

The Pincushion Effect

The Multiple Monument Dilemma in American Land Surveying

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To Mary, my unwavering support and best friend.

Jeff

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INTRODUCTION

This book was designed to be read cover-to-cover, and I encourage the reader to do so. In my first book, *Alabama Boundary Law*, I made an attempt to have all of the chapters, and even the sections within chapters, stand alone without the need to reference to other parts of the book. That created a good deal of repetition that I wanted to avoid in this book. Rather than repeat long passages in this book, I attempt to refer the reader to other parts of the book where the subject at hand is treated more fully. This is not to say that there is no repetition in this book. The entire subject of the pincushion corner is so intermingled with other aspects of land surveying that repetition is unavoidable. In addition, the thrust of this book is completely different. *Alabama Boundary Law* was about presenting boundary law principles; this book presents a problem and proposes solutions.

Chapters and Sections

The subject matter of the chapters was selected by me as the minimum mandatory boundary law subjects that need to be discussed to fully understand the pincushion corner, its effect, how the law argues against it, how it is totally unnecessary and uncalled for in American land surveying practice. The sections within the chapters are what I considered a logical breakdown of the overall chapter subject. The chapters also build on each other, to a certain extent, leading up to the final chapter on remedies. Even though some of the chapters could be read on their own, a full appreciation of the pincushion problem, and my arguments and the remedies I provide, is supported by the entire book. I do not feel that I created surplusage, with the exception of some repetition, as explained above. Footnotes are provided at the bottom of the page where the cited material is found for ease of the reference.

List of Cases & Index

A few explanatory notes are warranted with reference to the List of Cases and Index in the back of this book. Cases that have been printed in **bold lettering** have received considerable treatment with a reprint of large passages. The page numbers that have been **bolded**, are the page numbers where the passages from the case begin. It should be noted that all case opinions (and even smaller case quotes) have been substantially modified from their original form, internal citations have been largely omitted, and paragraphs or whole sections deemed irrelevant to the discussion at hand have been removed. These modifications have not all been noted or editorially acknowledged in this text. In certain circumstances some internal citations have been retained in order to provide the reader with references to further research. In the Index, page numbers that have been **bolded** indicate where the given word or phrase have received either a definition or substantial treatment. Other page numbers indicate where the word or phrase appears in the text. This brief introduction aside, I wish you well.

Jeff Lucas

THE PINCUSHION

The “pincushion” is the predominate moniker that has attached itself over the years to the phenomena of multiple boundary monuments found or set in the vicinity of a single property corner, all ostensibly representing the corner location. Other names have been variously used to describe this occurrence such as “pin-farm,” “steel-mill,” “porcupine corner,” and the like. If pincushion isn’t universally used it is universally recognized as a fair description of the phenomena; the pincushion effect or the multiple monument dilemma in American land surveying.

A property corner exists in legal contemplation as a point where property boundaries meet. A corner can be formed when two or more property boundaries meet or terminate at a given point. A corner does not have any physical characteristics. It is a legal concept derived from title to land and generally located on the ground from the description of property as found in a deed of conveyance. A corner will always represent a terminal point for more than one property boundary because every boundary line represents the extent of at least two adjoining estates. Because two estates are involved does not mean that two corners are involved at the terminus of any given boundary line. By and large, two corners do not exist in close proximity to each other, although there are exceptions to this general rule.

A monument on the other hand is a physical object that is used to mark a property corner. The most common objects used as corner monuments are steel pipes and rebar of various sizes driven into the ground, stones or prefabricated concrete obelisks planted in the ground, rocks piled in a heap, or a rock pile used in conjunction with a pipe, rebar or even a wooden post. The objects that have been used as monuments to mark property corners have been almost anything one could put one’s hands on that would stand out from the natural environment and say: “Look at me, I didn’t get here by myself, somebody placed me here for a reason.” A monument is a silent witness that testifies as to the location of the property corner. The point being, there should be only one monument for every property corner, not two or more. When there is more than one, then it is a “pincushion corner” and thus, the pincushion effect.

Many land surveyors do not see the pincushion corner as a problem. They see multiple monuments at a corner location as just a difference of opinion on the correct corner location. This fact alone is emblematic of the overall problem. If land surveyors were truly apprised of the laws that relate to boundaries and evidence, the standards that will be applied in court when a boundary is contested, and the burden of proof necessary to win the argument; then all reasonably prudent land surveyors given an equal opportunity to gather and weigh the relevant evidence and decide on whether to hold an existing monument in the vicinity of the corner (or on the corner), or whether to set a new monument, would come to the same conclusion. Perhaps a second monument gets set, but that should be the end of the matter. Unfortunately, a

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multitude of irrelevant factors come into play and we have the pincushion effect.

Over the long run the pincushion corner will come to represent the land surveyor's confusion over his or her duties and responsibilities towards property boundaries. The pincushion corner is the physical manifestation of the land surveying profession's collective confusion over property boundaries, boundary location, and related property law. It is becoming the common knowledge of associated professionals such as attorneys, engineers, and realtors—and among landowners who have come into contact with land surveyors—that no two surveyors are likely to agree on the location of any given corner. Whether or not this is a fair conclusion, the pincushion corner is physical evidence that gives credence to the notion.

Not only is a cavalier attitude toward pincushions wrong because it exposes the land surveyor's misunderstanding of property boundaries and is increasingly becoming a public relations disaster, it creates real-life problems for landowners under certain circumstances. For instance, when setback lines or zoning regulations are tight, and a land surveyor comes along and sets another monument six inches inside of an existing monument, this could mean the difference between compliance and none compliance. In rural settings, a new monument set ten feet from the existing monument could mean moving thousands of feet of existing fence lines. Moving fences is not a cheap proposition.

We should hope that these are the only problems the pincushion corner creates. Unfortunately they are not. In many cases landowners who once lived in peaceable coexistence hate each other for the rest of their natural lives and beyond as a result of pincushions. In other cases they litigate spending thousands and tens of thousands of unnecessary dollars, wasting years of their lives, and shedding untold tears and precious blood because of the pincushion corner. And in still other cases they shoot each other over the resulting boundary dispute. The average citizen reads the story in the newspaper or sees it on the evening news and wonders how such a thing could happen. This is the pincushion effect.

Land surveying in the United States has not always been the way it is today, and I'm not just talking about the incredible changes in technology that have taken place over the last 10-20 years. I'm referring to the basic function of the land surveyor in society. The land surveying profession has gone through several major cycles and because of the sheer breadth of the country, these cycles have turned at various times in different parts of the country. During the colonial period land surveyors were held in high regard and in many cases became quite wealthy because their skills were in high demand. The results of land surveying could make or break fortunes. Large tracts of land were granted