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# Visible Impact

## Compelling charts and graphics can make opening statements more memorable

By Noelle C. Nelson

**A**lthough the debate is never-ending among lawyers over whether jurors make up their minds about a case after opening statements or only after closing arguments, one thing is certain: A powerful and persuasive opening statement goes a long way toward influencing jurors.

Giving particular attention to the juror-worthiness of your opening statement is therefore critical. Once you have determined the substantive issues you want to cover, presenting those issues to achieve maximum juror impact is key to your success.

Scientists tell us that after three days, only 10 percent of what is verbally presented and 20 percent of what is visually presented is remembered. However, when a verbal presentation is combined with a visual presentation, 65 percent of the presentation is remembered. These statistics bring home the importance of demonstrative evidence and visual aids to successful trial lawyering.

Given the tremendous importance of the opening statement in juror persuasion, it is wise to incorporate visual aids at this early stage of the trial. Here are ways visual aids can be designed and presented to support and give impact to your opening statement.

One of the most commonly used visual aids in opening statements is the time line, a chart that summarizes the key events as they occurred over time. Most time lines are geared toward succinct presentation of information, appealing to the logical mind of the jurors. These time lines consist of a column of dates on the left-hand side of the chart, with the information corresponding to each date given in condensed or "highlighted" format on the

right-hand side of the chart.

As valuable as this type of time line is, it fails to take into account the emotions and subconscious minds of the jurors. These are appealed to with the use of symbols—something we are familiar with but don't necessarily think to incorporate in visual aids. For example, stop signs are in red, a color that subconsciously alerts us to danger or high risk. When a line is drawn diagonally through something, we understand that line to mean "don't," as in "don't smoke here." Yellow means caution and is used on signs to alert people to go cautiously or handle materials carefully. These symbols and many more are immediately understood by our subconscious mind and can be used to present information for maximum juror impact.

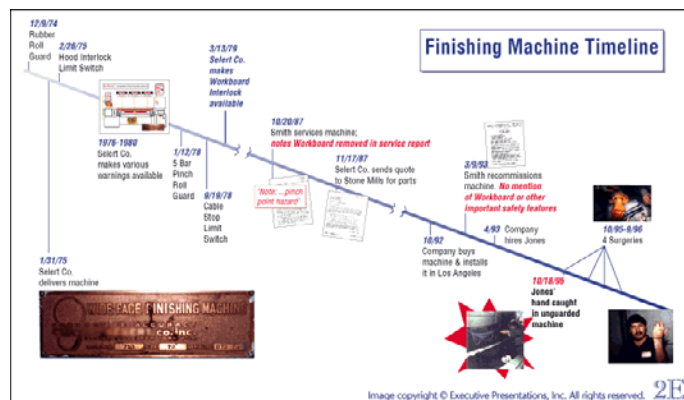
Executive Presentations, a firm that specializes in creating visual aids for the courtroom, developed a time line for a recent case that exemplifies the use of symbolic language with targeted presentation of information. The case concerned the plaintiff's severe injury, which occurred when the plaintiff's hand became trapped in a machine manufactured by the defendant. Warnings had been issued over the years that the machine was in need of a particular safety mechanism. The technicians responsible did not heed the warning.

The plaintiff's lawyer wanted to bring forward in the time line the key elements of defendants' failure



to properly repair and maintain the machine, which resulted in a steady course toward the eventual disaster. Rather than simply charting the events against the appropriate dates, the company created the chart [shown below].

The time line is descending, symbolically showing the steady downward course and inevitability of a crash at the end if no countering force intervenes. The injury is set against a jagged red backdrop, jagged edges being symbolic of “breaking” (i.e., breaking glass produces jagged edges) and of pain and trauma. Red is used as a “danger” color.



Rather than just give a two-line summary of the content of each relevant document (warning, service reports, etc.), the time line included photographs of the actual documents, subconsciously bringing home the uncontested existence of those documents (seeing is believing). During the several hours that the plaintiff had to wait until his mangled hand could be extricated from the machinery, photographs were taken. Instead of just noting the date and nature of the event as often happens in a more traditional time line, the exhibit included the actual photograph of the plaintiff’s mangled hand. The overall effect was compelling. The plaintiff’s lawyer used the time line throughout the trial, returning to it repeatedly and thus keeping his interpretation of the facts in front of the jurors. Such a time line serves as a summary chart for jurors, giving them an overview of the entire case from the plaintiff’s point of view.

Another variety of time line is process-oriented, showing the jurors, over a series of charts, how different elements came together in a case, ending

with a single overview chart. For example, a process-oriented time line would be useful when a lawyer wants to show how his client’s business had been increasingly successful until the occurrence of an event (the subject of the trial) that stops everything and the business fails.

Such an exhibit could show the increasing success of the client as symbolized by a series of ascending steps. The client’s impressive educational accomplishments could be symbolized by photographs of newspaper articles touting his achievements or by an icon of a diploma. His professional career could be symbolized by icons or photographs denoting some of his achievements. Another chart would show the same information – but on the right side of the chart, the jurors could see how the steps abruptly end. The client’s fate might be symbolized by a “for sale” sign on his previously affluent business. This type of process-oriented time line brings home to the jurors the rise and catastrophic fall of the client.

Presenting an opening without visual aids means not taking advantage of all the persuasion techniques available.

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