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WSSFC 2026

Plenary 5

Litigation ABCs – E is for Evidence (but also O for Objection!)

Presented By:
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About the Presenters...

Mackenzie E. Campbell is a partner at Doar Drill & Skow, S.C., and concentrates on civil litigation with an emphasis on personal-injury claims. Ms. Campbell graduated from the University of Minnesota Twin Cities and earned her law degree (cum laude) from William Mitchell College of Law, now Mitchell Hamline School of Law.

Suann Ingle is one of the country's top visual communication consultants for trial attorneys and litigants. An expert graphic designer, she is also a trusted partner who offers decisive advice on presentation strategy and execution. After thousands of hours in the hot seat in courtrooms and arbitration hearings, Suann remains calm, focused and unflappable regardless of circumstances. This enables her to sense what's coming, and adjust visual communication on the fly to keep judges, juries and arbiters focused on the merits of the case. Since entering the field in 1994, Suann has consulted on a wide range of litigation matters, including intellectual property, white collar, insurance, financial services, employment, and complex business disputes. She has extensive experience in scaling and managing trial support teams and has helped deliver successful outcomes in venues throughout the United States and in Europe. Her visual expertise is grounded in academic study, including a Master of Science degree in Communications Design from Pratt Institute. When she is sketching her ideas, Suann explains the principles behind the sketch – and why they increase the odds of winning. Her personal warmth and empathetic style also enable her to teach, develop and inspire other graphics professionals to embrace the challenges of high-stakes litigation as a career. Prior to entering the field of trial consulting, Suann spent seven years at Coca-Cola in New York where she managed the Creative Services Department. In 1996, she joined TrialGraphix and was instrumental in establishing its New York office. She also spent three years at DecisionQuest, where she assisted legal teams in trial, providing visual solutions to complex, high-stakes cases. Before starting her own firm, Suann worked at FTI Consulting, Inc., leading the New York office of the Trial Services Division.

Catherine La Fleur specializes in civil litigation, family law, alternative dispute resolution, and appellate law. She is a Board Certified Civil Trial Specialist by the NBTA. She was an adjunct professor of law at Marquette for twenty years, teaching litigation-related courses. She is a member of NAMWOLF and WBENC. She was the Wisconsin Bar's Chair of the Litigation Board, served two terms on the Bar's Board of Governors, and was an elected member of the Wisconsin Judicial Council for six years. She also received her mediation training from Harvard Law School's Program of Instruction for Lawyers. In 2014, Ms. La Fleur participated in the Joint Legislative Council's Study Committee on the Transfer of Structured Settlements. She spent six years on the Special Preliminary Review Committee of the Office of Lawyer Regulation. In 2016, she was appointed by Justice Roggensack to a committee formed to study the Office of Lawyer Regulation. Catherine has graded bar exams for the Board of Bar Examiners for over a decade. She served on the Board of the Milwaukee Bar Association as well as the Collaborative Family Law Council of Wisconsin. She is a member of the Fellows Foundation of the State Bar of Wisconsin and the American Bar Association. Ms. La Fleur is past president of the Association of Marquette University Women and the Marquette University National Alumni Association Board. She is past president of the Marquette University Law School's Alumni Association Board. She is a long-time member of Professional Dimensions, having held the position of board member. Her practice involves a substantial amount of appellate work, having argued before Districts I and II Courts of Appeal, resulting in favorable published decisions. She has tried numerous jury trials involving personal injury, product liability, fire, eminent domain, divorce, abuse of process, legal negligence, probate, and real estate misrepresentation. She was an appointed Court Commissioner by the Hon. Janet Protasiewicz. She is a board member of the LPGA Amateurs Golf Association-Milwaukee.

E is for Evidence (but also O is for Objection)

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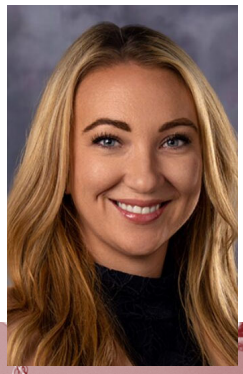

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Not Every Juror Sees Everything, But Every Juror Sees Something

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Start with the End in Mind: Build the Evidence Plan at the First Client Meeting

1. Identify common evidence and objection issues
2. Engage the jury with the evidence
3. Effective presentation tips for different types of evidence
4. How to make evidence digestible for juries

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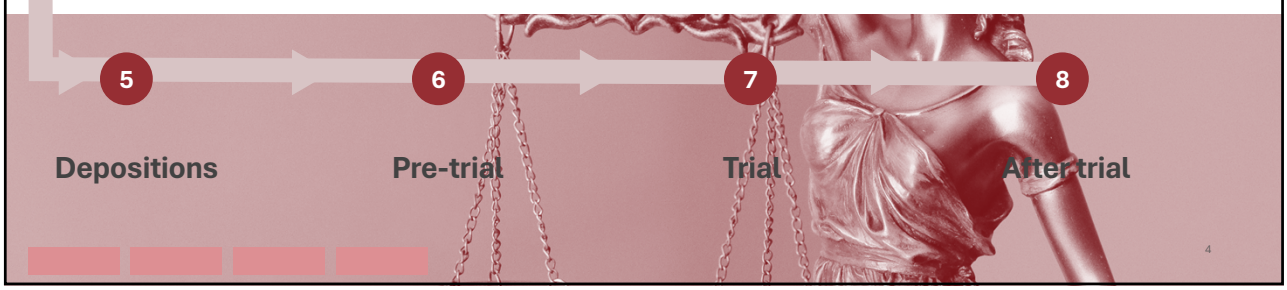
Evidence Rules Shape Every Stage – Not Only Trial

1. Initial client meeting
2. Pre-suit investigation
3. Commencement of the lawsuit
4. Written discovery
5. Depositions
6. Pre-trial
7. Trial
8. After trial



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Four Ways to Use the Rules to Your Advantage

1. **Pre-identify common evidence and objection issues**
2. **Engage the jury with the evidence**
3. **Present different types of evidence effectively – mix media**
4. **Make evidence digestible – and strategically useful**

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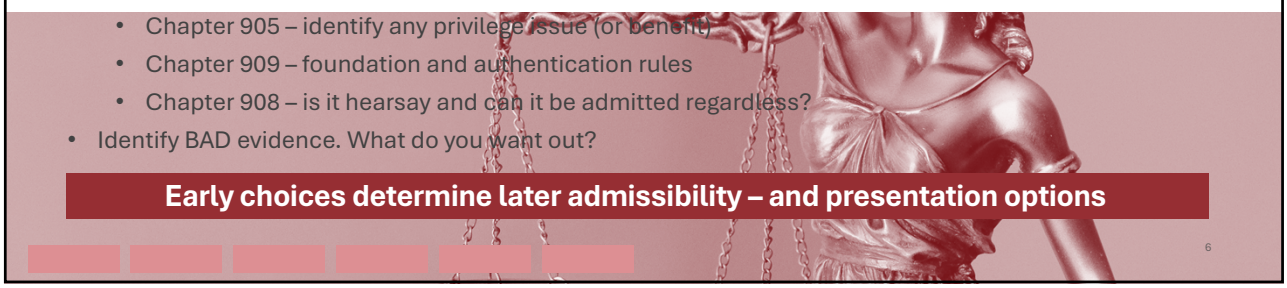
Front-Load the Evidence Work Before Discovery Begins

INITIAL CLIENT MEETING

- Define what the factfinder must understand
  - Pull relevant jury instructions (or elements of claim)
- Inventory documents, devices, witnesses, and admissions
  - Compare what you have to the jury instructions – where are the holes?
  - How are you going to get the evidence introduced?
- Flag preservation, privilege, foundation, and hearsay risks
  - Chapter 904 – make it relevant
  - Chapter 905 – identify any privilege issue (or benefit)
  - Chapter 909 – foundation and authentication rules
  - Chapter 908 – is it hearsay and can it be admitted regardless?
- Identify BAD evidence. What do you want out?

Early choices determine later admissibility – and presentation options



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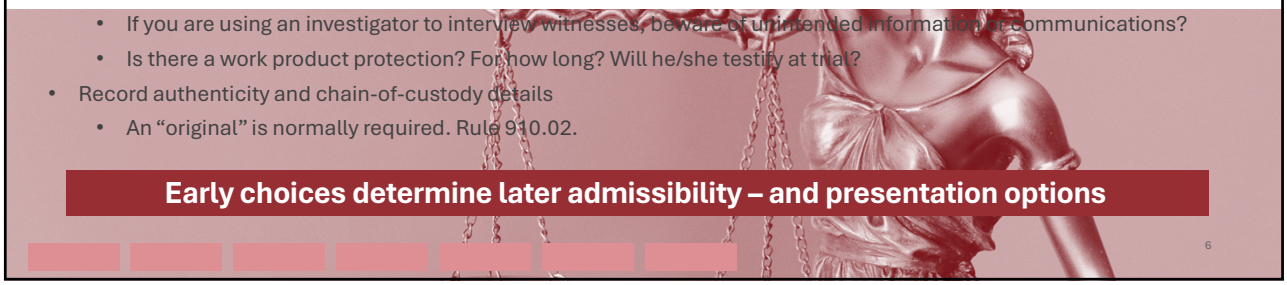
Front-Load the Evidence Work Before Discovery Begins

PRE-SUIT INVESTIGATION

- Preserve fragile evidence and testimony
  - Video evidence from 3rd parties
  - Eyewitness accounts
    - Even if inadmissible, can it be used to later refresh a witness' memory?
  - Witness or client at risk of death or incapacity
    - Does anyone else have a right of cross-examination? How are you going to overcome or accommodate it?
- Locate witnesses and test the proof path
  - If you are using an investigator to interview witnesses, beware of unintended information or communications?
  - Is there a work product protection? For how long? Will he/she testify at trial?
- Record authenticity and chain-of-custody details
  - An "original" is normally required. Rule 910.02.

Early choices determine later admissibility – and presentation options



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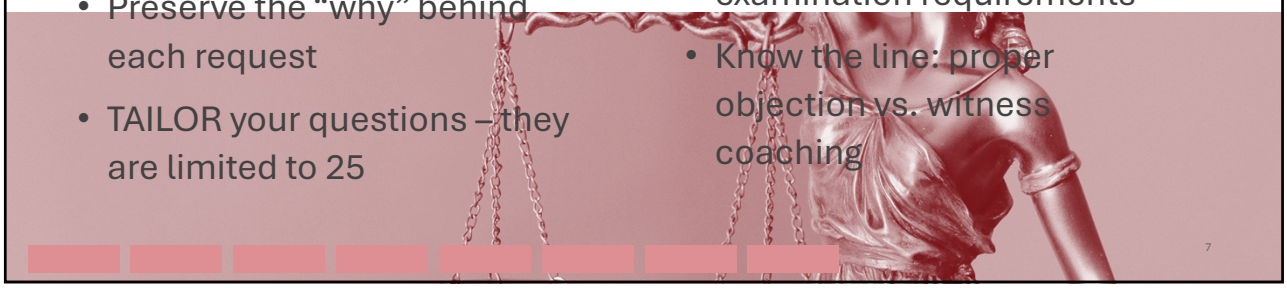
Discovery: Will this Create a Usable Exhibit, Admission, or Testimony?

WRITTEN DISCOVERY

- Ask for the proof you will need to authenticate and explain.
- Track admissions, production history, and missing links
- Preserve the "why" behind each request
- TAILOR your questions – they are limited to 25

DEPOSITIONS

- Preserve testimony of a witness who may become unavailable
- Satisfy notice and cross-examination requirements
- Know the line: proper objection vs. witness coaching



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Pre-trial Converts Admissibility into a Presentation Plan

LEARNED TREATISES
Rule 908.03

Confirm the foundation, the expert's role, and the limits on how the material reaches the jury

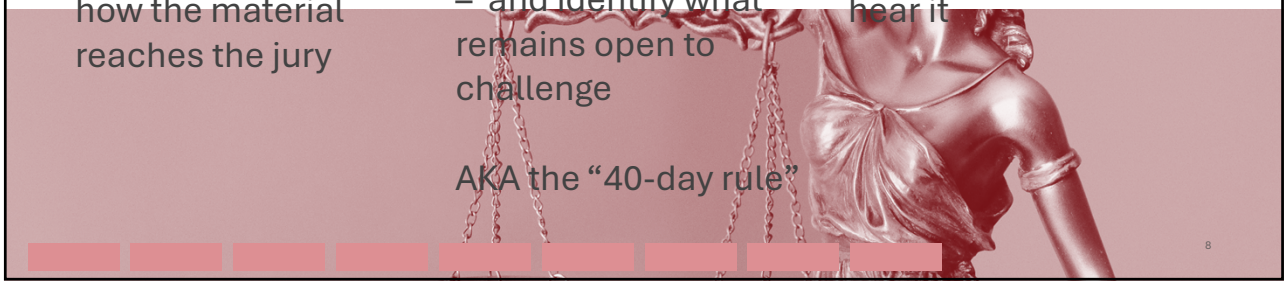
MEDICAL RECORDS/ BILLS PRESUMPTION
Rule 908.03

Verify the presumption's statutory conditions – and identify what remains open to challenge

AKA the "40-day rule"

JUDICIAL NOTICE
Rule 902.01

Identify qualifying facts, request notice at the right time, and plan how the jury will hear it



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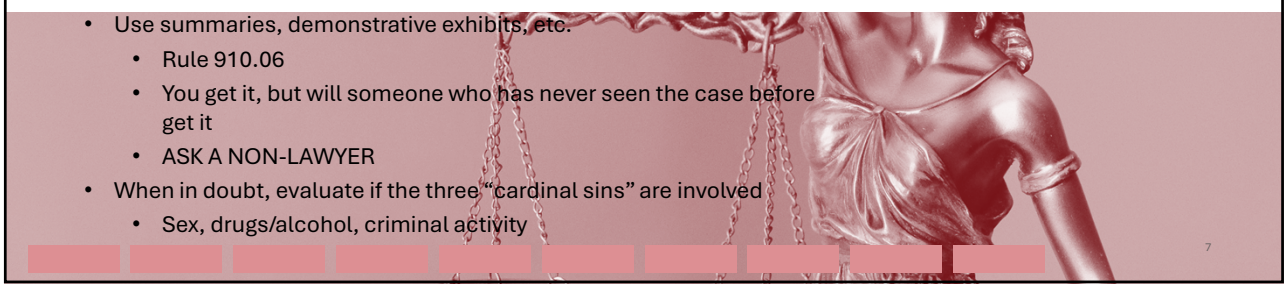
Trial: Keep it simple

- Plan for admission AND for objections
  - Have potential issues flagged and be prepared with relevant caselaw
  - Use stipulations where you can. EVERYONE will thank you.
- Make sure objections are one the record, not a side bar
  - If your client seeks an appeal, there needs to be a record that can be used
- You CAN object, but SHOULD you
  - Beware of the serial objector
  - READ THE ROOM
- Use summaries, demonstrative exhibits, etc.
  - Rule 910.06
  - You get it, but will someone who has never seen the case before get it
  - ASK A NON-LAWYER
- When in doubt, evaluate if the three "cardinal sins" are involved
  - Sex, drugs/alcohol, criminal activity



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Preserve the Issue Before the Toothpaste Leaves the Tube

You cannot put the "toothpaste" back in the tube

A harmful moment may be impossible to un-hear – even when the record is later corrected

WIS. STAT. § 901.03

1. **Object or move to strike – timely.**
2. **State the specific ground, unless it is apparent. No speaking objections.**
3. **If evidence is excluded, make its substance known by offer of proof.**

Source: Wis. Stat. § 901.03, Wisconsin Legislature (accessed Oct. 17, 2026).

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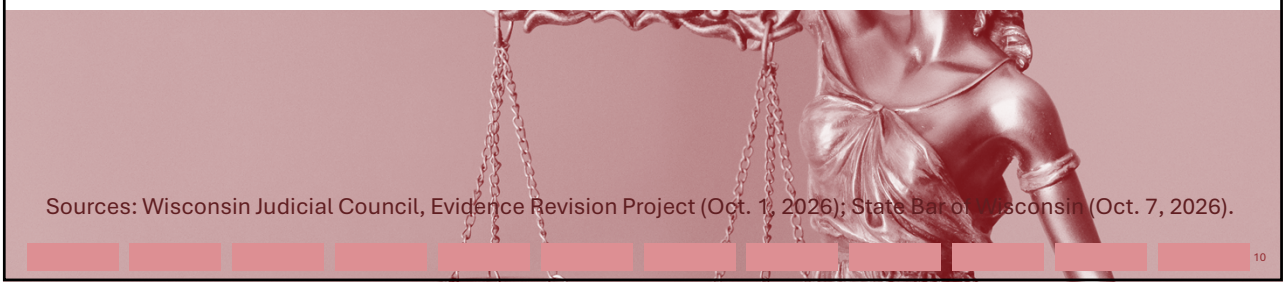
The Wisconsin Evidence Rules May Change Soon – *but not yet*

A comprehensive revision is now in proposal form; keep practicing under the current rules while monitoring the petition

Proposal released Oct. 1, 2026	Anticipated petition to Wisconsin Supreme Court	Court review and action
Public comment open through Dec. 1, 2026	**Timing is expected, not yet final**	**No rule change is in effect yet**



Sources: Wisconsin Judicial Council, Evidence Revision Project (Oct. 1, 2026); State Bar of Wisconsin (Oct. 7, 2026).

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