



The Jury

from MAY 2014

Volume 26, Issue 2

EXPERT

The Art and Science of Litigation Advocacy

A publication of the American Society of Trial Consultants

PowerPoint in the Courtroom: Powerful Points To Consider

by Suann Ingle



PowerPoint continues to take a lot of hits lately for being ubiquitous, pointless, overused, over-animated, flashy, over-relied upon and distracting in many different fields – education, healthcare, government, law, corporate life to name only a few. This should surprise no one, especially since it has become so widely used. In a 2012 piece, BusinessWeek estimated one billion installations of the software. That same article also estimated 350 presentations happening every second across the globe. It should also surprise no one that almost as many opinions about its evolving worth have resulted.

Its widespread use is likely similar to what Microsoft Word did to both writing (I type, Voila! therefore I write) and to the lost art of typesetting by hand (if you still double space after a period, you shouldn't). Courtrooms and other venues of dispute resolution are increasingly wired and ready for such presentations. And with an estimated 95% of the presentation software market cornered, PowerPoint is the go-to tool many legal teams use to preview and highlight evidence they expect to come in at trial, and also to sum up the evidence that actually has come in when they argue closing. In addition, they use the software to organize their thoughts, thinking perhaps that they are saving time.

PowerPoint is an incredibly sophisticated and versatile tool, one that in the right hands can also be an effective and persuasive complement to an oral presentation in the courtroom. This essay explores the current use of PowerPoint in courtroom presentations. It imagines a higher level of quality when “beauty” is considered and applied, that differentiates from the expected, safe, pedestrian types of presentations.

If even a fraction of the estimated 350 presentations delivered every second around the world, courtroom PowerPoints serve many, many purposes that can be considered successful. They keep attorneys on track, they summarize for those jurors who are paying little attention, they repeat or echo the words being spoken (for better or worse), they provide a crutch when needed, and they give otherwise bored judges and jurors something else to study when the material itself

either isn't all that interesting, or is so foreign as to be completely disregarded. All in all, a quick, easy recipe for mediocrity.

Consider some time and attention, and an eye for the esthetic, and you've just raised your expectations of what PowerPoint might actually do for your case. One of the first things we ask artists to do when creating presentations is to start with something attorneys can't easily create themselves. Stay away from the myriad templates and default fonts. Use deliberately chosen colors, fonts and be free with formatting because creating a visual system for conveying complicated information will often translate to thoughtful, dignified means of communication.

Speakers began supplementing presentations with visuals as soon as it was technically possible. If we really want to explore this without blaming PowerPoint for everything...what exactly were the cave drawings? Weren't they at least evidence that early humans were trying communicate visually with the tools of the day? And do we see anything but pictures on those walls? Though I don't visualize a cave dweller standing up and pointing to "present" anything, if they were, they were doing it all without a clicker... So skip ahead a few years or millennia.

Remember overhead projectors anyone? Teachers used them regularly and wrote with colored permanent markers on transparencies run through copy machines instead of paper. I mention this, because like the classroom, the courtroom too has used whatever means available to "show" or "demonstrate" something to an audience of learners – to help speak to a group at once while directing attention to something other than the speaker.

Technology in the modern era began splintering our attention spans – television commercials, call-waiting – all before the Internet, mobile phones and then smart phones – and as a result, likely caused a restlessness in audiences who began thinking, "surely there must be something more interesting to look at other than the speaker while I am listening" or "what am I missing while I listen to this?" And if you can remember a time before PowerPoint, then you know that it doesn't mean the points on "computer graphic" slides had any more power then. Though they certainly cost more – a slide-producing artist in the early 1980s could easily earn \$25 - \$50 dollars per hour designing slides using \$80,000.00 computers. There were no such thing as templates, and photography studios were busy developing the film that made slides from DOS files on floppy disks. But I digress.

Those of us who remember courtroom presentation aids before PowerPoint (it has been reported that the use of a blackboard in the courtroom was controversial and the center of debate as late as 1959) might attest to their power. But they weren't easy or fast to make, so they required more time, attention, focus and planning (anyone for cutting and applying large sheets of color tints to large black and white printed and mounted photo paper?). Imagine crestfallen trial teams on the eve of trial when a case had just settled, sitting amidst a multitude of 3x4 foam core exhibits that at best would end up being used for play in backyards.

And perhaps that is why courtroom exhibit boards might be considered even more powerful than what we see in courtrooms today. They didn't "flash" and disappear for one thing. And whoever coined the phrase "A Picture Is Worth A Thousand Words," must have understood that the

thousand words had to come before the picture. And that one does not supplant the other, rather one relies on the other to exist.

And, while at first blush it would seem a foregone conclusion that to create the one picture that was worth a thousand words, it would be silly (and possibly infuriating) to think it were easy to do so. I feel compelled to mention here that too many PowerPoint presentations in court look like “a thousand words,” all on one slide. Again, I digress.

How does a trial attorney go about getting her arms around the whole idea of PowerPoint in the courtroom? Which, some may say, is at its simplest, a slide projector (on steroids). How does one go about developing a complementary visual presentation that actually helps, rather than hurts your case in front of a judge or jury or both? How does one avoid slide overload?

Here’s how: pencil to paper. Don’t start with PowerPoint, start with the “thousand words.” Refine them, edit them, re-work them, oh heck, sketch them. Arrive at your message, and then commit to a medium that may or may not include PowerPoint.

And know this for certain: there is a place for beauty. You may feel smart for having created slides that are attractive, clever and complete. But more likely, those slides offer a great start, and resemble your script more than the final visuals. We have transformed a fair number of attorney-drafted “slide decks” by transferring their content into the Notes section of the slides so that we could use the slides to complement and reinforce the message rather than be the message.

The legal arguments attorneys deem so urgent and vital that they must be accompanied by something other than your spoken word at the podium, will have a better chance of being persuasive if you choose a visual designer, who thinks about beauty, composition, flow and esthetics to develop your final presentation. Imagine the edge you gain, if you finalize content, and then let it go so that someone else, trained in the esthetic, could take it to the next level with visual comprehension in mind.

You may be thinking, “PowerPoint is so easy, I have begun composing with it, so I’m ahead of pack, already working in the final form” or “we have a young kid who works wonders with PowerPoint – he’s fast, creative and so facile with the software.” Think about this: The ability to compose in PowerPoint might translate to speed, cleverness, technical skill, but it won’t likely translate to clarity and context, two vital things you need for sure in the courtroom. And most importantly, technical savvy alone doesn’t put the viewer first, which is the very best way to judge a visual presentation.

Whatever you do, avoid throwing the baby out with the bathwater, and taking the proverbial high road. We have heard many versions of this: “I don’t need to think about that stuff. I’m an old-fashioned type of guy. I just need to stand up and tell my client’s story without all that fancy technology.”

Think long and hard about how that will compare with your adversary, the one using visuals well and with practice. One attorney I spoke with insisted that his recent win was due in large part because his adversary used a bunch of “fancy technology” and he did not.

Eschewing PowerPoint or “fancy technology” just because you have never needed it in the past, or because you think you can outsmart anyone who does, can be a highly risky strategy. Another attorney recently followed up his losing trial with “we were ‘out done by a multimedia show,’” he said. “They had a virtual circus on the other side, and I think the jury was entertained and felt as if those attorneys were telling a complicated story in a way that helped them understand – mind you, even if they didn’t.”

I am not sure either comment above proves, or disproves the merits of visual communications, but the myriad style choices that come inside presentation software packages like PowerPoint are the culprit here, and part of the reason for the bad press. Flipping, dancing, bouncing and flying bullet points do not a successful oral argument make. But the process of creating them can make you think about your content in a meaningful way. This will become clearer to you if, after composing in PowerPoint until you are happy with the content, you hand it over to a visual designer, one who is well-versed in legal setting usage. Doing so will:

1. Create a more visually understandable and appealing piece of work, and
2. Support you, not supplant you as you argue on behalf of your client.

At a minimum, a visual aid can complement your style and message, whatever it is. And by visual aid, I do not mean your script in large white bullet points on a lovely blue, gradation laden background. I mean carefully choreographed images interwoven with your spoken words that lead to the visual connections your jurors will make. This includes the use of black screens when the time is right, so that your audience is captivated by your words and their meaning alone.

Lastly, if the value of a picture is truly a thousand words, it should be noted that PowerPoint doesn’t absolve you of the task to write those thousand words. But it can help you bring them to life with powerful dimension in ways that move people to act in favor of your client.

ABOUT SUANN INGLE ASSOCIATES



Suann Ingle Associates offers a rare combination of talent, wisdom and high-level experience in designing decisive communication for high-stakes legal disputes. We integrate our multimedia expertise, legal acumen and courtroom experience with efficient processes and exceptional responsiveness, all for the purpose of creating and presenting compelling legal arguments.

We bring a sophisticated understanding of how lawyers frame and present cases, how people take in information, and how judges, juries and arbiters form conclusions from visual evidence. This understanding is based on consulting on more than a thousand cases throughout the United States and Europe on matters involving intellectual property, white collar, insurance, financial services, employment, and complex business disputes.

We are consummate team players. We understand the roles that clients, attorneys, and other trial consultants play, and how to help bring out their best contribution at all stages: whether it's assembling the team, selecting themes, conducting mock trials, seating juries, or putting it altogether in the courtroom, arbitration hearing, or settlement conference.

Like our elite clients and business partners, we don't back down from a challenge. We do what it takes to find the combination of ideas, images, teamwork and timing that ensure a positive outcome. Yet we never lose touch with the human factors that make partnering a pleasure and that make the legal field an exciting and rewarding arena for talented people.

**SUANN INGLE, MS
MANAGING PARTNER**

Suann Ingle is one of the country's top visual communication consultants for trial attorneys and litigants. An expert graphic designer, she is also a trusted partner who offers decisive advice on presentation strategy and execution. After thousands of hours in the hot seat in courtrooms and arbitration hearings, Suann remains calm, focused and unflappable regardless of circumstances. This enables her

to sense what's coming, and adjust visual communication on the fly to keep judges, juries and arbiters focused on the merits of the case. Suann's talents and experience take on even greater power when she integrates her graphics and presentation expertise with jury research and mock trials. With more than 500 cases behind her, she has developed a keen sense of how people learn, retain, and decide issues based on visual evidence. She and her team can convert this understanding into compelling messages with speed and precision, even when headline engagements require around-the-clock support.

Since entering the field in 1994, Suann has consulted on a wide range of litigation matters, including intellectual property, white collar, insurance, financial services, employment, and complex business disputes. She has extensive experience in scaling and managing trial support teams and has helped deliver successful outcomes in venues throughout the United States and in Europe.

Her visual expertise is grounded in intellectual knowledge, including a Master of Science degree in Communications Design from Pratt Institute. When she is sketching her ideas, she can explain the principles behind them – and why they increase the odds of winning. Her personal warmth and deep educational background also enable her to teach, develop and inspire other graphics professionals to embrace the challenges of high-stakes litigation as a career.

Prior to entering the field of trial consulting, Suann Ingle spent seven years at Coca-Cola where she managed the Creative Services Department. In 1996, she joined TrialGraphix and was instrumental in establishing its New York office. At TrialGraphix, Suann managed the office and provided clients with presentation consulting at trial. She also spent three years at DecisionQuest, where she assisted legal teams in trial by providing visual solutions to complex, high-stakes matters. Before starting her own firm, Suann worked at FTI Consulting, Inc., leading the New York office of the Trial Services Division.



NANCY J. GEENEN, MA, JD
MANAGING PARTNER

Co-founder Nancy Geenen is an engaging teacher who speaks and writes frequently on persuasive presentation, jury selection and trial, litigation management, and attorney training. Her insights and advice come out of more than two decades as a BigLaw trial attorney and prosecutor for the United Nations, preparing and presenting high-stakes cases involving



commercial and intellectual property law. A best-selling author, she shares her experience with humor and sensitivity to her audience, ensuring that her messages are both memorable and applicable.

At Suann Ingle Associates, Nancy advises trial teams and clients on themes, strategy, mock exercises, and strategies - and how to integrate compelling visual communication. She typically works closely with lead trial counsel and end clients in the 100 days before

trial, helping them understand risks and opportunities as each strategy decision takes on greater weight. Based on her first-hand knowledge of legal venues ranging from California to Washington, D.C. to the United Nations in Geneva, Switzerland, Nancy helps her clients understand possible outcomes before they happen, and how to prepare for the event.

This combination of experience and insight applies to arbitration and settlement situations as well as bench and jury trials. Nancy has tried or arbitrated over 150 business disputes, including financial services and intellectual property cases. She has also led and managed complex, high-stakes business disputes under close public scrutiny.

In the late 1990s, for example, Nancy worked as a prosecutor for the United Nations Compensation Committee (UNCC) in Geneva, as it resolved claims resulting from the 1990 Gulf War. She investigated and prosecuted claims filed by 420 business entities from 45 countries, involving more than \$11 billion in restitution. Nancy appeared for both CNN and CNBC as a guest commentator and shared her expertise with international audiences.

Nancy is admitted to the District of Columbia Bar, the State Bar of California, each of the U.S. District Courts in California, the Ninth Circuit Court of Appeals, and the U.S. Supreme Court. She holds a Juris Doctor from Santa Clara University School of Law, a Master of Arts in Education from Stanford University and a Bachelor of Arts from Stanford University.