

Enhancing Advocacy Through Trial Technology

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IADC Trial Academy

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Today's Reality

- Jurors Have Been Exposed to Technology For Many Years
- All Know How To Use Technology and Expect it to Work Seamlessly
- Little Patience for an Unprepared Lawyer

Read This!!!



International Association of Defense Counsel

Trial Academy

Use of Technology in the Courtroom

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What is the Purpose of Trial Technology?

Help Tell *Your Story* Better

How Can Technology Help?

- Provide Clear Structure to Your Story
- Allow Audience to See Your Arguments
- Make Complex Evidence Understandable
- Bring Mundane Evidence to Life
- ***Compel a Conclusion***

Old Proverb:

*I Hear and I Forget;
I See and I Remember;
I Do and I Understand.*

The Technology Lifecycle

***Just Because You Can Does
Not Mean You Should!!!!***

What is Technology?

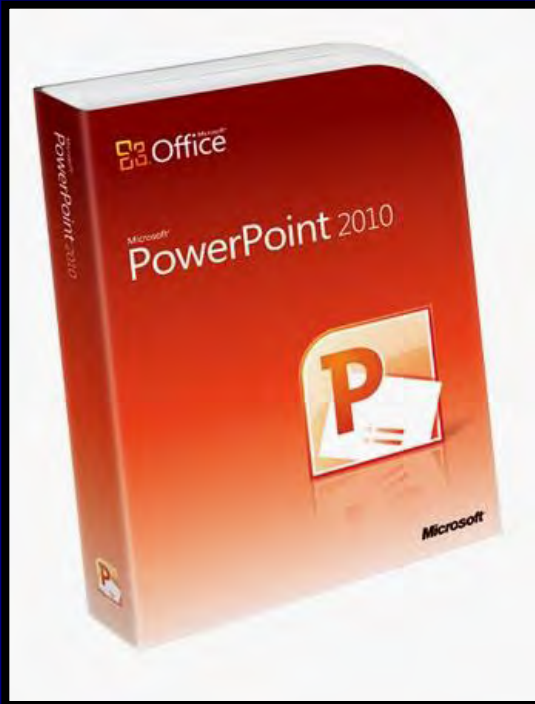


“ELMO” - DocuCams

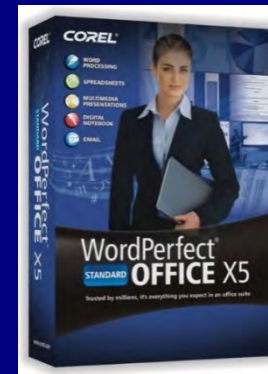


Slide Presentation Software

MS PowerPoint



Others



Document Presentation Software

TrialDirector® 6
Trial Presentation Software

sanction
solutions

Visionary
LEGAL TECHNOLOGIES

Timeline Creation Tools



Voice Recognition Software



Slide Design Basics

K.I.S.S.

*Keep It Simple
& Straightforward*

**Stay Away From
Unusual Designs and
Formats**

**AND AVOID UNUSUAL
TEXT LAYOUTS**

**Or Designs With
Busy Backgrounds**

Avoid Templates That Limit Your Available Space



**Start With a Basic
“Office” Theme But . . .**

Avoid Difficult Background Colors

- **They are Hard on the Eyes.**

Avoid Difficult Background Colors

- They Do Not Translate Well
When Projected.

Avoid Difficult Background Colors

- They Ultimately Distract from Your Story.

Choose A Pleasing Background Color With Good Contrast

- **Consider Lighting**

Choose A Pleasing Background Color With Good Contrast


- **Consider Lighting**
- **Consider Display Format**
 - **Projection**
 - **Video Screens**

Choose A Pleasing Background Color With Good Contrast

- **Consider Lighting**
- **Consider Display Format**
 - **Projection**
 - **Video Screens**
- **Do a Test Run in the Courtroom**

**Gradient Backgrounds Can
Add Interest**

But . . .



AVOID ARTSY BACKGROUNDS AND BORDERS

**They Distract the Audience
from Your Story**

Resist Using Highly Textured Backgrounds

**Or “Fills” That Make It Hard
to Read Your Text**

Avoid Distracting Slide Transitions



That Detract From Your Message



Keep Slide Transitions Simple

(.75 Duration Fade)

But Remember Your Pace

(3.0 Duration Fade)

USE Easy to Read Fonts

- Arial
- Tahoma
- Calibri
- Book Antiqua
- Times New Roman

Be Sensitive To Text Size

- This is 72 Point
- This is 54 Point
- This is 44 Point
- This is 36 Point
- This is 24 Point
- This is 16 Point
- This is 12 Point

Slide Content Basics

Avoid “Data Dumps”

Did Dr. Jones Believe in His Own Hypothesis?

- **“these drugs (selective COX-2 inhibitors) are unlikely to accelerate progression of the underlying vascular disease.”**
[Ann Med 2000;32:suppl 1:21-6]
- “Both rofecoxib and celecoxib can be as effective against inflammation as the traditional NSAIDs at comparable concentrations, and **the potential hazards due to suppression of prostacyclin production remain theoretical**, although more study in this regard is clearly needed.” [Mol Interv 2001 Apr;1:30-8].
- “Data have emerged from this study that frame the hypothesis that such a coxib might be associated with a cardiovascular hazard in that minority of patients predisposed to thrombotic events. . . . **However, for the present, the perception of a cardiovascular hazard in humans exceeds the evidential basis for this notion.**” [Am J Cardiol 2002 Mar 21;89(6A):26D-32D.]
- **“While other mechanisms cannot be discounted, there is currently little evidence in humans to support a prothrombotic effect for coxibs.”** [Chest 2004 Sep;126(3 Suppl):234S-264S.]

Results of Clinical Trials With COX-2 Inhibitors

Clinical Trial	Results	Findings
VIGOR Trial (Vioxx 50 mg vs Aleve)	More thrombotic events on Vioxx than Aleve	Vioxx increased blood pressure; Aleve did not
		Prostacyclin not measured
CLASS Trial (Celebrex 800 mg vs Motrin and diclofenac)	No difference in risk among the three drugs	No difference in blood pressure among the 3 drugs
		Prostacyclin not measured
APPROVe Trial (Vioxx 25 mg vs placebo)	More thrombotic events on Vioxx than placebo	Vioxx increased blood pressure; placebo did not
		Prostacyclin not measured
APC Trial (Celebrex 400 and 800 mg vs placebo)	More thrombotic events on Celebrex than placebo	Celebrex increased blood pressure; placebo did not
		Prostacyclin not measured
PreSAP Trial (Celebrex 400 mg vs placebo)	No increased risk with Celebrex	No increase in blood pressure with Celebrex
		Prostacyclin not measured

THE COW ISLAND LITIGATION

NEWFIELDS' ANALYTICAL GROUNDWATER RESULTS

Sample Designation	Arsenic Concentration	RECAP STD. Residential (µg/L) Parts Per Billion	Contamination Level RECAP/MCL
DD	64.8	10	6.48 Times Threshold Limit
WW_1	50.3	10	5.03 Times Threshold Limit
WW_2	26.2	10	2.62 Times Threshold Limit
WW_4	16.9	10	1.69 Times Threshold Limit
WW_5	55.2	10	5.52 Times Threshold Limit
WW_6	46.5	10	4.65 Times Threshold Limit
WW_7	28.2	10	2.82 Times Threshold Limit
WW_8	16.2	10	1.62 Times Threshold Limit
WW_9	47.6	10	4.76 Times Threshold Limit
WW_10	19.9	10	1.99 Times Threshold Limit
WW_12	55.1	10	5.51 Times Threshold Limit
WW_13	48.7	10	4.87 Times Threshold Limit

Sample Designation	Arsenic Concentration	RECAP STD. Residential (µg/L) Parts Per Billion	Contamination Level RECAP/MCL
GB101	21	10	2.1 Times Threshold Limit
EW_01	86.8	10	8.68 Times Threshold Limit
TD_01	27.7	10	2.77 Times Threshold Limit
DDAW_1	26.9	10	2.69 Times Threshold Limit
DDW_1	66.8	10	6.68 Times Threshold Limit
JCW_1	62.4	10	6.24 Times Threshold Limit
DDABNW -1	788	10	78.8 Times Threshold Limit
DDABNW_2	800	10	80.0 Times Threshold Limit
GW_1	40.8	10	4.08 Times Threshold Limit
52CIW6_1	15.1	10	1.51 Times Threshold Limit
427CIW5_2	25.7	10	2.57 Times Threshold Limit
52CIW5_1	21.7	10	2.17 Times Threshold Limit

Bullet Basics

- No More Than Five Bullets Per Slide - Three is Optimal
- Bullets Should Not Exceed Two Lines (One “Carriage” Return)
- Avoid Heavy Use of Sub-Bullets
 - They Tend to be Ignored
 - Because They Are Not As Important
 - As the Primary Point You Are Making

Poorly Formatted Slide

The History of Chlordane Is Important to This Case

- Was A Registered Use Pesticide in the State of Louisiana and All Over the United States for Many, Many Years
 - 1948 – First Began Using
 - 1988 – Stopped Using
- Primary Use Was For Termite Control in Homes Although it Was Also Used Commercially for Many Years
 - Fire Ant Treatment
 - Herbicide to Control Weeds in Turf
 - Insecticide
 - Lawns, Gardens & Food Crops
- At One Time, Was the Second-Most Widely Used Insecticide in the United States
 - Over 30 Million Homes Treated
- Voluntarily Withdrawn from the Market by its Manufacturer in 1988
 - Company Assisted in Withdrawal and Transfer to a Different Chemical
 - New Chemical was Dursban
 - Later Chemicals Replaced It

Better Formatted Slide

Chlordane

- Registered Use Pesticide from 1948 – 1988
- Primary Use Was Termite Control
 - Also Used As Insecticide on Lawns, Gardens & Food Crops
- Second-Most Widely Used Insecticide in U.S.
 - Over 30 Million Homes Treated
- Voluntarily Withdrawn from Market in 1988

***What Am I Going To Show
You Next?***

You Will Not Know Until . . .

**I Choose To Show You the
Remaining Content**

Presenting Content Sequentially

- First Bullet Point
- Second Bullet Point
- Third Bullet Point
- Fourth Bullet Point
- Fifth Bullet Point

Again, Avoid Distracting Transitions

- First Bullet Point
- Second Bullet Point
- Third Bullet Point
- Fourth Bullet Point
- Fifth Bullet Point

Bring the Audience Back to You

By Using the “B” Key or the “W”
Key at Strategic Points

Overriding Principle

**Less is More: *When in Doubt,
Leave it Out!***

Telling Your Story

A Good Story . . .

- Has a Beginning . . .

- A Middle . . .

- And an End.

Mary Williams
v.
Racetrac Petroleum, Inc.

Opening Statement of
Racetrac Petroleum, Inc.

Joachim Robinette, et. al.

V.

Lafon Nursing Facility

**Opening Statement of Lafon Nursing
Facility of the Holy Family, Inc.**

***Fireman's Charitable &
Benevolent Association (FCBA)
v.
Orkin Exterminating Co., Inc.***

Opening Statement of Orkin
Exterminating Company

Cow Island Litigation

Defense Opening

Pamela Todaro, et al
v.
George Acosta, et al

Opening Statement of George
Acosta & Orkin Exterminating Co.

Setting the Stage

Re-Introductions

- Quentin Urquhart, Jr. (Counsel)
- David Melancon (Co-Counsel)
- Doug Moore (Co-Counsel)
- Herman Borel (Orkin Representative)

**Begin With The End
In Mind**

FCBA v. Orkin

What is this Case About?

Answering Two Questions:

1. Is Additional Remediation Needed at the Site?
2. If So, What Is a Reasonable Amount to Perform the Remediation?

Lafon's Resident Population

Mid-1980's

- Average Age: 65 – 75
- 80% Ambulatory
- No Alzheimer's Patients
- Few Cognitive Issues
- “Retirement Type” of Population

2005

- Average Age: 75 – 85+
- 90% Wheel Chair or Bed Bound
- 20% Alzheimer's Patients
- 50% + Cognitive Issues
- “Frail and Completely Dependent” Population

Todaro Accident Occurred On May 22, 2000

- A Stipulation has been entered into.
- Mr. Acosta has agreed that he was at fault in bringing about the Accident.
- Orkin has agreed it is responsible for any damages caused by this Accident.
- ***So, Why Are We Here?***

Two Very Important Questions:

1. Did Pamela or Olivia Todaro sustain any injuries in this Automobile Accident?
2. If so, what was the extent of the injuries actually caused by *this Accident?*

Mary Williams Tripped and Fell on September 30, 2001

- RaceTrac Station on Gause Blvd. in Slidell
- **Believes** that she tripped and fell on a rug while walking through the store.
- **Believes** that there was something wrong with the rug.
- **Believes** that Racetrac could somehow have prevented her fall.

A full-page background image showing a scuba diver in the lower left and a large shark swimming towards the viewer in the center. The water is clear blue with some bubbles. The text 'Using Images to Tell Your Story' is overlaid in the center in a large, bold, yellow font with a black drop shadow.

Using Images to Tell Your Story

Lafon Nursing Facility

- In 1973, Lafon moved to a new location at 6900 Chef Menteur Highway.



Lafon Nursing Facility



Lafon's Physical Surroundings

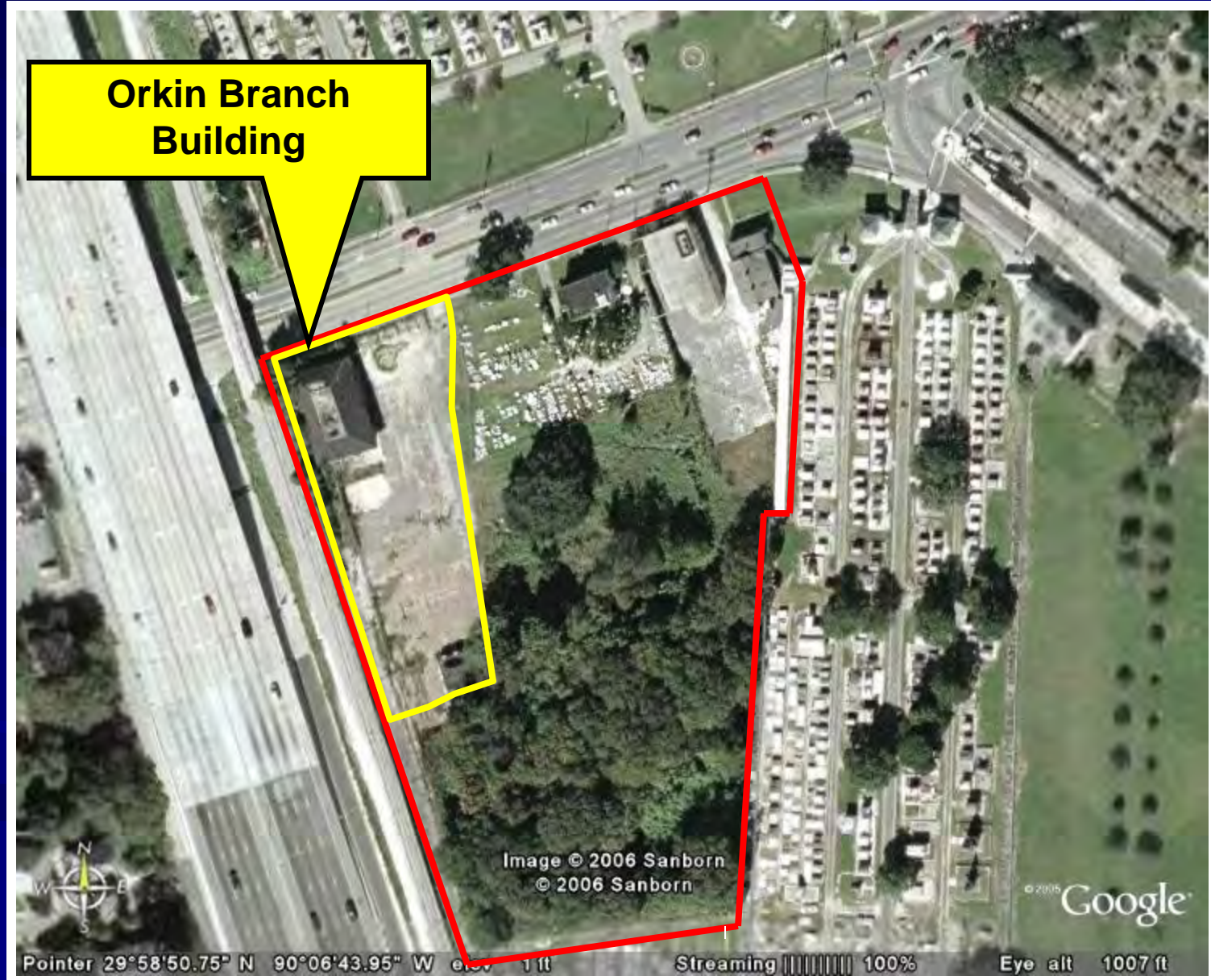


Lafon Administrator - Sister Augustine McDaniel



- **Member of Sisters of the Holy Family: 1964**
- **B.S. in Education and Social Work: 1969**
- **Masters Degree in Education: 1970**
- **Administrator In Training: 1981**
- **Licensed by Board of Examiners: 1982**
- **Lafon Administrator: 1982 – 1989**
- **School Principal - West Africa: 1992 – 1996**
- **Lafon Administrator: 1999 - 2005**

Overall Site – 5.25 Acres



Branch Office



Waldo Road Vat Site



Vat Site



Racetrac Station



Soda, Coffee and Donut Area

(Looking East)



Soda, Coffee and Donut Area

(Looking West)



Coffee and Donut Area (Looking Towards Bathroom Hall)



Damage to Mrs. Todaro's Mercedes Benz



■ Total Repair Cost of \$793

Damage to the Orkin Truck

