

THE *C*HARTWELL
LAW OFFICES, LLP

Fire & Explosion Investigations

Krista Fowler Acuña
Partner/Chair Marine Practice Group
Email: kfacuna@chartwelllaw.com
Tel: 305.372.9044
Mobile: 305.778.1640

2016-2017 GREATEST HITS



THE ONE & BARBIE
Turkey, January 2016



LIMITLESS
BVI, March 2017

2016-2017 GREATEST HITS



Abu Dhabi Marina
March, 2016



Port Forum Marina
Barcelona, April 2017

True or False:

The market does a good job at identifying and pursuing recovery opportunities.

OVERVIEW

- ✓ NFPA 921- FRAMEWORK
- ✓ EXPERT SELECTION & USE
 - ✓ ROLE OF COUNSEL

Claim Example: Multi-Vessel Marina Fire



Fire & Explosion Investigations By:
Krista Fowler Acuña, The Chartwell Law Offices



Claim Perspective:

- Notice within 24 hours of fire
- Underwriters control primary fire vessel
- Evidence somewhat contained/preservable

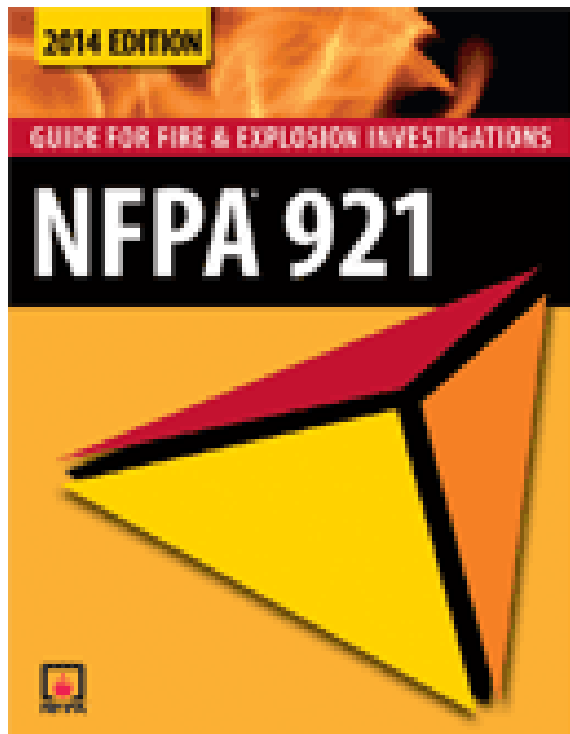
- *Over \$5 million in total damage*
- *5 yachts burned- 3 were constructive total loss*
- *PD to the marina*
- *Personal injury to occupants*



FIRE & EXPLOSION INVESTIGATIONS

- *Do it early, do it right:*
 - Chaos cannot be controlled off-sight
 - You only get one shot at C&O
 - Facts must be gathered so as to be admissible
 - Early timing is everything, delay will cost money
 - Exposure is high, so costs are high

FRAMEWORK OF INVESTIGATION



NFPA 921 (2014):

- Issued in 1992 (9 revisions)
- First definitive document of its kind
- Shift from experience-based to science-based approach
- Published in multiple languages

NFPA 921: GUIDE OR STANDARD?

NFPA 921

- “purpose of this document is to establish guidelines....”
- “this document is not intended as a comprehensive scientific or engineering text...”

US Courts post-1993

- “The gold standard”
- “Bible of arson forensics”
- “National standard”
- “Generally accepted standard in the fire investigation community”

**CONCLUSION: IT'S A STANDARD,
SO YOUR EXPERT BETTER FOLLOW IT**

ANATOMY OF THE INVESTIGATION

- DEMISE OF “NEGATIVE CORPUS”
 - Ex: 3 potential sources within the location or origin, 2 ruled out, so the 3rd must be cause
 - Not consistent with the scientific method
 - Creates un-testable hypothesis (assumption not fact)
 - Results in incorrect determination of the ignition source and first fuel

ANATOMY OF THE INVESTIGATION

Origin Determination



Fire Cause Determination

(ignition source, oxidant, first fuel, ignition sequence)



Analyzing Responsibility for Damage, Injury or
Death

ANATOMY OF THE INVESTIGATION

- CAUSE CATEGORIES
 - INCENDIARY
 - ACCIDENTAL
 - NATURAL
 - UNDETERMINED- *may not be the death knell*

BEYOND THE PHYSICAL EVIDENCE

- NFPA Chapter 13: Public sources of photos and videos of the fire sequence can provide evidence relative to:
 - Timeline
 - Spread
 - Witness identification
 - Witness credibility



Media footage sourced by Broadcast Media Monitoring

BEYOND THE PHYSICAL EVIDENCE

- Media footage lead to source of original video
- Original unedited footage obtained
- Access to meta data
- Witness statement taken
- Assisted in establishing more certain fire timeline



BEYOND THE PHYSICAL EVIDENCE

Blogs, twitter, youtube and other internet postings can lead to additional witnesses, photos, and video that can assist investigation

- [azureazimut](#), [Mar 31, 2008](#)
- [#3](#)
- [azureazimut](#) *New Member*
- Joined: Apr 28, 2007 Messages: [33](#) Location: [JC](#)
- I'm at the marina on my yacht just one dock over. I have some pretty ridiculous video of the fire that I'll post links to once I upload them. Pretty scary stuff.
- [azureazimut](#), [Mar 31, 2008](#)

BEYOND THE PHYSICAL EVIDENCE

- Inspection/testing of exemplars is appropriate methodology under NFPA 921
- Example: after witness statements completed, expert re-created egress
- Helped identify potential causes of fire
- Verified witness accounts



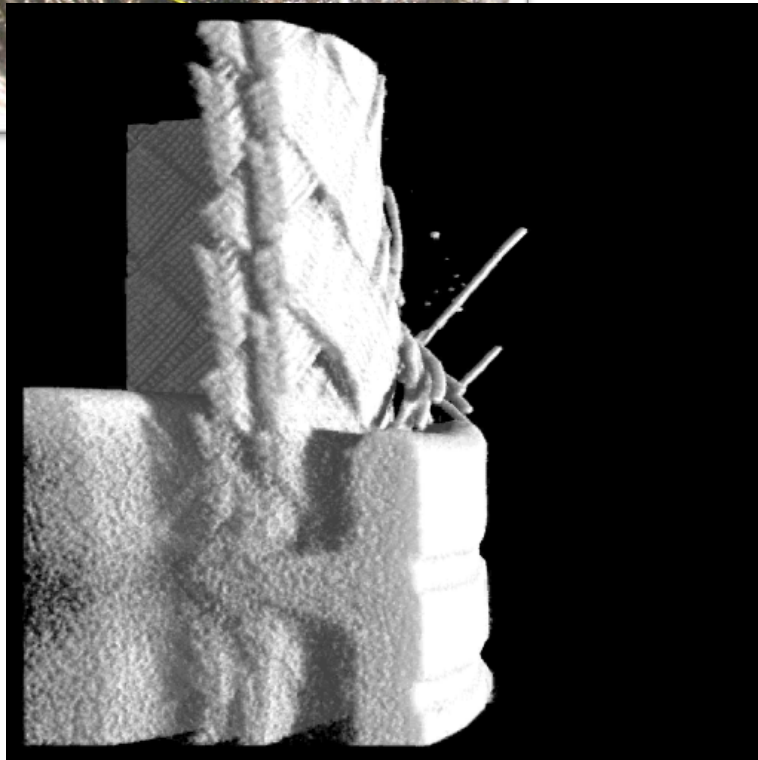
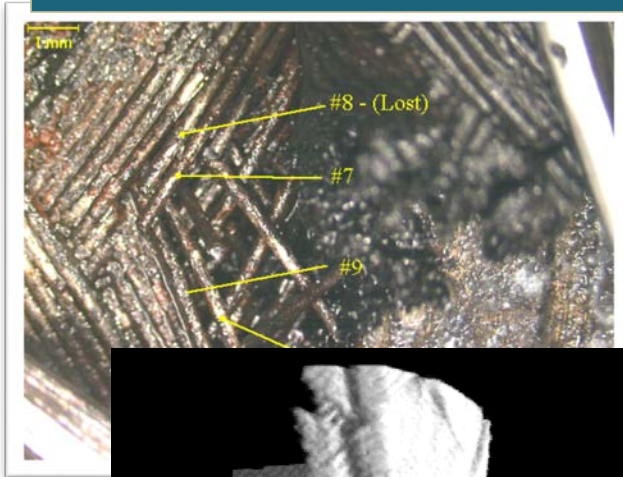
EXPERT SELECTION

- C&O Expert=CFI (Certified Fire Investigator)
 - Local law enforcement limitations
 - Marine surveyor limitations
 - NFPA 1033
 - Most investigations will require other specialties to determine root cause
 - CFI opinions re: cause typically limited

EXPERT SELECTION

- Licensed Professional Engineers (P.E.)
 - Electrical
 - Mechanical
 - Chemical
 - Fire Science
 - Materials/Metallurgy
- Human factor/biomechanical

EXPERTS: GETTING TO THE ROOT CAUSE



Case Study: cause of fire was ruptured hydraulic hose

Solution: CT Scan of hose revealed it ruptured outward

EXPERTS: *THE INTANGIBLES*

- Good experts are...
 - Mute...(observe and selectively speak)
 - Deferential...(look to counsel for guidance)
 - Humble...(not focused on being smartest person in the room)
 - Creative...(seek alternative avenues)
 - Assertive...(firm and capable in handling scene)
 - Kind/Polite...(interaction with experts/assured)
 - Dirty...

ROLE OF COUNSEL

- *Perspectives “from the office”*
 - Timing: early is better
 - Experts handle data to determine cause
 - Counsel and/or Underwriters handle the ultimate goal
 - Expert selection/retention
 - Better, faster access
 - Right fit for specific investigation
 - Establishing privilege
 - Documentation
 - Demands to preserve evidence
 - Notice to parties

ROLE OF COUNSEL

- *Perspective “from the field”*
 - Value of first-hand perspective
 - Assist and protect the experts
 - Handle other attorneys
 - Be an extra set of eyes

EVIDENCE PRESERVATION

When you control the evidence:

- Preservation/security
- Access
- When can you dispose?
- Solutions for the difficult third party (title transfer, court intervention, cost assumption)



EVIDENCE PRESERVATION

- When others control the evidence:
 - Early demand to preserve
 - Renew demands when circumstances change
 - Special circumstances:
 - Need to repair and return to service
 - Be reasonable/flexible

EVIDENCE PRESERVATION

Considerations for documenting large scenes

- Video in addition to photos
- Document process in addition to substance
- Dedicate additional investigator to video/photo documentation



CONCLUSION

- Timing is key
- Appoint *qualified* counsel and experts early
- Team approach to expert identification, evidence gathering, documentation
- Results= goals and cost management can both be achieved

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Questions?

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