

# A New View With Google Earth

BY ALEXANDRA HAMILTON

Google has a host of useful tools that can aid your cases, from motor vehicle collisions to premises liability,<sup>1</sup> but the most overlooked one is Google Earth Pro—a free, downloadable program with a database of aerial and satellite photographs. It can help you understand the area where the incident occurred, the facts of the case, and the area's potential hazards. And you can use the images in case prep, at depositions, or at trial as demonstratives or exhibits



program's accuracy, if distance is a crucial element of your case, hire an expert who can measure the area and testify about the distance.

## Street View

By zooming in or by dropping the person icon directly onto the map, you can see the street view of the relevant area. Although the same functions are not available as in aerial view, you'll be able to get a better sense of a party's or witness's perspective, surrounding

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to help witnesses, the judge, and jurors visualize the scene.

Google Earth Pro has more functions than basic Google Earth, such as premium high-resolution photos; automatic geographic information system images; animated movies; the ability to map up to 2,500 multiple points at once; and access to demographic and traffic data. Google Earth allows only line and path measurements while Google Earth Pro measures lines, paths, polygons, circles, 3-D paths, and 3-D polygons.

## Aerial View

Imagine you are handling a personal injury case where a driver collided with a pedestrian in an allegedly dangerous crosswalk. Open Google Earth Pro, and type the intersection into the search bar. You'll see an aerial view of the intersection, which you can save or print.

The program also contains tools for marking up the intersection. By typing in the GPS coordinates, Google

Earth Pro will automatically produce a digital pushpin at that spot on the map. Moreover, you can manually add a marker and labels—such as a pushpin, polygon, or path markings—and customize the style and color of these markers. Keep the dialog box open to add your markers, then click “Save.”

Another helpful option is the ruler function, which lets you determine the length, height, width, radius, area, circumference, elevation, and perimeter of the relevant location. Go to “Tools” and click on “Ruler.” Choose the type of shape you want to measure (circle, polygon, line); the unit of measure (centimeters, feet, miles); and then draw the shape directly on the map. The dialog box will provide the measurements.

Using Google Earth Pro to take measurements can eliminate unnecessary travel, saving money and time. The accuracy of the program was recently researched and validated for purposes of accident reconstruction.<sup>2</sup> Despite the

buildings, grade, traffic controls, and vegetation.<sup>3</sup>

## Historical Views

If some time has passed since the incident, you can use the historical imaging feature to view the site's condition at or near the time of the incident, as well as how the site and its features have changed over time.

Click on the clock button with an arrow turning counterclockwise. A bar will open that lets you search through historical satellite images of the location. The satellite images range from the 1930s to the present day, but keep in mind that the image quality varies significantly.

Google Earth Pro does not have historical imaging for the street view, but you can use Google Maps to see that information. Once you have the street view of the intersection in Google Maps, click on the small clock in the top right box. The box will expand to show a

sliding scale of the street views captured by month and year.

### Admissibility of Images

The Ninth Circuit has addressed the admissibility of Google Earth images and determined that images produced by high-resolution imaging satellites, with no additional markings, are not hearsay.<sup>4</sup> The court also considered whether a pushpin automatically placed by Google Earth Pro and labeled with GPS coordinates is hearsay. Relying on opinions from other circuits, the court held it wasn't hearsay because the pushpin was a machine statement.<sup>5</sup>

However, just because the image is not hearsay does not mean it is authenticated. You may need judicial notice of the program's reliability pursuant to Federal Rule of Evidence 901(b)(9),<sup>6</sup> stipulation from opposing counsel, or—depending on what you are seeking to admit—testimony from someone familiar with the area or with the program, such as a Google Earth programmer or a witness who frequently works with and relies on the program.<sup>7</sup>

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#### NOTES

1. For example, Google Scholar for case law, Google Translate for informal translating, and Google Drive for sharing documents with cocounsel or your clients.

2. Shawn Harrington et al., *Validating Google Earth Pro as a Scientific Utility for Use in Accident Reconstruction*, 5 SAE Int'l J. Trans. Safety 135 (2017). Researchers compared Google Earth Pro images to the real locations for 1,305 measurements of certain features (such as crosswalks, curved roadways, and off-road features) from 68 locations in 25 states and provinces in the United States,

Canada, and Australia using measuring wheels and tape measures.

3. These views can be several years old, so be sure to check the date stamp on the image.

4. *United States v. Lizarraga-Tirado*, 789 F.3d 1107, 1109 (9th Cir. 2015).

5. *Id.* at 1110 (citing, among others, *United*

*States v. Lamons*, 532 F.3d 1251, 1263 (11th Cir. 2008); *United States v. Moon*, 512 F.3d 359, 362 (7th Cir. 2008); *United States v. Washington*, 498 F.3d 225, 230 (4th Cir. 2007)).

6. *Id.*

7. *Id.*; see also *United States v. Espinal-Almeida*, 699 F.3d 588, 612 (1st Cir. 2012).

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