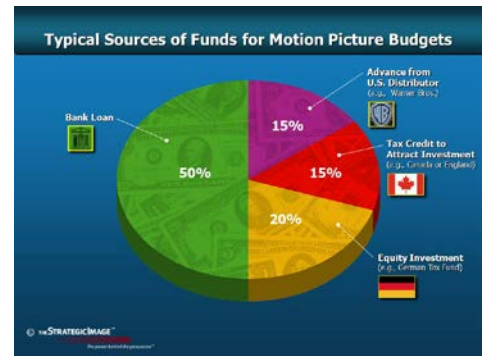
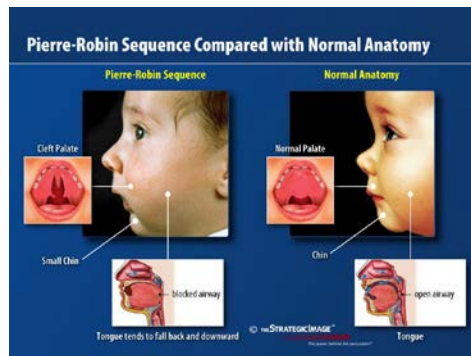
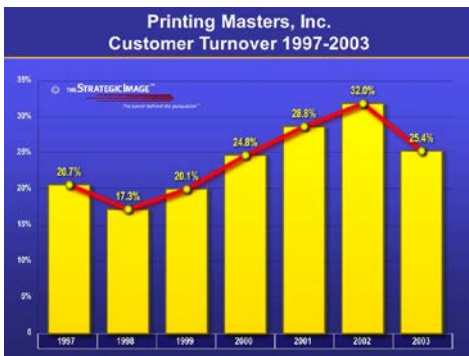


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*By Karyn J. Taylor*

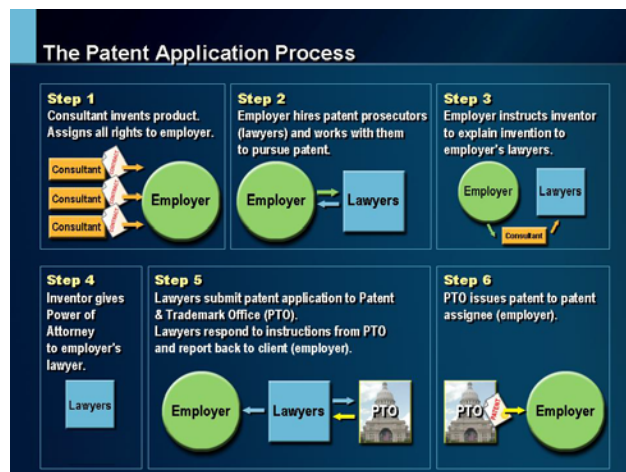
**There is only one true measure of a good legal graphic: does it persuade the jury to “buy in” to your client’s point of view?** That, after all, is the point of *any* courtroom presentation and it makes no sense to spend your time (or your client’s money) creating graphics that won’t have a positive impact on the jury’s vote.

**Even with the best of intentions, however, many graphics fail to deliver. They simply have not been designed to change jurors’ hearts and minds.** To discover where the problem lies, let’s take a look at the panoply of legal graphics.

**The most commonly produced type of courtroom graphic is the Reiterative Graphic.** Like its name implies, it reiterates key case information. Reiterative Graphics are great vehicles for presenting statistics, tracking trends or listing case details. They gather lots of information into one simple image that jurors can easily absorb and remember:



When designed to “build” one step at a time (like the normally animated tutorial below), Reiterative Graphics can make even complex processes easy to comprehend.



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Reiterative Graphics are thus invaluable educational tools and many litigators employ them to reduce facts and information to a manageable level.

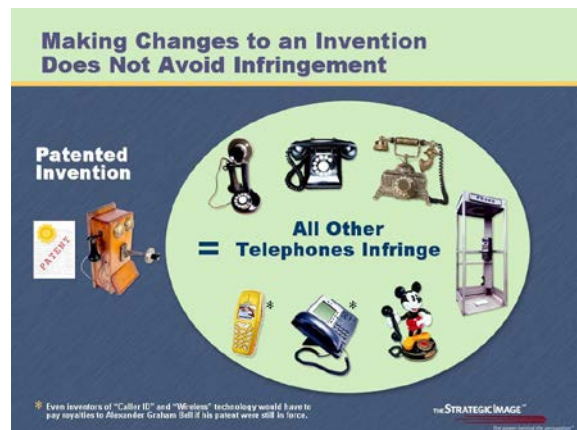
**But Reiterative Graphics rarely convince jurors to see the case through your client's eyes. The reason is simple: they typically appeal only to the intellect.**

**To impact the jury's vote, you must forge an *emotional* bond between jurors and your client. That's the job that Conceptual Graphics are designed to do.**

Conceptual Graphics...

- Deliver your key case themes & messages
- Reinforce your case story
- Translate your case story into indelible images
- Provoke an *emotional* response

A graphic that delivers your key case themes and reinforces your case story is of obvious value. So, too, is a graphic that turns words or concepts into memorable images. But why is provoking an *emotional* response so critical? Because decades of research have shown that people are ruled by their emotions, not their intellect.



**Virtually every decision we make is dictated by one subconscious but universal need: to feel good about ourselves.** Whether we're making major life decisions (what career to pursue, what house to buy, whom to marry) or are simply making everyday choices (which suit shall I wear?), we are subconsciously satisfying our need to be able to look ourselves in the mirror and feel good about who we see. Of course, we *think* we're basing our decisions on rational thought and clear-eyed intellectual evaluation. We even tout product benefits and features as proof. But psychologists—and advertisers—know better. Madison Avenue regularly exploits our emotional needs to seduce us into buying all kinds of things we don't physically need, can't afford but just have to have.

**In court, judges and jurors are ruled by emotion too.** No matter how objective they vow to be (and no matter how high the "mountain of evidence" you build), in the end judges rule and jurors vote not with their heads, but with their hearts. Only when voting for your client allows the judge or jurors to feel good about *themselves* are you likely to win. Self-interest trumps intellect every time.

**Conceptual graphics are designed to trigger the viewer's self-interest. They do so by strategically exploiting the judge or juror's worldview.** A worldview is the sum total of all the beliefs, prejudices, and attitudes a person has accumulated over a lifetime. It is the prism of preconceived notions through which a person perceives reality, the mindset with which he/she travels through life. While each person's worldview is a function of his/her cultural, socio-economic, educational, religious, and racial background, psychological make-up and life experiences, there are many widely held beliefs that people share.

**Continued...**

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3.

### COMMONLY HELD BELIEFS

- **Punishment should fit the crime.**
- **A promise made should be a promise kept.**
- **An apple doesn't fall far from the tree.**

**When your case story and your graphics reinforce, confirm, or validate what jurors already believe, your odds of winning increase dramatically.** The trick is in knowing exactly *what* jurors believe relevant to the specific issues in your case. In complicated cases, formal jury research is often the best way to determine your jurors' worldviews. Even in simple cases, research is advisable. Many a litigator has lost a case assuming that jurors' beliefs mirrored their own.

Whether you do formal research or rely on your instinct and experience instead, **winning hinges on your ability to identify *which* commonly held belief "trumps" another in jurors' minds.** For example, in a criminal defense case, jurors who believe that "Murder is morally wrong" might still acquit because they more strongly believe that "Accidents happen," "Love makes us do foolish things," or that "Insane people can't be held accountable for their actions."

**Once you've determined your jurors' beliefs, Conceptual Graphics can capitalize on those beliefs in almost any case.** In a patent infringement case, for example, the verdict might hinge on jurors' ability to comprehend the Doctrine of Equivalents. If you take the Reiterative approach and merely state the doctrine itself, certainly *some* of the jurors will get the message.

**Reiterative  
Approach**

**The Doctrine of Equivalents**

**A product infringes a patented invention if it...**

- **Performs substantially the same **function****
- **In substantially the same **way****
- **And yields substantially the same **result** as the patented invention.**

**This is called the "**Function, Way, Result**" test for infringement.**

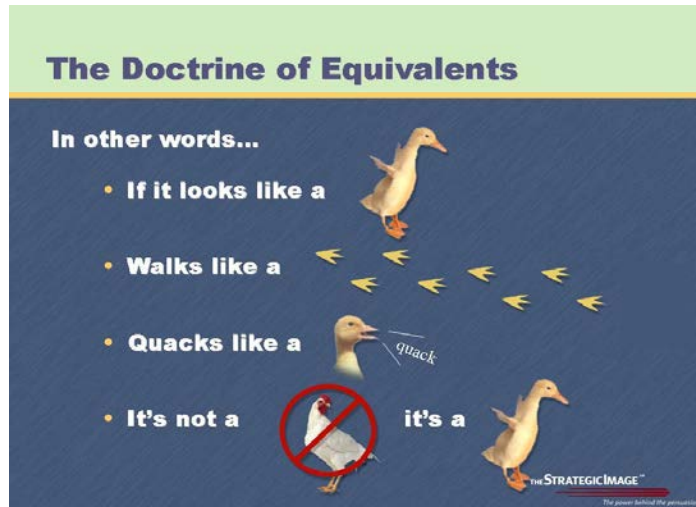
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Translate those words into an image that exploits a commonly held belief, however, and jurors will not only "get" the message, they're more likely to adopt it as their own.

**Continued...**

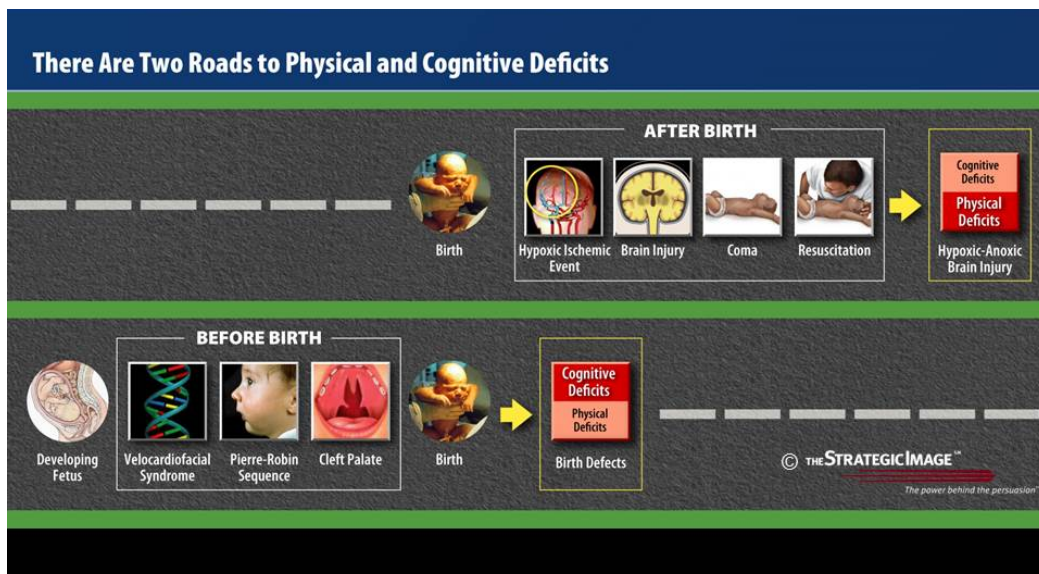
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**Conceptual Approach**



Conceptual Graphics need not always be so explicit. They are often at their most powerful when their underlying themes are not stated, merely implied.

In a recent medical malpractice case, for example, it was imperative that jurors realize that a baby’s cognitive and physical deficits may not have been caused by doctors’ mistakes, but by something else entirely: genetic predisposition. The graphic below tapped into the commonly held belief that there is usually more than one way that something can occur (“Many roads lead to Rome”).



While Conceptual Graphics typically use strong visuals to evoke a visceral response, many use words alone to trigger jurors’ emotions. For example, in representing the Plaintiff in an insurance bad faith case, you might explain the purpose of health insurance in generic terms during Opening Statement...

**Continued...**



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**Why Do People Purchase Insurance?**

- To provide a financial **“safety net”** in times of need
- To protect against **unexpected loss**
- To provide **security** for their loved ones
- For **peace of mind**

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...use Case-in-Chief to establish (through witness testimony and documentary evidence) that the Defendant’s sales brochures made similar promises...

**What ACME Insurance Promised**

(INSERT BROCHURE PAGE HERE)

- “Protect against **unexpected loss** and expense...”
- “Provide your family with the **security it needs...**”
- “Only when you know their future is secure will you have **peace of mind.**”
- “ACME will be there when you **need** us most.”

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...then pull out the stops in Closing Argument with a Conceptual Graphic that delivers your key case theme with an emotional kicker.

**Did ACME Fulfill Its Promise?**

**ACME Insurance *wasn't* there when the Smith family needed it most.**

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6.

**What you have done strategically is to play to juror self-interest** right in Opening Statement (“Yes, that’s why I buy insurance”), introduce documentary evidence within that (now personalized) context; then “seal the deal” by unleashing jurors’ visceral feelings of betrayal and abandonment during Closing (“How would I feel if my insurer did that to my family and me?”).

**When used in tandem with Conceptual Graphics (as they are above), Reiterative Graphics function in a “conceptual” way: they provide the intellectual rationale jurors need to justify their emotionally-based decisions.** Would jurors be as ready to “buy in” to the Plaintiff’s point of view if *only* Reiterative Graphics were used? Not likely. The Conceptual Graphic provides the emotional “hook” that ultimately compels jurors to vote in your client’s favor.

**This strategic use of Reiterative and Conceptual Graphics is the power of *Conceptual Persuasion*<sup>SM</sup> and at *The Strategic Image*, it is our stock-in-trade.** We utilize it to “pre-program” jurors’ decisions, thus taking the persuasive power of your courtroom presentation to a whole new level.

To put the power of *Conceptual Persuasion*<sup>SM</sup> to work on *your* next case, **CONTACT US.**

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