

How to Get Great Legal Graphics at an Affordable Cost: *A How-To Manual for Do-It-Yourselfers*

By Karyn J. Taylor

In the Age of PowerPoint[®], practically everyone is, or tries to be, a graphic artist. Lawyers are not exceptions. But while it's certainly arguable that a trial attorney's time might be much better spent filing motions or developing case strategy during the run-up to trial, legions of litigators will make a stab at creating their own visuals for court.

Some DIY lawyers will be successful: they will create images that actually sway the jury to see the case as their clients do. Most DIY-ers, sad to say, will not. Lured into a false sense of security by the deceptively easy-to-use PowerPoint[®], they'll churn out slide decks full of bullet charts and consider the job done. Then the verdict will come in and only then will they realize, much too late, that the jury (bored to tears) *didn't* read all that text and never got the case-critical messages the attorney hoped to deliver. Then, and only then, will DIY-ers realize that creating persuasive legal graphics isn't as easy as it looks and that PowerPoint[®], for all its user-friendly simplicity, isn't a panacea after all.

For those of you who have already fallen victim to the charms of PowerPoint[®] (but hope to do it better next time), and for those of you who still plan to try it (but want to get it right the *first* time), consider this to be Chapter One of your *DIY Graphics Manual*. Even if you've never created your own courtroom graphics and routinely hire graphics professionals instead, do yourself a favor and commit the following pointers to memory. You'll be a better educated consumer—better at hiring the right people the first time and better at working with them successfully—if you do.

Regardless of where you fall on the DIY spectrum, though, getting good legal graphics always starts with setting the right goals:

Goal #1: Make the Complex Simple

Great legal graphics are very simple. They are:

- **Easy to read**
- **Easy to understand**
- **Easy to remember**

No matter how technical the subject matter, or how complicated the case, that rule applies across the board.

But “simple” graphics are not what we typically see when lawyers try to create their own demonstratives. Like most people, lawyers are naturally inclined to say (or show) way

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too much on any one graphic and tend to add in everything but the kitchen sink. Doing so may cut down on the total number of graphics created, but that just overwhelms the jury. People can only process so much information at once. Give them too much and they short circuit. It's just easier to dismiss complex or overwhelming information as unimportant than it is to figure it out.

In truth though, the everything-but-the-kitchen-sink approach to graphics is the result of not knowing exactly *what to say or show*. For litigators the goal should be to persuade the judge or jury to see the case from your client's perspective, but if *you* aren't clear on how to do that, your jurors may be lost as well.

Thus, the first step to getting great legal graphics is to take the time to figure out exactly what your case story should be. Skip this step and your graphics will fail to deliver a clear message. Skip this step and you put your verdict at risk. So rather than play Russian roulette with your graphics or your case, follow this tried-and-true, step-by-step procedure for honing a winning message:

Step 1: Craft Your "Logline"

The clearer you are about the story you're telling, the clearer the message your graphics will convey. In Hollywood, screenwriters develop a "logline"—a one or two sentence description of the movie they plan to write—then use it to pitch their ideas to studio executives. A good logline instantly intrigues the studio head and makes him eager to hear details of plot and character. He's "hooked." Litigators hoping to "hook" jurors' attention and make them anxious to hear the case story you'll reveal during trial should do the same. In other words...

Boil your complicated case story down to ONE short and easy-to-remember sentence: "Ladies and Gentlemen, this is a case about _____." That one sentence now becomes the "spine" of your case story—the unifying "throughline" around which you can craft your case strategy, case themes, Opening Statement, Closing Argument, Direct, Cross, and graphics.

Not sure what your logline should be? In essence, your logline should encapsulate the underlying story of the case—i.e., what the case is *really* about. For example, the case may be a patent infringement case, but it may really be a case about corporate greed and that's what you tell jurors as you start your Opening Statement. Or perhaps it's really about a former employee's desire to "get even" with the boss who fired him and he purposely copied a competitors work knowing his boss would be blamed. Whatever the crux of the *human* story, summarize that in your logline. (Guaranteed your jurors will be hooked!) But remember: Keep it short. In Hollywood, a logline is 35 words or less and you'd be wise to follow that lead.

Step 2: Distill Your *Bottom-Line-Take-Away Messages*[™]

Once you've identified your logline, break it down into its component parts—its themes and "Bottom-Line-Take-Away Messages[™]." Themes are simply the key premises on which your case is based. Perhaps, in our patent infringement case about

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corporate greed, one prosecutorial theme might be “The ends justified the means,” encapsulating the attitude of a Board of Directors that pressured company management to boost revenue “at all costs.”

If that’s your theme, then the Bottom-Line-Take-Away Messages would be the “headlines” your judge or jury needs to see in order to “get” the story you’re trying to tell: “Minutes Show Board Pressured Management to Boost Revenues ‘Or Else’.” Or “D. Smith Email to E. Jones: ‘I’ll fire Edwards if he doesn’t produce.’”

Use Bottom-Line-Takeaway-Messages™ as titles on your demonstratives so there’s no chance the jury will miss the messages your slides are meant to convey. Fail to add such titles and jurors may misinterpret the slide, drawing erroneous conclusions that do nothing to help your case.

Step 3: Simplify Your Depictions

Use the body of your graphic to illustrate the message in your title. That is, place in the body of the slide or exhibit board the actual board meeting minutes, the smoking gun email, or any other documentary or demonstrative evidence that proves the assertion in the title.

But keep it simple. Don’t obscure your thematic message with...

The “Terrible Too’s” of Graphic Design:

- Too many words
- Too many fonts
- Too many colors
- Too many illustrations
- Too many things going on

This is where so many DIY-ers go wrong: they let the ease of using PowerPoint® tempt them into “getting creative,” then take it too far. PowerPoint® has become the “go-to” app in litigation and rightly so: it can be a powerful and convenient tool both in and out of court. (And it saves clients tons of money, too). But lawyers should use PowerPoint® judiciously for best results.

To wit: PowerPoint® is great for doing document call-outs where the important text of a smoking gun document can be “called out” (i.e., enlarged and highlighted) for ease of viewing on a slide. PowerPoint® is also great for creating simple pie charts, line graphs, or bar graphs, etc.—especially if you animate the bars or lines to show changes over time. But...

Don’t use PowerPoint’s animation tools with wild abandon—i.e., to make text “fly” in, spin in, pixilate, or do anything else fancy in an attempt to give your otherwise boring slide some pizzazz. You’ll just upstage your slide’s substantive message and make your presentation look hokey—the mark of an amateur, for sure.

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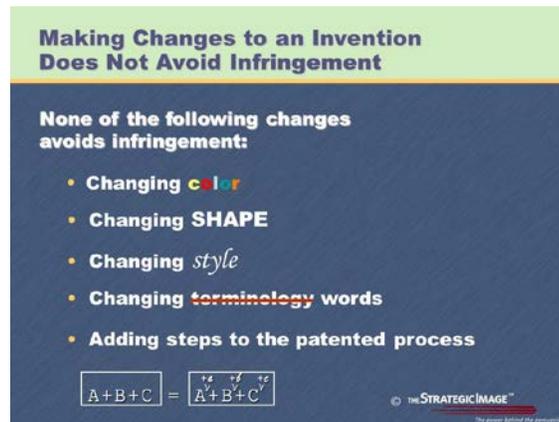
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Don't do a lot of bullet point slides. Illustrate your points with drawings, photos, charts, or graphs instead. If there's no way to illustrate your message, and you're forced to use bullet points, shorten every bullet to no more than a couple of words in length and list no more than 3-5 bullets per page. It's better to create five slides to make five key points (or to have five slides "build" toward *one* key point) than to squeeze a ton of words onto a single slide that no one will take the time to read.

Do make your graphic easy to digest. The closer a graphic is to being fully self-explanatory (needing no input from you to be understood), the better. Jurors' minds wander. Create self-explanatory graphics and you'll ensure that the juror whose mind *did* wander during your—or your witness'—verbal explanation will be able to tune back in without missing the point.



Step 4: Use Multiple Presentation Formats

Too much of even a good thing can backfire. A gazillion *PowerPoint* slides, no matter how well-designed, will ultimately bore the jury and 25 exhibit boards will be terribly unwieldy in court. Mix it up. A presentation that incorporates slides, exhibit boards, animation, video, 3D models and/or live demonstrations keeps the content entertaining, the pace brisk, and the jury riveted. For best results, use an experienced "hot seat" operator (HSO) so that (a) you can focus on your presentation and let the HSO find and display your demonstratives; (b) you can add/delete/annotate graphics on the fly if instructed to do so by the court; and (c) you've got a tech-savvy person on hand to trouble-shoot if anything goes wrong.

Step 5: Know your limitations

The objective of a graphic is to *show*, not tell, so if your skills as a DIY artist aren't up to the task, call in the professionals. You may be comfortable adding simple *ClipArt* illustrations to your slides (avoid the amateurish cartoons; stick with photos, instead), but to do anything else, you'll probably need help. Call in the pros to create technical or medical

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illustrations, animations, recreations, or scale models. Call in the pros to do exhibit boards as well. Illustrations that are too large or complex to fit comfortably (or legibly) on a computer screen are best designed in professional graphic programs like *Adobe Creative Suite*. Only professionals will have the skill and software to create them; the average lawyer will not. Whatever you do, don't immortalize your amateur drawings on exhibit boards or slides. At best, you'll look cheap; at worst, you'll look incompetent and that will undermine your credibility and your case.

Step 6: Think Conceptually

Graphics that present case facts and evidence in easily understandable ways (lists, charts, timelines) or that condense reams of data into "bottom line" summaries (bar graphs, line graphs, pie charts) are called Reiterative Graphics. Reiterative Graphics can be invaluable in virtually every type of case, but they will not *win* your case.

To win at jury trial, you need Conceptual Graphics—graphics that work subliminally to appeal not just to the intellect, but to the *heart*.

DIY-ers can create great Conceptual Graphics on occasion, but it's a relatively rare occurrence when they do. That's not a value judgment; it's a matter of training. Lawyers are trained to think logically. They typically rely on the rigorous and impartial application of the law to make their points, not on the gut or emotional reactions that usually govern and motivate jurors. This is why legal arguments frequently land like lead balloons in court. Jurors just cannot relate.

If time is short, or you're too logical a thinker to think conceptually, call in an experienced Graphic Consultant. Legal graphics pros have spent years learning how to translate legal concepts into jury-friendly demonstratives, and they've spent even more years figuring out how to push jurors' emotional buttons. Let a pro help you translate your legal arguments into emotionally compelling ones and thereby identify the most *persuasive* way to make your case—one you might not find on your own.

For maximum impact, weave Conceptual Graphics throughout your *entire* presentation, not just into your Opening Statement and Closing Argument. A well-designed Conceptual Graphic will not only reinforce your case themes and support your case strategy; it might just "make" your case all on its own.

Goal #2: Stay within Your Client's Budget

Grandma used to say, "An ounce of prevention is worth a pound of cure," and when it comes to legal graphics, those words ring true. No matter what your concept—or your graphics budget—poor planning at the outset will ultimately cost you a bundle before the job is done.

Whether you're creating a simple pie chart, an animated tutorial or, for that matter, a corporate event, a feature film, or a Broadway show, **the quality of the final "product" will be a function of two things: TIME and MONEY. This is the immutable *Law of Production***, and we illustrate the law with a triangle.

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If you have equal amounts of time and money to devote to creating a quality product, the Law of Production triangle will be an equilateral triangle, equal on all sides:



If, on the other hand, you want a quality product, but have little *time* to devote to its creation, you'll have to spend more *money* in order to achieve it. That may translate into hiring extra help, hiring a higher caliber team from the outset, paying premium prices for quick turnaround on a short dead-line, or all of the above—a circumstance depicted by the elongation of the “money” side of the triangle:

Conversely, if you have the luxury of time, you can wait for the light bulb to go on, let the creative ideas unfold as they may, and achieve a high quality product without spending a fortune on extra help, better help, rush charges, or overtime. In this case, the “time” side of the triangle elongates.

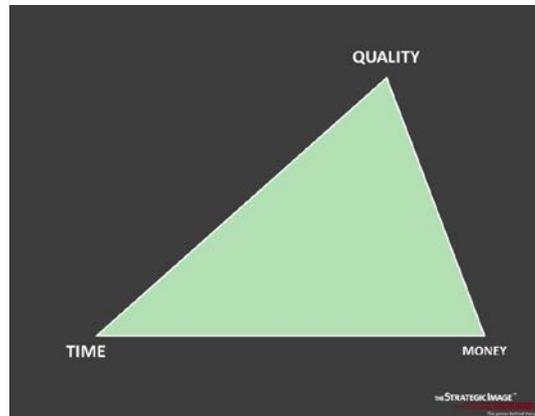


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In litigation, however, the choice between spending time or spending money is rarely yours to make. Deadlines are court-imposed; budgets are at the discretion of the client. Both are usually limited. So the only resources *you'll* be able to control are the USE of your allotted time and the USE of your allotted budget.

Squander the allotted time and the *quality* of your graphics may suffer. The creative process can't be rushed. Great ideas usually don't all come at once and when they do, they still take time to implement.

Squander the allotted time and the *cost* of your graphics may increase dramatically. Missing court deadlines is not an option, and you well know the price you'll pay for going over your client's budget to make up for lost time.

To get great legal graphics at the lowest possible cost (whatever your budget or time frame), follow these equally immutable *Rules of Production*:

RULE 1: Start Early

The *single* best way to keep graphic production costs down is to start developing graphic exhibits EARLY in the litigation lifecycle. What's "early"? Shortly after your pleadings are filed.

By starting early you will...

- Have time to develop case-critical Conceptual Graphics
- Avoid costly mistakes more likely to occur under intense deadline pressure
- Avoid rush charges and/or huge shipping bills

This point is so important that it bears repeating: The single best way to BLOW your graphics budget is to wait until the *last* minute to get started! Period.

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RULE 2: Measure Twice, Cut Once

Carpenters live by that rule, and litigators should too. If you don't carefully plan your case strategy (and thereby your graphics strategy) *before* production begins, you may be forced to...

- Live with your mistakes, or...
- Pay a premium to correct them

The reason is simple: a production is like a house of cards. Remove one card, change one item in a graphic, or worse, change your case strategy, and an unavoidable chain of events may occur that sends the budget spiraling through the roof. Even making "simple" changes like changing the color or size of an exhibit can require scores of additional man- or computer-hours to complete. And when it comes to changes, these corollaries apply:

Corollary #1:

The *later* a change comes in the course of production (i.e., the closer to completion of the project), the **MORE** the change will cost to implement.

Corollary #2:

The more *sophisticated* the medium (or the larger or more complex the production), the more **ANY** change will cost.

Of course, in working hard to stay within budget, both you and your client can easily lose sight of what's truly at stake: your case. To make sure the tail doesn't wag the dog, strive to reach ...

Goal #3: Think Value, Not Price

Given the huge cost of going to trial, even lawyers who hire graphics professionals frequently search for the cheapest one. That approach is understandable, but it can be self-defeating. Why? Because the value of any graphic is determined, not by its cost, but by its ability to persuade the jury, and that's the only yard-stick by which quality should be judged.



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A powerfully persuasive graphic doesn't have to be expensive. It can be as simple as a single sentence on a single PowerPoint® slide. The slide costs next-to-nothing to produce, but the *concept* behind the slide may be worth millions at verdict time. Will the cheapest graphics team in town produce that winning Conceptual Graphic? Maybe. But the odds are not in their favor, or in yours. Will *any* graphics team have better odds of coming up with the winning concept if you call them at the last minute? Definitely not.

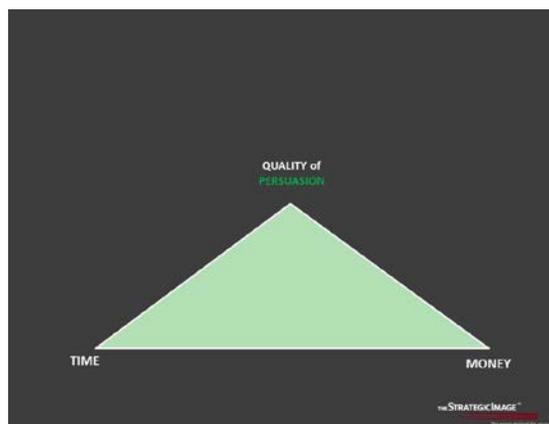
Although we may have convinced you to start working on graphics early in the litigation life cycle, convincing your clients to do so may be another matter entirely. Clients are often reluctant to do graphics early because 99% of cases settle before ever getting to court. Thus, to many clients, doing graphics early is a colossal waste of money.

But ask yourselves (and your clients) this: What if you *don't* settle before trial? Will you be OK going to trial armed with graphics your team rushed to conceive and prepare, knowing how rushing can sabotage their quality and effectiveness?

Or ask yourselves this: Will your case strategy be weaker or stronger if you wait until the last minute to figure it out?

What does case strategy have to do with graphics? Starting graphics early *forces* you to work on case strategy too—giving you plenty of time to test your strategy, themes, Bottom-Line-Take-Away Messages™ and graphics with focus groups, mock jurors, or just the secretarial pool. Should anything test poorly (i.e., fail to resonate with mock jurors or the secretaries), or should their reactions point to a probable loss, not win, what would be the value to you and your client of learning that before trial? Or of learning it while you still had time to *fix* it?

Budgets are important, but consistently putting cost – in time, money, or both – ahead of VALUE can be “penny wise and pound foolish.” A loss in quality typically results.



When deciding how to spend your always limited resources, consider not just the monetary costs, but the value of *winning* over the cost of losing. Losing jeopardizes your ability to collect your fees and to get future business or referrals from your client. Losing may also affect your firm's financial health, ultimately putting your career at risk. Losing might also result in huge financial losses, downsizing, Chapter 11, or even dissolution for your client.

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With all that at stake, what really costs more? Starting graphics early or pinching pennies to save a dime?

A popular adage in legal circles holds that "Jury trials are a Crap shoot." We beg to differ. Litigation graphics—when you use them, and when you give yourself the time and money to do them well—can *dramatically* improve your odds of winning. That's a scientific fact.

It's also a cost/benefit ratio well worth considering, because in *any* game, even in Craps, it's only fun when you win.