



Combating Negative Juror Attitudes Toward Insurers With Effective Visuals

By Adam Bloomberg, Client Services Advisor

In short, jurors aren't enamored with the insurance industry, and these negative sentiments can make your insurance defense case an uphill battle. How do we know that? We carried out a nationwide poll to learn more about juror attitudes toward insurance companies. While our findings varied, a general pattern of skepticism and negativity emerged.

The good news is that unfavorable opinions *don't* have to be a death sentence for your case. Aside from the ultra-important jury de-selection stage, developing powerful themes and telling a relatable, memorable story can give your case just the boost it needs to counter bias.

To tell such a story, it's imperative that you incorporate well-tailored graphics with strategic purpose. Graphics have a unique and powerful role to play when you're up against a tough jury.

Bringing the Policy to Life

If jurors soundly understand the framework of the insurance policy and the related law, the influence of their emotions—and your opponent's emotional appeals—diminishes. But, because policy documents can be so lengthy, confusing, and dull, you must find visual ways to keep the jury interested in and attuned to your story. Below are a few options.

Tastefully Add Animations

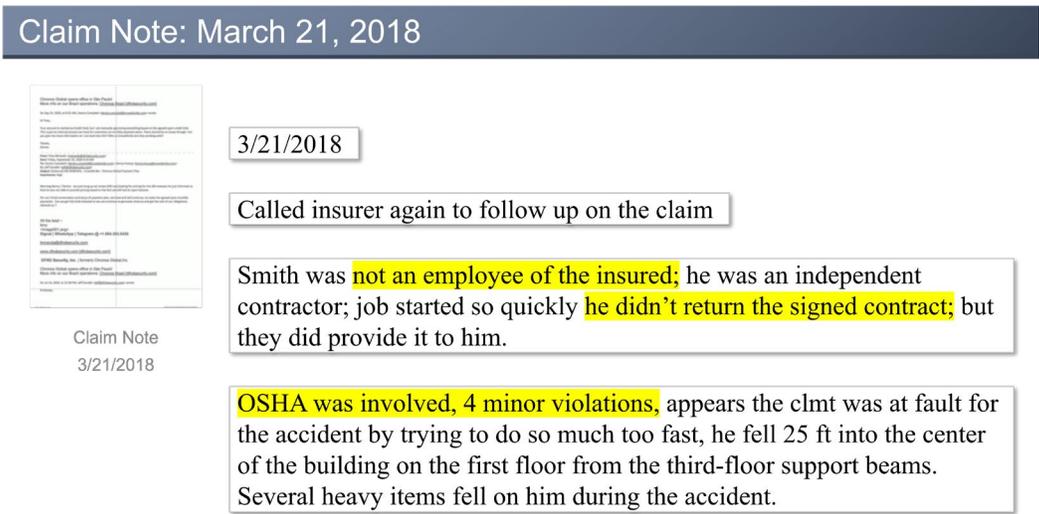
Animations are great but certainly not in all forms. Flashy text and images flying on and off the screen can be distracting for jurors. Instead, use animations to *simplify*. The policy is complicated enough, so offer information in bite-sized pieces for effective, step-by-step storytelling. Building as you go keeps jurors focused on your commentary and prevents them from reading ahead or becoming overwhelmed.

This effect is often accomplished by zooming in on important language from a larger document. For example, if the policy in question underwent numerous revisions, each click could zoom in on the language of a different revision so you can more closely discuss the terms you understood to be final.

Incorporate Colors and Icons

Colors and icons are another tried and true organizational tool and are very easy for jurors to recall. Both can be used to (again) *simplify*—reducing clutter and wordiness and differentiating parties, themes, etc. You can then use these same distinctions moving forward so jurors have quick, shared reference points in your case, which creates helpful signposts and bookmarks for jurors’ later deliberations.

Claim Note: March 21, 2018



3/21/2018

Called insurer again to follow up on the claim

Smith was not an employee of the insured; he was an independent contractor; job started so quickly he didn't return the signed contract; but they did provide it to him.

OSHA was involved, 4 minor violations, appears the clmt was at fault for the accident by trying to do so much too fast, he fell 25 ft into the center of the building on the first floor from the third-floor support beams. Several heavy items fell on him during the accident.

Ex. 1234, at pp. 2, 9

1

Figure 1. Document Callouts

In Figure 1, we see two examples of document callouts. On the left, a yellow outline indicates language discussing the type of coverage, while on the right, a blue outline indicates language discussing OSHA violations. This method helps add variation and emphasis without muddying the message.

The imprint value of your message is inversely related to its complexity; each graphic needs to be concise and easy to understand.

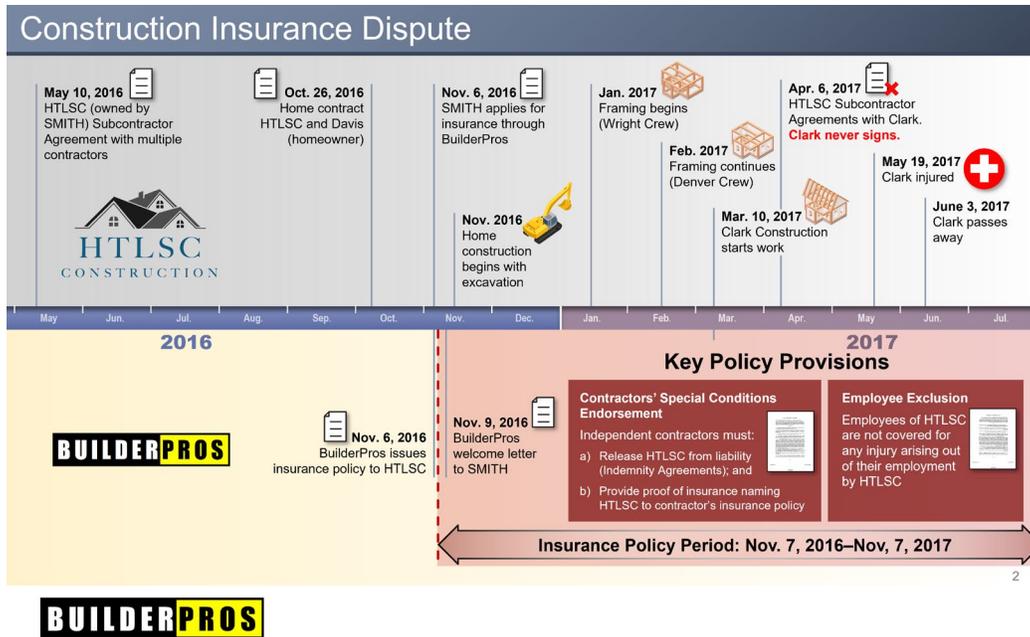


Figure 2. Colors and Icons

The timeline graphic above (Figure 2) tells the story of an insurance dispute involving a policy that required all independent contractors to release the builder from liability. The contractors were required to provide proof of insurance before any work was performed. A worker was fatally injured on the job, and it was discovered that he had been allowed to work without the necessary proof of insurance.

Because the majority of entries were accomplished with icons and very little copy, the key provision language fit nicely on screen as part of an animated sequence.

Humanizing the Insurance Company

In our polls, jurors expressed some significant concerns about insurer motives and ethics. For this reason, humanizing the insurer is a must. The goal is to separate jurors from any mental images they might have of some massive, faceless profit machine. Graphics play a large part in doing just that.

Individuals Who Make Up a Whole

Start with the basics. Emphasize the positive, human element of your company. This can include showing a few pictures of real people at work for the insurance company, and perhaps the people who were directly involved in negotiating or servicing the policy at issue.

You could also supply some information about how many people the company employs, how long it's been in business, etc. Break down the company into its individual parts so it doesn't seem like an unrelatable monolith.

Later on, include testimony slides with pictures of each deponent. This will add that same personal touch to the testimony and can bolster your witnesses' credibility (See Figure 3 below).

Denying Coverage



Bill Cameroon
Insurance Company
Representative

Q. When you spoke with Mr. Johnson did you already know about the OSHA violations at the job site?

A. Yes.

...

Q. Did that have any bearing on your decision to deny the coverage?

A. No, not at all. Those things happen all the time on a job site. They are corrected and the construction moves along. In this case the coverage was denied simply by the fact that the subcontractor was not an employee of the insured, he was an independent contractor. There was a contract but the subcontractor never signed it. It's a tragic situation, I feel for his family. He was provided the contract but never signed it. We can't control how general contractors and their subs conduct their business.

Cameroon Dep. at 68:6-19, 8/17/18

3

Figure 3. Using Photos of Witnesses

There's No Such Thing As a "Perfect" Company

Infallibility is an extremely difficult position to take and tends to come off as artificial. Humans make mistakes. Your opponent is going to pitch a lot of accusations, and, in most cases, there are areas where the company could have performed better.

So, instead of trying to prove your perfection against the barrage, try to embrace apparent negatives—it can take the edge off the accusations, give you more control over the message, and, most importantly, feel sincere to the jury. Above all, be proactive. The key is to show that when you do make mistakes, you take responsibility and work to correct them.

You can also come back with testimony or evidence demonstrating your company's commitment to ethical practices and its track record of correcting any mistakes or oversights. A simple checklist can be effective here: one by one, you can highlight the lawful and/or ethical actions in which your company engaged.

Conclusion

Because so many jurors harbor negative feelings about insurance companies—but not all with attitudes extreme enough to strike them for cause—even a case that feels like it should be fairly straightforward can run into a jury with a bone to pick. With the right case themes and tactical graphics that fortify those themes, you can break down biases and get the jury focused on the merits of your case.

Let us help you brainstorm themes and graphics for your next insurance defense case. [Contact us today to get started.](#)

IMS Consulting & Expert Services delivers award-winning consulting to support the most influential law firms through every stage of litigation, arbitration, and mediation. Combining the perspectives and proprietary methods developed over 30 years and more than 2,000 trials, IMS provides attorneys with the essential services they need to win: integrated strategy, expert witness placement, jury consulting, visual communication, and courtroom presentations. With strategic locations in major US and UK markets, the IMS team is primed to support in-person and remote dispute resolution needs across the globe. More at [expertservices.com](https://www.expertservices.com).