



Trial Graphic Fundamentals, Part 1: Developing a Strategy Long Before Trial

By Adam Bloomberg, Client Services Advisor

Sometimes, graphics are developed late in the pre-trial process—often when clients prefer not to sink limited, budgeted resources into preparing trial graphics for a case they believe will settle. Yet certain cases are not candidates for settlement or, as in serial litigation or mass torts, present trial themes that are certain to recur. In these situations, counsel should lobby their clients to invest in developing graphics as far in advance of trial as practicable.

Experienced trial attorneys understand the value of focusing on trial graphics early in the process and integrating the central theme development into their presentations. Doing so can pay big dividends to the overall process and product.

How Early Graphics Creation Helps Your Case

Rallying Around Themes for Trial

Developing graphics imposes discipline on the trial team—both lawyers and client—by forcing them to focus on trial themes. Trying to put together an image that sharply and concisely communicates and reinforces your trial themes requires you to know what they are.

Ideally, making these choices early in litigation can help all team members pull on the same side of the rope and avoid the unpleasant “*Why are we arguing that?*” conversation with your client on the eve of trial.

Setting a Course for Discovery

Good trial graphics can be used as outlines for discovery, especially in recurring litigation. If you know what data you will need to build out your graphics in an individual case (e.g., dates the plaintiff used your product), you can focus more clearly on developing those data in discovery.

Along the same lines, if multiple lawyers or law firms will be taking depositions around the country, preliminary trial graphics can serve as educational materials to ensure that attorneys and witnesses are focusing on information essential to the development of your themes and graphics. Such guidance can be especially important with experts; if you know what scientific failings you want to show to the jury, you can be sure to gather the necessary testimony and documents in discovery.

Testing Reactions from Mock Jurors

If you get the opportunity to test your case with a focus group or mock trial, always include graphics. If the goal of a mock trial is to test your vulnerabilities as well as your case themes, you should also spend some time developing graphics for opposing counsel.

This balanced approach will allow mock jurors to weigh the arguments equally. Additionally, a mock trial allows you the time to rehearse your opening and closing presentation and provides a less stressful training ground for your experts to present their graphics in front of the jury.



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Smoking Out Bad Arguments

All lawyers have had the experience of thinking they've identified a winning argument, only to have it fall apart when you say it out loud. It sounded good in your head, but it sounded insane (or mean, or too complicated) when you spoke the words.

Developing graphics requires you to go a step further—turning concepts into images the entire trial team can see and hear. Arguments that survive the transition from thought to concrete image are more likely to persuade at trial.

Up Next

Continue on to [Part 2](#) for the basic rules you should follow in order to create effective trial graphics.

This article series is based on a program originally presented to the International Association of Defense Counsel (IADC) by IMS Client Services Advisor Adam Bloomberg and Bryant Spann, Partner at Thomas Combs & Spann PLLC.

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