

# Why a Second Edition?

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## ► WE DESIGNED THIS SECOND EDITION TO DEAL WITH FOUR RECURRING CHALLENGES

For more than 25 years, my colleagues at The Focal Point LLC and I have worked with this country’s best trial lawyers to make their courtroom presentations more persuasive and easier to understand. We have developed integrated trial strategies, jury research exercises, stories, arguments, and persuasion tools to help them convey information in an organized, clear, and convincing manner in more than 2,000 cases involving every conceivable topic in every type of adversarial forum.<sup>1</sup> In fact, we are almost always in trial and are constantly working with our clients to determine what really matters to jurors (both real and mock) and how lawyers can convey this information in a way that engages and educates their audience.

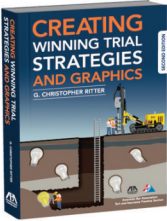


Our first edition of *Creating Winning Trial Strategies and Graphics*, published in 2004, covered visual trial strategies and adversarial graphics and met with considerable success. Since then, I have increasingly noticed that there are four primary challenges to teaching lawyers how to teach. As you will see, educating is one of the things I think great trial lawyers do very well. We have designed this second edition in a way that reduces these challenges by producing this book—a central hub for the initial information—and a webpage that will feature resources such as graphics, case studies, and video lectures. These additional resources can be found at [www.thefocalpoint.com/trialstrategies](http://www.thefocalpoint.com/trialstrategies).

With the additional webpage and resources, we hope to address these four key challenges:

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1. This includes jury trials, bench trials, arbitration hearings, and other forms of dispute resolution. For simplicity’s sake, I will refer to all of these forums as the “jury” and their individual members as “jurors.” Please be assured that, except where I have rarely expressly indicated to the contrary, the techniques and tools in this book and its related materials are generally applicable to successfully persuading *any* audience.

**The Second Edition Includes:**






[www.thefocalpoint.com/trialstrategies](http://www.thefocalpoint.com/trialstrategies)


**Examples**



**Updated examples and Video lecture series**



**Quick references**



## 1. Keeping Readers Informed of Rapid Changes in the Areas Covered by This Book

The best that any reader can expect from a printed reference source is that it is only a little out of date. This is especially true in the rapidly evolving world of trial technology. But sometimes, despite our best efforts, things get out of date very quickly. For example, in the first edition of this book, I devoted a total of five short paragraphs to Flash, the technology now owned by Adobe that allows users to freely navigate Internet sites containing virtually every type of media. Almost in passing, I predicted that Flash *might* someday prove to be an effective way to present material in the courtroom. What an understatement! Within months of publication, creative people, including many I am lucky enough to work with every day, were using Flash to create a presentation system we call portal technology to simplify complex, factual issues and win tens of millions of dollars for our clients.

Consequently, I devoted considerably more space in this edition to Flash while also finding a way to keep the reader current with all topics so this does not happen again. Our solution to this problem is a webpage that supplements this book. The Focal Point will regularly update this material so you will not have to wait another ten years to find out what was new nine and a half years ago.

## 2. Dealing with the Fact That Trial Graphics Are Dynamic and Often Require Context

A skilled trial lawyer brings graphics into court and actively uses them in ways that attract and hold the jurors' attention. For example, a lawyer may use "pacing devices" throughout the trial to "build" graphics bit by bit so as not to overwhelm

the jury with too much information all at once and to take advantage of what I call the “Informational Honeymoon.” Similarly, a lawyer can (with prior court permission) encourage an expert to get up out of the witness chair and interact with a checklist or other graphic that summarizes his opinion.

It is hard to show that kind of dynamism and context via the static pages of a book. We have worked around this problem by providing readers with opportunities to see the graphics as they were designed to be seen—in action on the web.

### **3. Assisting Trial Lawyers Who Do Not Always Have Time to Read a Whole Book Through in One Sitting**

This book covers a lot of material, and I suspect you will not always have the time to read through it all. To overcome this obstacle while still providing you with the most meaningful and useful information, we have done two things. First, we have *increased* the number of checklists, bullet point summaries, and other tools in this book that quickly recap and organize key bits of information. These “quick reference tools” are not a substitute for carefully reading and digesting the material in this book. But let’s be realistic: sometimes you only have time for this level of compressed information. Second, we have produced a series of short videos based on the key concepts in this book. These videos will address, among other topics, specific types of graphics or aspects of a trial, for example: timelines, text pulls, opening statements, closing arguments, and expert testimony. These videos, which will be viewable on the website, will vary in length and cover various sections of this book, summarizing practical lessons we have learned from working on more than 2,000 cases.

### **4. Striking a Balance between General and Highly Specific Information**

Every case involves balancing general information and highly specific facts and law. To strike this balance, this second edition serves as the general foundation for all of the other material in this series. I have designed this volume so that it can stand on its own as well as become the starting point from which you are able to connect with additional supporting sources on the webpage and in the videos.

## **► AN INVITATION TO THE READER**

As you read this book, I hope that certain key themes emerge. First, I am continually amazed with the jury system and the ability of jurors to more often than not understand the case and generally come to a correct answer. Second, I believe that the greatest service that any trial lawyer can perform is to be a good teacher who can both respectfully educate his jurors and control (usually adverse) participants who get out of control. Third, to do so, the lawyers themselves must go through the process of figuring out what the dispute is really about and make what is often complex easier to understand. Fourth, this process takes time, but it makes your case better, and it makes you a better trial lawyer overall.

I invite you to put this process to the test.