

Storytelling for Trial Attorneys

Tony Klapper
Managing Director
Litigation Consulting



A2L CONSULTING



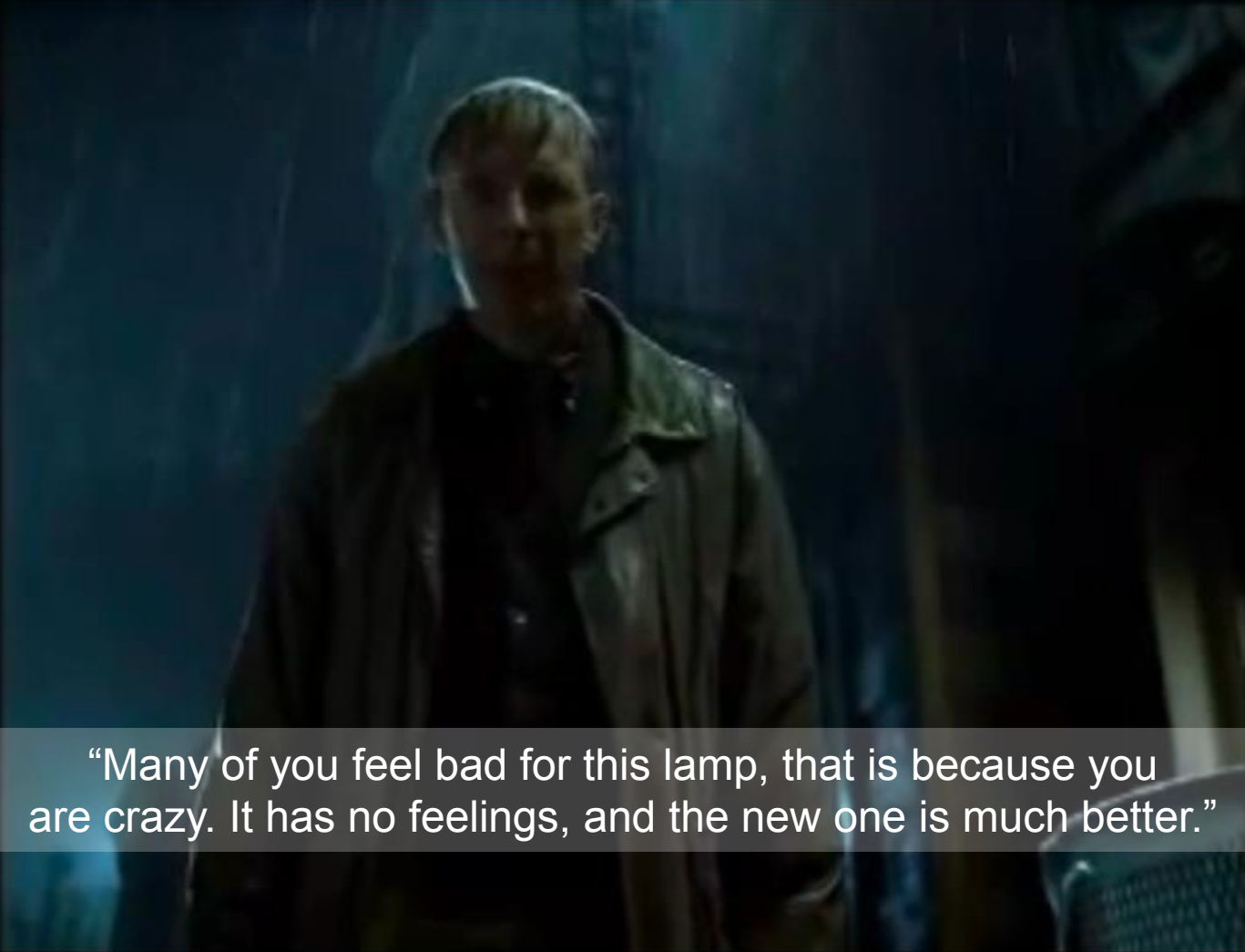




sad music and rain





A young man with short, light-colored hair is standing in a dark, dimly lit room. He is wearing a dark leather jacket over a dark shirt. The background is dark and indistinct, possibly showing some vertical lines or structures. The lighting is low, creating a moody atmosphere.

“Many of you feel bad for this lamp, that is because you are crazy. It has no feelings, and the new one is much better.”



unböring

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**Why are Stories
Important to
Trial Attorneys**

**How do You Tell
an Effective
Story**

**The Visual
Component of
Storytelling**

Agenda



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Stories help us
ORGANIZE
information

Stories help us
**FEEL &
BELIEVE**
information





Stories help us
RETELL
the information

Perspectives

The Critical Value of Storytelling

Perspectives



Patrick Coyne
Partner, Finnegan

Perspectives



Rob Cary
Partner, Williams & Connolly

Perspectives



Bobby Burchfield
Partner, King & Spalding

**Why are Stories
Important to
Trial Attorneys**

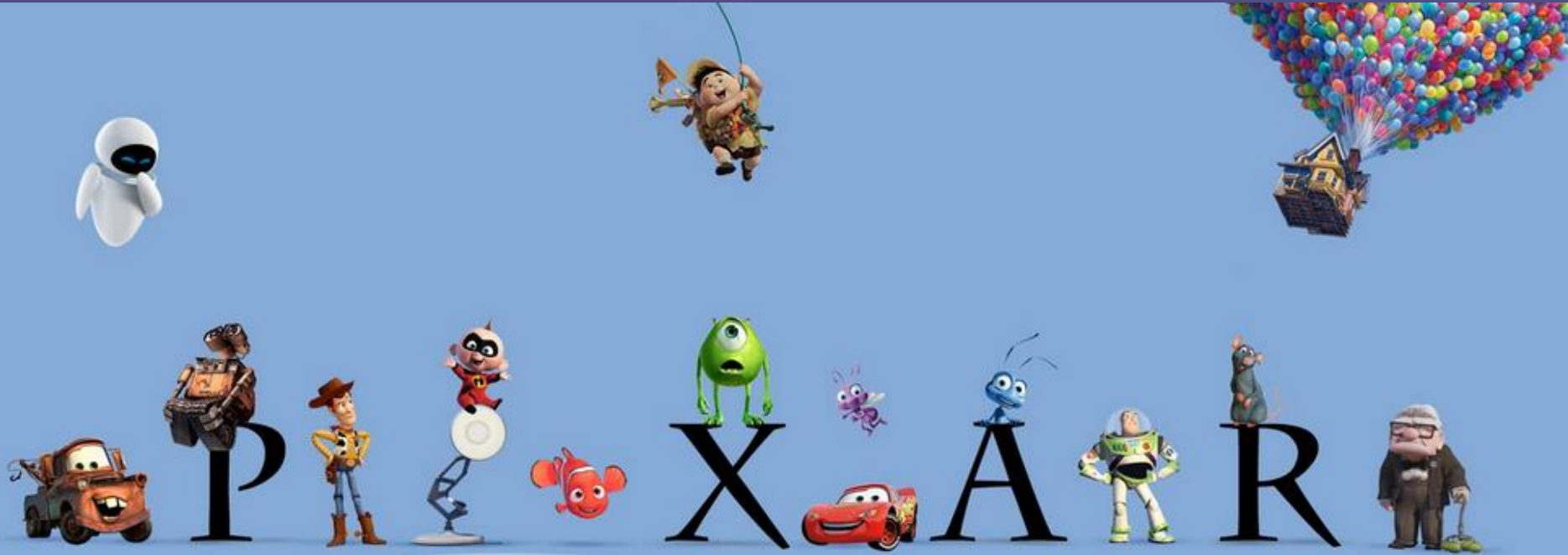
**How do You Tell
an Effective
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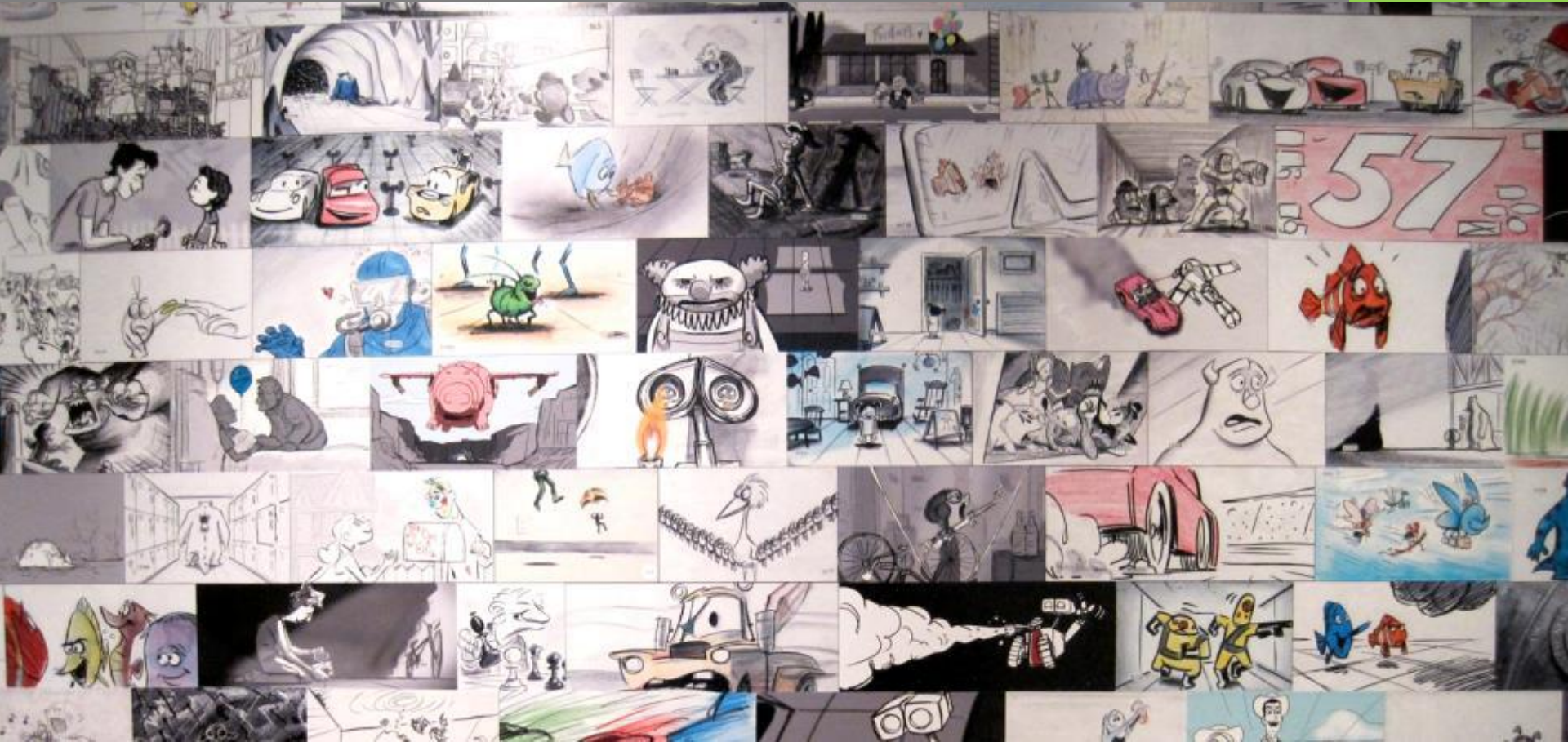
Agenda



How to Tell a Compelling Story?



The Pixar Formula



The Pixar Formula

Once upon a time, there was 



The Pixar Formula

Once upon a time, there was 

Every day, 



The Pixar Formula

Once upon a time, there was 

Every day, 

One day, 



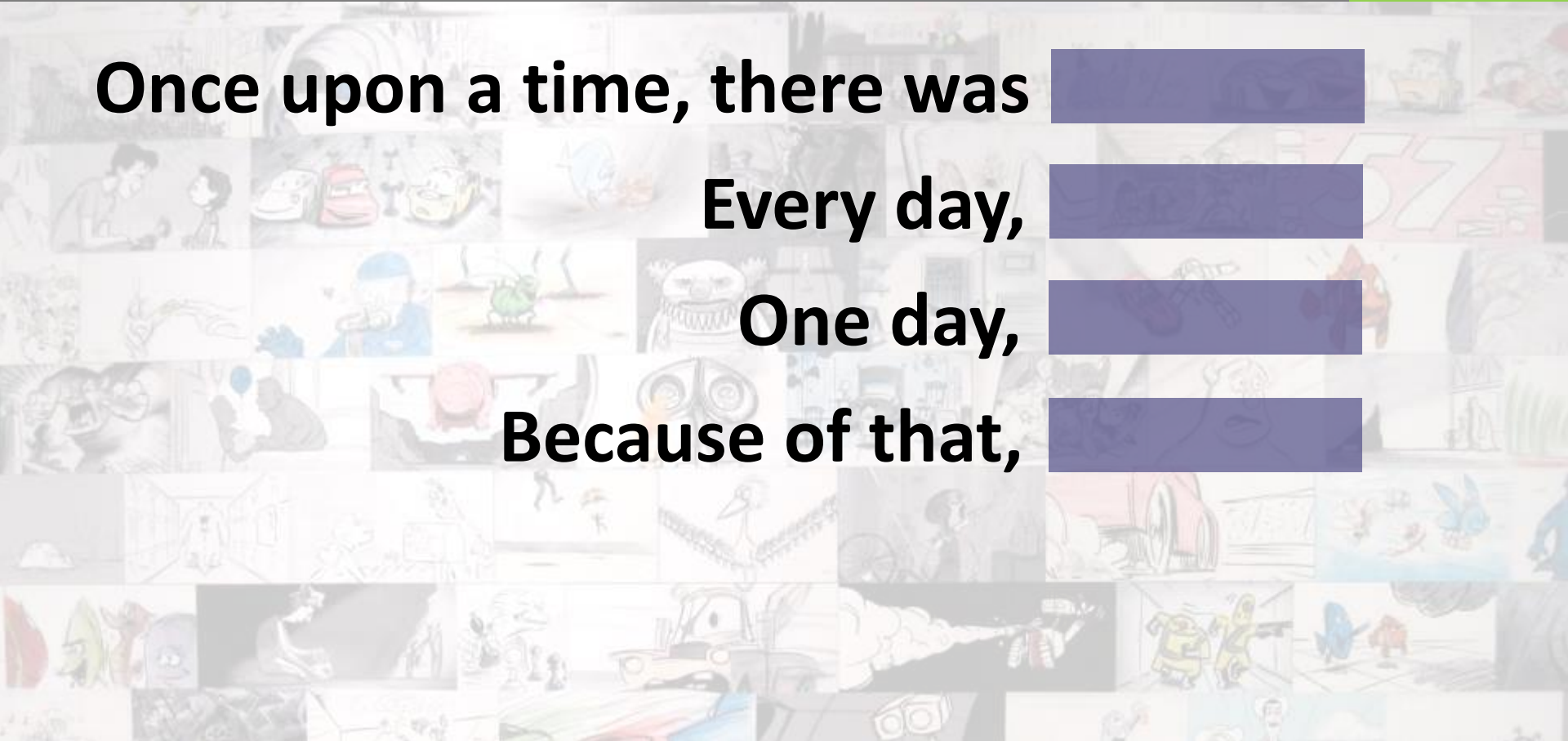
The Pixar Formula

Once upon a time, there was 

Every day, 

One day, 

Because of that, 



The Pixar Formula

Once upon a time, there was 

Every day, 

One day, 

Because of that, 

Because of that, 




The Pixar Formula

Once upon a time, there was 

Every day, 

One day, 

Because of that, 

Because of that, 

Until finally, 



iPhone

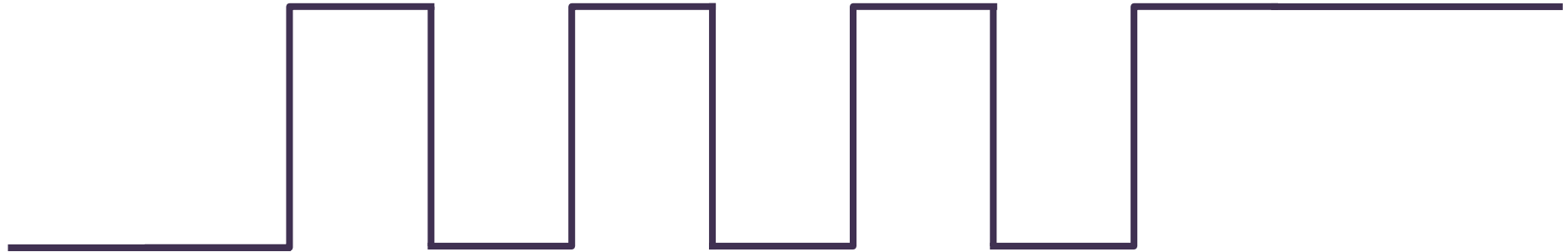
Apple reinvented the phone



Nancy Duarte

WHAT COULD BE

RESOLUTION

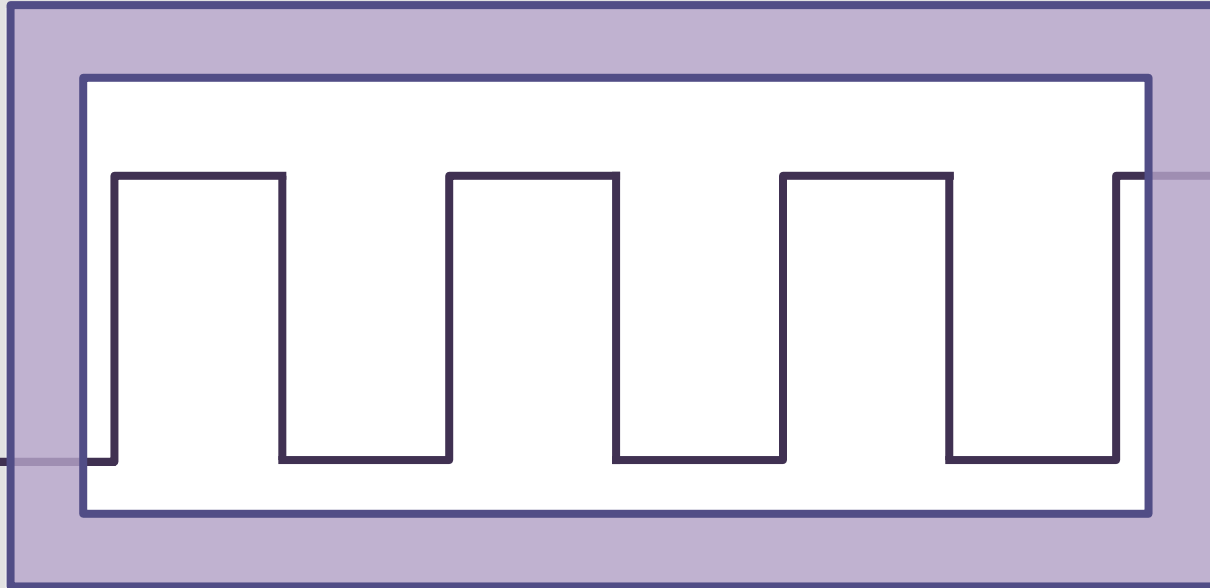


WHAT IS
(status quo)



Nancy Duarte

WHAT COULD BE



RESOLUTION

WHAT IS
(status quo)

RESISTANCE TO GOAL

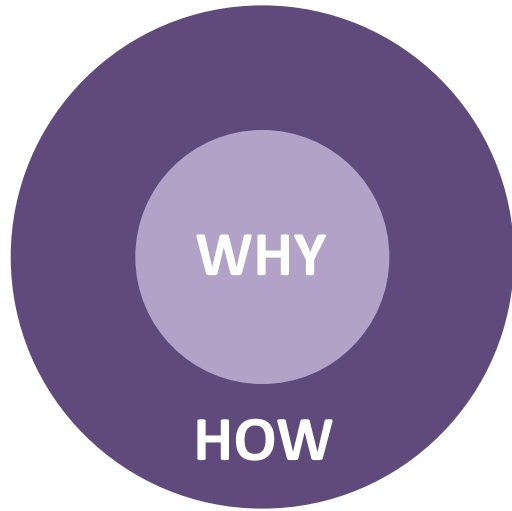


Golden Circle (Simon Sinek)

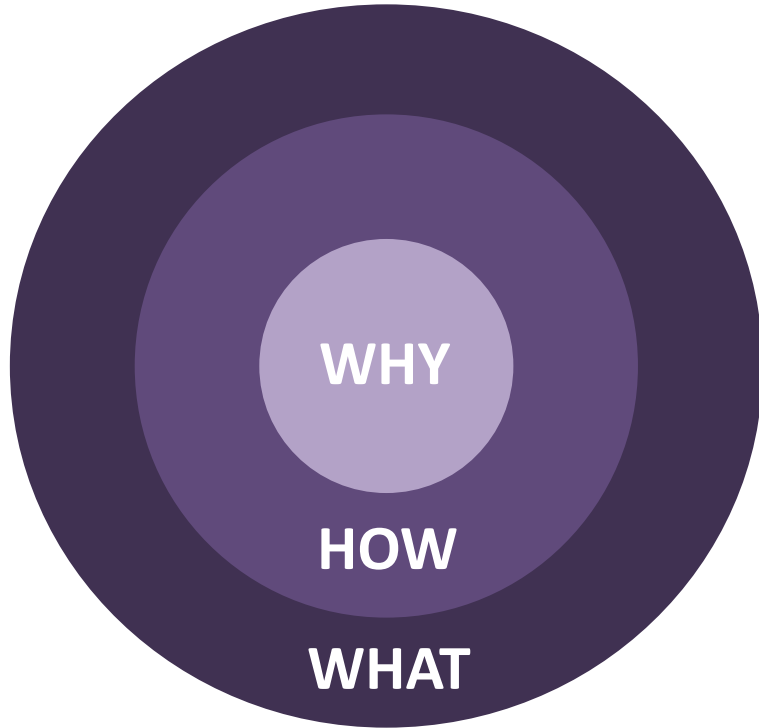
WHY



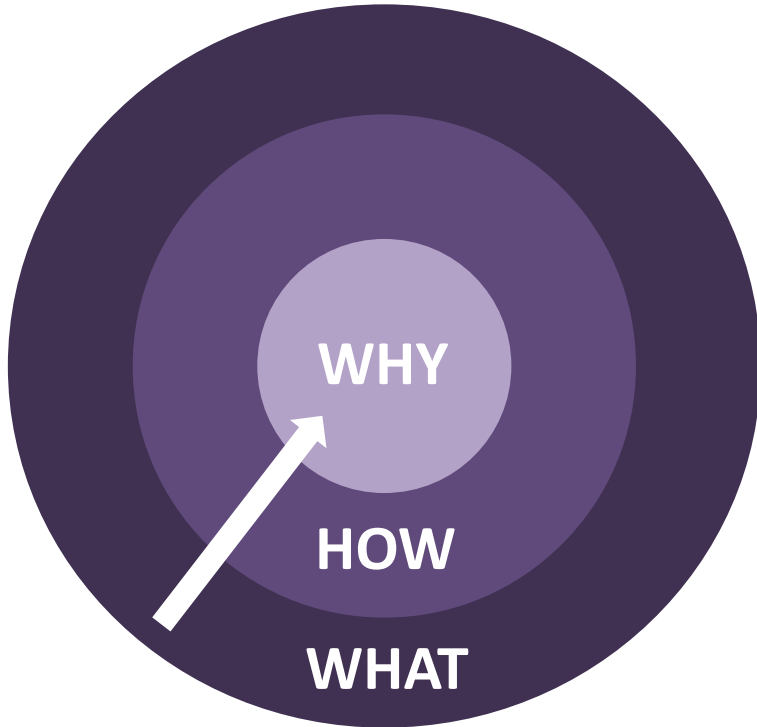
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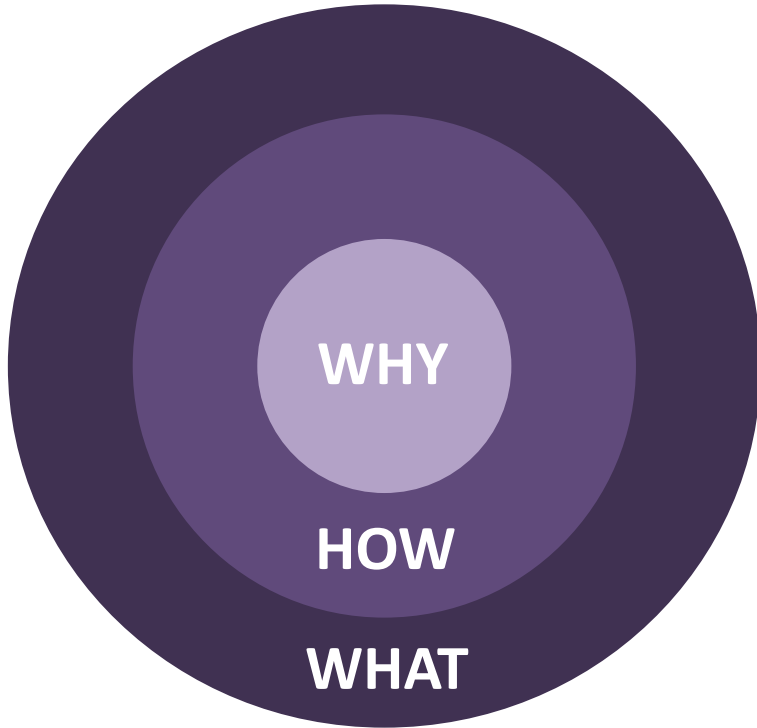
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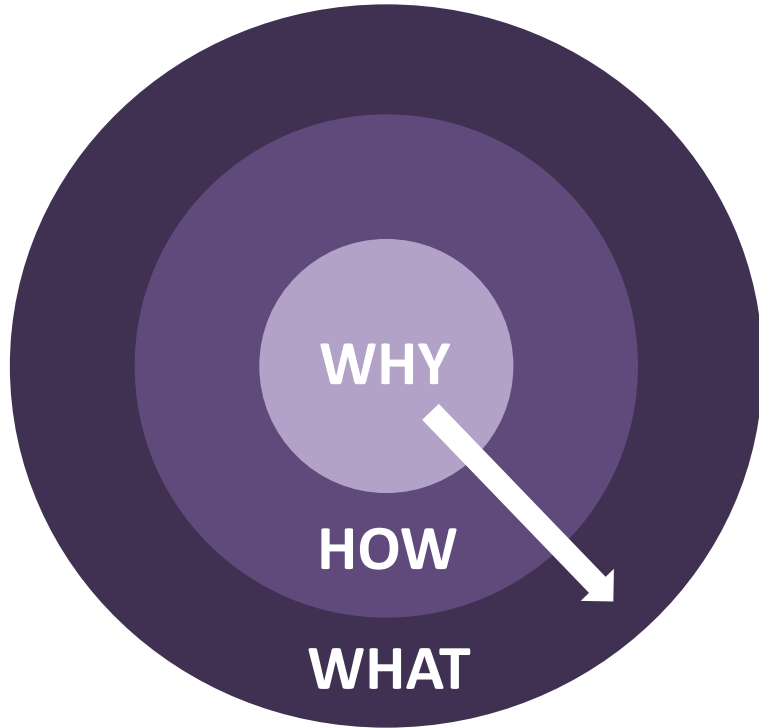
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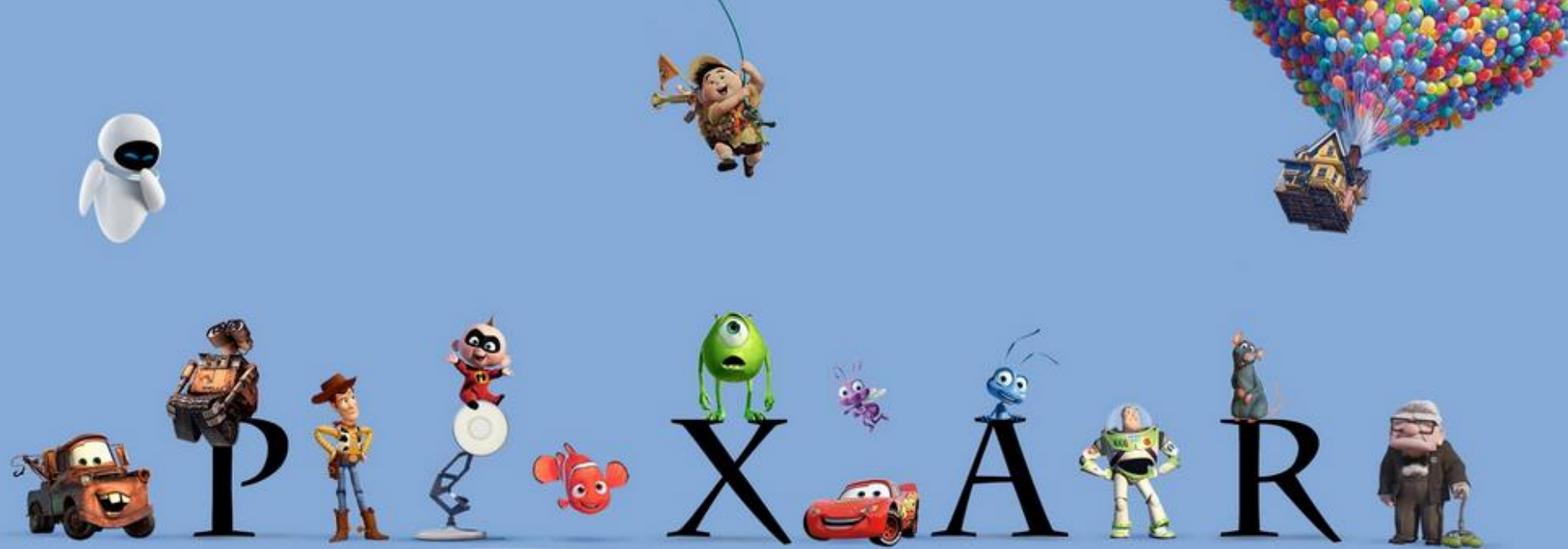


Golden Circle (Simon Sinek)



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A Story Should...

A Story Should...



Develop
relatable
characters

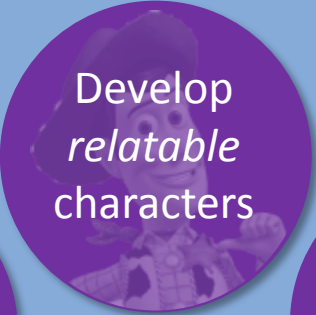
A Story Should...

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Tell us what
REALLY
happened

A Story Should...



Develop
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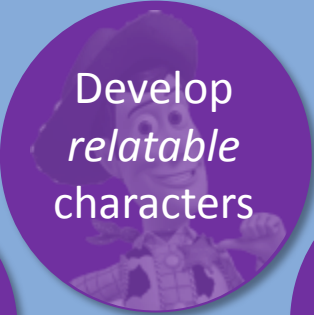
Tell us what
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Be
Memorable



A Story Should...



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relatable
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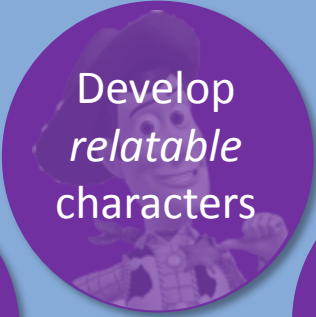
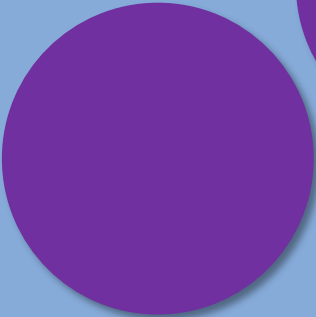
Be
Memorable



**Emotionally
Transport
Us**



A Story Should...



Develop
relatable
characters



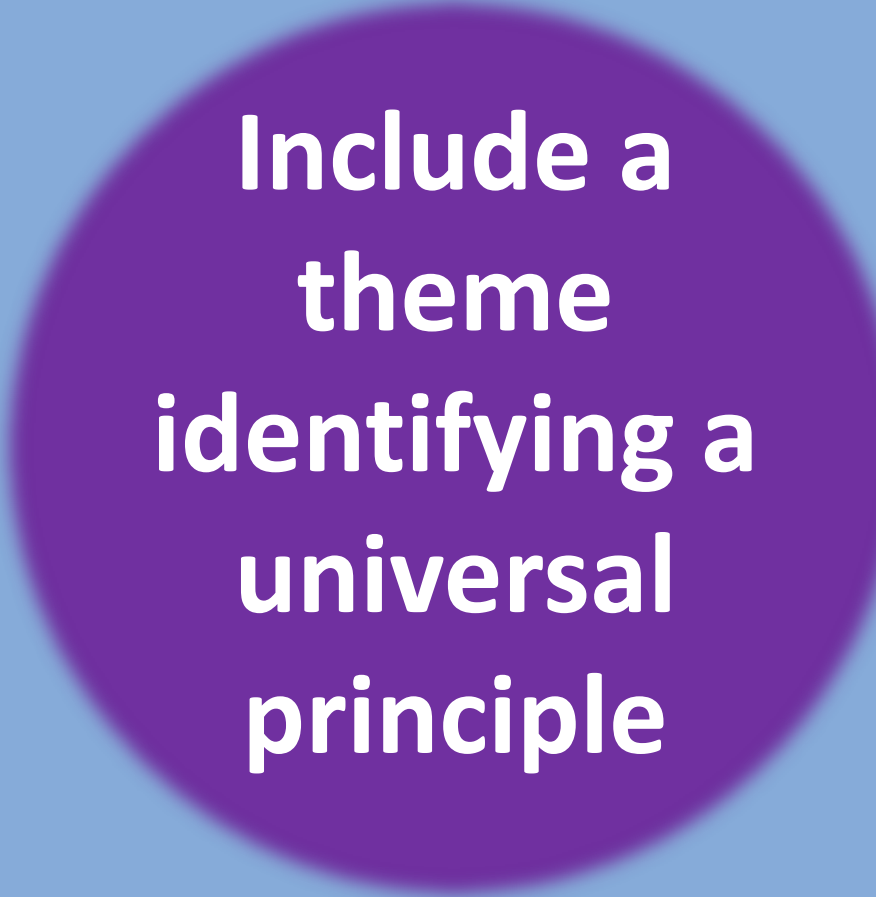
Tell us what
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Be
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Emotionally
Transport
Us



Include a
theme
identifying a
universal
principle



A Story Should...



Develop
relatable
characters

Tell us what
REALLY
happened

Include a
theme
identifying a
universal
principle

Be
Memorable

Emotionally
Transport
Us

Contain
descriptive
words

A Story Should...

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relatable
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Contain
Descriptive
Words

Tell us what
REALLY
happened



Include a
theme
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Be
Memorable

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Transport
Us

3 Examples

1

Licensing Dispute between
Two Companies

2

Product Liability Case

3

Antitrust Matter



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Antitrust Matter



Third Eye Charlie



3 Examples

1

Licensing Dispute between
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2

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Patient Choice Factors



Search for Hospitals

Location

where are you?

Availability

can I get in?

Level of Care

how severe is condition?

Physician Privileges

can I see my own doctor?

Hospital Reputation

???

Price

how much will it cost?

Physician Recommendation

where should I go?



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West Shore Hospital



PennState Hershey



**Community Gen.
Osteopathic**



Choice Factors Identified by FTC



Search for Hospitals

Location

where are you?



Choice Factors Identified by FTC



Search for Hospitals

Location

where are you?



West Shore Hospital



PennState Hershey



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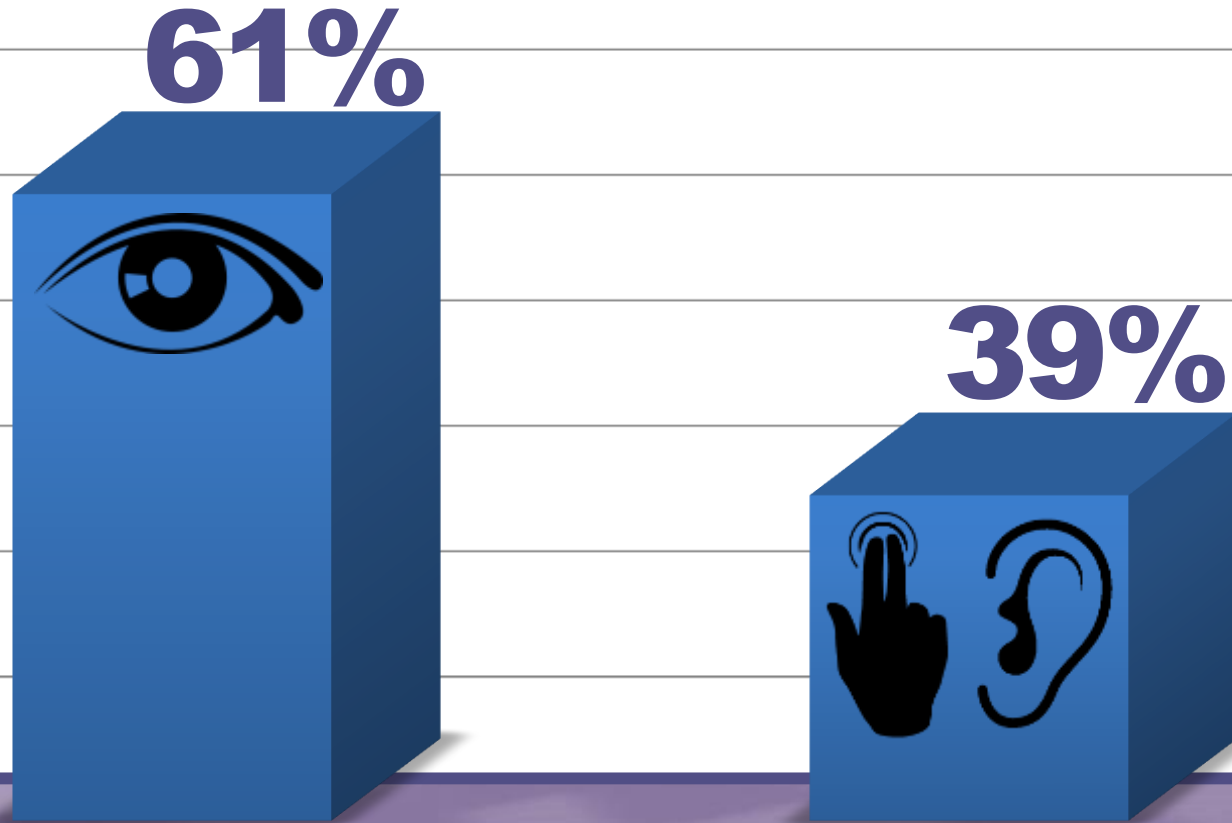
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Learning and Communication Preferences

Non-Lawyers



Learning and Communication Preferences

Lawyers



How to Win Jury Trials: Building Credibility with Judges and Jurors

Stephen D. Easton

Note: This is not the actual book cover

before judges, we all become comfortable arguing in the alternative. Real people (as opposed to attorneys!) do not understand the theory of arguing in the alternative. When they hear an attorney say, "Even if I am wrong about point one, I am right about point two," real people interpret this as an admission that the attorney is indeed wrong about point one. Even worse, the attorney's lengthy, but now conceded, argument about point one diminishes his credibility on point two! If you do not believe me about the futility of arguing in the alternative to real people, try it on your spouse, best friend, or mother.

§ 2.02 SHOW AND TELL

Attorneys love words. Our entire professional life revolves around words. We read and analyze words written by judges and legislators. We constantly talk to each other, write to each other, and fax long documents full of words to each other.

In contrast, real people love pictures. A significant portion of the population cannot even read words. Another large chunk of the population does not bother to read. We live in a picture-based society that is dominated not by words, but by television sets, video cameras, movie screens, computers, and photo albums.

Too many attorneys let their addiction to words control their trial presentations. We love to trap a witness in



How to Win Jury
Trials: Building
Credibility with
Judges and Jurors

§ 2.02

RULES OF THE ROAD • 19

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NITA



MODERN TRIAL ADVOCACY

Analysis and Practice

Third Edition

Steven Lubet

— CHAPTER ELEVEN — Electronic Visuals

by Edward R. Stein

I. GENERAL CONSIDERATIONS

A. Introduction

Electronic visuals have become readily available to trial lawyers. Hardware and software are affordable and reliable. A number of federal districts and many county court systems have equipped one or more of their courtrooms with presentational devices that permit trial lawyers to bring a computer into the courtroom and to plug and play.

Nonetheless, electronic visuals have yet to become a mainstay of courtroom graphic presentation. This is not because electronic visuals are ineffective—just ask any lawyer who has used them. It is more likely the result of the generally conservative nature of lawyers and judges and their reluctance to embrace something new. After all, it was not so many years ago that trial lawyers were hesitant to use flip charts in front of juries.

B. The Advantages of Electronic Visuals

1. Familiarity

Most experienced trial lawyers understand that electronic visuals can be extremely effective in educating and persuading a jury (or a judge). We have all become accustomed to clear, concise, attractive graphic displays on television news, weather reports, and even sportscasts. We are used to receiving our visual information from a screen (whether a television, computer, or projection screen). Why would any trial lawyer not want to provide jurors with the same graphic quality and medium that they experience in most other aspects of their lives? The only way to duplicate that experience is to bring electronics into the courtroom.



NITA



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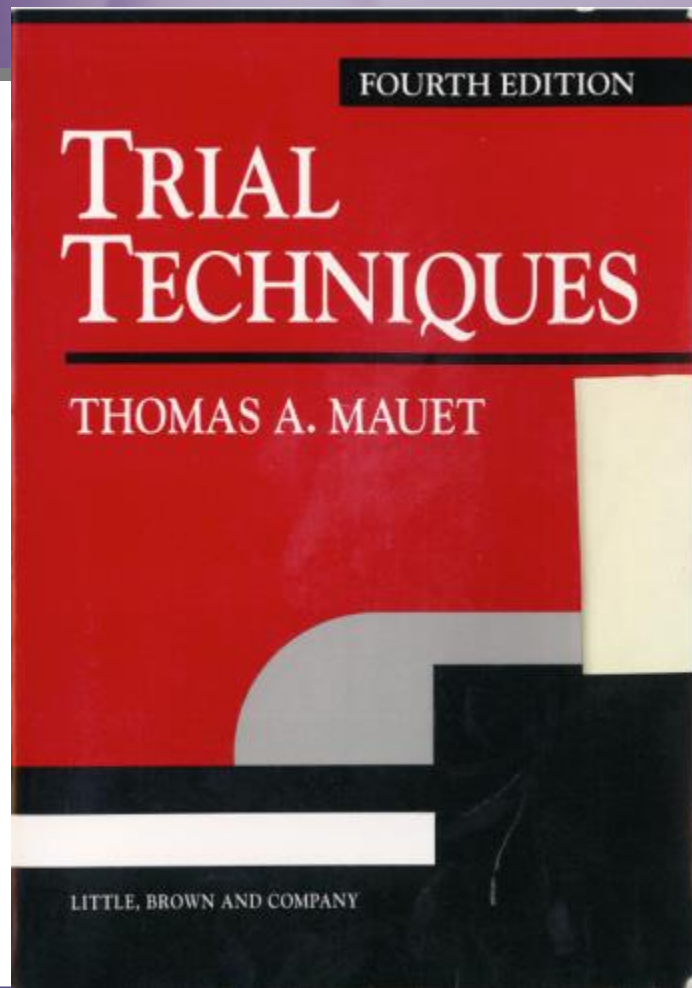
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383





V

EXHIBITS

§5.1. Introduction	139
§5.2. How to get exhibits in evidence	140
§5.3. Foundations for exhibits	147
§5.4. Preparing and using exhibits	187

§5.1. Introduction

Ours is the age of visual media. Television has become the dominant information-transmitting source in our society. Printed and aural communications have taken a back seat to the visual media. A whole generation of Americans has been raised and educated primarily by seeing. Children learn by watching TV, not by reading. Critics complain that the art of clear speaking and clear writing is becoming lost.

Whether this change is desirable can be debated, but not its existence. Visual communications have grown by leaps and bounds. Advertising on TV, magazines, and billboards is often predominantly nonverbal, influencing its viewers by subconscious appeals.

Social science research supports the shift from the aural and written to the visual. Studies show that learning and retention are significantly better if information is communicated visually. Studies also show that repeating basic facts and ideas approximately three or four times substantially improve retention. Finally, studies confirm that if information is presented through multiple "channels" — aural, written, and visual — understanding and memory are again substantially improved. In short, research has shown that visual exhibits are important not only in presenting new information in an attractive, memorable way but also in highlighting and summarizing information already presented through another medium.

These changes have hardly gone unnoticed in the courtroom. Led by imaginative personal injury lawyers, other lawyers began to realize that, in the courtroom as well, a picture was indeed worth a thousand words. If a picture was so useful, so too could be a map, chart, diagram, model, movie, experiment, or in-court demonstration. Trial lawyers began using aerial photographs. Automobiles and machinery were reassembled in court. "A day in the life of" movies portrayed personal injury plaintiffs. Elaborate models of buildings and accident sites appeared. In-court demonstrations became common. Computer-generated graphics and three-dimensional simulations were admissible. In short, exhibits assumed a new importance.

What can be an exhibit? In its broadest sense an exhibit can be anything, other than testimony, that can be perceived by the senses and be presented in the courtroom. Any trial lawyer who has ever been involved in a case that used exhibits creatively knows the impact they have on the jury.





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Graphics Are Proven to Increase Persuasiveness

Applied Cognitive Psychology, Appl. Cogn. Psychol. 27: 235-246 (2012)
Published online 6 December 2012 in Wiley Online Library (wileyonlinelibrary.com) DOI: 10.1002/acp.2800

Effects of a Visual Technology on Mock Juror Decision Making

JAIHYUN PARK¹* and NEAL FEIGENSON²

¹Bronx College, CUNY New York, NY, USA

²Quinnipiac University School of Law, Hamden, CT, USA

Summary: This study explored the effects of jurors' use of PowerPoint on liability judgments in a case involving negligent medical care. Participants (Study 1, $N = 102$; Study 2A, $N = 180$; Study 2B, $N = 180$) watched redesigned opening statements for plaintiff and defendant. In general, defendant's responsibility was judged to be greater when plaintiff used PowerPoint slides than when they did not and less when defendant used PowerPoint slides than when they did not. Furthermore, PowerPoint's impact was greater when its use was unequal. Plaintiff's reliance on juror recall of their party's evidence, which is more increased defendant's judged responsibility (when plaintiff used PowerPoint) or reduced it (when defendant used PowerPoint), indicative of central processing. PowerPoint also functioned as a peripheral cue, influencing participants' judgments of defendant's responsibility by affecting their perceptions of the respective attorney. Copyright © 2012 John Wiley & Sons, Ltd.

PowerPoint slide shows, nearly ubiquitous in business and educational settings, are becoming increasingly common in law as well. Apparently, many lawyers assume that displaying opening statements, witness examinations, or closing arguments with PowerPoint slides makes their presentations more effective and persuasive. Reliable empirical support for this widespread assumption, however, is scarce. Despite growing efforts to explore courtroom technology generally (e.g., *Carroll for Legal and Court Technology*, 2007; *Federal Judicial Council/National Institute for Trial Advocacy*, 2006) and a handful of experimental studies of other digital visual technologies, such as computer animations (e.g., *Dunn, Salovey, & Feigenson*, 2006; for a review, see Feigenson, 2010), there have been no published controlled experimental studies of the effects of PowerPoint in legal settings.

There are certainly reasons to expect that augmenting the spoken word with PowerPoint slides would improve lawyers' ability to communicate with and persuade their audiences. Dual process theories such as the Heuristic-Systematic Model (Chaiken, Liberman, & Eagly, 1986) and Cognitive-Experiential Self-Theory (Epstein, 1994) are especially promising as frameworks for understanding jurors' uptake of courtroom communications because they develop the basic insight that persuasion and judgments, like cognates in general, occur through heuristic and systematic as well as deliberate and reflective processing (Kahneman & Frederick, 2002). Thus, according to the leading dual process theory of persuasion, the Elaboration-ELM has been employed as a theoretical framework for understanding how jurors process complicated trial information. For instance, McArthur, Kovens, and Noveck (2009) hypothesized that mock jurors exposed to an expert witness' research study might engage in central processing (as indicated

by their ability to differentiate an internally invalid from an internally valid study) and/or peripheral processing (as indicated by reliance on the study's ecological validity as a heuristic cue) in judging the quality of the study and the expert's testimony. The researchers found limited evidence of central processing (mock jurors rated study quality lower when there were missing control groups but not when there were confounds or experimenter bias) but no effect on verdicts, and they found no tendency to resort to peripheral cues in lieu of more systematic thinking about the evidence.

In another study, Levitt and Kovens (2009) found some evidence that jurors process expert testimony using both means. An opposing expert who addressed the validity of the first expert's research convinced jurors to the validity of that research to some extent, which seems indicative of central processing, but the mere presence of an opposing expert led mock jurors to be more skeptical of all expert testimony, which seems indicative of peripheral processing.

The use of PowerPoint might persuade jurors through either central or peripheral processing. With respect to central processing, visual displays tend to be more vivid than words alone (see Bell & Loftus, 1985); by attracting and holding jurors' attention, slide shows would be predicted to improve jurors' attention and possibly their understanding of the information displayed. Some research on courtroom technologies other than PowerPoint, for instance, computer animation, has documented enhancement of recall of key information (Hahn, 2005; March, 1991). In addition, dual coding theory (Paivio, 1971, 1985) posits that people think both visually and verbally. By offering visual stimuli, PowerPoint slides should appeal more directly to the visual processing channel and may be especially effective for people whose learning style inclines toward the visual (Dunn, 2000). Research on multimedia learning supports the efficacy of well-designed visual interaction (Mayer, 2001). Indeed, one mock juror study found that a multimedia (i.e., video plus narrative) format accompanying an expert witness' testimony about basic DNA science helped participants with visual learning styles to learn the material better (Hanson & Goodson-DeLoberry, 2004).

The results of research on the effectiveness of PowerPoint in its improving learning outcomes in educational settings,



Jaihyun Park, Ph.D.



Neal Feigenson, Esq.

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The results of research on the effectiveness of PowerPoint in improving learning outcomes in educational settings,

More Persuasive

More Competent

More Credible

More Likable

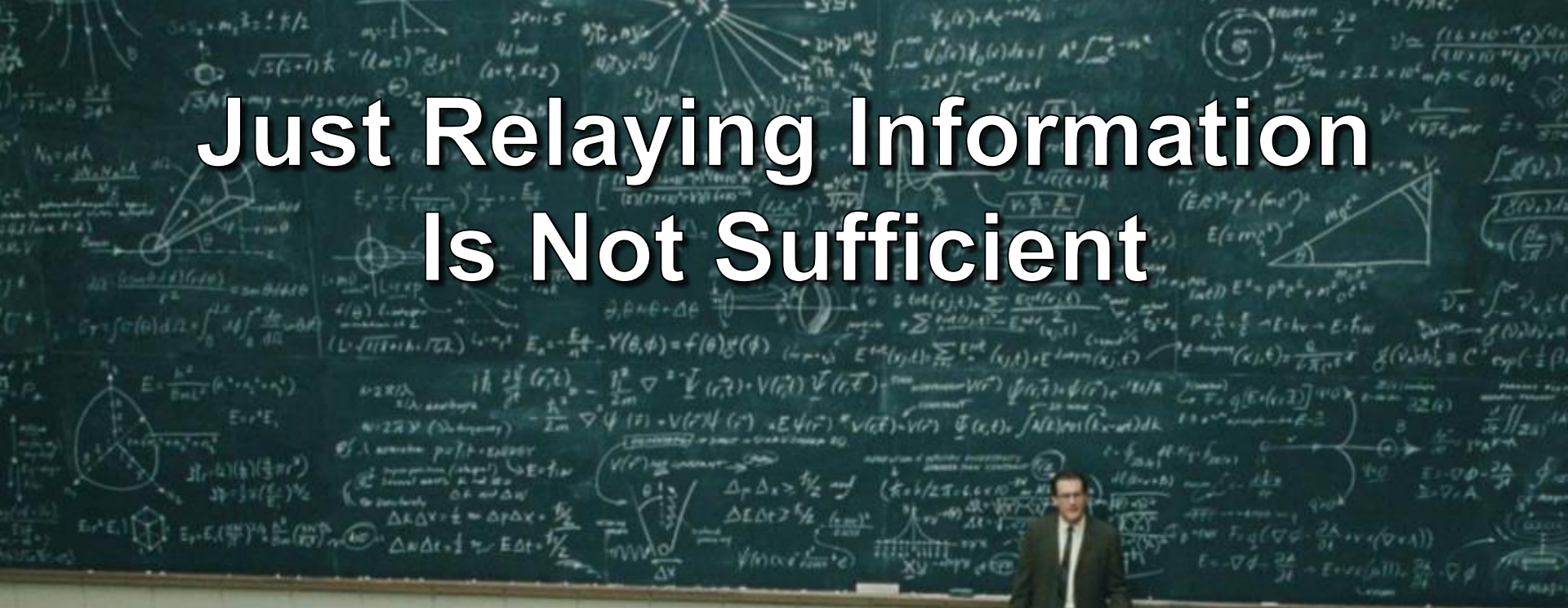
More Retention

Better Verdicts

*Correspondence to: Jahyun Park, Brunick College, CUNY, Psychology Department, Box B-4018, 30 Lexington Avenue, New York, NY 10008, USA. E-mail: jahyun.park@brunick.cuny.edu

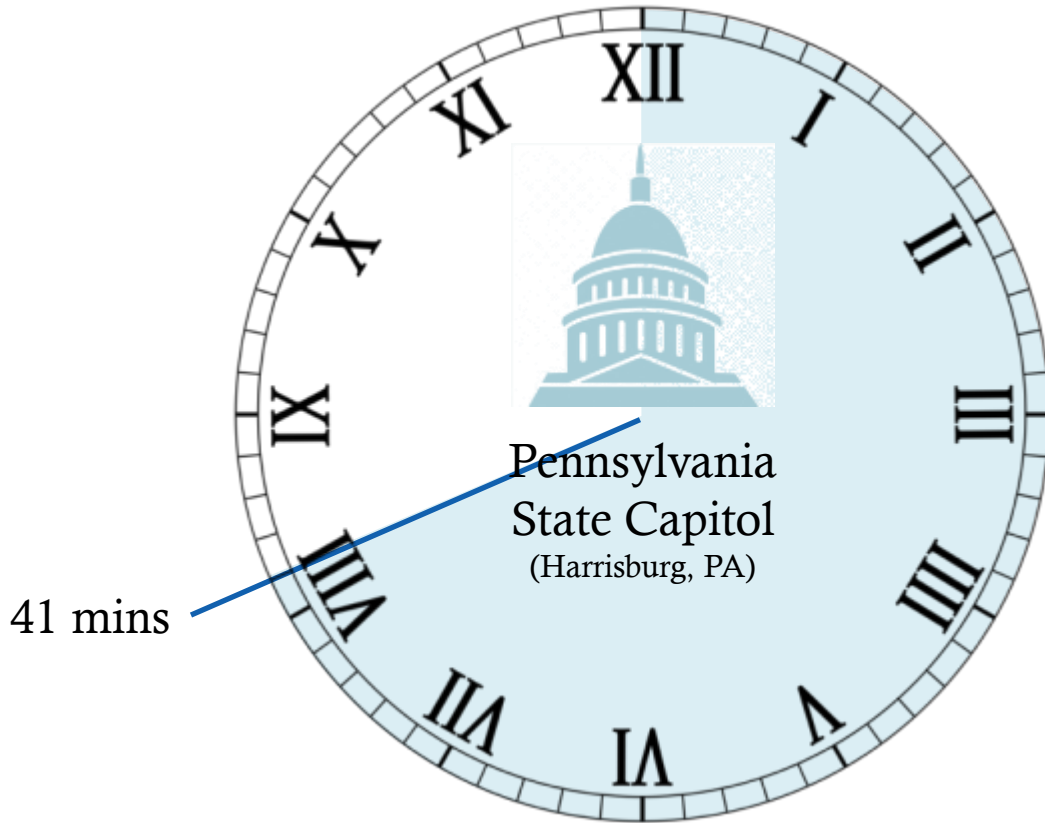


Just Relaying Information Is Not Sufficient



Just Relaying Information Is Not Sufficient

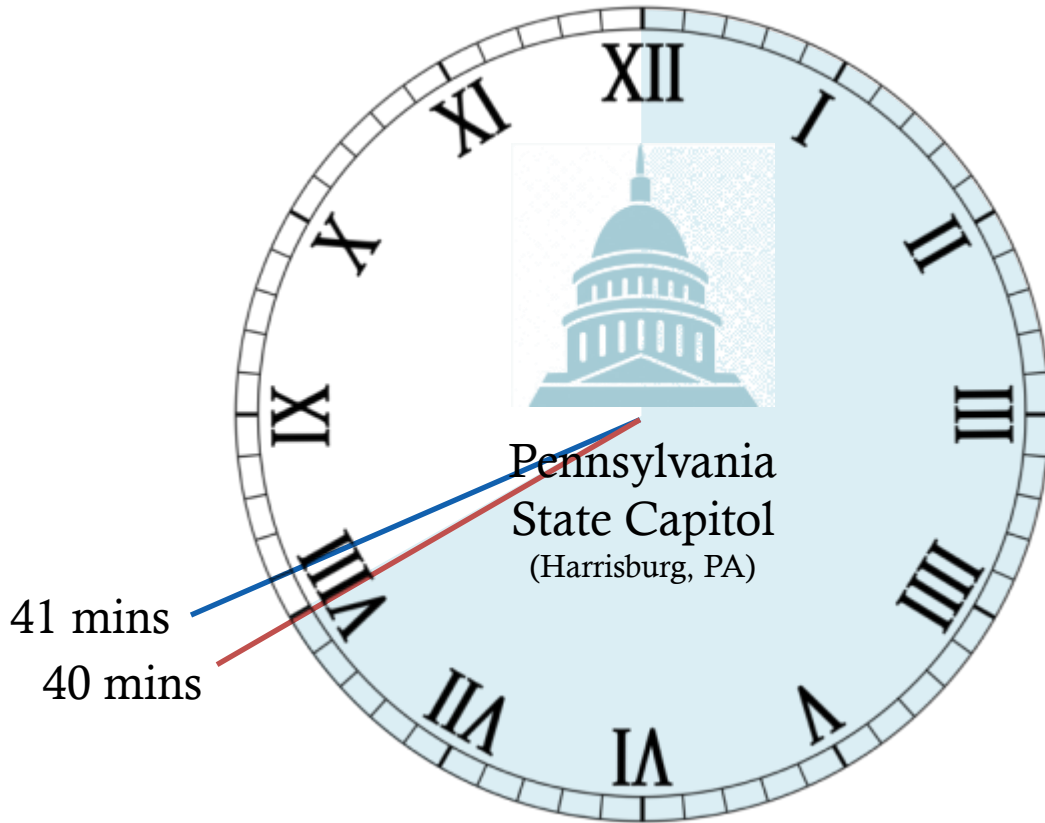
FTC's Inconsistent Drive Time Analysis



IN FTC MARKET

Good Samaritan

FTC's Inconsistent Drive Time Analysis



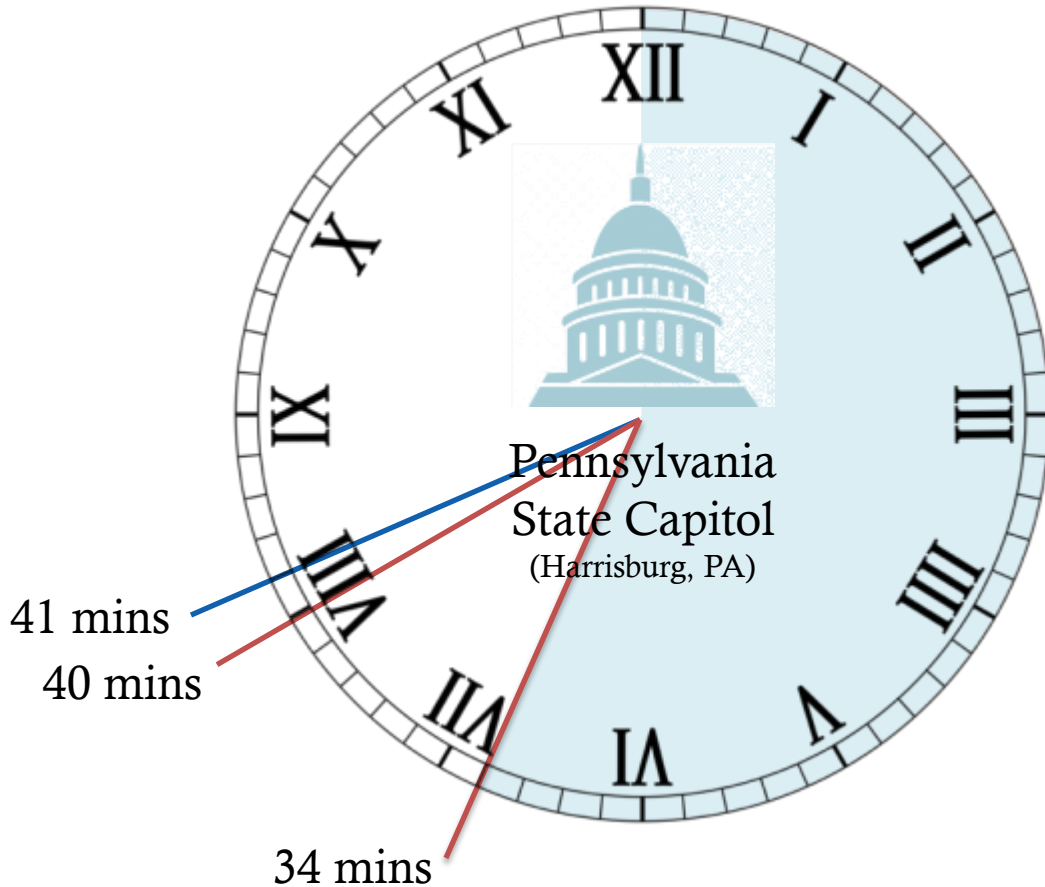
IN FTC MARKET

Good Samaritan

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Lancaster General

FTC's Inconsistent Drive Time Analysis



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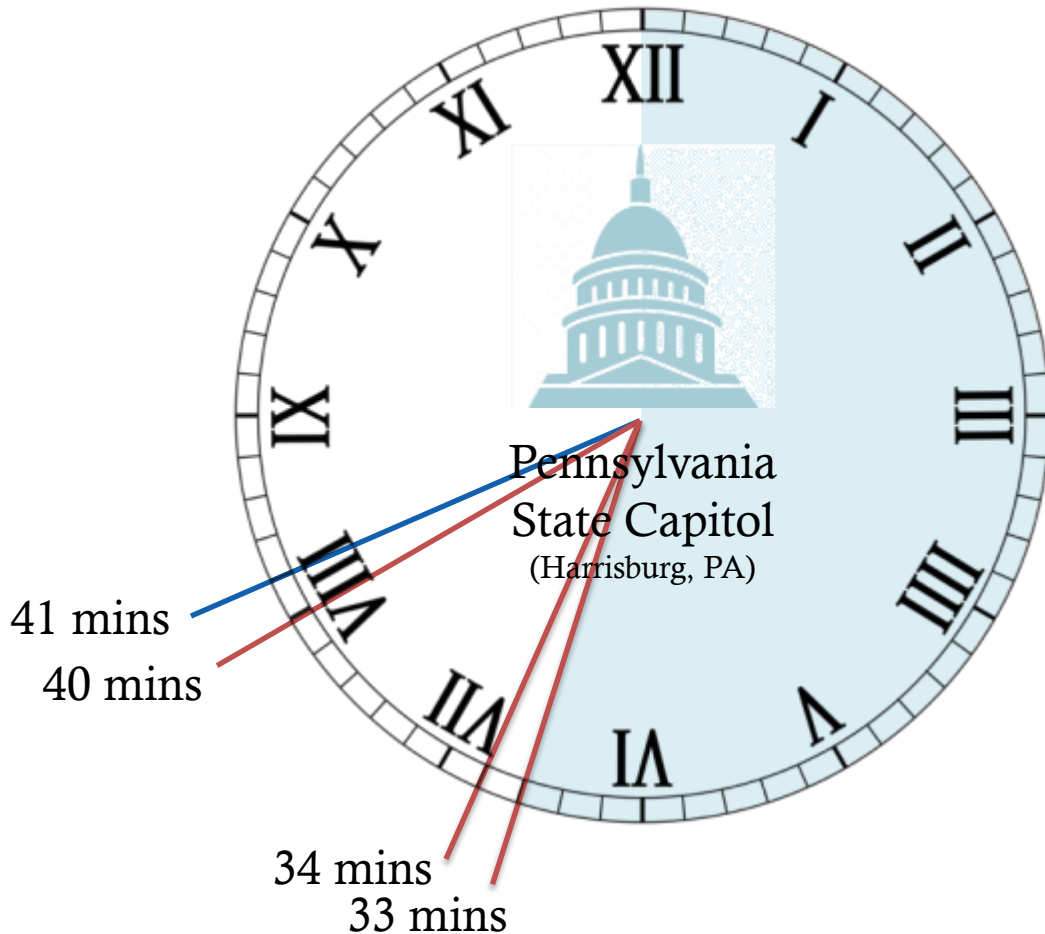
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Lancaster General

WellSpan Surgical and Rehab.

FTC's Inconsistent Drive Time Analysis



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Good Samaritan

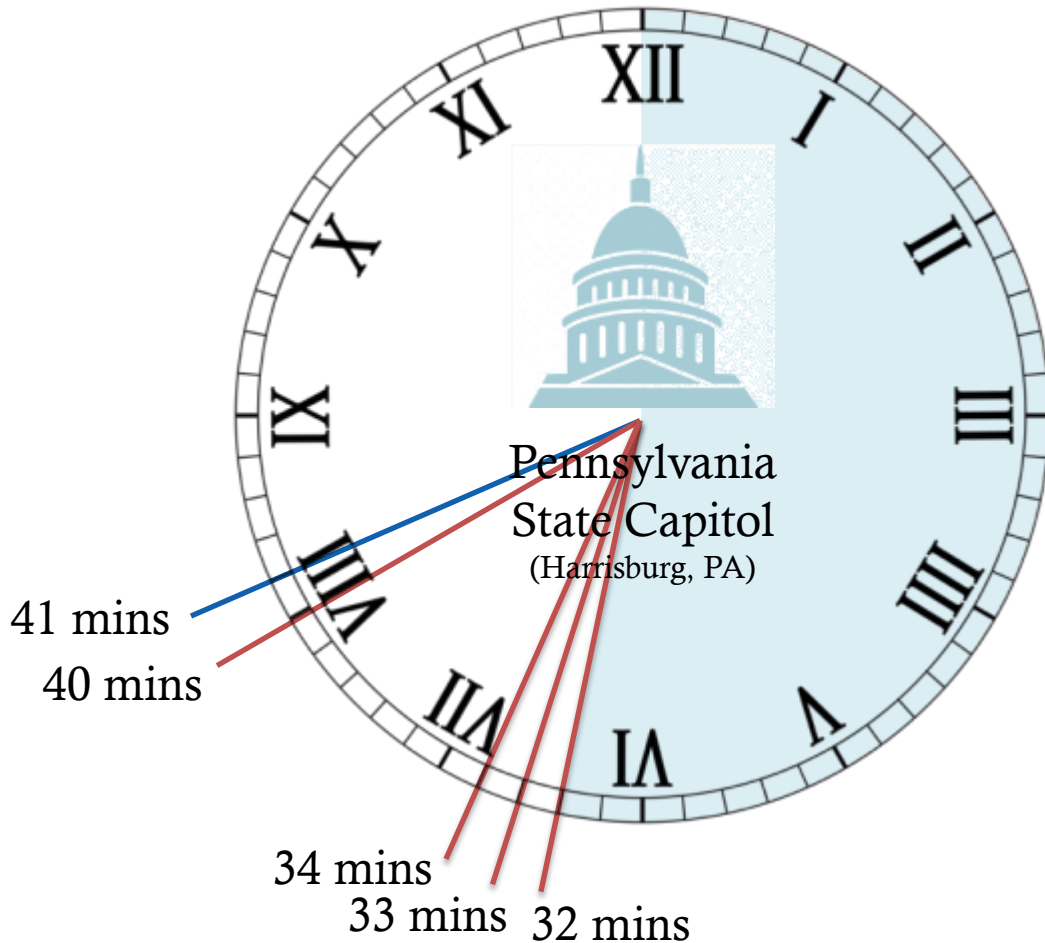
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WellSpan Surgical and Rehab.

WellSpan York Hospital

FTC's Inconsistent Drive Time Analysis



IN FTC MARKET

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WellSpan York Hospital

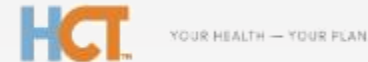
OSS Orthopaedic

Significant Exits From ACA Exchanges

2015

2016

2017



An Equal Opportunity Employer of the Blue Cross and Blue Shield Association

Significant Exits From ACA Exchanges

2015

2016

2017

Humana.

HEALTH
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INSURANCE

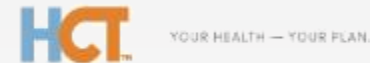

BlueCross BlueShield
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Significant Exits From ACA Exchanges

2015



2016



2017

Significant Exits From ACA Exchanges

2015

2016

2017

CMS Regulates MA Beneficiary Costs



Limits maximum out of pocket costs

Caps total beneficiary cost increases

Establishes service-specific cost sharing limits

Ensures parity between certain OM and MA benefits and subsidies

CMS Regulates MA Insurers' Profits



Sets reimbursement benchmarks

Regulates MLR

Limits margins

Prohibits anti-competitive practices

CMS Regulates MA Plan Quality



Requires network adequacy

Defines and assigns star ratings

Requires minimum benefits

Requires reinvestment of rebates in plan benefits or subsidies

Sets MAO eligibility requirements

CMS Regulates MA Insurer Behavior



Regulates marketing materials

Requires meaningfully different plans

Prohibits discriminatory conduct

Sanctions non-compliance



A RAPE ON CAMPUS

loud music. She smiled at her date, whom we'll call Drew, a good-looking junior — or in UVA parlance, a third-year — and he smiled contently back.

"Want to go upstairs, where it's quieter?" Drew shouted into her ear, and Jackie's heart quickened. She took his hand as he threaded them out of the crowded room and up a staircase.

Four weeks into UVAs 2012 school year, 18-year-old Jackie was crushing it at college. A chatty, straight-A achiever from a rural Virginia town, she'd initially been intimidated by UVAs aura of preppy success, where throngs of toned, tanned and overwhelmingly blond students fanned across a landscape of neoclassical brick buildings, hurrying to classes, clubs, sports, internships, part-time jobs, volunteer work and parties; Jackie's orientation leader had warned her that UVA students' schedules were so packed that "no one has time to date — people just hook up." But despite her reservations, Jackie had flung herself into campus life, attending events, joining clubs, making friends and, now, being asked on an actual date. She and Drew had met while working lifeguard shifts together at the university pool, and Jackie had been floored by Drew's invitation to dinner, followed by a "date function" at his fraternity, Phi Kappa Psi. The "upper tier" frat had a reputation of tremendous wealth, and its impressively large house overlooked a vast manicured field, giving "Phi Psi" the undisputed best real estate along UVAs fraternity row known as Rugby Road.

Jackie had taken three hours getting ready, straightening her long, dark, wavy hair. She'd congratulated herself on her choice of a tasteful red dress with a high neckline. Now, climbing the frat-house stairs with Drew, Jackie felt excited. Drew ushered Jackie into a bedroom, shutting the door behind them. The room was pitch-black inside. Jackie blindly turned toward Drew, uttering his name. At that same moment, she says, she detected movement in the room — and felt someone bump into her. Jackie began to scream.

"Shut up," she heard a man's voice say as a body barreled into her, tripping her backward and sending them both crashing through a low glass table. There was a heavy person on top of her, spreading open her thighs, and another person kneeling on her hair, hands pinning down her arms, sharp shards digging into her back, and excited male voices rising all around her. When yet another hand clamped over her mouth, Jackie bit it, and the hand became a fist that punched her in the face. The men surrounding her began to laugh. For a hopeful moment Jackie wondered if this wasn't some collegiate prank. Perhaps

Contributing editor SAREINA RUBIN ERMELY wrote about transgender activist Cécile McDonald this summer.

at any second someone would flick on the lights and they'd return to the party.

"Grab his motherfucking leg," she heard a voice cry. And that's when Jackie knew she was going to be raped.

She remembers every moment of the next three hours of agony, during which, she says, seven men took turns raping her, while two more — her date, Drew, and another man — gave instruction and encouragement. She remembers how the spectators swigged beers, and how they called each other nicknames like Armpit and Blanket. She remembers the men's heft and their roar of alcohol mixed with the pungency of marijuana. Most of all, Jackie remembers the pain and the pounding that went on and on.

As the last man sank onto her, Jackie was startled to recognize him. He attended her tiny anthropology discussion group. He looked like he was going to cry or puke as he told the crowd he couldn't get it up. "Pussy!" the other men jeered. "What, she's not hot enough for you?" Then they egged him on: "Don't you want to be a brother?" "We all had to do it, so you do, too." Someone handed her class-

mate a beer bottle. Jackie took it, and the young man, silently begging her to go through with it. And she did.

Jackie went to the bathroom, took the bottle into her, Jackie emptied it, and then she went back to the party. She was still mentally unthoroughly drunk, her mind leaving her body under assault. When Jackie came to, she was alone on the floor and ran shocked to the bathroom. She emerged to discover that she was still surreally under way. She noticed the barefoot, disheveled man lying down a side staircase. He was in pain, dress spattered with blood, and he was shouting. Disoriented, Jackie butted the side door, realized she was lost, and she called a friend, screaming, "Something bad happened. I need you to come and find me!" Minutes later, her three best friends on campus — two boys and a girl (whose names are changed) — arrived to find Jackie on a nearby street corner, shaking. "What did they do to you? What did they make you do?" Jackie recalls her friend Randall demanding. Jackie shook her head and began to cry. The group looked at one another in a panic. They all knew about Jackie's date; the Phi Kappa Psi

house loomed behind them. "We have to get her to the hospital," Randall said.

"Their other two friends, however, weren't convinced. "Is that such a good idea?" she recalls Cindy asking. "Her reputation will be shot for the next four years." Andy seconded the opinion, adding that since he and Randall both planned to rush fraternities, they ought to think this through. The three friends launched into a heated discussion about the social price of reporting Jackie's rape, while Jackie stood beside them, mute in her bloody dress, wishing only to go back to her dorm room and fall into a deep, forgetful sleep. Dated, Jackie listened as Cindy prevailed over the group: "She's gonna be the girl who cried rape," and we'll never be allowed into any frat party again."

TWO YEARS LATER, JACKIE, NOW a third-year, is worried about what might happen to her once this article comes out. Greek life is huge at UVA, with nearly one-third of undergrads belonging to a fraternity or sorority, and she knows that backlash could be a real possibility.

Jackie recalls how her former friend Randall, who, citing loyalty to his own frat, declined to be interviewed. But her concerns go beyond taking down her alleged assailants and their fraternity. Lots of people have discouraged her from sharing her story, Jackie tells me with a pained look, including the trusted UVA dean to whom Jackie reported her gang-rape allegations more than a year ago. On this deeply loyal campus, even some of Jackie's closest friends see her going public as tantamount to betrayal.

"One of my roommates said, 'Do you think you're responsible for something that happened at UVA in a bad light?'" Jackie asks. "I don't know. I don't know the system that makes these things happen. My friend just said, 'You have to remember when your loyalty lies.'"

From reading headlines today, one might think colleges have suddenly become hotbeds of protest by celebrated anti-rape activists. But like most colleges across America, gemetel University of Virginia has no radical feminist cultures seek-

ONE WILL be in the log mislabeled in the last accident. Rolling Stone's most recent tally of 20 students who were assaulted by one man, but by three. "I had been gang-raped," says Securo, who detailed her ordeal in a 2011 memoir.

That it took two decades for Securo to achieve some justice is even more disgraceful, since she reported her rape to the secretary. Asked why UVA doesn't prosecute, President Sullivan said, "I went to the Board of Sexual Misconduct and they kept saying 'no, no, no'."

Securo's explanation of the incident was "I was drunk and I was raped." Dean Eramo asked her to write a letter to the Board of Sexual Misconduct.

However, Jackie left Eramo feeling "hardened herself, and she said nothing was her say-so. Eramo was thanking Jackie and she told that she had been raped as an active fraternity.

All the first-year women are normally upright. They'll never do a single thing unless they know it's right. But then they come to Rugby Road and soon they're seen the light. And you never know how many men they'll bring home every night.

"RUGBY ROAD"

YOU CAN TRACE UVA'S CYCLE OF sexual violence and institutional indifference back at least 30 years — and increasingly, the trail leads back to Phi Psi. In October 1984, Liz Securo was a 17-year-old virgin when she went to a party at the frat and was handed a mixed drink. "They called it the house special," she remembers. Things became spotty after Securo had a few sips. But etched in pain was a clear memory of a stranger raping her on a bed. She woke up wrapped in a bloody sheet; by rifling through the boy's mail before fleeing, she discovered his name was Will Beebe. Incredibly, 21 years later, Beebe wrote Securo a letter, saying he wanted

to make amends as part of his 12-step program. Securo took the correspondence to Charlottesville police. And in the midst of the 2006 prosecution that followed, when Beebe would eventually plead guilty to aggravated sexual battery, investigators made a startling discovery: That while at Phi Psi that night, Securo had been assaulted not by one man, but by three. "I had been gang-raped," says Securo, who detailed her ordeal in a 2011 memoir.

That it took two decades for Securo to achieve some justice is even more disgraceful, since she reported her rape to the secretary. Asked why UVA doesn't prosecute, President Sullivan said, "I went to the Board of Sexual Misconduct and they kept saying 'no, no, no'."

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tion of campus and raped in the hallway, she asked a UVA administrator for better lighting. "They told me it would ruin Jefferson's vision of what the university was supposed to look like," the alum says. "As if Thomas Jefferson even knew about electric lights!" In 2002 and 2004, two female students, including Susan Russell's daughter, were unhappy with their sexual-misconduct hearings, which each felt didn't hold their alleged perpetrators accountable — and each was admonished by UVA administrators to never speak publicly about the proceedings or else they could face expulsion for violating the honor code. For issuing that directive, in 2008 UVA was found in violation of the Chey Act.

"UVA is more egregious than most," says John Foubert, a UVA dean from 1968 to 2002, and founder of the national male sex-assault peer education group One in Four. "I've worked for five or six colleges, and the stuff I saw happen during my time there definitely stands out." For example, Foubert recalls, in one rare case in which the university applied a harsh penalty, an undergrad was suspended after stalking five students. Heated discussion ensued over whether the boy should be allowed back after his suspension. Though

the counseling center wanted him to stay gone, Foubert says, the then-dean of students argued in favor of his return, saying, "We can pick our lawsuit from a potential sixth victim, or from him, for denying him access to an education."

The few stories leaking out of UVA's present-day justice system aren't much better. One student, whose Title IX complaint against UVA is currently under investigation by the Office of Civil Rights, said that in December 2011, another student raped her while she was blackout drunk, possibly drugged. As she wrote in a student publication, evidence emerged that the man had previously been accused of drugging others, but the information was rejected as "prejudicial." The Sexual Misconduct Board told the young woman it found her "compelling and believable," but found the man not guilty. "I had never felt so betrayed and let down in my life," wrote the woman. "They said that they believed me." They said that UVA was my home and that I loved me. Yet, how could they believe me and let him go completely unpunished?"

UVA's rape stats "Because nobody the rape school."

ROLLING STONE has discovered that this past spring is UVA's first-year student, whom we'll call Stacy, filed a report stating that while vomiting up too much whiskey into a male friend's toilet one night, he groped her, plunged his hands down her sweat pants and then, after carrying her semi-conscious to his bed, digitally penetrated her. When the Charlottesville DA's office brought felony charges, says Stacy, she asked for a hearing with the Sexual Misconduct Board, and was surprised when UVA authority figures tried to talk her out of it. "My counselors, members of the Dean of Students office, everyone said the trial process would be way too hard on me," says Stacy. "They were like, 'You need to focus on your healing.' Stacy insisted upon moving forward anyway, even when the wealthy family of the accused kicked up a fuss. "They threatened to sue done individually, they threatened to sue me," she recalls. But Stacy remained steadfast, because she had additional motivations: She'd been shaken to discover two other women with stories of assault by the same man. "One was *diva* after mine, at a rush function at his frat house," says Stacy. "So I was like, 'I have to do something before someone else is hurt.'" Her determination

A RAPE ON CAMPUS

rolled about a month ago. Eramo found her in a room at the Phi Psi house. She took pictures of her own case, but also the other two allegations, submitting witness statements that were allowed in as "pattern evidence." The board pronounced the man guilty for sexual misconduct against Stacy, making him only the 14th guilty person in UVA's history. Stacy was relieved at the verdict. "I was like, 'He's gone!' Cause he's a multiple assaulter, I'd been told so many times that that was grounds for expulsion!" So she was stunned when she learned his actual penalty: a one-year suspension. "Citing privacy laws, UVA would not comment on this or any cases."

Turns out, when UVA personnel speak of expulsion for "multiple assaults," they mean multiple complaints that are filed with the Sexual Misconduct Board, and then adjudicated guilty. Under that more precise definition, the two other women introduced in Stacy's case didn't count toward his penalty. Stacy feels offended by the outcome and misled by the deans. "After two years and an assault, to let him back on grounds is an insult to the honor system that UVA prides itself on," she says. "UVA doesn't want to expel. They were too afraid of getting negative publicity or the pants sued of them."

She's a helluva treat from Agnes Scott, she'll look for it's onto. She'll lay her ass upon the grass, her panties on the fence. You supply the liquor, and she'll supply the lay. And if you can't get it up, you gonna sweat, you're not from UVA.

When did it happen to you? Emily Rema asked Jackie as they sat for coffee at the outdoor cafe. "I got raped in the fall of my first year at UVA, and I was raped by Dean Eramo's brother. He's a fourth-year student in One Less."

Jackie's former roommate. "They should have done something in Jackie's case. Me and several other people know exactly how it went, and he was right. I wanted to protect even the people who are doing these horrible things." But no such doubts shadowed the meetings of One Less, which was the Jackie. One Less held seminars for student groups on bystander intervention and how to be supportive of survivors. Jackie dove into her new roles as peer adviser and Take Back the Night committee member and began to discover just how wide her secret UVA survivor network was — because the more she shared her story, the more girls sought her out, wlaying her after present-

person. "You're not broken," Emily told her. "They're the ones who are fucked up, and what happened to you wasn't your fault." Jackie was flooded with gratitude, desperate to hear those words at last — and from someone who knew. Emily invited her to a meeting of One Less, thus introducing her to UVA's true secret society.

In its weekly meetings, the 45-member group would discuss how to foster dialogues on campus. Afterward they'd splinter off and share stories of sexual assault, each tale different and yet very much the same. Many took place on tipsy nights of sex while blackout drunk; rarer stories involved violence, though none so extreme as Jackie's. No matter the circumstances, their peers' reactions were largely the same: Assaults were brushed off, with attackers defended ("I'd never do anything like that"), the victim questioned ("Are you sure?"). After feeling isolated for more than a year, Jackie was astonished at how many complaints that were filed with the Sexual Misconduct Board, and then adjudicated guilty. Under that more precise definition, the two other women introduced in Stacy's case didn't count toward his penalty. Stacy feels offended by the outcome and misled by the deans. "After two years and an assault, to let him back on grounds is an insult to the honor system that UVA prides itself on," she says. "UVA doesn't want to expel. They were too afraid of getting negative publicity or the pants sued of them."

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tations or after classes, even calling in the middle of the night with a crisis. Jackie has been approached by so many survivors that she wonders whether the one-in-five statistic may not apply in Charlottesville. "I feel like it's one in three at UVA," she says.

But payback for being so public on a campus accustomed to silence was swift. This past spring, in separate incidents, both Emily Rema and Jackie were harassed outside bars on the Corner by men who recognized her from team presentations and a "side of beef" party. Jackie was harassed by a man who refused to stop; some were of sex while blackout drunk; rarer stories involved violence, though none so extreme as Jackie's. No matter the circumstances, their peers' reactions were largely the same: Assaults were brushed off, with attackers defended ("I'd never do anything like that"), the victim questioned ("Are you sure?"). After feeling isolated for more than a year, Jackie was astonished at how many complaints that were filed with the Sexual Misconduct Board, and then adjudicated guilty. Under that more precise definition, the two other women introduced in Stacy's case didn't count toward his penalty. Stacy feels offended by the outcome and misled by the deans. "After two years and an assault, to let him back on grounds is an insult to the honor system that UVA prides itself on," she says. "UVA doesn't want to expel. They were too afraid of getting negative publicity or the pants sued of them."

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oldest and most powerful fraternities – founded in 1853, its distinguished chapter members have included President Woodrow Wilson – the school may have wondered about its responsibilities to the rest of the campus. Experts appraised of the situation by IRS agreed that despite the absence of an official report, Jackie's passing along two other allegations should compel the school to take action out of regard for campus safety. "The fact that they already had that first victim, they should have been taking action," says SurJustice's Laura Dunn. "That school could really be sued."

If the UVA administration was rolled by such concerns, however, it wasn't apparent this past September, as it hosted a trustees meeting. Two full hours had been set aside to discuss campus sexual assault, an amount of time that, as many around the conference table pointed out, underscored the depth of UVA's commitment. Those two hours, however, were devoted entirely to upbeat explanations of UVA's new prevention and response strategies, and to self-congratulations to UVA for being a "model" among schools in this arena. Only

Jackie came across something disturbing: Two other young women confided that they, too, had been victims of Phi Kappa Psi gang rapes.

once did the room darken with concern, when a trustee in UVA colors – blue sport coat, orange bow tie – interrupted to ask, "Are we under any federal investigation with regard to sexual assault?"

Dean of students Allen Groves, in a blue suit and orange necktie of his own, swooped in with a smooth answer. He affirmed that while like many of his peers UVA was under investigation, it was merely a "standard compliance review." He mentioned that a student's complaint from the 2009-11 academic year had been folded into that "routine compliance review." Having downplayed the significance of a Title IX compliance review – which is neither routine nor standard – he then elaborated upon the lengths to which UVA has cooperated with the Office of Civil Rights' investigation, his tone and manner reassuring that the room relaxed.

Told of the meeting, Office of Civil Rights' Catherine Lhamon calls Groves' mischaracterization "deliberate and irresponsible." "Nothing annoys me more than a school not taking seriously their review from the federal government about their civil rights obligations," she says.

Within days of the board meeting, having learned of ROLLING STONE'S probe

into Jackie's story, UVA at last placed Phi Kappa Psi under investigation. Or rather, as President Sullivan carefully answered my question about allegations of gang rape at Phi Psi, "We do have a fraternity under investigation." Phi Kappa Psi national executive director Shawn Collinworth says that UVA indeed notified him of sexual assault allegations; he immediately dispatched a representative to meet with the chapter. UVA chapter president Stephen Scipione recalls being only told of a vague, anonymous "fourth-hand" allegation of a sexual assault during a party. "We were not told that it was rape, but rather that something of a sexual nature took place," he wrote to IRS in an e-mail. Either way, Collinworth says, given the paucity of information, "we have no evidence to substantiate the alleged assaults."

"Under investigation," President Sullivan insists when I ask her to elaborate on how the university is handling the case. "I don't know how else to spell that out for you." But Jackie may have gotten a glimpse into the extent of the investigation when, in the days following my visit to campus,

all seems very hopeful. But this week, the third week of September, has been a difficult one: Charlottesville police received their first sexual-assault report of the academic year; Jackie and Alex were also each approached by someone seeking help about an assault. And as this week progresses, things will get far worse at UVA: Two more sexual assaults will be reported to police, and, in every parent's worst fears come true, an 18-year-old student on her way to a party will vanish; her body will be discovered five weeks later.

Suspect Jesse Matthew Jr., a 22-year-old UVA hospital worker, will be charged with Hannah Graham's "abduction with intent to defile," and a chilling portrait will emerge of an alleged predator who got his start, a decade ago, as a campus rapist. Back in 2002, and again in 2003, Matthew was accused of sexual assault at two different Virginia colleges where he was enrolled, but was never prosecuted. In 2005, according to the new police indictment, Matthew sexually assaulted a 26-year-old and tried to kill her. DNA has also reportedly linked Matthew to the 2009 death of Virginia Tech student Megan Harrington, who disappeared after a Metallica concert in Charlottesville. The grisly dossier of which Matthew has been accused underscores the premise that campus rape should be seen not through the schema of a dubious party foul, but as a violent crime – and that victims should be encouraged to come forward as an act of civic good that could potentially spare future victims.

Jackie is hoping she will get there someday. She badly wants to master the courage to file criminal charges or even a civil case. But she's paralyzed. "It's like I'm in my own personal prison," she says. "I'm so terrified this is going to be the rest of my life." She still cries a lot, and she has been more frightened than usual to be alone or to walk in the dark. When Jackie talks about her assault, she fixates on the moment before Drew picked her up for their date: "I remember looking at the mirror, putting on mascara and being like, 'I feel really pretty.'" Jackie recalls. "I didn't know it would be the last time I would see an empty shell of a person."

Jackie tells me of a recurring nightmare she's been having, in which she's watching herself climb the Phi Kappa Psi stairs. She frantically calls to herself to stop, but knows it's too late. That in real life, she's already gone up those stairs and into that terrible room, and things will never be the same. It bothers Jackie to know that Drew and the rest get to walk away as if nothing happened, but that she still walks toward that room every night – and blames herself for it during the day.

"Everything bad in my life now is built around that one bad decision that I made," she says. "All because I went to that stupid party." ☐

In all, Ms. Eramo was referred to by name



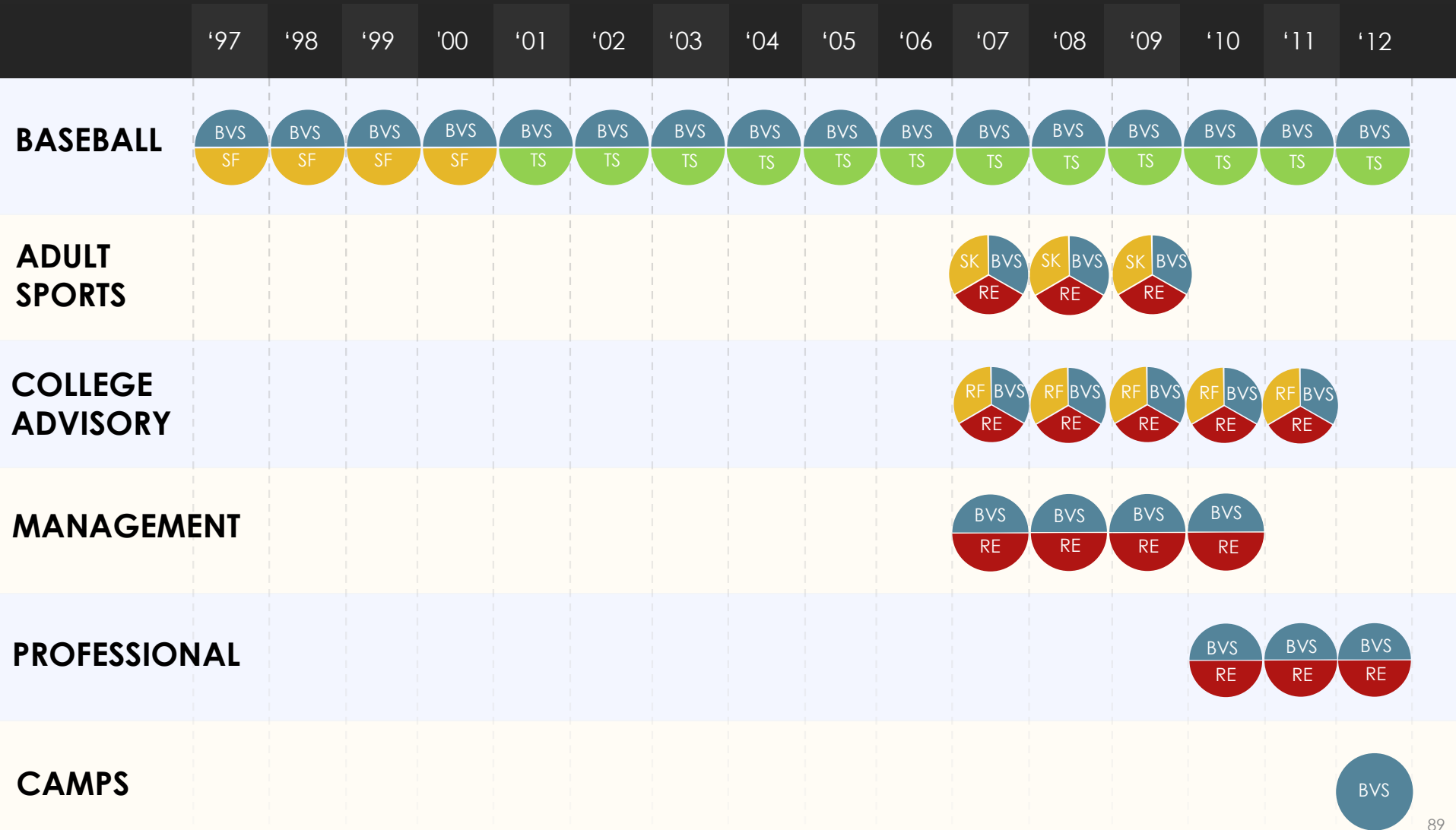
**30
TIMES**

... and as Dean



**10
TIMES**

OWNERSHIP IN HEADFIRST LLCs



Waterfront Home Thefts



EXHIBIT
PX-0190

Waterfront Home Thefts

Rent- \$36,000

EXHIBIT
PX-0190

Rental Costs

Waterfront Home Thefts

Microwave Drawer - \$685

Rent- \$36,000

Bosch Dishwasher - \$1,040

Built-in Hood - \$799

Wolf Range - \$8,139

Sub-Zero Refrigerator - \$7,325

Glide Rack - \$147

EXHIBIT
PX-0190

Rental Costs

Kitchen

Waterfront Home Thefts

Microwave Drawer - \$685

Rent- \$36,000

Bosch Dishwasher - \$1,040

Built-in Hood - \$799

Wolf Range - \$8,139

Flood Insurance - \$3,476

Sub-Zero Refrigerator - \$7,325

Vacuum cleaner - \$635

Glide Rack - \$147

EXHIBIT
PX-0190

Furniture - \$946

Rental Costs

Kitchen

Misc

Waterfront Home Thefts

Microwave Drawer - \$685

Rent- \$36,000

Bosch Dishwasher - \$1,040

55-inch Plasma TV - \$1,250

Engineering Fees - \$7,047

Damage costs - \$1,244

Whirlpool Dryer - \$970

Built-in Hood - \$799

Moving costs- \$4,320

Storage costs - \$11,007

Wolf Range - \$8,139

European Closets - \$3,520

Contractor Fees - \$21,291+

Leaky basement - \$4,800

Flood Insurance - \$3,476

Sub-Zero Refrigerator - \$7,325

Glide Rack - \$147

Vacuum cleaner - \$635

Furniture - \$946

Whirlpool Front Load Washer - \$1,009

Architect Fees - \$27,777

EXHIBIT
PX-0190

Rental Costs

Kitchen

Misc

Living Room

Renovation

Laundry Room

Bedroom⁹⁴

Trusz While Doing His Job

“A valuation mistake of \$2.4 is nothing.”
-July 5, 2007

“Valuations are never perfect, just reliable”
-Dec. 27, 2007

“\$1.2 million understatement is immaterial to the . . . fund” --
Dec. 31, 2007

Trusz While Seeking a Big Pay Day...

“400K error is significant”
-Feb. 1, 2008:

“\$300,000 valuation error is material”
-February 6, 2008

“UBS Should Re-open 4th Q. Valuations”
-Feb. 21, 2008



About 15 years
to develop a new drug

APPROVED

FDA

Brand Name Drug Manufacturers



Research



Development
& Testing

About 15 years
to develop a new drug

APPROVED

FDA

Brand Name Drug Manufacturers



Research



Development
& Testing



Manufacturing



Wholesalers



Buy and sell Drugs

About 15 years
to develop a new drug

APPROVED

FDA

Brand Name Drug Manufacturers



Research



Development
& Testing



Manufacturing

Wholesalers



Buy and sell Drugs

Pharmacy



About 15 years
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APPROVED

About 18 months
for ANDA approval

Brand Name Drug Manufacturers



Research



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Manufacturing

Generic Drug Manufacturers



Manufacturing

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Manufacturing

Generic Drug Manufacturers



Manufacturing

Wholesalers



Buy and sell Drugs

Pharmacy



Pharmacy



Parties

Brand Name Drug Manufacturers



Research
Development
& Testing
Manufacturing



Parties

Brand Name Drug Manufacturers



Research
Development
& Testing
Manufacturing



Generic Drug Manufacturers



Copy the Brand
Name Drug &
Manufacture It



APOTEX



Parties

Brand Name Drug Manufacturers



Research
Development
& Testing
Manufacturing



Generic Drug Manufacturers



Copy the Brand
Name Drug &
Manufacture It



Wholesalers



Buy and sell Drugs

LOUISIANA WHOLESALE DRUG

Parties

Brand Name Drug Manufacturers



Research
Development
& Testing
Manufacturing



Generic Drug Manufacturers



Wholesalers



Buy and sell Drugs

LOUISIANA WHOLESALE DRUG

Louisiana Wholesale Drug Antitrust Lawsuits

1998 **Louisiana Wholesale Drug Company v. Hoechst Marion Russel and Andrx Pharmaceuticals, Inc.**

1998 **Louisiana Wholesale Drug Company v. Abbott Laboratories, Zenith Goldline Pharmaceuticals, and Geneva Pharmaceuticals, Inc.**

2000 **Louisiana Wholesale Drug Company v. Bayer Corporation, Barr Laboratories Inc., and The Rugby Group, Inc.**

2001 **Louisiana Wholesale Drug Company v. Schering-Plough Corporation, Upsher-Smith Laboratories, and American Home Products Corporation**

2001 **Louisiana Wholesale Drug Company v. Bristol-Myers Squibb Company, Watson Pharma, Inc., Danburg Pharamceutical Inc., and Kaiser Foundation Health Plan, Inc.**

2002 **Louisiana Wholesale Drug Company v. Meijer, Inc., Meijer Distribution, Inc., Pfizer, Inc., and Warner-Lambert Co.**

2002 **Louisiana Wholesale Drug Company v. Smithkline Beecham Corporation**

2003 **Louisiana Wholesale Drug Company v. Organon, Inc. and Akzo Nobel N.V.**

2004 **Louisiana Wholesale Drug Company v. Purdue Pharma, LP, Purdue Frederick Company, P.F. Laboratories, Inc., and Purdue Pharma Company**

2004 **Louisiana Wholesale Drug Company v. Biovail Corporation, Rochester Drug Cooperative, and Forest Laboratories, Inc.**

2005 **Louisiana Wholesale Drug Company v. Warner Chilcott Public Limited Company, Warner Chilcott Holdings Company III, LTD., Warner Chilcott Corporation, Warner Chilcott (US) Inc., Galen LTD., and Barr Pharmaceuticals, Inc.**

2005 **Louisiana Wholesale Drug Company, Rochester Drug Co-Operative Inc., and Meijer Distribution Inc. v. Abbot Laboratories, Fournier Industrie Et Sante, and Laboratories Fournier S.A.**

2005 **Louisiana Wholesale Drug Company v. Ferring B.V., Ferring Pharmaceuticals, Inc., Aventis Pharmaceuticals, Inc., and Meijer Distribution, Inc.**

2006 **Louisiana Wholesale Drug Company v. Astrazeneca Pharmaceuticals, L.P., Astrazeneca L.P., Zeneca, Inc., and Zeneca Holdings, Inc.**

2007 **Louisiana Wholesale Drug Company v. Abbott Laborartories**

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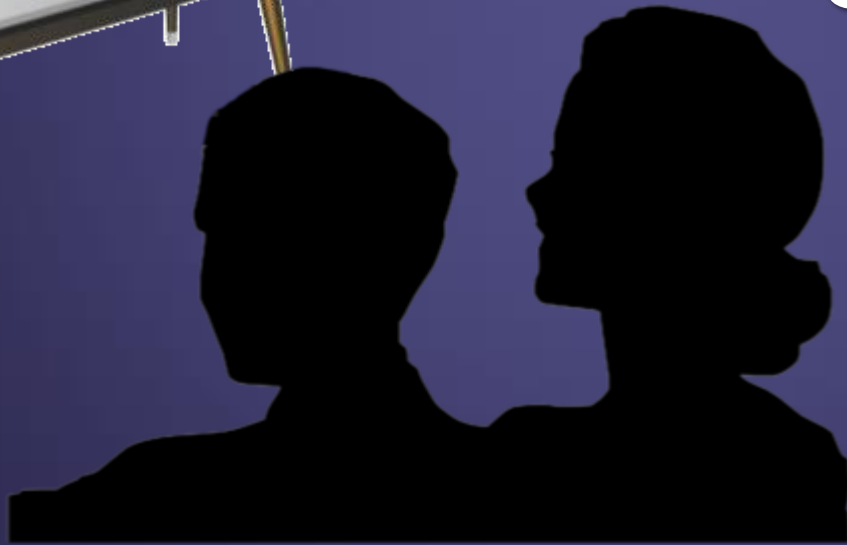
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17 Lawsuits Against Brand-Name Drug Manufacturers

Stories touch our, **BRAIN**, **HEART**, & **GUT**





Visuals
are a critical
component to
getting your
message
across

The background of the slide is a light gray, textured surface resembling crumpled paper. Scattered across this surface are several dark gray question marks of varying sizes and orientations, creating a sense of inquiry and confusion.

Questions



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