1. DISCLAIMER

I Am Not Your Attorney.

This seminar is not intended to provide you with legal advice. Seek legal advice from an attorney who is familiar with your particular situation and the facts in your particular case. The example contract clauses contained herein (if any) are intended as examples only and should be reviewed and modified by competent legal counsel to reflect variations in applicable state and local law specific to your circumstances.

2. JEFF’S 10 COMMANDMENTS ON BOUNDARY SURVEYING

I. The Land Surveyor is the Only Professional Qualified and Licensed to Locate Property Lines on the Ground

“One of the reasons for giving surveyors the exclusive privilege of marking boundaries is to prevent the unskilled from monumenting lines that encroach on the bona fide rights of others.”


3. JEFF’S 10 COMMANDMENTS ON BOUNDARY SURVEYING

Arizona Statutes

The purpose of this chapter is to provide for the safety, health and welfare of the public through the promulgation and enforcement of standards of qualification for those individuals registered or certified and seeking registration or certification pursuant to this chapter.

§ 32-101.A. Purpose; Definitions

4. JEFF’S 10 COMMANDMENTS ON BOUNDARY SURVEYING

Arizona Statutes

“Land surveying practice” means the performance of one or more of the following professional services:

(a) Measurement of land to determine the position of any monument or reference point which marks a property line, boundary or corner for the purpose of determining the area or description of the land.

§ 32-101.B.27. Purpose; Definitions

5. JEFF’S 10 COMMANDMENTS ON BOUNDARY SURVEYING

Arizona Statutes

(b) Location, relocation, establishment, reestablishment, setting, resetting or replacing of corner monuments or reference points which identify land boundaries, rights-of-way or easements.

§ 32-101.B.27. Purpose; Definitions
§ 32-101.B.27. Purpose; Definitions

6 □ GRAVES v. DOWNEY
Supreme Judicial Court of Maine
885 A.2d 779
November 22, 2005

7 □ JEFF’S 10 COMMANDMENTS ON BOUNDARY SURVEYING
II. The Resolution of any Boundary Problem is a Two-Part Question: What is the Boundary and Where is it Located?
The legal question is “what is the boundary?” the factual question is “where is it located on the face of the earth?

8 □ JEFF’S 10 COMMANDMENTS ON BOUNDARY SURVEYING
“The question of what is a boundary line is a matter of law, but the question of where a boundary line, or a corner, is actually located is a question of fact.”

9 □ Stop Sign Analogy
A Question of Law and Fact
“What are the boundaries of a particular tract of land is a matter of law, but where the boundaries of a tract are located is a matter of fact.”

Ayers v. Huddleston, 66 N.E. 60, 63 (Ind.App. 1903).

10 □ Stop Sign Analogy
• Legal Question: What is it?

11 □ Stop Sign Analogy
• Legal Argument: The What Has Changed!

12 □ Stop Sign Analogy
• Factual Question: Where do you Stop?

13 □ Stop Sign Analogy
• Factual Question: Where do you Stop?

14 □
14 □ Stop Sign Analogy
   • Factual Question: Where do you Stop?

15 □ JEFF’S 10 COMMANDMENTS
   ON BOUNDARY SURVEYING
   • There are no “True” Answers Waiting to be Discovered; Only Well-Reasoned
     Opinions to be Given.

16 □ JEFF’S 10 COMMANDMENTS
   ON BOUNDARY SURVEYING
   “If the surveyor’s evaluation of the evidence...is eventually upheld in a court of law, it is
   because the surveyor has arrived at a comprehensive and well-reasoned answer rather
   than because he has arrived at the theoretically correct answer. Again, there are no
   ‘true’ answers waiting to be discovered; only well-reasoned answers.”
   Williams & Onsrud, What Every Lawyer Should Know about Title Surveys, circa 1986.

17 □ McGHEE v. YOUNG
   Florida Court of Appeals
   Fourth District
   606 So.2d 1215
   October 7, 1992

18 □ JEFF’S 10 COMMANDMENTS
   ON BOUNDARY SURVEYING
   III. Answering the Location Question is Essentially a Determination of Ownership Limits
   The location of the property on the ground, is the identification of the limits of
   ownership. This is not a title or legal question; this is a factual question of location.

19 □ JEFF’S 10 COMMANDMENTS
   ON BOUNDARY SURVEYING
   “A survey of a description does not determine title to land but seeks to find and
   identify the land embraced within the description.”

20 □ JEFF’S 10 COMMANDMENTS
   ON BOUNDARY SURVEYING
   “The mere matter of the locating the boundary of lands, however, does not involve the
   title. It relates only to the limit to which the land covered by the title extends.”
   Shaw v. State, 28 So. 390 (Ala.1899).

21 □ JEFF’S 10 COMMANDMENTS
   ON BOUNDARY SURVEYING
   There are two things the public knows about land surveyors:
   Land surveyors are those people standing on the side of the road taking pictures;
There are two things the public knows about land surveyors:

- Land surveyors are those people standing on the side of the road taking pictures;
  and
- Land surveyors determine where their property lines is located.

**HARRIS v. ROBERTSON**

Supreme Court of Arkansas
813 S.W.2d 252
July 8, 1991

**JEFF’S 10 COMMANDMENTS ON BOUNDARY SURVEYING**

IV. Retracement Surveying is Largely an Evidentiary Exercise, Not a Measurement Task

An “original survey” is a measurement and math task; the object being to precisely set out new lines in accordance with the intent of a common grantor. A “retracement survey” is not dependent on measurements; the object being to find where the lines have become established on the ground.

**JEFF’S 10 COMMANDMENTS ON BOUNDARY SURVEYING**

“In re-establishing the lines of a survey the footsteps of the original surveyor should be followed, and it is immaterial that the lines actually run by him are not correct. Courses and distances yield to natural monuments and boundaries. This rule is so strict that even the government itself cannot question it.”

*Calder v. Hillsboro Land Company,* 122 So.2d 445 (Fla.App.1960)

**JEFF’S 10 COMMANDMENTS ON BOUNDARY SURVEYING**

“In resurveying a tract of land according to a former plat or survey, the surveyor’s only function or right is to relocate, upon the best evidence obtainable, the corners and lines at the same places where originally located by the first surveyor on the ground. ... If the original corners can be found, the places where they are originally established are conclusive without regard to whether they are in fact correctly located.”


**BOAK v. BEAVER**

Circuit Court of Meade County
46th Judicial Circuit - Kentucky
Civil Action No. 10-CI-00269
September 10, 2015

**JEFF’S 10 COMMANDMENTS ON BOUNDARY SURVEYING**

“Mr. Smith testified that when a surveyor is required to re-trace a survey, he is required to first find the line and then to measure it. A retracement of the survey does not mean that one measures to create the line, because the line is already there. Retracement surveys require the surveyor to find the line and then to measure it.”
mean that one measures to create the line, because the line is already there. Retracement surveys require the surveyor to find the line and then to measure it.”

_Boak v. Beaver_, Civil Action No 10-CI-00269 (KY Cir.Ct.2015).

28  **JEFF’S 10 COMMANDMENTS**  
**ON BOUNDARY SURVEYING**  
V. The Surveyor is De Facto Judge and Jury Over the Determination of Boundary Lines

“The Surveyor in the field has no opportunity to consult authorities, to counsel with others, or hold under advisement for subsequent adjudication. He must think and act for himself, and that quickly and firmly. In the discharge of his duties he combines the three-fold character of attorney, jury and judge.”


29  **JEFF’S 10 COMMANDMENTS**  
**ON BOUNDARY SURVEYING**

“Surveyors are not and cannot be judicial officers, but in a great many cases they act in a quasi-judicial capacity with the acquiescence of the parties concerned; and it is important for them to know by what rules they are to be guided in the discharge of their judicial functions.”


30  **JEFF’S 10 COMMANDMENTS**  
**ON BOUNDARY SURVEYING**

“In an old settled country, the principal work of the surveyor is to retrace old boundary lines, find old corners, and relocate them when lost. In performing this duty, he exercises, to a certain extent, judicial functions. He usually takes the place of both judge and jury, and acting as arbiter between adjoining proprietors, decides both the law and the facts in regard to their boundary lines. He does this not because of any right or authority he may possess, but because the interested parties voluntarily submit their differences to him as an expert in such matters, preferring to abide by his decisions rather than go to law about it.”


31  **JEFF’S 10 COMMANDMENTS**  
**ON BOUNDARY SURVEYING**

“When a surveyor is employed to establish the position of a point or line in which two or more persons are interested he should act as an honorable, unprejudiced party and seek to find the true position, regardless of consequences. ... It is therefore of the utmost importance that the surveyor should act in the same manner as does a judge on the bench rather than as a partisan employee of one of the persons concerned. By performing his duties in this way, the surveyor makes friends and also gains the reputation of being just.”

Clark, Frank Emerson, Fundamentals of Law for Surveyors, 1939, International Textbook
reputation of being just.”

32 JEFF’S 10 COMMANDMENTS ON BOUNDARY SURVEYING
“The surveyor, having made an evaluation of the evidence, forms an opinion as to where he believes the lines would be located if fully adjudicated in a court of law. The typical modern day surveyor sees himself as an expert evaluator of evidence. He strives to arrive at the same opinion of boundary location regardless of whether he was hired by his client or his client’s next door neighbor.”
Williams & Onsrud, What Every Lawyer Should Know about Title Surveys, circa 1986.

33 JEFF’S 10 COMMANDMENTS ON BOUNDARY SURVEYING
“The surveyor makes so-called quasi-judicial decisions when he decides such items as a stone is the original stone, that a fence intersection is the best evidence of an obliterated corner, or that a north bearing in a description meant parallel to the east boundary of the section. Most of these decisions are never questioned, and if so never got to court, and become final.”

34 JEFF’S 10 COMMANDMENTS ON BOUNDARY SURVEYING
“The surveyor therefore makes the final decision in most boundary cases. In reality these are final judicial decisions. The only factor which makes them quasi-judicial is that they are subject to review and possibly changed by the courts if a case goes to court.”

35 JEFF’S 10 COMMANDMENTS ON BOUNDARY SURVEYING
The judicial system we inherited from England recognized two types of judges:
• The Law Judge, and
• The Equity Judge.

36 JEFF’S 10 COMMANDMENTS ON BOUNDARY SURVEYING
“The object of the suit, therefore, is to ascertain the true boundary line between the contiguous estates, and not to try the question of title on either side of the boundary. All that a survey does is to establish the line, and it does not determine the title to the real estate.”

37 JEFF’S 10 COMMANDMENTS ON BOUNDARY SURVEYING
"The object [of a survey] is not to try the question of title on either side of the line, but to mark the place of the old line, where the ancient monuments are gone. [Similarly a] court of equity will not try title to land in a suit to establish boundaries. This question, being purely legal, was one for the courts of law, assisted as they are in respect to the findings of fact by a jury."


"Law and equity do not undertake to do the same things. In equity the object of the bill is to ascertain and fix the boundaries, without reference to the possession, and without affecting any legal rights that either of the parties may have acquired. ... It may be asked, of what avail is it to do this, if no conclusion follows as to title or possession? But this is a question with which we have nothing to do, as it affects the wisdom of the law."


VI. The Surveyor Owes a Duty, Not Only to the Client, but to all Adjoiners as Well

In a perfect world, the surveyor would be an uninterested third party as he/she surveys any particular boundary line. Owing as much of a duty to his/her client as to the client's neighbor.

"The typical modern day surveyor sees himself as an expert evaluator of evidence. He strives to arrive at the same opinion of boundary location regardless of whether he was hired by his client or his client's next door neighbor."

*Williams & Onsrud, What Every Lawyer Should Know about Title Surveys*, circa 1986.

VII. Monuments are the Physical Manifestation of the Intent of the Grantor and the Grantee

The only reason monuments have their superior standing is that the courts generally assume that they are the physical manifestation of intent.
"Purchasers of town lots have a right to locate them according to the stakes which they find planted and recognized, and no subsequent survey can be allowed to unsettle their lines."


"The question afterwards is not whether the stakes were where they should have been in order to make them correspond with the lot lines as they should be if the platting were done with absolute accuracy, but it is whether they were planted by authority, and the lots were purchased and taken possession of in reliance upon them. If such was the case they must govern, notwithstanding any errors in locating them."


"And whenever it can be proved that there was a line actually run by the surveyor, was marked and a corner made, the party claiming under the grant or deed, shall hold accordingly, notwithstanding a mistaken description of the land in the grant or deed."

Riley v. Griffin, 16 Ga. 141, 143 (Ga.1854).

"This location as made upon the ground, and the acquiescence following are conclusive upon the defendants, and this boundary must remain as then located, even if it was located erroneously, as might subsequently be determined. The actual location then made and with reference to which the parties contracted and took their titles on either side will control, and is conclusive upon the question of the true location."

Herse v. Mazza, 100 A.D. 59 (N.Y.1904).

"This does not rest upon any presumption of fact that the parties have agreed upon a different boundary than the deed boundary, but upon the conclusive presumption that they found and correctly located the deed boundary, and that they subsequently took title on either side under their deeds which described their lands to that boundary, and that such boundary line, open, notorious and plainly marked upon the ground, is the boundary referred to in their respective deeds."

Herse v. Mazza, 100 A.D. 59 (N.Y.1904).

"When land has once been conveyed with reference to stakes and monuments which
ON BOUNDARY SURVEYING

“When land has once been conveyed with reference to **stakes and monuments which were fixed and in place at the time of such conveyance**, the conveyance cannot be afterwards defeated by a new survey which shows that the stakes and monuments as originally set were not as a matter of fact in their true places. A contrary rule would upset titles and make all conveyances more or less uncertain.”


JEFF’S 10 COMMANDMENTS
ON BOUNDARY SURVEYING

“It is always the endeavor of courts to ascertain the intention of the parties in **applying the description contained in a deed to the monuments referred to therein so as to locate the land in accordance with the intention of the parties. The construction we have given the deed to the county is in accord with the rule as laid down time and time again by the Supreme Court.”


JEFF’S 10 COMMANDMENTS
ON BOUNDARY SURVEYING

“However, we believe the legal principle, which is determinative of the controversy, to be that where adjoining owners take conveyances from a common grantor which describe the premises conveyed by lot numbers, but such grantees have purchased with reference to a boundary line then marked on the ground, **such location of the boundary line so established by the common grantor is binding upon the original grantees and all persons claiming under them, irrespective of the length of time which has elapsed thereafter.**”


JEFF’S 10 COMMANDMENTS
ON BOUNDARY SURVEYING

“In **Diehl v. Zanger, 39 Mich. 601**, where the first survey of lots involved in litigation was made by one Campau, and a resurvey made years afterward by the city surveyor showed that the practical location of the whole plat was wrong, it was declared that a resurvey, made after the disappearance of the monuments of the original survey, **is for the purpose of determining where they were, and not where they should have been**, and that a long-established fence is better evidence of actual boundaries settled by practical location than any survey made after the monuments of the original survey have disappeared.”


JEFF’S 10 COMMANDMENTS
ON BOUNDARY SURVEYING

“Nothing is better understood,” said Justice Cooley in delivering the opinion of the court, ‘than that few of our early plats will stand the test of a careful and accurate survey without disclosing errors. This is as true of the government surveys as of any others, and if all the lines were now subject to correction on new surveys, the confusion of lines and titles that would follow would cause consternation in many
others, and if all the lines were now subject to correction on new surveys, the confusion of lines and titles that would follow would cause consternation in many communities.”


54 □ JEFF’S 10 COMMANDMENTS
ON BOUNDARY SURVEYING

“Indeed, the mischiefs that must follow would be simply incalculable, and the visitation of the surveyor might well be set down as a great public calamity. But no law can sanction this course. The (city) surveyor has mistaken entirely the point to which his attention should have been directed. The question is not how an entirely accurate survey would locate these lots, but how the original stakes located them.”


55 □ JEFF’S 10 COMMANDMENTS
ON BOUNDARY SURVEYING

“`The city surveyor should, therefore, have directed his attention to the ascertainment of the actual location of the original landmarks set by Mr. Campau, and when those were discovered they must govern. If they are no longer discoverable, the question is where they were located; and upon that question the best possible evidence is usually found in the practical location of the lines, made at a time when the original monuments were presumably in existence and probably well known.”


56 □ JEFF’S 10 COMMANDMENTS
ON BOUNDARY SURVEYING

“`As between old boundary fences and any survey made after the monuments have disappeared, the fences are by far the better evidence of what the lines of a lot actually are.”


57 □ JEFF’S 10 COMMANDMENTS
ON BOUNDARY SURVEYING

“In 22 American State Reports, Ancient Boundaries, page 35, we find the following: `For the purpose of establishing ancient boundaries, by locating calls for corners, etc., the declarations of the parties in interest, or those who assisted in making the old survey, are admissible, when such persons are unable to testify orally or by deposition, by reason of sickness or death.”


58 □ JEFF’S 10 COMMANDMENTS
ON BOUNDARY SURVEYING

“`It is a matter of common knowledge that the great majority of original surveys are more or less inaccurate and since it has always been the rule that courts must resort and be bound by the best evidence available, it follows that the boundaries fixed by the property owners themselves in the absence of the inability of surveyors to definitely fix the monuments from which the original survey was made must control.”
the property owners themselves in the absence of the inability of surveyors to
definitely fix the monuments from which the original survey was made must control.”

59 | JEFF’S 10 COMMANDMENTS
ON BOUNDARY SURVEYING
“[Neither] the city surveyor nor any other surveyor has any authority to establish new
boundaries which must of necessity affect the property rights of all property owners
concerned where they cannot establish title by adverse possession.”

60 | JEFF’S 10 COMMANDMENTS
ON BOUNDARY SURVEYING
“Generally, to establish the doctrine of boundary by acquiescence, the party asserting
the doctrine must prove (1) occupation or possession of property up to a clearly
defined line, (2) mutual acquiescence by the adjoining landowners in that line as the
dividing line between their properties, and (3) continued acquiescence for a long
period of time. In Arizona, the required period of time for acquiescence is ten years,
the same as that for adverse possession.”

61 | JEFF’S 10 COMMANDMENTS
ON BOUNDARY SURVEYING
“To support a finding of boundary by acquiescence, the boundary in question must be
definite, visible, and clearly marked. The line must be visible line marked clearly by
monuments, fences or the like. The line must be definite, certain, and not speculative,
and open to observation. The line must be certain, well defined, and in some fashion
physically designated upon the ground, e.g., by monuments, roadways, fence lines, etc.
A party cannot be said to acquiesce in a boundary unless the boundary can be
identified with certainty.”

62 | JEFF’S 10 COMMANDMENTS
ON BOUNDARY SURVEYING
VIII. Monuments (and the resulting boundary line) Become Established when they
Receive the “Blessing” of the Grantor and (to a lesser extent) the Grantee
It is almost irrelevant what the surveyor does or does not do, the relevant question is
what did the people do as a result of the survey.

63 | JEFF’S 10 COMMANDMENTS
ON BOUNDARY SURVEYING
“Purchasers of town lots have a right to locate them according to the stakes which they
find planted and recognized, and no subsequent survey can be allowed to unsettle
their lines.”

64 | JEFF’S 10 COMMANDMENTS
ON BOUNDARY SURVEYING
“The question afterwards is not whether the stakes were where they should have been in order to make them correspond with the lot lines as they should be if the platting were done with absolute accuracy, but it is whether they were planted by authority, and the lots were purchased and taken possession of in reliance upon them. If such was the case they must govern, notwithstanding any errors in locating them.”


“The surveyor has mistaken entirely the point to which his attention should have been directed. The question is not how an entirely [precise] survey would locate these lots, but how the original stakes located them. No rule in real estate law is more inflexible than that monuments control course and distance—a rule that we have frequent occasion to apply in the case of public surveys, where its propriety, justice and necessity are never questioned.”


“The surveyor who is attempting to relocate a tract of land must remember that the original survey is presumed to be absolutely correct, no matter how inaccurately the work may have been done. Thus, wherever an original corner can be found, that corner shall be considered correctly located.”


What happens when a monument is not imbued with original intent? In other words, the monument never received the “blessing.”

Thus, Plat E-52 depicts the northern boundary monuments as being on the east-west quarter section line. However, Best’s placed monuments are located 108 feet south of the east-west quarter section line for Section 32. Furthermore, Best located the east quarter corner of Section 32 outside of Highway 191 when it is actually located near the centerline of Highway 191. Consequently, the District Court was correct in
quarter corner of Section 32 outside of Highway 191 when it is actually located near the centerline of Highway 191. Consequently, the District Court was correct in determining that the inconsistencies between the references on Plat E-52 and the location of Best's monuments create an ambiguity.”
Olson v. Jude, 73 P.3d 809, 816 (Mont. 2003)

JEFF’S 10 COMMANDMENTS ON BOUNDARY SURVEYING

“These fundamental survey principles provide that the parties’ intent is paramount to all other considerations when interpreting surveys and conveyances. In the case sub judice, the Certificate of Dedication on Plat E-52 clearly shows that the Zollingers intended that the northern boundary of the Big Horn Tract extend to the east-west quarter section line and not to Best’s erroneously located monuments. Best failed to survey the Big Horn Tract pursuant to the Zollingers’ clearly expressed intentions.”
Olson v. Jude, 73 P.3d 809, 817 (Mont. 2003)

MEALEY v. ARNDT
ARIZONA COURT OF APPEALS
2003 Ariz. App. LEXIS 160
September 30, 2003

JEFF’S 10 COMMANDMENTS ON BOUNDARY SURVEYING

IX. A Monuments does not Lose its Superior Status Simply because it Comes up Missing
It is almost irrelevant what the surveyor does or does not do, the relevant question is what did the people do as a result of the survey.

THERIAULT v. MURRAY
Maine Supreme Judicial Court
588 A.2d 720
March 28, 1991

Theriault v. Murray
“What boundaries a deed refers to is a question of law, while the location of those boundaries on the face of the earth is a question of fact. If facts extrinsic to the deed reveal a latent ambiguity, then a court determines the intent from contemporaneous circumstances and from standard rules of construction.’

Theriault v. Murray
“A basic rule is that boundaries are controlled, in descending priority, by monuments, courses, distances, and quantity, unless this priority produces absurd results. The physical disappearance of a monument does not end its use in defining a boundary if its former location can be ascertained.”

JEFF’S 10 COMMANDMENTS
ON BOUNDARY SURVEYING
X. The Land Surveying Profession is a House Divided. We Can’t even Agree on Who the Original Surveyor Was
If a house is divided against itself, that house cannot stand. Mark 3:23 (NIV)

KNERR v. MAULDIN
Court Of Appeal Of California, Second Appellate District, Division Six
2006 Cal. App. Unpub. LEXIS 6749
August 2, 2006

From the CLSA Amicus Brief
The Superior Court sought to determine the location of the boundary in question by assessing which testimony was “more credible.” Although it paid lip service to the concept of “following in the footsteps” of the original surveyor--being one Mr. Davy who, in 1926, surveyed the boundary of Chatsworth Lake View Annex and created the protracted lots within--it does not appear to have understood how that is done.

From the CLSA Amicus Brief
The Superior Court refused to recognize the importance of actually retracing the original surveyor’s 1926 work, instead accepting the boundary location of respondent’s surveyor, South Bay Engineering.... If this Court adopts the Superior Court’s approach to determining boundaries, property rights will rest on witness credibility assessments at trial, instead of on proper survey procedure and boundary control, and the quest for evidence of the original surveyor's work.

From the CLSA Amicus Brief
The advance of technology has allowed for the increase in precision and reliability of locating evidence with ever-increasing efficiency. It must be made clear that simply locating or collecting evidence is not boundary surveying. Evaluation and interpretation of the collected evidence is what constitutes boundary surveying. It is possible to locate a boundary in the wrong location with a high degree of precision.

Primary Authorities Cited in the CLSA Brief:
• Bullard v. Kempff (1897) 119 Cal. 9, 15 quoting Diehl, supra.

From Diehl v. Zanger
“The plaintiffs in error submitted evidence conducing to show, among other things, that lots thirty-nine and forty, as well as other contiguous lots in the subdivision, had for twenty years and upwards been identified and defined in their position and extent upon the ground by buildings, fences and harmonious occupancy, and that at the very time of the grant to defendants in error the physical evidences of recognized and long admitted bounds which plaintiffs in error contend for, were visible and apparent to
time of the grant to defendants in error the physical evidences of recognized and long admitted bounds which plaintiffs in error contend for, were visible and apparent to everybody."


83 From *Diehl v. Zanger*

“There was no conflicting evidence in regard to these facts. They were not disputed, and there is no evidence that the practical locations and proprietary and possessory recognitions ever deviated until after the remarkable results of the late survey.”


84 From *Diehl v. Zanger*

“This litigation grows out of a new survey recently made by the city surveyor. This officer after searching for the original stakes and finding none, has proceeded to take measurements according to the original plat, and to drive stakes of his own. According to this survey the practical location of the whole plat is wrong, and all the lines should be moved between four and five feet to the east.”


85 From *Diehl v. Zanger*

“Nothing is better understood than that few of our early plats will stand the test of a careful and accurate survey without disclosing errors. This is as true of the government surveys as of any others, and if all the lines were now subject to correction on new surveys, the confusion of lines and titles that would follow would cause consternation in many communities.”


86 From *Diehl v. Zanger*

“Indeed the mischiefs that must follow would be simply incalculable, and the visitation of the surveyor might well be set down as a great public calamity.”


87 From *Diehl v. Zanger*

“The surveyor has mistaken entirely the point to which his attention should have been directed. The question is not how an entirely accurate survey would locate these lots, but how the original stakes located them.”


88 From *Diehl v. Zanger*

“No rule in real estate law is more inflexible than that monuments control course and distance—a rule that we have frequent occasion to apply in the case of public surveys,
“No rule in real estate law is more inflexible than that monuments control course and
distance—a rule that we have frequent occasion to apply in the case of public surveys,
where its propriety, justice and necessity are never questioned.”

California Law

“Where, as here, there is an established interior monument near the lots being
surveyed, it is that monument that should be used. (See, e.g., State of California v.
Thompson (1971) 22 Cal. App. 3d 368, 379, 99 Cal. Rptr. 594 ['Although respondent
contends that [appellant's surveyor] ought to have commenced his survey from the
east in order to literally ‘follow in the footsteps’ of [the original surveyor], this
argument is without merit. A survey from the nearest established corner is least liable
to error.”

California Law

“If the position of the line always remained to be ascertained by measurement alone,
the result would be that it would not be a fixed boundary, but would be subject to
change with every new measurement. Such uncertainty and instability in the title to
land would be intolerable.”
Young v. Blakeman, 95 P. 888 (Cal.1908).

California Law

“As we view the case, however, the sole and only question for determination, in so far
as the rights of plaintiffs (who are respondents here) are concerned, is whether the
description contained in this deed, corrected as above stated, embraces the parcel of
land in dispute. The deed, in so far as it purports to describe the tract of land conveyed
by the city to Bonilla is free from ambiguity or uncertainty.”

California Law

“If in running the lines as called for upon the ground it should appear that the calls of
distance and course are in fact inconsistent with natural monuments called for, then
such calls as to distance and course must, under the well-recognized rule, yield to the
latter, provided the location of such monuments can be found.”

California Law

“And the same is true with reference to natural boundaries, since they, as well as
monuments, control calls of courses and distances in conflict therewith. Bland v. Smith
Cal. 435, 86 P. 1089; 4 Am. & Eng. Encyc. Law, p. 765.”

94 From the Rest of American Jurisprudence
“Texas law is well settled that unless the facts are undisputed, the location of a survey line, as it was run on the ground by the original surveyor, is a question of fact for the jury. The Texas Supreme Court has explained that as to what are boundaries, is a question of law for the determination of a court; as to where the boundaries are upon the ground, is a question of fact to be determined from the evidence.”

95 From the Rest of American Jurisprudence
“In determining boundaries, when finding the lines of a survey, the cardinal rule is that the footsteps of the original surveyor, if they can be ascertained, should be followed. The primary objective in locating a survey is to follow the footsteps of the surveyor; by which is meant to trace on the ground the lines as he actually ran them in making the survey.”