

High-Tech Catches a Juror's Eye and Mind

A multimedia presentation in the courtroom can make a big difference

By C.C. Holland
Special to Law.com
February 12, 2008

Given modern society's increasingly media-savvy and image-intensive lifestyle, it's no longer enough to enter the courtroom armed with a whiteboard and a winning smile. Juries -- and judges -- are expecting attorneys to use a high-tech, multimedia approach to present their cases with both finesse and fireworks.

"There's no substitution for live testimony, but something that can be demonstrated on a screen is very beneficial because that's the way most of society is getting its information now," says John J. Ammann, a clinical professor and director of the Legal Clinic at St. Louis University School of Law. "For a lot of people, the information they get comes primarily from looking at a screen, whether it's a computer, a television or an iPod. Putting evidence on a screen in court is consistent with that and is very effective."

In addition, many jurors now seem to assume they'll be wowed by the presenting attorneys. "In this day and age, juries expect the use of such tools and they can give a litigator a leg up over an opponent that doesn't [use them]," notes Laurie Giordano, a practicing litigator in Rochester, N.Y., who specializes in commercial, insurance and personal injury cases. "I'm a firm believer in the benefits of multimedia presentations, and have seen it work effectively in several cases."

Using visual aids to introduce information can make it more persuasive, says **Noelle Nelson**, a clinical psychologist and trial consultant based in Malibu, Calif. "People believe what they see to a far greater extent than what they hear," she says. "When you put together a visual with an auditory [presentation] your chances of being heard and understood by a jury are greatly increased." And using a media-based presentation can be crucial for explaining difficult concepts. For example, a PowerPoint chart or an interactive timeline can help jurors keep track of the myriad doctors, medical staffers and chains of command involved in a medical malpractice case.

Many judges, too, are embracing or even expecting the use of computer demonstrations and multimedia aids during a trial. They offer clear benefits over traditional presentation methodologies by providing more clarity, allowing easier searching for specific data among exhibits -- which can be done with a few keystrokes rather than sifting through piles of paper -- and speeding up the trial process. "Judges are telling us they really enjoy the electronic trials because it makes the case go a lot quicker," says Rick Kraemer, president of Executive Presentations, a trial consulting firm in Los Angeles. "Some judges are saying they'll soon no longer allow paper into their courtrooms -- everything must be scanned and presented electronically."

Ready to jump on the multimedia bandwagon? Marching into court with a grainy video and an amateurish PowerPoint won't be enough. "The juries have expectations of good production value," says Ammann. And errors in presentation can kill your case: "Jurors do not forgive technical snafus," says **Nelson**. That's where turning to an outside firm with expertise in courtroom presentations can help. These companies are staffed with experts who can create broadcast-quality video, provide masterful computer animations, build photo and document graphics and blowups and craft scale models.

"The practical benefits include speed of turnaround, quality and just allowing the attorney to focus at trial on the proof and not whether the visual will be accurate, ready and working," says Giordano. "The quality of production is just tremendously better with these outside companies, because they can afford to have

equipment that a law firm wouldn't be wise to spend money on," adds Ammann. Consultants can also help whittle a job down to size. "With electronic discovery now, and when you're talking about thousands and thousands of pages, hiring an outside company makes sense," he says. In addition, they can provide technical setup assistance and helm the controls during the trial, allowing for a seamless interaction with the attorney.

Many full-service shops do more than simply create exhibits on demand; the best will help you analyze your case to find the most effective presentation strategies.

"We specialize in being experts in presentation," says Peter Fain, vice president of trial technologies at TrialGraphix, a trial consulting and services firm that was recently acquired by Kroll Ontrack. "Our information design consultants figure out the most visually persuasive way to present the information in a clear and concise way."

It's about telling a seamless tale, adds Kraemer: "We're storytelling electronically through the visual medium."

The Focal Point, a courtroom presentation consulting firm in Oakland, Calif., uses a proprietary five-step process they call "Mental Mining" to discover central case theories and themes and turn them into winning courtroom pitches.

"Lawyers are excellent with words, but they often have a hard time coming up with ways to communicate beyond words," says Chris Ritter, a partner in the company and its chief visual trial strategist. "Certain things are so complex they require you to use graphics, analogies or stories to find other ways to communicate."

Can a well-constructed presentation sway the outcome of a trial? "Definitely," says Teresa Caffese, the San Francisco public defender involved in the Lashuan Harris murder trial in 2005. In the highly publicized case, Harris, a mentally ill mother, drowned her three young children in the San Francisco Bay after hearing voices; she was found not guilty of first-degree murder by reason of insanity and is now institutionalized. Caffese credited The Focal Point's pro bono assistance with helping her client avoid the death penalty.

"The facts were not in dispute: Yes, she put three innocent babies into the water and drowned them," says Caffese. "But how do you get around that terrible, terrible act and focus on the person and find out why it happened?" The Focal Point supported her defense by creating graphics that explained the biochemistry behind schizophrenia and detailed Harris' long struggle with the disease; in addition, they created a compelling collage of pictures narrating the troubled woman's life. "I knew the jury had to have the story. Once they had it given to them in a way that was convincing and compelling, they'd feel the compassion that was so deserving to my client and do the right thing," says Caffese.

How much does this sort of outside assistance cost? Service fees can range from pro bono to six figures, but most firms are willing to start small. "There's definitely a benefit for a smaller firm, because one timeline can really clarify a picture, or one accident recreation can really have an effect," says Fain. "The trick is finding a firm that is able to offer a variety of services."

Ritter stresses that it's the analysis, rather than money spent on display aids, that makes the difference. "Guys with unlimited budgets think they can use technology to solve all their problems, and the smaller guys think they don't have a budget so they don't bother going through the process," he says. "What's really important is the process, thinking and clarifying. You can make compelling graphics for only a few dollars, but a crummy idea on an expensive piece of equipment is still a crummy idea."

C.C. Holland is a Northern California-based freelance writer.