Choice D) Property owners are entitled to express an opinion as to the *value* of their property because such an opinion may be formed through firsthand knowledge, observation, or experience. But here, the stockholder wishes to testify about the *cause* of the stock price drop.

Educational objective:

A court should admit a lay witness's opinion testimony only if it is (1) rationally based on the witness's perception, (2) helpful to clearly understand the witness's testimony or determine a fact in issue, and (3) not based on scientific, technical, or other specialized knowledge.

References

Fed. R. Evid. 701 (discussing the admissibility of opinion testimony by a lay witness).

Copyright © 2021 by the National Conference of Bar Examiners. All rights reserved.

Copyright © UWorld. All rights reserved.