



Visual Presentations in Court: A New Study On What Works Best And Why

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This post is written by Dave Nugent, Cogent Legal's senior producer, and draws on a study reported by Ken Broda-Bahm, PhD, of Persuasion Strategies. My thanks to them both. – Morgan

"Don't say the old lady screamed—bring her on and let her scream."



That is the sage and strategic advice from one of the masters of persuasive storytelling, Mark Twain. Twain's words are profoundly "on mark" and could be an informal mantra for how we at Cogent Legal counsel our clients to prepare their case presentation.

For ADR or trial, Twain's call for "show, don't tell" or what we might call "illustrative demonstration" is a winning strategy to help convey a presenting attorney's story, decipher complex content and cogently navigate themes. Now, a comprehensive visual persuasion study involving 1,375 mock jurors not only adds hefty weight to the already well-weighted argument for visual support of legal oral argument, but also sheds light on the best ways to use graphics.

The study by Persuasion Strategies was reported recently in a five-part series on their blog *Litigation PostScript*. This post considers some of their key findings. For the study, the mock jurors were randomly assigned to five different groups in a product liability case. The jurors all viewed the same presentation for the plaintiff's side (which used no designed graphics, but a few on-screen documents), but each group viewed a different presentation of the defense case. The five different versions of the defense presentation involved:

- No graphics
- Flip chart graphics, created live
- Static graphics, designed, but not animated
- Animated graphics
- Immersion: a mix of static and animated graphics used continuously so that imagery was shown throughout the presentation

One very significant finding was that "Immersion" (continuous) visual support greatly enhanced positive juror response, with significantly better test results, even above that of occasional use of



static graphics or animation.

One explanation is that the immersion strategy is cognitively more balanced. By showing as well as telling throughout the presentation, the juror engages two sensory processing areas of the human brain—the auditory cortex and the visual cortex—to digest and comprehend, thereby sharing the “cognitive load.” The brain processes, comprehends and retains more information, becomes less mentally fatigued and remains more engaged. (Atherton, Visual Attention, 2010)

Oral presentations, even (or especially) combined with bullet-point and text-based traditional PowerPoint presentations, put the burden of processing work solely on the auditory cortex, thereby causing overload, reduced retention and comprehension, and fatigue.

Mock juror responses to the varying presentation styles revealed further compelling advantages to the use of visual presentations:

Juror Perception of Preparedness: The study found that the party using graphics is perceived by the jury, at a statistically significant level, as being more prepared, particularly when attorneys use the immersion approach. Jurors responded favorably (and appreciably) to preparedness and were more favorable to that litigating side as a result.

Juror Perception of Importance: Jurors consistently rated as significantly more important the attorney presentation that used more visual support to compel its argument than those presentations that did not use visuals.

In other words, instead of finding that jurors distrust and discount the side with greater technological reliance, Persuasion Strategies found the opposite: If one side is using visuals, then the case is more likely to be about the visuals used, and that is something that can only hurt the less-technological party. In this age of information, jurors expect media support.

And as touched upon in the discussion on better cognitive balance:

Higher Attention Levels: Post-presentation polling indicated significantly higher and longer juror rates of attention for those presentations utilizing continuous use of visual support.

Higher Cognitive Engagement/Comprehension: By “showing” as well as “telling” throughout the presentation, you are engaging and using more of the jurors’ working attention, causing them to pay more attention, and to notice and see—and comprehend—more of your argument.

Higher Memory Retention Levels: Along with the higher attention and cognitive results, the study revealed a significantly higher rate of memory retention of the key facts from the presentations supported by continuous visuals.



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Persuasion Strategies' findings make a convincing argument for "Total Immersion" visual presentation support as championed by Cliff Atkinson, author of *Beyond Bullet Points*. In a coming post, I'll take a deeper look at this professed visual presentation approach—what it means for the attorney, and its appropriateness for trial or ADR—and contrast the "immersion" style with a more strategic consistent visual approach.

Finally, we at Cogent Legal want to echo one of the study's recommendations: "Don't just save your graphics for jurors." As their Part 4 blog post concludes, "There is nothing about going to law school, sitting on a bench, or working as a mediator or arbitrator that makes one immune to the benefits of visual persuasion. For example, for a recent contract mediation, we invested substantial time and thought into an interactive timeline. ... It turned out the mediator was enamored with the tool and used it to frame his understanding of the story. That is a big advantage any day."

We wholeheartedly agree that attorneys shouldn't wait for trial to make their best case with visuals. Develop presentation tools early and use them to your advantage in earlier phases of litigation. For more advice in this vein, see Morgan's earlier post, "[Why Attorneys Should Treat Mediation Like Trial](#)."

Dave Nugent is Senior Producer at Cogent Legal (cogentlegal.com), a San Francisco Bay Area legal graphics and consulting firm that develops visual presentations and litigation strategy for attorneys.