

Trying the Complex Case

Robert Manley

September 2014

McKool Smith

AUSTIN

DALLAS

HOUSTON

LOS ANGELES

MARSHALL

NEW YORK

SILICON VALLEY

WASHINGTON, DC

Art

Science

Art



Theme

What is this case about?

Client

Focus Group

Mom

Daughter

Spouse

Neighbor

Crowd Source

Cause

Securities Fraud

You lied about what you sold me
You knew exactly what the risks were and agreed

Breach of Fiduciary Duty

I trusted you and you betrayed me
I did my best/Our agreement was arm's length

Tortious Interference

We had a deal until you came along
We competed and won the business fair and square

Patent Infringement

You stole my idea without paying
Wasn't your idea

Wiki- types of cases???

Facts

Evidence

Chronology

Characters

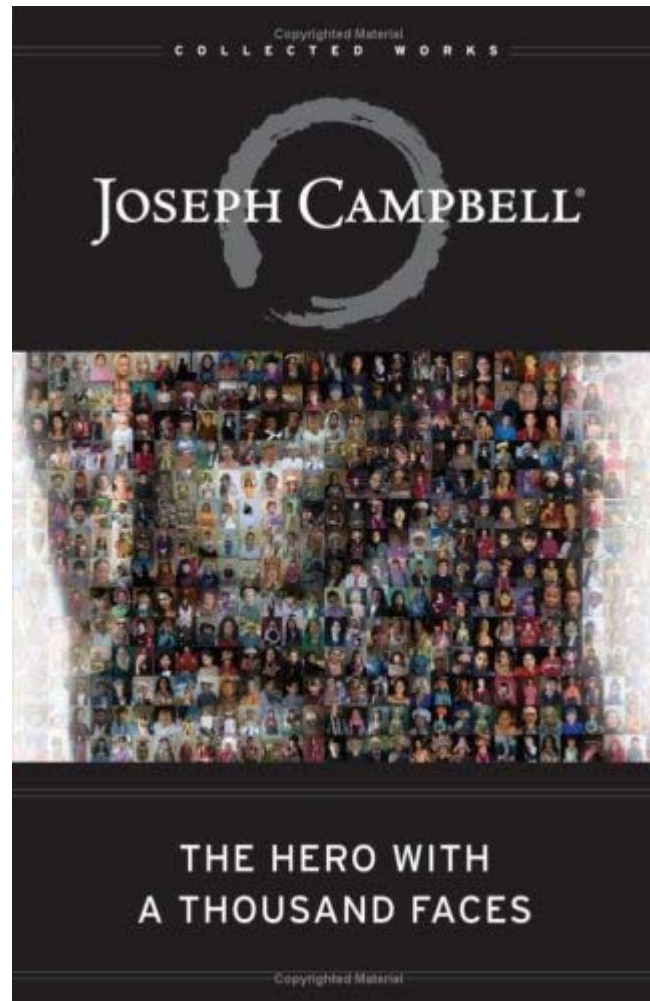
You See



They See



Story



Resources



Story Telling Sites: www.timshepher.co.uk

Opening Statements: www.uchastings.edu

Open Mic Night: Union Coffee House

Next Happy Hour

Dr. Albert Mehrabian, author of *Silent Messages*, conducted several studies on nonverbal communication. He found that

**7% of any message is conveyed through words,
38% through certain vocal elements, and
55% through nonverbal elements (facial expressions,
gestures, posture, etc).**

<http://www.nonverbalgroup.com>

Teach

Learners

Auditory

Visual

Kinesthetic

Voice

“I did not say she stole his car.”

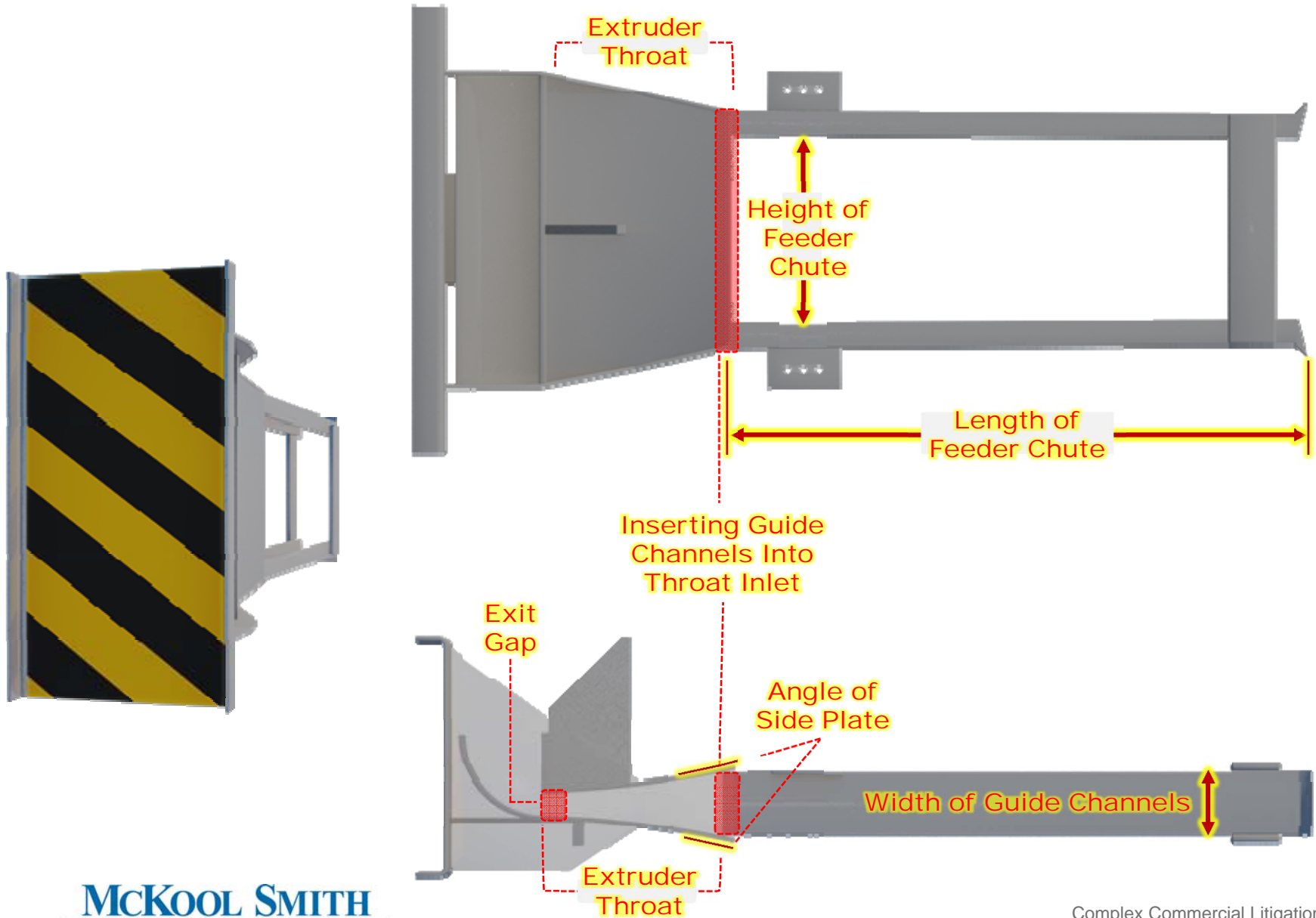
Demonstrate



Speak



Show



Science

Know Thy Jury

Science : Jury Board

JUROR #1 WILMA C. BATES				
DESCRIPTION	EMPLOYMENT	FAMILY	OBSERVATIONS	INTEL
No Photo Available	Owns Floor Safety, Inc. National Restaurant Assoc., New York Restaurant Assoc., Tile Council of NITA, BHMA, National Safety Council	Lives in New York C: 4 yrs Divorced 3 Children 33 yr old: Technician 32 yr old: Call Center Op 24 yr old: Homemaker	Wore Tennis Shoes Green Jacket "As far as I know, I can be impartial" Friendly	Nothing on OSCN

THE COURT: Thank you. Ms. Bates.

PROSPECTIVE JUROR BATES: My name is Wilma C. Bates, and I live in NITA City. I've lived here for four years. I grew up here, but I've lived out of the state up until the past four years. And my occupation is I'm a small business owner. And I am divorced. And I don't know what my ex-husband is doing. And I have three grown children, and let's see, they're in their -- 33, 32, and 24. And my son is in computer technology, my daughter is a homemaker, my younger daughter is a call center employee.

THE COURT: A call center employee?

PROSPECTIVE JUROR BATES: Uh-huh.

THE COURT: Okay. Thank you.

PROSPECTIVE JUROR BATES: And, no, I've never done jury service before and I've never been in the military. And my highest education was two semesters of college. And as far as I know, I can be impartial.

THE COURT: In what field of study were your college studies?

PROSPECTIVE JUROR BATES: English composition. I wanted to be a writer.

THE COURT: Okay. Thank you very much, Ms. BATES.

Science

Know Thy Exhibits

Science : Exhibit List

0100 - Due Diligence
0150 – Initial Investment Pitches
0200 – Series A, B, C, D, & E, Debentures
0500 - Board Minutes and Related Materials
0700 - Operations (Isle)
0800 - Expressions of Interest
0900 - 2005 Bankruptcy
1000 - Sale to K
1100 – ClearView Investments LLP
1200 - Plaintiffs' Debenture Conversion Docs
1300 - Balatrade Note
1400 - Additional Investors
1500 - Ravell Investors Docs
1600 - 2008 Bankruptcy
1700 - Plaintiffs Interests in Companies
1800 - 2010 Removal Action / Sanctions
1900 - FCC Filings
2000 – Miscellaneous

Science

Know Thy Evidence

Proof Outline

CONFIRMATION OF STALL'S ENGAGEMENT WITH DC

6.11.09 Confirmation of engagement letter [Ex. 2, 74 & 115]

6.22.09 Stall accepts meeting:

“Prep Meeting for CAD meeting : [DHC0104785]

7.13.09 Berg drafts official intent resolution for Stall –

Stall sends it to Berg, saying “Get this to Mr. K” [Ex 1319]

Stall represents DC

7.13/14 W. Co. in meeting re resolution [Ex. 205]

8.17.09 Moaks and Stall emails [Ex. 119]

Moaks “Let’s get this bad boy sold and closed.”

Berg “I am on it.”

9.24.09 Stall to DC: “You ok w/me calling other folks?” [Ex. 78]

Berg “You are our guy and that’s clear to everyone.”

Berg “You know it. And now everyone else does.”

Science : Director

Know Thy Role

Science : Trial Plan

Briefing Team: Hailey, Crowder, Rider,

Exhibit Lists and Negotiations for Preadmissions: Falls, Hailey, Crowder, Ringle

Depo Designations and Negotiations for preadmissions: Millions, Crowder, Ringle

Motions in Limine: Swanson, Degen

Demonstratives: Hailey/Manley/Piaz

Proposed Stipulations: Hailey/Dergin

Jury Charge: Crowder, Rider

Science : Trial Plan

VOIR DIRE: Manley

OPENING: Manley

PLAINTIFFS' CASE IN CHIEF

Live Witnesses Cross-Examinations

Order Confirmed Week 1

Robert Drake –Drake/Millions

Adriana Troubleness – MANLEY/Hailey

JR Matthew– Drake/Ringle

Charles Hershe — MANLEY/Hailey

Mack Tyler — Drake/Ringle

Order not Known...

Grizelda Tack DEPO – Smith

Joseph Lotz DEPO — Hailey

Rick Crary (Original Investor “OI”) –Hailey

Charles Lopez (OI) – Smith

Science: Trial Plan

John Braig (CI) – BERGIN /Inada
Grogan Tyler (Pelaton) – BERGIN/Inada
Robert Galveston (Plural) – MANLEY/Hailey

Depo Designations

Craig Caker—Inada/Ringle
Larry Beatnik —Inada/Ringle
Greg Montecarlo—Inada/Ringle
Edwin Einstein (OSH, DBH)—Hailey/Inada
Jeff Galant—Crowder/Millions
David Goldwing—Crowder/Millions
Barry Mayer—Crowder/Millions
Mike Blender—Crowder/Millions

Expert Witnesses

Jose Senior —Manley/Swanson

MOTION FOR DIRECTED VERDICT—Hailey, Crowder, Rider, Degen

Science: Trial Plan

DEFENDANTS CASE IN CHIEF

Live Witnesses

Ken Leader — Manley
Guy Player— Smith
Joe Simonds [DEPO] — Hailey
Missy Laker— Possibly Live--Smith
Leif Whitwood— Manley

Expert Witnesses

Doug Lark--Smith/Johnson
Sam Cramer—Manley/Drake
Erica Teder—Smith/Jones

CLOSING—MANLEY

Science

Know Thy Limines

Science

Know Thy Law

[And help the Court to know it as well]

Moral Imperative

Celebrate with Thy Team

Robert Manley, Principal



- A Principal in McKool Smith's Dallas office.
- Serves as lead counsel for many corporate and individual clients, both prosecuting and defending matters in courts throughout the United States.
- Has tried a wide range of diverse matters including securities fraud, corporate governance, fiduciary duty, employment, intellectual property and criminal matters.
- Focuses on complex business, securities and investor litigation.
- Writes articles and lectures across the country on effective trial advocacy. He also serves on the faculty of the National Institute for Trial Advocacy, and as an adjunct at the Southern Methodist Dedman School of Law.

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