

INTRODUCTION

How do you help jurors whose professional background is in music, medicine, or mechanics understand the nuances of section 10b of the Securities Exchange Act?

How do you convince a juror who is skeptical of lawyers to put his trust in you and believe your impassioned arguments?

How do you help a juror remember key evidence and case themes after days, weeks, or even months of trial in enough detail to vote your way and confidently argue your position in the jury room?

The consistent answer to these questions—according to jury consultants, psychologists, neurologists, and even jurors themselves—is to add a visual component to your case presentation.

But how is it done?

There are many, many books, articles, and even blogs on improving visual presentations. I have read many of them myself over the years, and I cite a number of them in this book. I keep design books on a shelf within easy reach, and I regularly consult them when I'm designing a new presentation. I have no doubt that these books have helped me increase the effectiveness of my own visuals, and thereby my communication.

But there's a conundrum. Presentation advice that makes perfect sense when addressing students, clients, investors, boards of directors, or conference attendees often doesn't translate to the trial setting. Likewise, design tips that work well in business meetings, or for commercial materials such as menus, pamphlets, or marketing brochures, don't take into account evidentiary rules, time limitations, and the overall tone of jury trials. Many presentation books, for instance, suggest using powerful photographs to appeal directly to the viewer's emotions. In a jury trial, that approach would likely violate evidentiary rules, and the visual would be excluded. The bottom line is that what works great for workshops and webinars (or board meetings, keynote speeches, sales pitches, etc.) is often counterproductive—and sometimes even affirmatively disallowed—in the unique setting of a jury trial.

So that's why I wrote this book. I wanted to create a resource for trial lawyers—and perhaps other presenters—that will help turn your trial themes into visual images

that a jury is more likely to understand, believe, and remember. I also wanted to pass along some of the graphic design techniques I've learned through the years that will help you improve your own visuals. And, with a target audience of lawyers, I wanted to provide some strategic considerations for using visuals in court.

In that vein, this book is divided into four parts.

- **Part I:** I start this book with an explanation of why visual communication matters, particularly in the unique context of a jury trial, and why turning themes into pictures helps win cases. Studies on visual perception provide a fascinating look into human communication, and, for our purposes, they have a lot to tell us about how we can best reach our jurors.
- **Part II:** The second part of this book is about the most common tools for communicating visually with juries, from charts and graphs to maps and diagrams. I use many examples from my own trials, and I've created many more images just for this book. But I also wanted to present a range of design styles and approaches. Indeed, there's never just one "right" way to approach a particular theme. So, I worked with four fantastic graphic design firms, each with decades of experience creating visuals for thousands of jury trials. Multiple artists at each firm contributed images to this book, sometimes even illustrating the same concept. By providing a variety of stylistic approaches to communicating different substantive themes, my goal is to give you a jumping-off point to brainstorm your own case themes in a more visual way.
- **Part III:** In the third section of this book, I share some graphic design basics that will improve the look, feel, and effectiveness of your self-created visuals. This knowledge will also help you more accurately and efficiently communicate with graphic designers when you have them on your trial teams.
- **Part IV:** Finally, I set forth some strategic considerations, including how to spot misleading visuals. Knowing what to look for will help you avoid these problems when creating your own images and will help you exclude (or exploit) misleading visuals by your opponents. I also provide practical tips for creating visuals and using them in the courtroom, both in high- and low-tech presentations. And, in the last chapter, I'll review state and federal law on demonstrative evidence.

Before we begin, here are a few important notes about reading this book.

First, this book is not intended to teach you how to use PowerPoint, Keynote, or any other computer program. I do provide a few technology tips and tricks here and there that can do wonders for your slide design. But this book is really about the *substance* of your visuals and how you use them in court, not which button to press to create them. To that end, nearly every suggestion in this book applies just as much to visuals you show jurors on enlarged boards or flip charts as it applies to visuals created

with computer software (which I'll often refer to as "slides," as that's the terminology typically associated with visuals displayed through computer software on a monitor or projection screen). Even if you're working with a graphic design team to physically create all of your visuals, this book will still arm you with valuable strategic, substantive, and design insight to more effectively and efficiently direct your team to create winning visuals.

Second, the benefits of visual communication, and the graphic design techniques that make our visuals more effective, aren't limited to the jury trial context. Most of the suggestions and examples in this book apply to visuals you might use in bench trials, hearings, or even written submissions like summary judgment motions or expert reports. Recognize the tremendous value of using visuals in those contexts, as well, modifying the content and tone as appropriate.

Finally, many images in this book were shown to juries during real trials, but I've changed all names, companies, and industries. Any photographs of people appearing in this book come from stock images and are not the real plaintiffs, defendants, or witnesses from the corresponding trials. Likewise, all names, companies, and disputes depicted in visuals created for this book are fictitious, and any similarities to real cases or people are purely coincidental.

I hope you enjoy reading this book as much as I enjoyed writing it. And now, onto the visuals!