

Introduction

Expert testimony can make or break some cases. Managing the development and delivery of opinions, reports and testimony for success will give you a framework to make sure your expert testimony is complete, supportable and understandable by the non-technical people who need to use the information to make decisions.

Expert Analysis

Forensic work includes collecting and organizing documents and physical evidence, and documentation of conditions with photos and other demonstration aids like diagrams and flow-charts. Analysis includes turning raw data into understandable, usable information. Ultimately presentation of conclusions occurs in meetings, mediation, or sworn testimony.

Building a Trial Presentation

Multimedia trial presentations are not only effective they can make the difference between winning and losing. Creating a trial presentation to help make your case requires preparation. Asking yourself pertinent questions will assist you in building a better trial presentation. Remember that a well prepared trial presentation will not only enhance your oral presentation it will help people make sense of complicated topics and keep the audience focused on your subject.

Learning Objectives

1. Fundamentals to consider when retaining an expert
2. Analysis Process
3. Building a Trial Presentation
4. Review of three case studies

Program Outline

1. Introduction
2. Case Study – Construction Defect
3. Trial Presentations from A to Z
4. Case Study – Personal Injury
5. Don't Put Them to Sleep
6. Case Study – Cost Estimate
7. Conclusion

Back-Up Materials

1. Work Breakdown Structure
2. Solving Building Problems Article
3. Case Study – Construction Defect Presentation Outline
4. How to Avoid Death By Power Point Article
5. Attorney Communication Style Study Article
6. The Napkin Sketch Article
7. Evaluating Multimedia Presentations Article

Program Contents

1. *Introduction*
 - A. Learning Objectives
 - B. Who We Are
 - C. Expert Witness Success
2. *Case Study – Construction Defect*
 - A. Presentation Outline
 - B. Trial Presentation
3. *Trial Presentations from A to Z*
 - A. Work Breakdown Structure (WBS)
 - B. Solving Building Problems Method
 - C. Reports
 - D. Presentation Outlines
 - E. Building Your Presentation
4. *Case Study – Personal Injury*
 - A. Trial Presentation
5. *Don't Put Them to Sleep*
 - A. Death By Power Point
by Alex Kapterev
 - B. Keep It Simple
 - C. How People Learn
 - D. Video Mute Button
 - E. Flip Charts
 - F. Back of the Napkin *by Dan Roam*
 - G. Multimedia Presentations
6. *Case Study – Cost Estimate*
 - A. Trial Presentation
7. *Conclusion*

Trial Presentations

Trial Presentations

Pete Fowler Construction Services, Inc.
February 2011

Trial Presentations

P e t e F o w l e r
CONSTRUCTION
S e r v i c e s , I n c .

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Program Outline

1. Introduction
2. Case Study – Construction Defect
3. Trial Presentations from A to Z
4. Case Study – Personal Injury
5. Don't Put Them to Sleep
6. Case Study – Cost Estimate
7. Conclusion

Trial Presentations

1. INTRODUCTION

1. Introduction
 - A. Learning Objectives
 - B. Who We Are
 - C. Expert Witness Success

A. Learning Objectives

1. Fundamentals to consider when retaining an expert
2. Analysis Process
3. Building a Trial Presentation
4. Review of 3 case studies

B. WHO ARE WE?

Pete Fowler Construction Services, Inc. (PFCS)

Pete Fowler Construction Services, Inc. (PFCS) is a team of consultants with expertise in all phases of building construction including:

- Construction Claims
- Construction Defect
- Cost Estimating
- Construction Management
- Training & Education
- Expert Testimony

"We deliver solutions for building problems."

We are ***expert witnesses***.

"Expert witness: a witness who, by virtue of experience, training, skill, or knowledge of a particular field of subject, is recognized as qualified to render an informed opinion on matters relating to that field or subject."

The Architect's Handbook of Professional Practice

Trial Presentations

1. INTRODUCTION

We're brilliant.
It says so on our C.V.'s.

Trial Presentations

1. INTRODUCTION



Pete Fowler
CONSTRUCTION
Services, Inc.

Curriculum Vitae

Peter D. Fowler

Education

California State University, Chico
Bachelor of Science in Construction Management
Minor in Management Information Systems

Burns College
Vocational Construction Education

Licenses and Certifications

California Contractors License # 711760
CLIB Home Improvement Certification
Licensed in a general building occupation in the state of California

Oregon Contractors License # 279900
Dual State Contractors License, Inc. is licensed as a General Contractor - All Trades in Oregon.
Certified Home Inspector (see below)

ASPE Certified Professional Estimator (CPE) # J 4-000152-0100
Administered by the American Society of Professional Estimators (ASPE). This certification is the highest form of professional recognition an estimator can receive. Through it's certification program, ASPE recognizes the estimating proficiency and ethical awareness of the CPE. The certification program consists of a professional estimator application, a technical paper, two days of written examinations and participation in the Continuing Certification Program.

ICBO National Contractor Competency Testing Program - General Contractor
Administered by ICBO to provide recognized examinations and credentials for contractors. This examination tests to compare knowledge of national codes and standards for General Contractors.

ICBO Certified Inspector # 1614477-100
One and Two Family Building Inspection
International Conference of Building Officials (ICBO)

Certified Accreditation Master - AIAA
Training and certification to qualify individuals in seriously recognized and tested window and door installation techniques. Administered by American Architecture Manufacturers Association. Certification requirements include verifiable experience, two days of classroom training and a closed book examination.

Certified Home Inspector CCHI # 1128 - Oregon Construction Contractors Board
Requires experience verifications and examination process which confers a knowledge base in Standards of Practice, Electrical, HVAC, Plumbing and Structural issues in building construction.


Peter D. Fowler
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Trial Presentations

1. INTRODUCTION



Pete Fowler
CONSTRUCTION
Services, Inc.

Curriculum Vitae

Paul V. Kushner, C.C.C.A., A.I.A.

Education

University of California, Berkeley
Bachelor of Arts in Architecture
California School of Mechanical Arts, San Francisco
Mechanical Arts Preparatory High School
Clifton College, Bristol, England
Christopher Trevor - Roberts M.F.O., Hampstead, England

Licenses and Certifications

California Licensed Architect # C-26488
Licensed as an architect in the State of California.
Certified Construction Contract Administrator
A certification program administered by The Construction Specifications Institute to qualify that individuals have demonstrated the required knowledge and ability to administer a contract for construction as prescribed by the Certification Committee.
Construction Documents Technologist
A certification program administered by The Construction Specifications Institute to qualify that individuals have demonstrated the required knowledge of General Conditions of the contract in common use and CSI recommended procedures for project manual organization as prescribed by the Certification Committee.

Experience

2004 - Present: Architect / Expert, Pete Fowler Construction Services, Inc.
PFCI, Inc. is a general contracting, construction management and expert construction services provider. Specific services include: Construction Consulting, Property Inspection, Testing, Assessment & Analysis, Construction Cost Estimating & Budgeting, Construction Management & General Contracting, Training, Education & System Development, and Expert Witness, Mediation & Testimony.

Please Note
No document is available via the Internet, we need notes that construction use is strictly prohibited. Please contact Pete Fowler if you have any questions regarding appropriate use.

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1. INTRODUCTION

I am not...

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1. INTRODUCTION

**A hired gun with a passion for Marinara
sauce and cheroots,**



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1. INTRODUCTION

**A specialized night time social worker with
good nurturing skills,**



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1. INTRODUCTION

A miracle worker,



Trial Presentations

1. INTRODUCTION

Capable of astounding feats.



Well sometimes I am...

I am...

more of a Popeye

"I am what I am",



Dragnet's Jack Webb, "Just the facts ma'am."



Credible.

Credibility

Pronunciation:

\kre-də-bi-lə-tē\

Function:

noun

Date:

1594

Definition:

1. the quality or power of inspiring belief
2. capacity for belief

Merriam-Webster Online Dictionary. 2009.

C. Expert Witness Success

**Who would you
prefer analyzing
your case?**

Trial Presentations

1. INTRODUCTION

A French man with a slight speech impediment?



Trial Presentations

1. INTRODUCTION

**Or a clear thinking pipe smoking Englishman
with some nasty habits?**



Trial Presentations

1. INTRODUCTION

"It is a capital mistake to theorize before one has data. Insensibly one begins to twist the facts to suit theory instead of theory to suit the facts."

"It is a capital mistake to theorize before you have all the evidence. It biases the judgment."

Sherlock Holmes/ Sir Arthur Conan Doyle "A Scandal in Bohemia"

Trial Presentations

1. INTRODUCTION

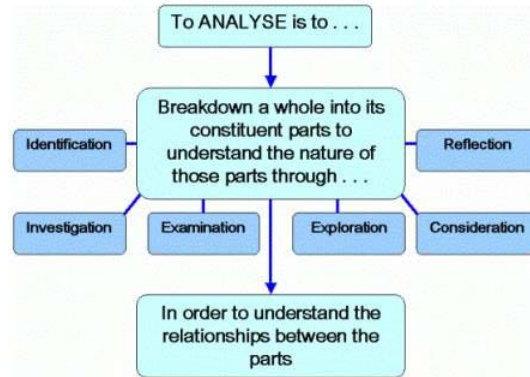
A **witness** testifies only about facts observed, whereas an **expert witness** testifies about opinions based on the facts.

The **expert witness** is skilled in a particular subject, and is recognized as especially qualified to speak on that subject.

Trial Presentations

1. INTRODUCTION

The expert's opinions are developed through an analytical process.



(Graphic from www.lauraskills.co.uk)

Trial Presentations

1. INTRODUCTION

Kung Pao Chicken, Fried Rice, No Dumplings, please!

So providing for your expert is a lot like ordering from the Chinese Lunch Special menu:

- *If you get 2 items from the left column, you cannot substitute 1 item from the right column.*
- *If you get 2 items from the right column, you cannot substitute 1 item from the left column.*

Trial Presentations

1. INTRODUCTION

Kung Pao Chicken, Dumplings, No Fried Rice pronto!

Selecting and retaining an expert is very important. He or she is going to be the “tip of the spear” for your client.

- Retain your expert in a timely manner provide them the adequate means to carry out the analysis.
- The quality of the analysis is directly proportional to the amount of TIME and hence the amount of MONEY that you can provide.

Trial Presentations

1. INTRODUCTION

Give Me The Chicken, Dumplings, And Fried Rice NOW !

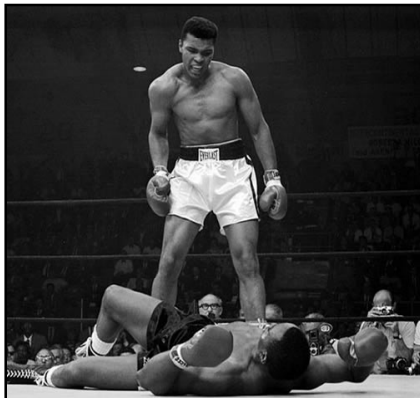
In the real world you get to pick two... and the other one is NOT AVAILABLE. This simple principle has ramifications on your expert's testimony.



Trial Presentations

1. INTRODUCTION

So don't set up your expert for defeat. Expecting thoughtful, insightful, AND convincing testimony the day before trial may not be realistic.



Expert witness Sonny Liston pummeled by Cassius Clay on cross in 1964 having been given 2 days to prepare.

Trial Presentations

2. CASE STUDY

2. Case Study – Construction Defect

- A. Presentation Outline
- B. Trial Presentation
 - Review of Trial Presentation from Project Overview to Conclusion

Date:	September 22, 2008
To:	Client
From:	Pete Fowler Construction Services, Inc.
Regarding:	Case Study <i>Construction Defect</i>
Note:	Confidential Attorney-Client and Attorney Work Product. Protected under all applicable evidence codes.

1. PFCS
 - A. Pete Fowler Experience Summary
 - B. Pete Fowler Construction Services, Inc.
2. Project Overview
 - A. Aerial Images, Site Plan, Elevation Plan, Floor Plan, Structural Plan
 - B. Project Summary
 - C. Major Parties Involved
 - D. Timeline of Important Events
 - E. Documents Review
 - F. Investigation and Observations
3. Contracting 101
 - A. Framework (Flow Chart)
 - B. This Project
 - C. Contract: Owner and Testa
 - D. Contract: Testa and IMAC
 - E. Contract: IMAC and Courtney Waterproofing, Scope of Work, Contract Guarantee/Warranty
4. Issues and Allegations
 - A. Joint Sealant (Caulking) Failure (including Service Life and Characteristics of Sealant). (If necessary we (I or we) will deal with the "Other Issues " like Geotechnical, Weather Variations and Panel Movement in cross examination or here on direct.)
 - B. Joint Sealant (Caulking) Failure Caused Leaks and Damage (Photos of Damage at Interior)
 - C. Sacking and Patching Failure
 - D. Paint (Why re-paint is required.)
 - E. Recommended Scope of Repairs
 - F. Testa and IMAC Settlement (Damages Paid) and Release by Plaintiff
5. Conclusion
 - A. The Owner had a contract with Testa, Inc. (GC)
 - B. Testa, Inc.(GC) had a contract with IMAC (Subcontractor) with unambiguous language related to conformance with the plans, specifications, guarantee and warranty, indemnification and construction industry standards.

- C. IMAC (subcontractor) had a contract with Courtney Waterproofing, Inc, (Sub-Specialty Subcontractor) with unambiguous language related to conformance with the plans, specifications, guarantee and warranty, indemnification and construction industry standards.
- D. IMAC contracted with Courtney Waterproofing to perform specialty work for which Courtney Waterproofing, Inc. had expertise.
- E. Courtney Waterproofing, Inc.'s contract with IMAC has unambiguous language related to guarantee, warranty and indemnification of IMAC by Courtney for damages caused by Courtney's work.
- F. The Courtney Waterproofing, Inc.'s work on this project did not conform to industry standards and it did not perform consistent with the expected service life of this material.
- G. Damage was caused by the Courtney Waterproofing, Inc.'s work.
- H. Repairs are required due to Courtney Waterproofing. Inc.'s work.
- I. IMAC paid the Owner and/or General Contractor for repairs and damages caused by the work of Courtney Waterproofing. Courtney Waterproofing should pay IMAC for the costs associated with the repairs and damages.

Trial Presentations A to Z

3. Trial Presentations from A to Z

- A. Work Breakdown Structure
- B. Solving Building Problems
- C. Reports
- D. Presentation Outlines
- E. Building Your Presentation

Trial Presentations

3. TRIAL PRESENTATIONS A TO Z

"In preparing for battle I have always found that plans are useless, but planning is indispensable."



Dwight D. Eisenhower
(1890 – 1969)

Trial Presentations

3. TRIAL PRESENTATIONS A TO Z

A. Work Breakdown Structure (WBS)

A complex project is made manageable by first breaking it down into individual components in a hierarchical structure, known as the **work breakdown structure**, or the WBS.

Such a structure:

- Defines the tasks
- Facilitates resources
- Assigns responsibilities
- Measures and controls the project

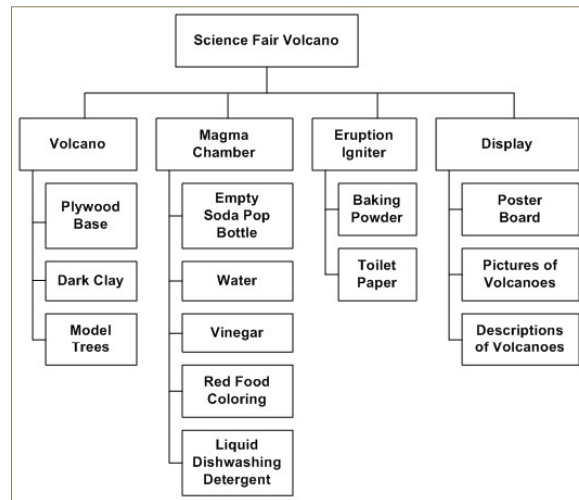
Trial Presentations

3. TRIAL PRESENTATIONS A TO Z

A. Work Breakdown Structure (WBS)

A good WBS is not a detailed "To do" list.

A well-designed WBS describes planned outcomes instead of planned actions.



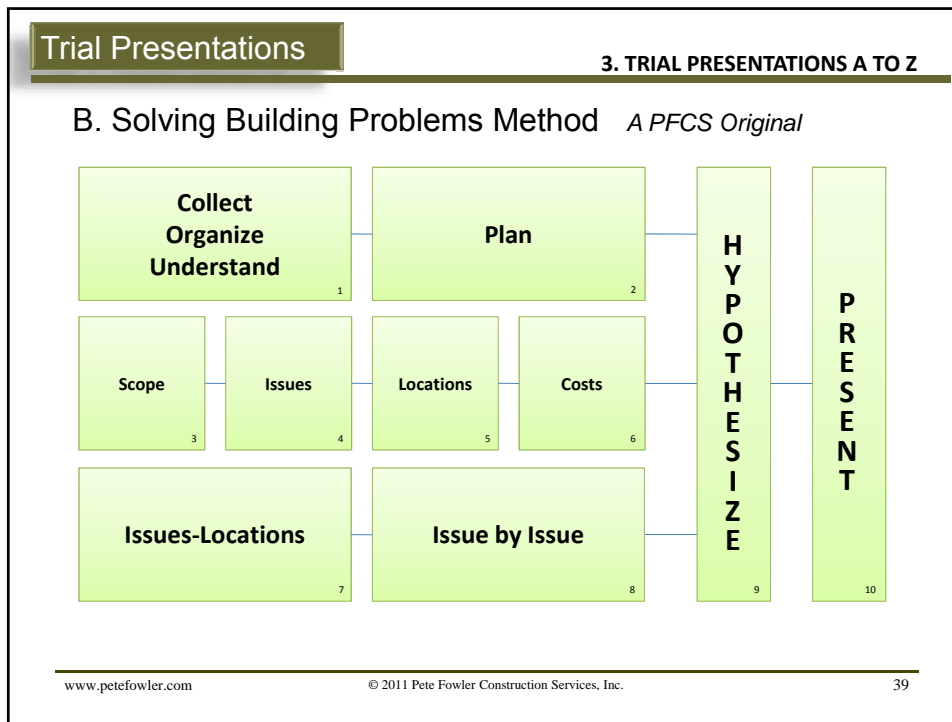
Trial Presentations

3. TRIAL PRESENTATIONS A TO Z

A. Work Breakdown Structure (WBS)

Program Contents (2 level WBS)

- | | |
|---|--|
| <ol style="list-style-type: none"> 1. <i>Introduction</i> <ol style="list-style-type: none"> A. Learning Objectives B. Who We Are C. Expert Witness Success 2. <i>Case Study – Construction Defect</i> <ol style="list-style-type: none"> A. Presentation Outline B. Trial Presentation 3. <i>Trial Presentations from A to Z</i> <ol style="list-style-type: none"> A. Work Breakdown Structure (WBS) B. Solving Building Problems Method C. Reports D. Presentation Outlines E. Building Your Presentation 4. <i>Case Study – Personal Injury</i> <ol style="list-style-type: none"> A. Trial Presentation | <ol style="list-style-type: none"> 5. <i>Don't Put Them to Sleep</i> <ol style="list-style-type: none"> A. Death By Power Point B. Keep It Simple C. How People Learn D. Video Mute E. Flip Charts F. Back of the Napkin G. Multimedia Presentations 6. <i>Case Study – Cost Estimate</i> <ol style="list-style-type: none"> A. Trial Presentation 7. <i>Conclusion</i> |
|---|--|



- Trial Presentations** 3. TRIAL PRESENTATIONS A TO Z
-
- B. Solving Building Problems Method**
1. Collect, Organize, Summarize and Understand
 2. Plan
 3. Scope Summary
 4. Issues List
 5. Locations List
 6. Cost Summary
 7. Issues-Locations Association & Analysis
 8. Issue-By-Issue Analysis
 9. Reflect, Hypothesize, Scrutinize & Repeat
 10. Present
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Trial Presentations

3. TRIAL PRESENTATIONS A TO Z

C. Reports

Pete Fowler CONSTRUCTION Services, Inc.		Report
Date:	November 3, 2010	
To:	John R. Hanson, Esq. Wenthe, Hansen & Wenthe 1851 E. First Street, 9th Floor San Jose, CA 95131 T: (714) 285-9600 F: (714) 285-9700 E: jrhanson@wenthe.com	
From:	Pete Fowler Construction Services, Inc. (PFCS)	
Project:	Botwin v McMahon Insurance McMahon Insurance PFCS 09-184	
Regarding:	219 East Broadway, Long Beach, CA 90802	
Note:	Confidential Attorney-Client and Attorney Work Product. Protected under all applicable evidence rules.	

1. General Project Information
A. Property Description & Project Summary
B. Major Parties Involved
C. Timeline of Important Events
D. Documents Reviewed
E. Documents Created by PFCS
F. PFCS Observations
2. Estimate Comparison
3. Estimate Comparison Summary
4. Conclusions
5. Possible Future Work
6. Aerial Images and Site Inspection Photographs

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Trial Presentations

3. TRIAL PRESENTATIONS A TO Z

C. Reports

You should expect your expert to compile a Report. He or she needs an organized repository for their thoughts. The report should contain:

- All the pertinent background information –
[Project Summary](#)
- The methodology used by the expert to review and research –
[Document Review, Observations, Research and Documents Created](#)
- A summary of all the issues related to your client –
[Summary of Allegations](#)
- A brief summary of his or her conclusion per issue –
[Discussion of Allegations](#)