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TRIAL STRATEGY

Tailor Graphics To Tell Jurors Your Story

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In a high-profile breach-of-contract case last year involving a legendary Hollywood film celebrity, the star sued his movie producers on the grounds that they had cheated him out of profits. The plaintiff's strategy was twofold: build a theme based on the jurors' notions that "artists get cheated" and highlight through the effective use of visual aids the ways in which the star allegedly was cheated.

The defense, on the other hand, struggled early on with its strategy. Jury research showed that the defense's fixation on contract details wasn't resonating with the jurors – only an agent or entertainment lawyer could understand such minutiae.

The defense team turned its strategy around when its trial consultant had it put a human face on its story. Instead of boring the jury by rebutting the contract details, the defense attacked the celebrity's handlers, saying they had a hidden agenda: They wanted to become the producers themselves.

As a part of this new strategy, the defense created effective visual images that attacked the handlers, not the well-loved celebrity.

This case exemplifies how attorneys can incorporate trial strategies and case themes into their exhibits and create powerful visual presentations that connect with jurors.

"We know that jurors learn and retain information better when they're informed both verbally and visually," says Lara Giese, a Los Angeles senior trial consultant.

She is hardly alone in her assessment. According to surveys, jurors remember 80 percent of what they see as opposed to 20 percent of what they hear. Litigation consulting experts and smart attorneys are recognizing the effectiveness of making their exhibits into "visual strategies" that resonate with modern day jurors accustomed to receiving information from television and the Internet.

Many trial lawyers, however, struggle to incorporate strategies and themes into their exhibits. Many attorneys think that doing it themselves or taking their ideas down to a local print-and-copy shop will save them money. But as Matt Adler, vice president of Kroll Ontrack/TrialGraphix in Miami, says, "Just try going down to your corner shop and asking the counter person what would be an effective presentation for a classic trade-dress infringement case. They won't have a clue."

The following are three ways to help develop your exhibits into dynamic strategy – and theme-based visual images that will give you a competitive edge in the courtroom.

Think about your exhibits early

The visual presentations shouldn't be an afterthought.

The earlier lawyers start thinking about them, the better.

"Graphics should be the result, not the cause, of strategies and themes," says New York senior trial consultant Laurie Kuslansky. "The sooner trial attorneys think of their 'end game' and fashion their case leading there, the better they can organize the information they gather throughout the pretrial process. It is a more tactical way to prepare for trial."

Kuslansky says that thinking thematically as early as possible also aids trial lawyers in devising their strategies regarding discovery, expert witness selection, report preparation, opening and closing themes and throughout trial.

Consider using a trial consultant

Bringing in a trial consultant – and even a design consultant, if possible – early can help you develop your visual strategies. These trial experts not only give your exhibits direction but also ignite ideas and help flesh out your trial strategies and case themes.

Use jury research

Jury research reveals how well your graphics communicate your themes and "sell" your strategies.

"We modify existing graphics based on research feedback or create new exhibits to emphasize or clarify issues that resonate with the mock jury," says Kim Madda, a Chicago senior info-design consultant.

Tailor your graphics to tell your story to the jury. Good trial lawyers are essentially good storytellers. They introduce characters to jurors and translate case facts into a story with a beginning, middle and end.

Simplicity is key. A 1992 U.S. Department of Education survey showed that only 20 percent of people are capable of comprehending complex information. Your exhibits should simplify and educate in order to make it easy for the jury to understand why you should win.

Time lines, for example, can help tell your story. With a beginning, middle and end, time lines are an easy way for jurors to focus on the timing and sequence of events. They are also an effective way to help jurors understand the case's big picture.

Salient points and themes can be conveyed effectively in your graphics' titles. As Kuslansky says, "Titles serve to announce the point of the chart and what conclusion to draw from it effortlessly. An effective graphic requires no more than a quick glance to know what it is about and its point."

Lawyers often make the mistake of including too much information. "Don't burden a graphic with too many messages. Stay focused on the main point you are trying to convey, and if necessary create additional graphics rather than clutter your exhibits with competing information," says Sabrina Ferris, a Los Angeles senior info-design consultant.

Your exhibits should have a consistent, eye catching look, color and feel. A strong visual design should be employed to convey your themes, tell your story, simplify complex information and, ultimately, persuade your jurors.

Remember: The persuasiveness of your courtroom presentation lies in its visual power and appeal. Once you have that, you'll have a presentation that connects with your jury in a dynamic and persuasive way.