White Paper:
Integrated Presentation Development for Litigators
Utilizing Feedback Loops to Add Persuasive Power

FIVE CORNERS GROUP

Prepared by Craig Veconi

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The Problem: Presentation development too often becomes a last step in preparing for litigation, sometimes (literally) undertaken only on the eve of trial. But without sufficient time to develop, vet, and refine the case presentation, it threatens to turn out unfocused, inaccurate, or boring. As result, it fails the key goal in litigation: persuasion.

                          This approach may also lead to unexpectedly large costs for clients both in terms of fees spent on unused graphics and, ultimately, damages that might result from a loss at trial. In addition, there are negative side effects. The stress of an inefficient presentation-development process puts strain on trial teams, and can impact job satisfaction and turnover among team members.

The Solution: Based on our experience, applying an integrated approach that has litigators and graphics consultants developing trial presentations results in better presentations, cost savings, and less stress. Just as no theatre company would get to opening night without working out blocking and stage direction, trial teams (attorneys and graphics team included) must develop their case by working together and and starting early. This allows trial teams to benefit from a feedback loop that adds clarity, polish, and persuasive power.

                          I can easily and sincerely say that our presentation consultants at Five Corners Group (5CG) are experts at PowerPoint, TrialDirector and other design and presentation applications. I'd venture we can make slides or cut depo video as fast or faster than anyone out there. Sometimes that is *very* helpful, but in the larger scheme of things, that's not what makes for the most persuasive presentations. Because while these applications have streamlined the preparation and presentation of demonstratives and evidence in the courtroom, that streamlining in and of itself has led to faster and cheaper, but not necessarily better.

                          We believe an integrated story and graphics development process to be most effective. In this process your story (case) and your presentation graphics are developed in concert through rehearsal and revision cycles. Each can be used to
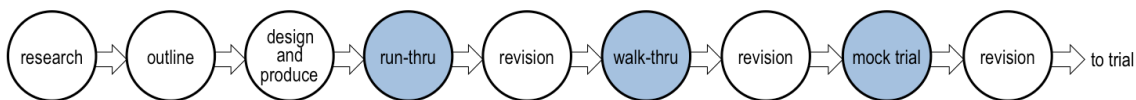
measure the completeness of the other. Holes in your story? Draft a PowerPoint presentation of your opening (as an example) and look for weak slides or themes that are unsupported. Likewise you might find you have a graphic or document in your presentation that makes an unnecessary point or is redundant. Cut it.

Rehearsal is critical in the process, though all too often ignored. This is no surprise given the context. Rehearsal requires valuable time from the trial team and involves uncomfortable public speaking. Perhaps worse, rehearsal involves exposing an attorney's ideas to the scrutiny and criticism of their clients, experts, and colleagues.

The solution is to integrate rehearsal into the graphics development process and engage all members of the trial team early. It should be clear that rehearsal is a team effort and forum for everyone to offer input. The trial-team leader, team members, presentation specialists, jury consultants and experts should all take part.

I'll use the example of a large trial to illustrate the process. To that end, we propose the below framework for developing a mock-trial "clopening" that will be the foundation for an opening statement. In sum, the process involved the following steps (rehearsals highlighted):

> "Wait until the last minute and the presentation looks like an afterthought."
>
> -Matthias Kamber,
> Keker & Van Nest

Research: Where the lead attorney and senior trial-team members review evidence from expert reports, depositions, and documents, both good and bad. Assembling this material allows the group to develop a storyboard and begin considering issues and themes.

Outline: This is typically a working session, where the lead, a senior trial-team member, and our presentation consultant discuss the story and ideas for graphics / animations and display of supporting evidence. A lot of white-boarding goes on in this phase. We help organize the presentation into chapters that provide an easy to follow "plot".

Ideally, attorneys will come into this meeting with some of the evidence from the research phase identified. In addition, having an associate or paralegal participate to gather follow-up evidence for inclusion in slides is helpful.

Design and production of graphics: We develop the templates and visual language for the presentation. We draft illustrations and animations. Trial team members give us source materials for evidentiary graphics and we make slides. A first draft of the presentation graphics is developed and goes through some revision cycles (initially the junior trial-team members and then up to the lead). This typically takes place via email and telephone over a few days or weeks.

"Run-thru": Where internal team members gather for the lead to present the graphics. You do not need to have a fully scripted presentation at this point. An informal slide-by-slide review that presents the plot, major themes and supporting evidence suffices. Used as a check to verify that the story makes sense and is complete. Everyone contributes feedback. We take lots of notes … and some adjustments to slides are made on the spot.

"Developing graphics is an integral part of developing our case. The process helps us formulate a complete and consistent story."

-Matthias Kamber,
Keker & Van Nest

Revision cycle: Likely the team found some holes in the story or at least areas for improvement. We incorporate the trial team's critique into revisions or new graphics. In some instances, an idea or theme doesn't work — either the evidence doesn't support it or the graphics just don't sing. Then the team needs to either find additional supporting evidence or develop another graphic that is more on-point. Based on the team's feedback, we produce new slides for review by the trial team, and the process repeats until the next step.

"Walk-thru": Here members of the extended trial team (attorneys, clients, consultants) meet for a scripted review of the presentation. This is a full rehearsal where the extended team critiques not only the plot, themes and graphics, but also the language and delivery of the presentation.

Having paralegals or office staff participate adds the "person-on-the-street" perspective and can be a reality check to see if you are talking over your audience's head.

This, of course, might lead to additional revision cycles.

Mock Trial: The rubber hits the road and we get an objective view of the case.

We know that jurors assemble the facts they hear - from both sides, as contradictory and incongruous as they may be - into stories that seem plausible and rational given the juror's knowledge and life experience. Where there are holes in their stories, jurors will often create elements to bridge the gaps. Examine the mock trial results. What did they miss? What did they add? The insights gained are the starting point for another revision cycle that prepares the presentation and presenter for trial.

Going to Trial: The process continues with at least another walk-thru before trial, if not multiple. By this time the themes and graphics will be relatively developed, subject to what was Paralegals and our consultants cite check all the slides. A set of graphics is prepared for exchange.

On the eve of trial the lead attorney and our consultant meet to discuss final edits and any changes are made. The courtroom technologist gets a copy of the final graphics. The presenter and courtroom tech discuss the script and timings they will use in the courtroom. The courtroom tech is familiar with the presentation and everything is loaded (the right exhibits are there, animations play, depo video is cued). The presenter is confident; he/she knows the material inside and out.

The Comparison: Our clients have experienced these benefits first hand many times. On occasions where we have been working with one of our client firms in advance of a large trial, the difference in approach is notable. For example, in a large patent case where we were brought in to work with co-counsel in a multi-defendant litigation, we witnessed some of the following differences on the eve of trial:

Our Client	Co-Counsel
Has produced 200 slides	Will be producing 300 slides
Has narrowed the graphics down to the 45 – 60 best slides	Will need to evaluate and revise many times within a day or two
Words have been translated into easily understood graphics	Reliance on bullet lists or text-heavy graphics
Evidence has been checked	Evidence needs to be gathered
Documents and cites are from trial-exhibit list, and all cites have been checked	Documents may be Bates numbered only, nobody knows where they came from
Opening statement has been rehearsed multiple times	Opening statement un-rehearsed
Finishing touches put on presentation by consultant and attorney	Small army of associates working on slide ideas for basic concepts. Small army of artists required for production
Technical animations complete, technical experts have vetted animations	Animations being described by attorneys to consultant, work commencing.
Trial team has dinner together, discusses upcoming day at trial	Trial team eats at their desks in the warroom, up 'til 3:00 am

Unfortunately, this is not an exaggeration. We have seen this scenario play out in many warrooms. (One night in the warroom I made about 125 slides for closing at the request of associates on the trial team. The attorney in charge picked *five* to use the next day. They were the right five, we won, but at the cost of an incredible waste of time.)

Summary

Our experience with our most successful clients tells us that the "integrated process" provides much better results versus the "last step process". The presentations are more polished, thoroughly fact and cite checked, and vetted by a wider audience. Moreover, it is not bloated with extraneous or repetitive graphics because the iterative process serves to tighten the presentation. In addition, rehearsals serve to make the presenter more confident and at ease in front of the jury. Based on our own experience, this approach also leads to better results (that is, wins).

Beyond simply prevailing, this integrated approach has also beneficial side effects. The team wastes less time scrambling

for ideas on the eve of trial - ideas that the presenter, often rejects. Junior members have their ideas heard, validated and included throughout the "integrated process." They are contributors, not cogs in a mill that makes slides.

It also improves the bottom line. By front-loading the work, clients minimize the warroom staffing requirements for trial. Instead of a small army of designers, our process generally requires a single consultant make some small tweaks and fresh closing-graphics necessary during trial. The results are a savings in hours, travel expenses and time that attorneys would spend in revision cycles on-site.

For a consultation please call 415-508-3369 or visit 5cornersgroup.com

Five Corners Group is a boutique litigation and consulting company, providing presentation graphics, trial technology, intellectual property consulting and financial expert witness services. Our experienced professionals work with companies of all sizes across a range of industries and have been involved in some of the most high profile cases in the United States, Canada and Europe. The presentation graphics consulting practice provides innovative solutions for communications and persuasion to clients throughout the country. Founded with the core principles of quality, personal integrity and efficiency, Five Corners Group is committed to its client relationships and their success.