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Evidence at trial: Building a comprehensive presentation strategy

Simplify and clarify your story for the jurors by using visuals to shine a spotlight on your best evidence

“Please be good enough to put your conclusions and recommendations on one sheet of paper in the very beginning of your report, so I can even consider reading it.”

— Winston Churchill

With the preparation of any trial presentation, there are always three crucial components involved: the evidence, the technology, and (the most critical) delivering a clear story to the jury for the achievement of a verdict. Let’s call them the “what,” the “how” and the “why,” respectively.

During the construction phase of a trial presentation, there’s an understandable tendency to pay more attention to the “what” and the “how.” But by shifting the focus away from the “what” and “how” and more toward the “why” you can and will create a more targeted and comprehensive presentation strategy that yields greater impact.

Motivating a jury to get from A to B is a complex task. Jurors are subjected to bombardments of information, and have their own personal distractions with which to contend. Beyond the cultural and educational differences, people have different ways of learning and retaining information. They will need to decide a verdict, while being attentive, receptive, and absorbing all of which you are about to overwhelm them. Making that happen becomes easier when you develop a focused strategy that allows them to reach their destination: the verdict. And it all begins by starting with and defining the “why.”

The heart of the matter

Without direction, getting your jurors through the journey from opening remarks to a verdict would be like planning a trip without a destination: if you don’t know where you are going, how are you going to get there?

Begin by answering that motivating core question that will help you focus your presentation strategy: “Why am I here?” The answers will be different for each of the involved parties. Yours may be “I am here to deliver a presentation that will empower the jury to decide in favor of my client.” A juror’s answer may be, “I am here to make a decision that will right a wrong.” And it’s a decision most don’t take or make lightly. Once impaneled, jurors become emotionally invested in the outcome and take the duty very seriously. They need to believe they are doing the right thing, so that at the end of the trial they feel empowered by their decision and their service. To appeal to that sense of responsibility their “why” – their purpose – needs to be defined and stated up front, and introduced in your opening statement. It becomes the foundation upon which your presentation then gets built. This focus will help decide what you need to spotlight, and what you need to eliminate.

Leonardo da Vinci said, “Simplicity is the ultimate sophistication.” And keeping things simple in trial presentations is an important key to empowering a jury. More than just passionate arguments, illustrations, and testimony, trial presentations have to be structured and unburdened by nonessentials so jurors can collect and comprehend the evidence and its implications. Getting the jury motivated toward a verdict requires clearing a direct path through the trial data allowing them to get through it more easily. To take them on that trip you need a vehicle filled only with what’s required for it – in most cases that’s the evidentiary information presented in as orderly and direct a manner as possible.

A trial presentation’s organization primarily requires the following:

- Simplicity
- Clarity
- Motivation

Simplicity: Clean up the garage

Imagine two garages side by side and consider your trial presentation organization along these lines. One is full of boxes and tools and furniture and equipment, all of it haphazardly arranged. The other features bins neatly stacked and labeled, an organized workspace with neatly arranged tools, and a large space to park. Just as it is easier to park a car in a space that is clear, clean and well-organized, jurors will be more receptive to information provided in a clear and organized fashion. So sort out and stick to the documents and testimony that will empower jurors to confidently reach a verdict.

- Create a hot stack of documents and testimony and put it in chronological order
- Incorporate the golden rule of who, what, when, where and how
- Emphasize only what will enhance your story and lead jurors to a favorable decision

Clarity: Build it from the ground up

A sequenced and logical build up of information is your best defense against confusion. Would you construct a house starting with the roof? Likewise, taking a top-down approach with your evidence will not provide the proper foundation for your case. Jurors require a foundation and a methodical layering of information to develop the knowledge and understanding, or they become lost and quickly lose interest. Timelines, illustrations and tutorials help them understand testimony in advance of hearing it – preferably introduced in the opening statement.

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Use concise tutorials to lay the groundwork to understand testimony. Timelines are your roadmaps which help streamline complex information and create that foundation which will support the rest of the evidence. Define cumbersome jargon and acronyms on a board, or avoid them and use simpler language.

Experts are not always the best teachers, so make certain you use illustrations to clarify their testimony. And most importantly, each element you introduce should address the jurors' "why" so it creates a clear path to their ultimate significance: the verdict.

Motivation: The technology is not the focus

Very often the use of presentation media tools like PowerPoint and Sanction – the "how" – can be overused to the point it impedes the focus of the trial. Poorly designed materials that are over-stuffed, hard to read, and filled with excessive bullet points or flashy transitions can be more distracting than helpful. By exercising control with your presentation's technologies and techniques, you allow the evidence you are communicating to the jury – the "what" – to shine. If the jury's attention becomes more occupied with the media used and less with its message, their focus can then shift to the "how" and not the "why," and your client's case could be in jeopardy. There's nothing wrong with making a presentation engaging, but above all it must be thoughtful and streamlined – a strong supporting player to the star of the show.

Visualize the story

Speaking of shows, it's actually not a bad idea to think of trial as a play or a motion picture. Without a plot, its characters have nowhere to go and nothing to do.

How interesting is that? Not very! A trial presentation's plot is its storyline. Without one, your jurors may likely get lost and will quickly disconnect. With a compelling storyline, jurors will engage and remain so. So your story needs to be visualized – but supportively, not detrimentally. Illustrations and graphics need to be simple and clear. Your visuals should emphasize your story and enhance the understanding of it. If the jury can't get the information imparted within a few minutes, you have too much there, and the story becomes consumed by the storytelling tools. Instead, employ combinations of visuals with your storyline.

Visuals support language and aid in retention, so let variety and simplicity – be the spice of your presentation's graphic elements and you will reap the benefits of reinforced learning.

Time is of the essence

In a miniseries or epic motion picture there's usually a fair amount of time devoted to letting its story develop through to its conclusion. Not so in something so complex as a trial, so let's end our comparison of trials to fiction and step into the reality of courtroom where the fact is, you have little more than a few minutes to address the issues up front and deliver your story, which should consist primarily of a description of the problem and the solution to the case. Set a timer and practice giving your opening in five minutes and that should allow you to get your primary issues whittled down to the core of what you need to focus on. Then, if necessary, add the elements of what you need to round out the story and make it unfold properly. It will also help you decide on what supporting illustrations and modules you will need.

At the end of the day, the process of building trial presentations is one of stating the objective for the jury, keeping

only what you need to explain it, illustrating the points, and building to the heart of the matter. Make it as easy and clear for the deliberation process as possible. Moving a jury to the right verdict requires a lot of forethought about your mission and then a lot of planning to get them there – and it requires your commitment. Shine a big spotlight on the "why" and by properly addressing the "what" with the "how" you will lead your jury to a winning decision. With the right map, route, and the proper vehicle driven by your passion throughout the journey, you will all arrive at the same destination.

Rick Kraemer is the founder and president of Executive Presentations. He holds a Bachelors Degree in Marketing and a Masters Degree in Business and Economics. His company, based in Los Angeles since 1986, began by providing the legal community with design consulting services and computer generated demonstrative evidence (timelines, charts & graphs). Today, with thirty professionals on staff, his company provides digital trial services, day-in-the-life and settlement video services, and advanced graphics and PowerPoint presentation services.

Adam Shea is a nationally recognized lawyer with extensive experience and success representing individuals and families in catastrophic personal injury and wrongful death cases. His proven track record of helping those who have been harmed by wrongful conduct, violations of safety rules, and defective products has focused on claims involving automotive product defect, tire product defect, commercial truck accidents, trash truck accidents, airplane and helicopter crashes, train disaster, government liability for dangerous condition of public property, and general negligence. During Shea's legal career, he has exclusively represented individuals and families who have suffered a variety of catastrophic injuries. He has been recognized for his legal ability and ethical standards by the prestigious Martindale-Hubbell peer review ratings with an A-V rating.