

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

**DATE:** July 19, 2007

**JUDGE**  
LEONARD DAVIS

**COURT REPORTERS:**  
Therese Casterline & Jana Bald

**LAW CLERKS:** Andrea Houston, Nicole Mitchell

<p><b>AdvanceMe, Inc.</b> <b>Plaintiff</b></p> <p><b>vs.</b></p> <p><b>Capital Business Corporation, et al</b> <b>Defendants</b></p>	<p><b>CIVIL ACTION NO: 6:05-CV-424</b> <b>BENCH TRIAL</b> <b>DAY 4</b></p>
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ATTORNEYS FOR PLAINTIFFS	ATTORNEY FOR DEFENDANT
Ronald Lemieux (Paul Hastings) Michael Edelman (Paul Hastings) Robert Matz (Paul Hastings) Shanee Williams (Paul Hastings) Vid Bhakar (Paul Hastings) Otis Carroll (ICK Firm) Deborah Race (ICK Firm) Parris Sanz - In House Counsel Glen Goldman - CEO	Jeff Sanders (Roberts & Ritholz) Brian Buss (V&E) Joseph Gray (V&E) Willem Schuurman (V&E) Doug McSwane (Potter Minton) Matt Rowan (Potter Minton) <i>For Merchant &amp; Reach</i>

On this day, came the parties by their attorneys and the following proceedings were had:

**OPEN:** 11:15 am

**ADJOURN:** 4:36 pm

TIME:	MINUTES:
11:15 am	Trial resumed. <b>TIM LITLE</b> on the stand.
11:15 am	Cross examination of Mr. Litle by Mr. Carroll.
11:54 am	Mr. Carroll passed the witness. Redirect examination of Mr. Litle by Mr. Gray. Court asked for documents to be provided to the Court. Mr. Schuurman indicated they would be provided after lunch.
11:55 am	Redirect examination of Mr. Litle by Mr. Gray.

**DAVID J. MALAND, CLERK**

**FILED: 7.19.2007**

BY: Rosa L. Ferguson, Courtroom Deputy

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<b>TIME:</b>	<b>MINUTES:</b>
12:02 pm	Mr. Lemieux lodged an objection as to the Bieler testimony not coming in to this trial. Mr. Gray responded. Court sustained objection.
12:02 pm	Redirect examination of Mr. Litle by Mr. Gray continued.
12:09 pm	Mr. Gray passed the witness. No further questions.  Mr. Gray offered two witnesses by video depositions of Allen Abbott, Jim Alexander. Time for plaintiff: 27:00, and 26:00 for defendant. Mr. Gray offered Defendant's Exhibits 427 A (Deposition Testimony - disk), 427-B (Written transcript), 427-C (Exhibits to Deposition) and 427-D (Text Transcript on disk) for Witness Abbott. Mr. Gray offered Defendant's Exhibits 428-A (Deposition Testimony - Disk), 428-B (Written Transcript), 428-C (Text Transcript on disk) for Witness Alexander. <b>Court admitted Defendant's Exhibits 427A-D, and 428 A-C.</b>  Mr. Gray offered witness by video deposition of Tom McBrearty as Defendant's Exhibit 430-A (Deposition Testimony), 430-B (Written Transcript), 430-C (Exhibits to Deposition) and 430-D (Text Transcript on Disk). Time to be allotted for this witness: Defendant - 36 minutes, plaintiff - 16 minutes. <b>Court admitted Defendant's Exhibits 430 A-D.</b>
12:12 pm	Mr. Gray will call Michele Boudette by Video Deposition. Time to be allotted for this witness: 20 minutes to defendant and 1 minute to plaintiff.
12:13 pm	Video Deposition of <b>MICHELLE BOUDETTE</b> played for the Court.
12:35 pm	Court inquired about remaining witnesses and remaining time. Mr. Gray responded and gave the court an outline of further video depositions to be played and time estimates of about 3 hours & 20 minutes of video. After videos, Defendant will call Les Falke and Don Headlund. Mr. Schuurman indicated about those witnesses would be approximately 2 hours. After those two, defendant will rest. Court inquired about rebuttal. Mr. Edelman will call Dr. Shamos on rebuttal and unsure if anyone else will need to be called.
12:37 pm	Court will break for lunch until 1:45 pm.
1:52 pm	Trial resumed. Mr. Gray called John Konop by video deposition. Court asked how time of 3:20 would be split. Parties and Court discussed time estimates and those to be given later.
1:53 pm	Video Deposition of <b>JOHN KONOP</b> played for the Court.
2:54 pm	Mr. Gray indicated that time allotted to defendant is 41 minutes and to plaintiff is 18 minutes. Mr. Schuurman will be calling Mr. Les Falke to the stand.
2:54 pm	Court in recess until 5 after 3:00 pm.
3:12 pm	Trial resumed. Mr. Schuurman called <b>LES FALKE</b> to the stand. (Witness previously sworn.)
3:12 pm	Cross examination of Mr. Falke by Mr. Schuurman.
3:21 pm	Court in recess for 5 minutes.
3:30 pm	Trial resumed. Cross examination of Mr. Falke by Mr. Schuurman continued.
4:22 pm	Direct examination of Mr. Falke by Mr. Edelman.

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<b>TIME:</b>	<b>MINUTES:</b>
4:27 pm	Court asked witness some questions.
4:27 pm	Direct examination of Mr. Falke by Mr. Edelman continued.
4:28 pm	Mr. Edelman passed the witness. Recross examination of Mr. Falke by Mr. Schuurman.
4:32 pm	Mr. Schuurman passed the witness. No further questions of this witness.
4:32 pm	Mr. Gray called Tom Burnside by video deposition. Time allotted - 47 minutes for the Defendant and 34 minutes for plaintiff.
4:32 pm	Video Deposition of <b>TOM BURNSIDE</b> played for the Court.
4:34 pm	Pause in proceedings to fix sound.
4:35 pm	Court will recess for the day and start up tomorrow at 9:00 am. Mr. Gray will be playing one more or possibly two, then expert.
4:36 pm	Court will start by 9:00 am tomorrow. Plaintiffs have used, including this video, 10:29 and defendant 9:47 hours.
4:36 pm	Court in recess until 9:00 am tomorrow.