

# Cutting Edge Presentation Technology In “The Information Age”

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Presenting evidence in trial, mediation, and other legal arenas has changed dramatically over just a few short years. Incorporating complex technology to convey concepts in trial has become more prevalent, and we are still learning methods to prepare and present information to achieve the greatest impact with a judge and jury.

Key to finding the best vehicles for legal exhibits is understanding how the modern juror differs from that of a previous generation. Looking at how television news is being presented today can be instructive in understanding juror comprehension.

Television news shows of the '50s and '60s generally consisted of a prime anchor – such as Walter Cronkite – who read news stories and used limited film and visual information. The vocal qualities and storytelling capabilities of these news anchors



*Walter Cronkite 1960s*

were the key to holding and attracting audiences. Their method of conveying information was largely influenced by their personal presentation of the storyline. They were effective as communicators without the use of supporting visuals, however, at the time television was new. “Seeing” news read for the first time outside of movie newsreels, rather than just “listening” via radio, had far more impact than it would today.

During the late '60s and '70s the anchor person was placed within a “newsroom” set (rather than a plain backdrop) with an effort to make visual interest more dimensional. The camera still focused primarily on the news desk using small teams rather than just



*Walter Cronkite on the  
CBS Evening News Set  
New York City, 1978*

one person. The addition of film and video made it possible to incorporate “man-on-the-street” reporting, and could transport viewers to the scene of event, increasing the emotional impact on the viewer. Perhaps one of the greatest examples would be the landing on the moon in 1969, where video was sent back to Earth in real-time. At the same time, the technology of the newsroom became visible to the audience to add interest to the broadcast. Graphics were limited as computer visuals had not yet become available; videotape and film were the primary media.



ast forward to the news programs of the '80s and early '90s and the scene has changed to multiple anchors with a full team of specialists and personalities. This further augmented the broadcasting of media, increasing viewer attention with more variety of visuals, people, and footage. Graphics began to support



Dan Rather CBS Evening News

the anchor placed within a set. Graphic backdrops were incorporated which related to the story. Graphic symbols or photos of an event were placed in a "window" near the newscaster and were shown simultaneously on-screen with the footage. Greater inclusion of "on-the-spot" reporting increased the "urgency" of reporting, thereby increasing impact. Viewers began seeing a variety of graphics and images and became accustomed to absorbing even more information through the incorporation of multimedia at higher speeds.



CNN.com website

The beginnings of multi-tasking for viewing visuals had roots with computer graphics and editing technologies available to the broadcast industry. The digital age had increased visual complexity. During the '90s, commercials and films began to use rapid editing of many visuals at high speed to convey stronger impressions and capture viewer attention. The audience of Generation X had been raised on computer games and digital graphics. The web came of age, and visual complexity began to explode. Modern attention spans shortened as the pace and volume of information increased.



FOX News broadcast

Since 9/11, the incorporation of streaming media with a news person, plus the addition of graphics or footage – splitting up the screen into information panels – has become a common practice. In the past, a person walked on and handed Walter Cronkite a story – "this just in" – a '60s version of streaming media. Today viewers are being given information in real time before the anchor presents it, at a much faster rate

than a decade ago. Imagine today's viewers being presented with the events of 9/11 using the style of the 1960s. It would certainly capture their attention, but the impact might not have been felt so personally or as profoundly. The audience is now fully engaged on many levels.

What all this presents in the trial courtroom is a need for keeping the information moving to fully engage the viewer. While many attorneys are adept at great storytelling or oration, the current viewer – or juror – may not be tuned in or have an attention span that would keep him or her interested.



In addition, the complexity and type of material which is being presented in court over the life span of the trial can get boring or stale to jurors who are preconditioned to visual speed and complexity in our world of sound bites. Augmenting your case with technology is a big asset to juror retention – especially in document intensive/complex cases. We are still exploring ways of being more innovative in trial, without losing our past assets.

Layering graphics and technology can give the dimensionality that newsrooms sought to involve and engage the juror in the aspects of your case. The use of mixed media can keep and hold the attention of a juror better than presenting just the dry facts.

The basic elements of the newsroom can be used in the courtroom:

- **Oration** – the basic building block of creating a relationship with the jurors
- **Human element** – witnesses, experts, testimony
- **Physical elements** – models, demonstrative exhibits, real physical evidence
- **Images** – electronic enhancement of documents, databases of case data
- **Graphics** – storyboards, timelines, diagrams, photo enlargements
- **Video** – expert testimony and depositions, “day-in-the-life” experiences
- **Scripts** – opening and closing arguments, mediation presentations
- **Animation** – re-creations of events for emotional impact and comprehension

All of the above make it real for the viewers. Well-orchestrated uses of these elements can engage the jury, move the case more efficiently, relay higher volumes of information more effectively, and can speed the trial along without boring or burning



out the “audience”. You gain a flexible advantage when you find out what a particular juror may or may not understand by having a variety of information and ways of conveying it on demand. This is the cutting edge – the ability to focus the current technology and use all the means at your disposal to open the minds and hearts of the jury. The key word here is FOCUS.



Using cutting edge technology in trial can “cut” both ways. Used properly, it enhances and streamlines your case and builds a platform of visual support, augmenting your role as an advocate for your client. Used poorly, it can supplant your role as advocate, and technology becomes “the advocate” and you become “the support”. This can weaken your critical relationship with the judge and jury, and can lessen your credibility and negatively impact your client. The critical relationship bridge you build with your personality and interaction with the jurors can potentially be overwhelmed by technology, which can dominate attention, distract, or just turn the jury off.

The use of the variety of tools available today should be nearly “transparent” to the jury. Just as the overuse of visuals in the news media can create visual fatigue, boredom, and loss of interest, it can impact you adversely in the courtroom as well. An excess of graphics and visual effects flattens the relationship with the viewer and loses the emotional connection to the audience. Some of today’s popular news programs again incorporate a personality; such as Larry King Live, Hannity and Colmes, or the O’Reilly Factor, re-injecting a personal dimension lacking on image and graphic heavy news programs and hearkening back to the Cronkite era. Watching these programs becomes more engaging as the visuals are more supportive as illustrations, rather than as flash. What you remember are people and the stories. They still use plenty of graphics and footage, but in a fashion which does not distract from the news personality and the story, and re-engages the viewer.



Likewise, as an advocate you do not want to allow your presentation technology to take over or dominate, causing you to lose your connection with the judge and jury. It is critical to maintain your role and identity as the spokesperson for your client. **Again, you don’t want the jury to view the technology as the advocate and you as the support.**


Developing a relationship with the judge and jury is based on trust. Trust is built on credibility derived from accuracy and demeanor - your knowledge of facts and the law. Technology should support that role to enhance the building of that relationship. It is also an asset in building your credibility when used well – showing accurate information to the jury in an efficient form without wasting their time. The various programs available have purpose here in allowing you to present your case in a streamlined fashion and keep it real for the jury. PowerPoint, Trial Director, Sanction, and Animation are tremendous assets when employed properly in the courtroom. Each one has its strengths and weaknesses, therefore choose the proper program based on your needs for presentation.



**P**owerPoint has the advantage of giving focus and credibility to opening and most especially closing arguments. The program facilitates efficient organization of case data, allowing you to gather all the trial evidence as you go along. You then synthesize the material into a succinct and orderly closing argument which highlights actual evidence admitted during trial, refocusing the jury's attention on it. Rather than asking the jury to rely on their memory or what was written in

their notes, you revisit evidence presented during trial in a more powerful fashion, reviewing exact testimony or documents in a scripted and logical manner. Additionally, incorporating video "clips" of testimony to show witnesses impeaching themselves, or an animation to show how something happened, can be extremely helpful while you present your client's case. When used well, PowerPoint can build credibility and trust for you as advocate, enhancing rapport with the jury.

**"The Money Was Hidden From Us"** Exhibits 153, 1158, 1485, 1486

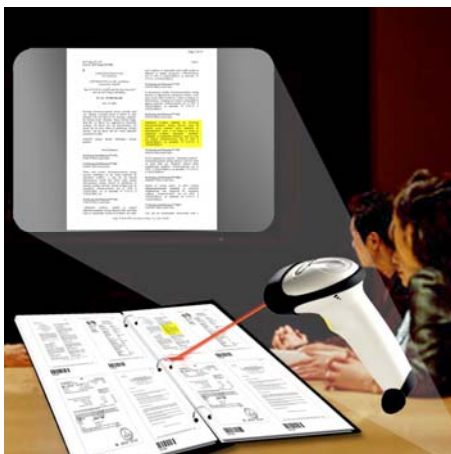


**ZYMX, Inc. - Factor Availability**  
October, 2002  
(\$ in 000's)

	ZYMX, Inc.	Three	ROX
Net Accounts Receivable	2,775	3,151	(376)
Inventory Collateral	9,032	1,900	7,132
Personal Guaranty	5,000	-	5,000
<b>Total \$ Available From Factor</b>	<b>16,807</b>	<b>5,051</b>	<b>11,756</b>

It is recommended you have a trial technician who has rehearsed with you, so that you focus on the jury, rather than on the technology. You want to make certain that their eyes are on you and you direct their attention to the visuals as you go, or the material could dominate your argument. The visuals should support, not distract from you. Likewise, keep your reading of the material on the screen to the main points so that you don't lose your jury. Remember the "newsroom" model.

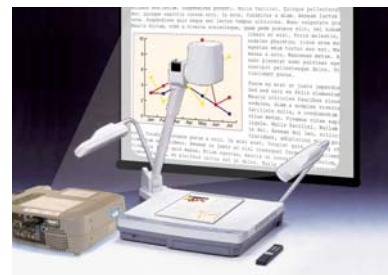
One of the weaknesses of PowerPoint is that you are "locked in" to a presentation; if you require a more interactive and on-the-spot presentation of evidence, **trial software packages**, such as **Sanction** and **Trial Director**, are more appropriate to use. These tools are useful in managing large databases of evidence for rapid recall and for highlighting important aspects of case documents or testimony. They allow you to focus the jury on



what matters most in a document. As you present evidence, matters come up and you have the flexibility to rapidly recall any trial document or video on-the-fly, comparing recent testimony with actual facts. They are best used in an unscripted forum, allowing you to prompt for display of specific documents. While using an **Elmo** can allow for similar on-the-fly display of documents, the placing of documents repeatedly on an overhead projector, and the eye-bounce it causes, destroys the focus of rapidly presented documents and objects.



**E**imos or Doar machines are great in small document cases, or trials with tight budgets. However, they are less precise and can waste time and make you look disorganized, lowering your credibility and losing your audience just like a poorly produced news program.

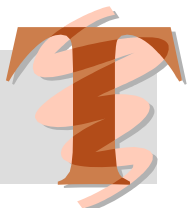
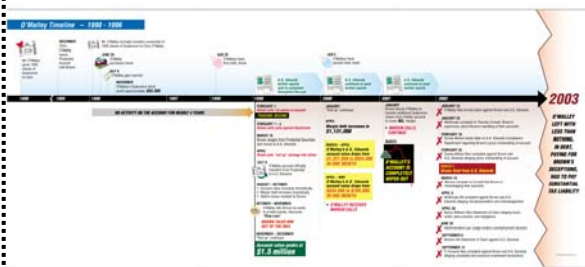


Recent developmental differences in the user interfaces of trial software programs such as Sanction and Trial Director have added enhancements which are visually more friendly and easier to watch. Currently, Trial Director incorporates improved graphics tools and transitions, allowing for even better display of video and documents. Again, having an experienced trial technician present is critical, so you focus on being an advocate, instead of dealing with software. The Achilles heel of on-the-fly presenting is not having the organization of a presentation locked in to keep things flowing smoothly. You also lose audience attention while deciding what to show and/or while you are looking for it. This technology is best used for daily trial display or unscripted rebuttal. For linear arguments with time restrictions, stick to PowerPoint.

In all circumstances, it is critical to scout ahead, determine the size and layout of the courtroom and check with the judge and see what will be allowed. You could waste time and money preparing something which will not be allowed to be shown. Be certain to include exhibit numbers on all documents and testimony in all your PowerPoint presentations, so it will be easy to switch live to the actual document and then back to the presentation if you need to on-the-fly. Again, this increases credibility and gives the jury the ability to jot down exhibit numbers for reference when deliberating.



Finally, don't throw out the baby with the bath water. Just because you employ technology to display anything you might need, dimensionality is important – **don't forget the boards and models**. The jury needs all the dimensions, plus they help tell the story better. Having a **timeline anchor board** available at all times keeps the perspective better focused while you are showing testimony or documents on screen. A **player's chart**, an **acronym board**, and other visual exhibits will round out that presentation, fully engaging the viewers.



**T**he use of technology is expected – just as the current juror has evolved, and what was once hot new technology has become a **requirement**. If the other side is using technology and you are not, you could be giving up a huge advantage.