

Power Persuasion

POW!



Craig Ball

Contents

The contents include articles about electronic presentation I've recently published in TRIAL magazine, Law Technology News, the ABA's SOLO magazine and others. Please pardon an occasional overlap in treatment, but each article reflects different ideas and suggestions, too.

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Banish Boring Bullet Points

Not long ago, data display maven and Yale Professor Edward Tufte caused a minor stir when he called PowerPoint “evil” and sniped that “Power corrupts. PowerPoint corrupts absolutely.” [Wired, Issue 11.09, September 2003]. Regrettably, Tufte, like so many others, only knows PowerPoint at its most banal; but, judging presentation software by bad PowerPoints is like judging all women by Paris Hilton. Truth is, even Microsoft doesn't know how to use PowerPoint to its best advantage. Where do they get those awful templates and wizards?



You can perform amazing feats and be a more effective advocate using presentation software; but, you've got to set aside nearly all you know about PowerPoint and the ways you've seen it used. Cast out PowerPoint the Huckster and embrace PowerPoint the Persuader!

Start Simple...and Grow

It's a mistake to wait until the eve of mediation or trial to start building a presentation. Instead, use PowerPoint throughout the case—as you interview witnesses, work with experts, and conduct discovery. Forget slide templates. Begin your presentation with a white background and black type, or vice versa. Start inserting your visual evidence, photos, video, deposition excerpts, maps, graphs, key documents, jury issues, and so forth, each on a single slide.

Don't worry about appearance or order at first—and certainly waste no time on bells and whistles like animated titling or sound effects. Simply load every visual you might use into the presentation, resizing the images for effective viewing. At this stage, the

program is just a vessel to hold your visual anchors. As you gather new visuals, insert them into the presentation. Don't forget audio evidence, too. Voice mail, recorded statements, and 911 calls can all be dropped into PowerPoint.

Once your visual evidence and demonstrative exhibits are in PowerPoint, you can easily access them. Though PowerPoint is a linear presentation tool, it also provides direct access to any slide (type the slide number, then hit "Enter") and can hyperlink from any object in any slide to any other slide, file, or external application. As the case develops, you'll return frequently to your presentation—to show a photo to a witness, a medical illustration to a doctor, or a deposition video clip to the court during a motion hearing. Along the way, you'll add titles, labels, highlighting, and animation, as well as determine slide order, keeping what works and dropping what doesn't. The presentation evolves with the case, and a polished product emerges gradually as your skill level grows.

Animate to Instruct

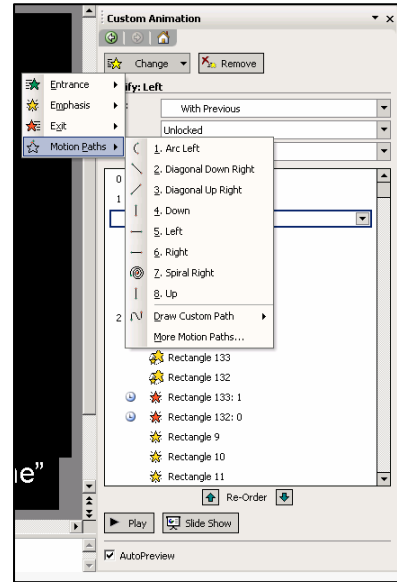
PowerPoint's ability to animate text and "enhance" it with grating sound effects has long been abused. "Cute" animated effects quickly become fingernails on a blackboard when repeated. So, if you make it move, make it move for a reason lest you detract from your message.

Animation done right and for a purpose is stunningly effective at increasing comprehension and focusing attention. The enhanced animation capabilities added to PowerPoint in versions 2002 and 2003 offer better ways to bounce text on, off, and around the screen. But, PowerPoint animation is capable of so much more when applied to "objects," PowerPoint's term for visual elements placed on a slide. You can make objects fade in or out, change in size, or follow a precise motion path. But it's the ability to animate multiple objects at the same time and tightly control their entrance, movements, and exit that puts the power in PowerPoint. You can even apply animation effects to the same object simultaneously, allowing, for example, an object to follow a defined path while also rotating and growing.

You needn't be a rocket scientist or run Pixar to build dynamic courtroom and mediation presentations. With a little patient tinkering and creative thought, any PowerPoint user can turn out animations rivaling those once produced only by professionals. You can animate complex mechanical processes, reconstruct auto and air crashes, depict needed safety features in operation, or re-enact medical procedures. I've used PowerPoint to animate process flow leading to a petrochemical plant explosion, the operation of a computer's hard drive, and intersectional collisions. I've also used it to depict complex money trails in fraud cases and to bring an investigating officer's drawing of a wreck to life, making his hand-drawn cars collide as if the police report were enchanted.

To experiment with motion path animation, draw a rectangle on a blank slide representing a car. PowerPoint includes a toolbar of basic drawing tools (if you don't see it on-screen, choose the "View" menu and select "Toolbars," then "Drawing"). Right-click on the rectangle and choose "Custom Animation" from the pop-up menu. Select "Add Effect," then "Add Motion Paths," "Draw Custom Paths," and "Curve."

Click on the center of your rectangle and drag a motion path for the object to follow, clicking at every point where you'd like your "car" to change direction. You may want to superimpose some rotation on the object to better mimic the real world. To do so, left-click on the rectangle and again select "Add Effect" from the "Custom Animation" menu, then "Emphasis" and "Spin." Menu options allow you to adjust the amount, speed, and direction of spin. You can instruct the spin to start with the motion path you've previously created (select "Start with Previous"). Now adjust the settings to achieve fluid movement.



Once you know how to animate an object, you can layer multiple effects or animate several objects at once or according to a time line you control. This conceptual version of the wreck built with rectangles may suffice, but you might want to increase the sophistication of your image by, e.g., animating a top view of a vehicle against a background of an aerial photo of an accident scene.

Movement lends itself to a host of events other than car wrecks. Almost anything that changes over time, from flow charts to time lines to cash flows, is easier to grasp through animation, with the added advantage that when you control movement, you control where the jury looks and when.

From client presentations to prepping witnesses to ADR proceedings, your animation efforts will pay off. It rarely matters if lawyer-created animations are admissible because most cases never get to trial. But even in court, if there is a competent sponsoring witness vouching for the fairness and accuracy of your depiction, most judges will admit it. Head off objections by giving an advance copy of your presentation to opposing counsel. If all else fails, you may get it admitted with an appropriate limiting instruction.

Banish Bullet Points

Titles and bullet points are not your message. Your PowerPoint message flows from you as advocate and from your visual evidence. Use bulleted text sparingly, as speaker notes or to orient your audience so they aren't left wondering, "Which witness is he talking about?" If a cause of action or contractual duty requires that five conditions be met, bulleting those five points makes sense. Otherwise, keep bullet points to a

minimum, and where you can use something else, perhaps a document or photo, do it. Above all, respect your audience. *The jury can read.* A presenter commits an unforgivable sin by reading slides aloud.

Manage Focal Transitions: Moderator, Lecturer or Narrator?

People can neither listen to two speakers at once nor read and listen at the same time. So, if the jurors are reading your slides, they aren't hearing you. Fortunately, most have no difficulty simultaneously watching and listening.

As between you and the screen, where do you want the jury's focus? If you're presenting a video deposition excerpt that needs to be seen and heard, you're just the moderator and it's important you remain silent and even avoid the jurors' field of vision so as not to distract them. Alternatively, when you've got something to say that demands the jurors' focus, you don't want their attention ping-ponging between screen and lecturer. Instead, either insure that the visuals cease to draw attention or put your self into the visuals, such as by moving alongside the screen and gesturing. Fading the screen to black is an unequivocal way to signal a shift in focus. Make this transition clear and crisp—not jarring--so jurors know it's time to look at you.

In between these two poles, strive to narrate a screen filled with visually rich and engaging silent images and animations. Hold the jurors' ears but surrender their eyes to the screen. Be their trusted instructor, presenting a documentary which equips them to reach the correct verdict. Focal transitions are useful in controlling the rhythm of your presentation. Used well, jurors stay awake and alert. Used badly, jurors don't know where to look and become frustrated and tired.

Redemption

At nearly all of the scores of speeches I give each year, someone asks, "What program did you use for your presentation?" They're amazed that it's just PowerPoint. Free of templates, unburdened by a mind-numbing succession of bullet points and brimming with strong visuals and purposeful animation, PowerPoint shines. Professor Tufte got it wrong. PowerPoint isn't evil. It's just misunderstood.

Winning with PowerPoint

Jurors better understand what they can see. Putting key elements of your case into a visual presentation will help you organize your thinking and enhance your powers of persuasion

Ever watched a trial on *The Practice* or *Law and Order*? Of course, a real trial can't fairly be compared to those pumped-up spectacles, but dramatic and fast-moving trials on the tube foster high expectations in real life. Trial lawyers can't meet all those media-stoked hopes, but there is one juror expectation we can fulfill: We can be interesting and prepared.

To avoid a boring trial and help prepare your evidence, add structure and dash with presentation software. Other industries have relied on Microsoft PowerPoint for years. The program is easy to learn and use, and it gives trial lawyers a simple, polished way to present information—jury charges, photographs, deposition excerpts, video clips, animations, graphs, and sounds. Changes on the fly are a snap. It's not the only presentation product, and perhaps not the best, but it's the standard by which all others are judged.

You probably already own a copy of PowerPoint, because it came with your computer or as part of Microsoft Office. Most users barely scratch the surface of PowerPoint's capabilities, and some err at the outset by using its banal templates to structure a presentation. You can get the most from PowerPoint by forgetting the other presentations you've seen and using it—at first—as a simple way to organize, access, present, and enhance visual evidence.

Suppose computers are not your strong point or you lack the time or interest to develop skills. You may prefer to have someone else create your presentation. Even if you don't build your own PowerPoint slides, you need to learn enough about how it's done to be able to make simple changes as needed. Be sure you know the program well enough to reorder slides, blank the screen, add or remove text, save your changes, and restart the presentation should you need to reboot. You need to be able to alter your demonstrative evidence in response to changing strategies and the court's rulings.

PowerPoint forces you to focus on a coherent presentation, helps you define the key points of your case, and frees you from relying on notes.

Just constructing a PowerPoint presentation for trial or mediation hones your advocacy. PowerPoint forces you to focus on a coherent, linear presentation, while helping you to define and identify case making points. Best of all, using PowerPoint frees you from reliance on notes, so you're not chained to a lectern or leafing madly through a legal pad.

The Internet was around for years before it leapt into the public consciousness, but hardly anyone paid attention until it acquired a new dimension: pictures. We are wired

for sight and programmed early for "show and tell," not just "tell." The most compelling stories end with the assertion, "I saw it with my own eyes." Our ability to retain information is proven to be 650 percent better when we see and hear information, compared with only hearing it. Visual persuasion is powerful, and technology makes it easy.

Harnessing the power of visual persuasion and getting the most out of PowerPoint require that you ask at every step, "How do I depict that?" You also need to have a camera at the ready—a digital camera is easier, but a film camera and scanner will do—and you can't be shy about photographing case-related people, places, and things. In an injury case, for example, consider taking digital video or photographs of the scene, witnesses, injuries, vehicles, buildings, signs, debris, and even bumper stickers. The last can reveal political affiliation, attitudes about drugs and drinking (a la "Don't Follow Me, I'm High") and even attitudes about safety. Here's a picture of an 18-wheeler proudly dubbed "Flirting with Disaster." Imagine the value of such a photo if this truck's driver had caused a fatal collision? [Of course, some might properly question whether the idiot using the cell phone camera while driving at highway speeds was not the one *truly* flirting with disaster].



What you're seeking is a visual "anchor" for every idea you want the jury to accept and retain. These images—like hieroglyphics or icons on a computer's desktop—serve as visual shorthand for testimonial and documentary evidence.

Videotape every deposition, but if budgetary constraints make that impossible, don't leave without snapping a few photos of the deponent. You can do more with video equipment. Using low-cost video-conversion services or video-capture devices that cost \$50 to \$100, you can transfer images from VHS tapes to digital clips. Then, you can drag-and-drop them into a PowerPoint presentation, edit them on your PC, and digitally project them from your computer. If you, your staff, or your court-reporting service synchronize video time-codes to the deposition transcript, discrediting an opponent's witness can be almost as easy as highlighting an inconsistent statement and clicking "Play."

Imaging technology has become powerful, accessible, and affordable. Many digital cameras with megapixel definition cost less than \$200 and provide direct-to-digital convenience. Analog video cameras are inexpensive, and full-page color flatbed scanners cost as little as \$50—enabling you to manipulate, enhance, and resize conventional photographs and documents using your computer. Even devices that allow you to burn your own DVDs have slipped below \$100. DVDs, which offer content menus and hours of high-quality video, are becoming a great way to store and share graphics-rich PowerPoint presentations and digital video.

What You'll Need**Hardware.**

Although Microsoft's recommendations are less demanding, I suggest running PowerPoint 2003 on a computer with a 1 gigahertz or faster processor, at least 512 megabytes (MB) of memory (RAM), and 32 MB or more of dedicated video memory (VRAM). This will ensure smooth playback of presentations, especially those including video and animation.

For portability, choose a quality laptop over a desktop. Toshiba, IBM, and Dell currently make good, reliable laptops. Look for a model with a rewritable CD drive (CD-RW) or, better yet, a DVD recorder so you can burn larger PowerPoint presentations onto a disc. Laptops with a composite video (NTSC) output—a video signal that is compatible with a television's (most computer signals aren't) can connect to the monitor of a conventional TV if a digital projector is unavailable.

PowerPoint Software

The latest version is PowerPoint 2003, included in all versions of the Office XP software suite and also sold as a standalone application. It is almost indistinguishable from PowerPoint 2002, so you don't need to upgrade unless you collaborate on presentations with other lawyers who also use the newer version or burn presentations on CDs. An older version—PowerPoint 97 or 2000—may work, but upgrading is definitely worthwhile since the latest versions have more sophisticated animation tools that add real polish to your presentations.

Presentation Tools

There are several ways to display a PowerPoint presentation—ranging from a standard television screen to a laptop—but the best approach is to use a digital video projector and screen.

Three years ago, it wasn't possible to get a small, bright, high-resolution projector for less than \$3,500, a hefty sum for a device most trial lawyers will only use a few times a year. But these projectors now cost as little as \$800. If you're not sure you will use the projector often enough to justify the investment, you can borrow or rent for awhile.

If you decide to buy your own projector, it should support high-resolution graphics (at least XGA 1024 x 768 pixels) and image brightness of at least 1200 ANSI lumens. Less bright units can be troublesome in courtrooms with lots of ambient light. Keystone correction, which compensates for image distortion when the projector is used at an angle to the screen, will help offset awkward courtroom arrangements, and a remote control will let you roam the courtroom untethered.

The lowest-tech part of the package can make a substantial difference in the success of your presentation. Better-quality screens feature higher reflectivity, returning more of

the projected image to the viewer's eye and making it appear brighter. Courtrooms are notoriously challenging places to set up a projection screen so that the jury, judge, opposing counsel, and court reporter can all see it well. A projector and screen that support rear projection may be a useful solution. Always visit the courtroom in advance, and ask the judge, bailiff, clerk or other court personnel about the court's preferences. Setting up your screen and projector may entail a little creative choreography and the indulgence of the court.

Since you are working with documents, you'll want to get the largest screen that will fit the dimensions and layout of the courtroom and the distance between projector and screen. The Deluxe Insta-Theater screens from Da-Lite Corp. (www.dalite.com) are a good choice for their easy setup and sturdy aluminum case. Many courtrooms have a screen available, but be sure it's what you need and where you need it before leaving your screen at the office.

Start Simply and Build

It's a mistake to wait until the eve of trial to start building a presentation. Instead, use it throughout the process—as you interview witnesses, work with experts, and conduct discovery. Forget the templates and begin your presentation with just a white background and black type, or vice versa. Start inserting your visual evidence—client photos, scene video, maps, graphs, scans of key documents, bullet points, jury issues, and so forth—each on a single screen (or "slide" in PowerPoint parlance). I like to scan in the covers and relevant pages of the codes or standards my opponent violated, to make those obligations "real" to the jury.

Initially, don't concern yourself with appearance or order. Also, don't waste time on bells and whistles like animated titling or sound effects. Just load every visual you might use into the presentation, resizing the images for effective viewing. At this stage, the program is just a vessel to hold your visual anchors. As you gather new visuals, insert them into the presentation—and make sure you periodically back up your work. Don't forget audio evidence, too. Voice mail, recorded statements, and 911 calls can all be dropped into PowerPoint.

Once your visual evidence and demonstrative exhibits are in PowerPoint, you can easily get to them. Though PowerPoint is a linear presentation tool, it also provides direct access to any slide (type the slide number, then hit "Enter") and can hyperlink from any object in any slide to any other slide, file, or external application. As the case develops, you'll return frequently to your presentation—to show a photo to a witness, a medical illustration to a doctor, or a deposition video clip to the court during a motion hearing. Along the way, you'll add titles, labels, highlighting, and animation, as well as determine the slides' order, keeping what works and dropping what doesn't. The presentation evolves with the case, and a polished presentation emerges gradually as your skill level grows.

Video

Most video needs editing before you show it to a jury, and video depositions are more effective when distilled to a 15- to 30-minute excerpt. Once, lawyers had to hire expensive video editors or manage a crude edit with two VCRs. Now, computers, digital camcorders, video-capture devices, and video-editing software have made video production relatively cheap and easy. Full-featured video-editing programs like Microsoft's Windows Movie Maker 2 can be downloaded for free, and many excellent products cost less than \$100. A new product, Adobe Premiere Elements does just about everything its powerful older brother, Adobe Premiere, can do but for a fraction of the price.

This software can also breathe life into static images. You can use the pan, fade, and transition features of a video-editing program on scanned photos and drawings to inject a Ken Burns-style dynamic element. Adding suitable background music may touch hearts in mediation or final argument.

Once you have digitized video, the magic begins. You can drag-and-drop video segments directly into PowerPoint or use hyperlinks to connect the presentation to video segments stored on CD or DVD. In PowerPoint, video objects can be manipulated like almost any other graphic—animated onscreen or started and stopped in a carefully orchestrated sequence. A compelling technique for mediation or final argument might be a slide where headshots of eyewitnesses appear like still photos in an album, then leap to life, one after another, testifying about the same key issue.

A compelling technique for mediation or final argument might be a slide where headshots of eyewitnesses appear like still photos in an album, then leap to life, one after another, testifying about the same key issue.

Animation

The ability to animate text (and "enhance" it with grating sound effects like screeching tires) has long been overused in PowerPoint presentations. The animated effect that's intriguing the first time you see it is like fingernails on a blackboard by the 10th time. Animation is banal and distracting when misused, but when done right it's stunningly effective at increasing comprehension and drawing attention to what's important.

The enhanced animation capabilities added to PowerPoint in versions 2002 and 2003 offer better ways to bounce text on, off, and around the screen. But, PowerPoint animation is capable of so much more. Now, you can make objects on a slide fade in or out, change in size, or follow a precise path. More important, you can animate multiple objects at the same time and tightly control their appearances, movements, and disappearances. You can also apply animation effects to the same object simultaneously, allowing, for example, an object to follow a defined path while also rotating and growing.

With a little patient tinkering and creative thought, any PowerPoint user can turn out animations rivaling those once produced only by professionals. You can animate complex mechanical processes, reconstruct auto and air crashes, depict needed safety features in operation, or re-enact medical procedures. I've used PowerPoint to animate a petrochemical plant explosion, the operation of a computer's hard drive, and a collision at an intersection. It was easy to bring an investigating officer's drawing of the scene to life, making his hand-drawn cars collide as if the police report were enchanted. Adding the screeching tires sound effect to that presentation made a point!

You may question whether animations created by an attorney rather than an expert are admissible as evidence. Most of the time, it doesn't matter because ninety percent of all cases never get to trial. Moreover, if there is a competent sponsoring witness who can vouch for the fairness and accuracy of your animation, most judges will allow their use irrespective of who created it. Savvy opponents will know to object if the animation distorts reality, but many will just let it roll in unchallenged. When all else fails, seek to use it with an appropriate limiting instruction.

To experiment with this type of animation, open a blank PowerPoint document and begin by drawing a rectangle to represent a car. PowerPoint includes a toolbar of basic drawing tools (if you don't see it on-screen, choose the "View" menu and select "Toolbars," then "Drawing"). Right-click on the rectangle and choose "Custom Animation" from the pop-up menu. Select "Add Effect," then "Add Motion Paths," "Draw Custom Paths," and "Curve."

Click on the center of the rectangle and drag a motion path for the object to follow, clicking at every point where you'd like your "car" to change direction. You may want to superimpose some rotation on the object to better mimic the real world. Left-click on the rectangle and again select "Add Effect" from the "Custom Animation" menu, then "Emphasis" and "Spin." Menu options allow you to adjust the amount, speed, and direction of spin. You can instruct the spin to start with the motion path you've previously created (select "Start with Previous"). Now adjust the settings to achieve fluid movement.

Building your animation skills will take time and experimentation, but the unexpected benefit is that it's a great deal of creative fun.

Once you know how to animate an object, you can layer multiple effects or animate several objects at once or according to a time line you control. This conceptual version of the wreck built with rectangles may suffice, but you might want to increase the sophistication of your image: Apply the same techniques to create, for example, an aerial view of a vehicle animated against a background of an aerial photo of the accident scene.

Building these skills will take time and experimentation, but the unexpected benefit is that it's a great deal of creative fun. Plus, imagine the intimidation factor when your opponent learns who created those animations that so impressed the adjuster!

Presentation Tips

When presenting documents with PowerPoint, show the jurors the untouched document as scanned, before adding any lines, boxes, circles, or other embellishments. If the original document is in evidence, assure jurors that they will be able to see it. Never enhance a document with PowerPoint in a way that might be construed as concealing or misrepresenting evidence. Juries are quick to fault counsel who appears to be hiding anything.

Remember, the documentary evidence with which you are intimately familiar is brand-new to the jurors. People read at different speeds, and no one will be happy if you remove a document before he or she is through reading it. Adjust your presentation pace to the jury's and don't go to the next slide or enhancement until the entire panel is ready.

Even the best on-screen presentation can strain eyes, necks, and attention spans if it goes on too long. Use variety in presenting exhibits. Break up your presentation with flip charts, three-dimensional evidence, even the familiar blowup mounted on a foam board.

Depart from the on-screen presentation to underscore the importance of key evidence. For example, if one document is the smoking gun, don't debut it on-screen, undistinguished from other exhibits. Instead, reverently bring forth the paper original and cradle it in your hands like the crown jewels. The change in focus and format spotlights the "in the flesh" evidence.

Many an unprepared presenter has been stymied by the lack of a cable, extension cord for AC power, power strip (you will need at least two power connections, three if you use amplified speakers), or a small table to hold the projector. Running cables across the floor can create trip-and-fall hazards, so have a large roll of gaffer's tape to secure them. Gaffer's tape doesn't leave a sticky residue like duct tape does, and it's stronger and easier to use than masking tape.

If your presentation includes sound, be sure you can tap into the courtroom sound system or be sure to bring your own amplified speaker system. *Always* check out the courtroom well before setup, and plan accordingly. Remember, just because there is an outlet on the wall doesn't guarantee that it has any juice.

Computers are flexible, powerful, and persuasive—but they can fail. Always have a Plan B for those times when the laptop won't boot or the projector bulb burns out. Have a copy of your presentation—and the PowerPoint portable viewer application that comes with the program—on a CD-ROM or a thumb drive (a small, removable data storage device; sometimes called a jump drive). That way, you can borrow another system and get going again.

Keep a spare projector bulb on hand, or have someone (perhaps an audio/visual rental company) prepared to bring a working projector to the courthouse. Know where the nearest computer equipment vendors are located, and carry their phone numbers. In a pinch, many laptops can be attached to a television monitor; be sure yours can.

Most important, recognize that the same short attention spans and appetite for stimulation that make Gen-X jurors respond well to visual persuasion also give them a short fuse when technical snafus delay the proceedings. Be ready to move on if your fixes don't work.

My most successful PowerPoint presentations serve to support and supplement my powers of persuasion by clearly and efficiently portraying the evidence and my client's contentions without distortion or distraction. Digital presentation keeps me from forgetting to make a key point. Freed from using notes, I can more easily engage the jurors, use effective gestures and body language and maintain eye contact. PowerPoint helps me stay on message, yet remain flexible enough to adapt on the fly as the evidence evolves. Best of all, I know I'm using the visual persuasion jurors find most compelling and memorable. Acquiring a high comfort level with presentation technology may take some work, but the effort it demands is rewarded each time I rest my case.

Learning More

You can teach yourself the basics of PowerPoint in a single evening, but to hone your skills, check out the specialized tutorials found in the PowerPoint area of Microsoft's Web site (www.microsoft.com/office/powerpoint/) or review the postings in one of the PowerPoint newsgroups, which you can find by searching the "Groups" section of most major Web portals, like Google, MSN, or Yahoo. Two good (albeit pricey) books specifically for lawyers and each now in second editions are available: *PowerPoint 2002 for Litigators* by Deanne Siemer and Frank Rothschild (National Institute for Trial Advocacy, \$69.95), and *Persuasive Computer Presentations: The Essential Guide for Lawyers* by Ann Brenden and John Goodhue (American Bar Association Law Practice Management Section, \$79.95).

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Power Persuasion



6 *Ways to Add PowerPoint Pizzazz to Mundane Documents*

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Six Ways to Add PowerPoint Pizzazz to Mundane Documents

Ever watched a trial on television? Not on one of those reality shows or Court TV, but the trials on “The Practice” or “Law and Order.” Of course, a real trial can’t fairly be compared to those steroidal spectacles, but don’t you know that the dramatic and fast-moving trials on the tube foster high expectations in real-life jurors? We can’t meet all those media-stoked expectations, but there’s one we can meet: *we don’t have to be boring!* A trial lawyer’s greatest enemy is boredom.

One way to beat back the boring trial is to add digital dash to routine documentary evidence with presentation software packages like Microsoft’s PowerPoint. You probably already own a copy of PowerPoint, either because it came with a computer or as part of Microsoft Office. If it’s gathering dust on your system, why not put it to work enhancing the sort of mundane documents lawyers work with every day? If you have Corel Presentations, you can use it to create these enhancements, though the steps will be a little different.

What You’re Going to Need

Tools to Create the Enhancements

You don’t need much to get started, and chances are you already have it all:

Computer

If the computer you have now is a PC successfully running Windows with any flavor of operating system from Windows 98 forward (e.g., Windows 98, ME, XT, 2000 or XP), or if you’re using a late-model Mac, you’ve got all the computing power you need to do the tasks discussed in this article. If you’re still running Windows 95 or if your processor speed is under 450MHz, you’re overdue to treat yourself to a new system. Prices have tumbled so far, you’ll be amazed at what you can get for under \$600.00, but be sure whatever you buy has a CD-RW drive or, better yet, a DVD recorder that will allow you to burn larger PowerPoint presentations onto a CD for portability.

People often ask me what kind of computer they should buy. I recommend electric (because the diesel-powered kinds tend to run hot). Seriously, there’s no pat answer--what you buy depends upon what you plan to do with it. Typical applications, like e-mail, word processing, bookkeeping and web surfing, place only modest demands on a computer, enabling you to get by with almost any “starter” PC being sold today. Although Microsoft’s recommendations are less demanding, for PowerPoint 2003 I recommend a system running a one gigahertz or faster processor, with at least 256 megabytes of memory (RAM) and 32 MB or more of video memory (VRAM). For the courtroom, choose a quality laptop over a desktop. Toshiba, IBM and Dell currently make the best and most reliable laptops.

Within two years, anything you buy now will be obsolete by the standards of the marketplace. However, today’s purchase will likely meet all of your computing needs for

at least twice that period of time, at which point power-hungry new releases of your key software will likely favor replacement. That's been the typical computing scenario for a number of years. You may as well buy it now.

PowerPoint Software

The latest version is PowerPoint 2003, included in all flavors of the Office XP software suite and also sold as a standalone application. It is, in almost every respect, indistinguishable from PowerPoint 2002 and doesn't justify upgrading unless you collaborate on presentations or burn them to CD-ROMs. If you have an older version of PowerPoint, like PowerPoint 97 or 2000, it will do but, in this instance, the upgrade is definitely worth it. The latest versions have more sophisticated animation tools that add real polish to your presentations once you become familiar with the program.

Document Scanner

This is where folks start to get nervous about whether they have the right scanner. Don't. Let me put it this way; if your scanner is less than about five years old and cost you more than thirty bucks, it's almost certainly up to the task. If I had to make a recommendation, any current USB-compatible model made by Visioneer or Hewlett-Packard is a sound choice. I'm very happy with my Visioneer 9650 because of its handy and reliable automatic document feeder, but the lower end (<\$100.00) devices sold at the local Wal-Mart or Target store will work too. Most people's unhappy experiences with scanners involved their use as optical character recognition (OCR) devices. Here, we are just using the scanner to create an image of a document, not read its contents and convert them to a word processor-compatible format. The latter can be tricky, but the first is a breeze.

Tools to Present Your Work

Once you've created lively documents, you're going to want to display them. There are several ways to do so, ranging from printing out your work on a transparency and using an overhead projector to putting them on a standard television screen to just gathering a small audience around your laptop display. But, the best approach by far (and, of course, the most expensive) is to use a laptop computer, digital video projector and screen.

Laptop Computer

You don't have to use a laptop to display your PowerPoint, but those clunky desktop systems and monitors are a pain in the neck to transport, and handheld alternatives (like MARGI Systems' Presenter-to-Go) may limit your ability to use animation, transitions and multimedia. In a courtroom setting, a laptop allows you to make changes to your presentation on-the-fly according to what comes into evidence and pronouncements from the bench—flexibility that's essential if you want what you create to get into evidence.

The same criteria advanced above for selecting a computer apply to choosing a laptop, but there are a few unique wrinkles. The laptop you choose must have a VGA output to

carry its screen contents to a digital video projector (most include it, but a handful of ultra portables relegate this all-important output to a docking station). A CD-ROM or thumb drive is also a must because you will quickly find your PowerPoint presentations growing too large to fit on a floppy disk. I favor laptops that offer a composite video (NTSC) output allowing me to connect directly to the monitor input of a conventional television set when a digital projector is unavailable. A hefty ration of video memory (>32MB VRAM) associated with the laptop's video adapter helps PowerPoint presentations run smoothly, especially when you're dealing with video and animation.

Digital Video Projector

Although they have come down quite-a-bit in price, digital video projectors are costly, ranging from under \$1,000.00 to \$6,000.00 or more, depending upon size, brightness and features. Just a replacement bulb for one of these gadgets can set you back hundreds of dollars! Accordingly, infrequent users elect to borrow or rent a projector as needed. More and more, courthouses, mediators and bar groups are making these devices available. Ask around.

If you decide to buy your own projector, it should support a minimum native XGA (1024 x 768) resolution and 1200 ANSI lumens image brightness. Less bright units can be troublesome in courtrooms with lots of ambient light. Keystone correction helps you to compensate for awkward courtroom arrangements and a remote control affords you a longer leash.

Projection Screen

The lowest tech part of the package can make a substantial difference to the success of your presentation. Higher quality screens have higher reflectivity, returning more of the projected image to the viewer's eye and making for a brighter appearance. Courtrooms are notoriously challenging places to set up a projection screen without figuratively treading on someone's toes. As soon as you begin using projection in your presentations, you will appreciate the universal reluctance to accept a less-than-optimum viewpoint. Trying to set up such that jury, judge, opposing counsel and court reporter are all well-served is no mean feat with a single projector and screen, and to do so may require a little creative choreography and the indulgence of the court. Sometimes, a projector and screen that support rear projection are useful solutions.

Since we are working with documents, you will want to get as large a screen as will work given the dimensions and layout of the courtroom and the distance between projector and screen. I'm partial to the Deluxe Insta-Theater line of screens from Da-Lite Corporation (<http://www.dalite.com>) because of their ease of set up and integral aluminum case. Here again, many venues already have screens available for your use; but, be sure it's what you need and where you need it before leaving your screen at the office.

Miscellany

Many an unprepared presenter has been stymied by the lack of a cable, extension cord for AC power, power strip (because you're going to need at least two power connections, three if you use amplified speakers) or even just a small table on which to place the projector. Running cables across the floor can create trip-and-fall hazards, so a large roll of gaffer's tape is worth having on hand to tape them down. Gaffer's tape doesn't leave the sticky residue of duct tape, and it's stronger and easier to use than masking tape (though all will suffice in a pinch). If your presentation includes sound, consider whether you can plug into the room sound system or if you will need to furnish and position amplified speakers. *Always* check out the courtroom sufficiently in advance of set up and plan accordingly. Anticipate complications—a bulb burning out, a computer malfunction--and have a back up plan ready. Finally, remember that just because there is an outlet on the wall doesn't guarantee that it's got any juice!

Getting Started

Scanning the Document

The first step to adding pizzazz to a mundane document is getting the document in a digital format that can be dragged, dropped and manipulated in PowerPoint. A scanner takes a picture of a document and converts that document image to a file in a particular computer-readable graphic format.

File Formats

Though some scanners use proprietary formats incompatible with other applications, all support the ability to save or export an image to one of the many standard graphics formats. For our purposes, we want to save the scanned image as a JPEG (pronounced jay-peg and also abbreviated JPG), PNG or TIFF. Consult your scanner's manual or help file to ascertain how to create these formats with your model. If your scanner is set to scan directly to the Adobe Portable Document Format (PDF), note that the Adobe Acrobat program allows you to export to JPEG, PNG and TIFF.

Although it's common to use the JPEG format for scanned photographs and the TIFF format for scanned documents, I tend to use JPEG for both since JPEG tends to create the smallest file size. I recommend you stick with JPEGs unless your results are unsatisfactory. A common PowerPoint mistake is creating and using too large an image file for a given document when a smaller file would suffice. As the number of slides in your PowerPoint presentation grows, these unnecessarily large images start to slow the program and can adversely impact the presentation. Setting your scanner to create the optimum file size from the start can prevent headaches later on.

Scan Resolution

Your scanner will allow you to set the resolution and color depth at which it scans. Resolution is measured in dots-per-inch (dpi). For an ordinary business document, scanning at a resolution greater than 150 dpi does little to enhance your presentation and saddles you with an excessively large file. You may be satisfied with a scan at 75

dpi, so play around with the settings to find the best balance between file size and legibility. Gravitate to higher resolutions only when you anticipate greatly enlarging a small area of your document in a call out (more about this later).

Color Depth

Color depth describes the amount of data assigned to each picture element (“pixel”) in an image. If a pixel can only be black or white, then you only need a single binary digit (“bit”) to describe it, but if it be any of millions of colors, the string of data needed to describe the color is very large. Multiply that data times the thousands or millions of pixels in a scanned image and you’ll have some notion why color depth settings dramatically influence file size. Unless your document is in color, there is no need to choose a color depth setting other than “grayscale.” Even for documents with highlighting, colored logos or marginalia in colored ink, a color depth no greater than 256 is almost always sufficient and will optimize file size. Just as too much color depth is undesirable, too little can produce unacceptable scans. Choosing the “black and white” color depth setting for many documents frequently results in a harsh, high-

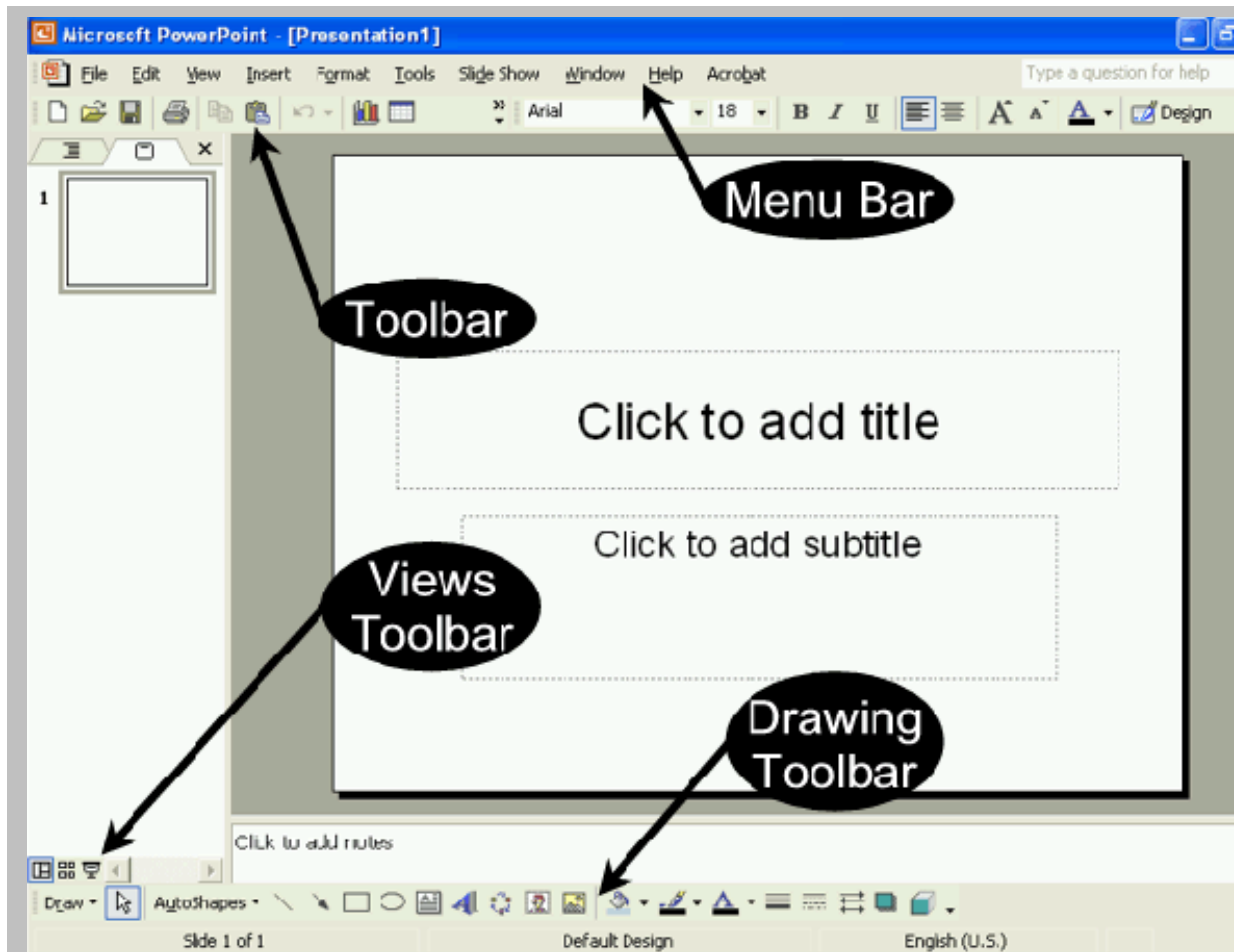


Figure 1: PowerPoint Main Screen

contrast image unfaithful to the original—much like a late-generation generation photocopy. Stick to grayscale where possible.

Getting Scanned Documents into PowerPoint

As a rule, there are three ways to accomplish almost anything in PowerPoint. You can select the desired action from the menu bar. You can use a keyboard shortcut—a key combination that initiates the desired action. You can use the mouse to drag-and-drop or select an action icon from the toolbar. To better understand this flexibility requires an acquaintance with the program’s interface. PowerPoint allows users to customize the way the program’s many menus and icons appear on their screen; consequently, your screen may look a bit different than Figure 1 (preceding page), but rest assured the buttons and menu choices I describe are there, if you hunt around a bit.

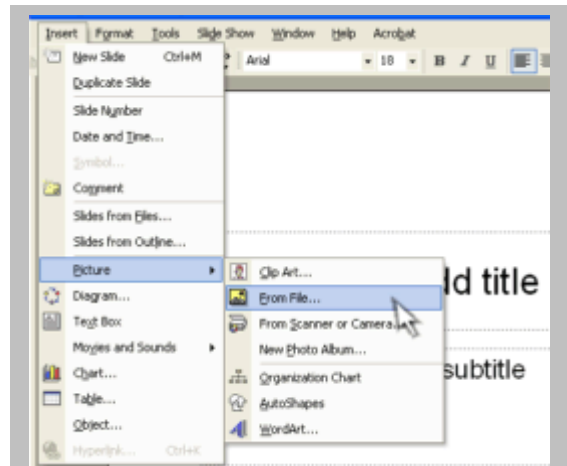


Figure 2: Insert Picture Menu

Although PowerPoint 2002 supports scanning directly into your presentation, these examples assume you’ve scanned your document, named the file and saved it as a JPEG. If so, start PowerPoint and, if asked, select “Blank Presentation” and “Blank Slide.” To insert your scanned document into the blank slide represented by the large white box filling most of your screen, select “**Insert**” on the menu bar, then “**Picture**,” then “**From File**.” (Fig. 2). From this point forward, let’s simplify a selection sequence like this one by expressing it as **Insert>Picture>From File**. You can have achieved the same result by simply clicking the “Insert Picture” button on the Drawing Toolbar. (Fig. 3). Either way, the program will open a picture selection window (Figure 4) for you to locate and select your scanned document. Remember: your scan is a picture of the document, not its text.

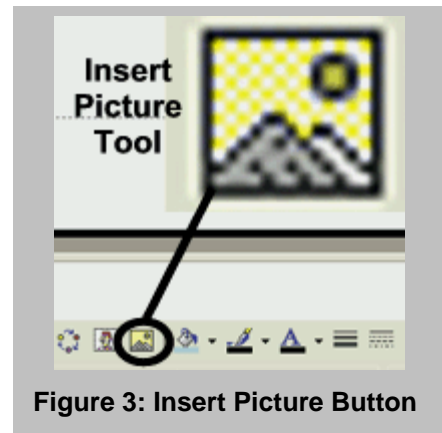


Figure 3: Insert Picture Button

As soon as you select the scanned document, it will appear in the slide window and you can then reposition it by left mouse clicking and dragging it or resize it by clicking and dragging on its sizing handles—the small circles at the corners of the image. Be sure and resize using just the corner handles as using the

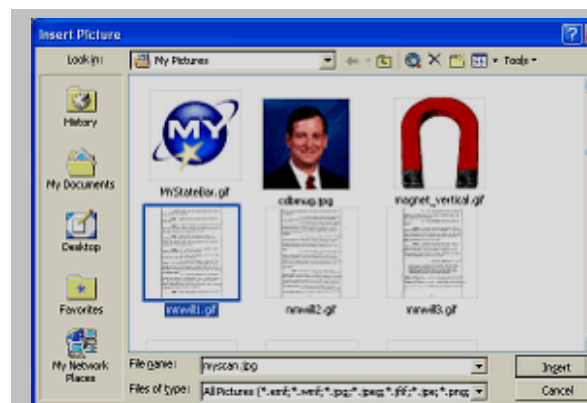


Figure 4: Picture Selection Window

side handles will distort the aspect ratio of the document. By right clicking on the image and selecting “**Format Document**,” the menu which appears affords you considerable control over image attributes including (by selecting the menu’s “**Picture**” tab) the ability to adjust the brightness and contrast of the image. This is a quick, handy way to improve the legibility of washed-out or too-dark images.

Backgrounds

It’s a good bet that your inserted document is a white piece of paper sitting atop a white background. Documents tend to get lost on the page when this happens. Instead, make your document stand out by changing to a darker background. To do so, simply select Format>Background from the menu, then click the down arrow on the right side of the colored block. If you don’t see the background color you prefer, click on “More Colors” and a color wheel will appear. Then just select the background color you want by clicking on it. Close the selection menus by clicking “Okay” and then “Apply.” I tend to use plain black backgrounds with white documents, but any dark color will suffice to help the viewers to focus.

Document Enhancement Techniques

The first thing you might notice about the scanned document you inserted in your PowerPoint is that it’s pretty hard to read, particularly if it is mostly 10- or 12 point typed text. Don’t worry about that. If your documentary evidence is like most, only a few key words or passages are crucial to your case. They’re what you want the viewer to remember. The rest of this article will describe half a dozen easy-to-master document enhancement techniques that will help a viewer to identify, understand and recall the parts of the document you wish to emphasize. These techniques are:

- Underlining and line linking;
- Boxing and circling;
- Retyped call outs;
- Zoomed call outs;
- Transparent coloration; and,
- Negative Coloration

Caveat

Juries are very sensitive to the notion that a lawyer may seek to keep information from them, and they are quick to fault counsel who appears to be hiding anything. Consequently, never use an enhancement in a way that might be construed as concealing or misrepresenting evidence. When presenting documents via PowerPoint, it’s important to begin by affording the jurors a view of the scanned document; that is, the entire page in its pristine condition, before any lines, boxes, circles or other embellishments. If permissible and accurate, assure the jury that the original of the document is in evidence and will be available to them to be reviewed in its entirety. Remember also that documentary evidence with which you are intimately familiar is brand new to the jurors. People read at different speeds, and everyone responds negatively when a document is taken away from them before they are through reading

it. Adjust your pace to the jury's. Don't allow your PowerPoint presentation to proceed to the next slide or enhancement until the entire panel is ready.

Break It Up

Even the best onscreen presentation can get tedious and strain eyes, necks and attention spans if it goes on too long. Strive to employ varied ways to present exhibits. Break up your presentation with the old reliable flip chart, three-dimensional evidence, even the familiar blow up on foam core board. Use a departure from onscreen presentation to underscore the import of key evidence. For example, if one document is the smoking gun, don't debut it onscreen, undistinguished from all other exhibits. Instead, reverently bring forth the paper original and cradle this all-important exhibit in your hands like the crown jewels. The changes in focus and format spotlight the "in the flesh" evidence.

Have a Plan B

It's flexible, powerful and persuasive. But it's still a computer, so you must have a Plan B in place for those terrifying times when the laptop won't boot or the projector's bulb burns out. Be sure to have a copy of your presentation (and the PowerPoint portable viewer application that comes with the program) on a CD-ROM or a thumb drive. Then, at least you can borrow another system and get going again. Keep a spare projector bulb on hand, or have someone—perhaps an audio/visual rental company—standing by to bring a working projector to the courthouse. Know where the nearest computer equipment vendors are located and keep their phone numbers at hand. In a pinch, many laptops can be attached to a television monitor, so be sure you select one that can. Most importantly, know that the same short attention spans and appetite for stimulation that make Gen-X jurors respond to visual persuasion give them a short fuse when technical snafus delay the proceedings. Be ready to move on if the first few fixes don't take.

Underlining and Line Linking

If you were passing a document on to someone and you wanted to draw attention to something in it, you'd probably draw an arrow to that part, underline it, color it with a highlighting marker or maybe draw a circle or box around it. Simple, effective computer enhancement techniques are instantly clear because they do much the same thing.

Suppose you want to draw attention to certain passages in a document by underlining them. All you need to do is click a few icons on the Drawing Toolbar near the bottom of the PowerPoint screen (Fig. 5), drag your mouse across the pertinent places in the document and you're there. The same is true for drawing pointers, lines and arrows. Let's walk through it step-by-step.



Figure 5: Drawing Toolbar

Underscoring

Once you've inserted your scanned document into your PowerPoint presentation and determined what passage you want to underscore, simply click the "**Line**" tool icon on the Drawing Toolbar (Fig. 6) and place your mouse pointer at the beginning of the passage you want to underline. Note that when you selected the line tool, your mouse pointer turned into a set of crosshairs. Click and hold the left mouse button while you drag the crosshairs toward the end of the line or passage. When you release the mouse button, a line should appear under the text. *HINT: I like to hold down the Shift key while I do this because it forces the program to draw a perfectly straight line (unlike me, PowerPoint can draw a straight line!).*

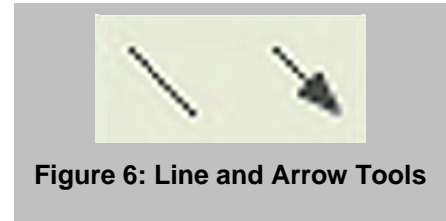


Figure 6: Line and Arrow Tools

To change the thickness of the line you've just drawn, click the "**Line Style**" button (Fig. 7) on the Drawing Toolbar and pick the line thickness and style you prefer. To change the color of the line, click the "**Line Color**" button (Fig. 8) on the Drawing Toolbar and click the color you want. Repeat this procedure as often as needed to underscore all the text you want to emphasize. If you need to change a line previously drawn, select it by placing your mouse pointer on the line and left clicking. The line is selected when sizing handles (tiny circles) appear on each end. You can select multiple lines by holding down the Shift key while you select them or by holding down the left mouse button and dragging a box around them.



Figure 7: Line Style Tool



Figure 8: Line Color Tool

Don't fret if you underline the wrong passage or mess up in some other way. The most marvelous keyboard shortcut in PowerPoint (and most other Windows applications) is **Ctrl-Z**, because it undoes the last thing you did. Hit Ctrl-Z several times, and Windows undoes the last several things you did. Want to redo something you've undone? No problem, just hit **Ctrl-Y**. These two keyboard shortcuts will spare you a lot of frustration. Naturally, you can access Undo and Redo from the Edit menu too.

Arrows

Drawing an arrow is as easy as underscoring. Just left mouse click the "**Arrow**" tool icon on the Drawing Toolbar (Fig. 6), then click and drag the crosshairs from the place where you want the end point of the arrow to be to the place where you want the arrowhead to be. Voila! If you didn't get your arrow position exactly as desired, it's no problem. You can click and drag the sizing handles to reposition the endpoints or you can click and drag on the shaft of the arrow to move the entire arrow. Once you've got it where you want it, you can customize everything about the arrow you've just drawn. While the arrow is still selected (or after selecting it by left mouse clicking on the shaft of the arrow), click the "**Arrow Style**" tool icon on the Drawing Toolbar (Fig. 9) and select the arrowhead size



Figure 9: Arrow Style Tool

and style and line thickness and style you prefer. As with most actions in PowerPoint, you can achieve the same result in various ways, e.g., you could double click the arrow to bring up the Arrow Style options menu. You could also select **Format>AutoShape** from the Menu Bar or hit **ALT-O** twice to get to the same place. More than one way to skin a cat!

Linking

Sometimes you need to draw attention to a relationship between parts of the same document or between two documents. The line and arrow drawing techniques are well-suited to these tasks. Try drawing a line or a two-headed arrow between two parts of a single document or experiment with inserting *two* scanned documents side-by-side on the same PowerPoint slide, then drawing draw lines and arrows between them, as in Fig. 10.

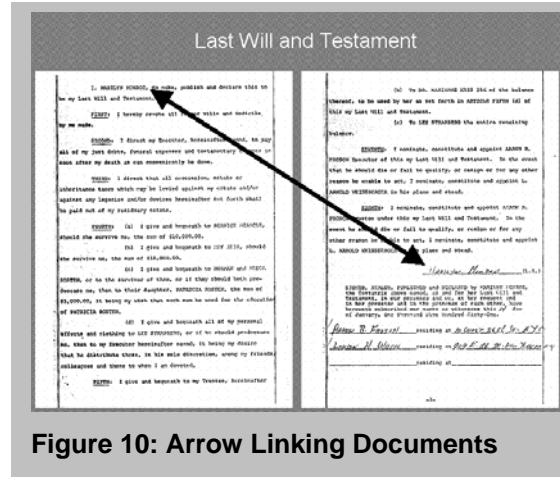


Figure 10: Arrow Linking Documents

Animating Enhancements

Much of the power in PowerPoint lies in its ability to animate screen objects. Judicious use of PowerPoint animation permits you to control the flow and focus of your presentation while adding kinetic interest—pizzazz—to static and mundane evidence. Movement can be used to express passage of time, exchange of consideration, trajectory of a bullet, flow of product through a pipeline, routes taken by vehicles, propagation of a family tree or crossing off items on a list, just to name a few. Once you develop a comfort level with PowerPoint animation, all sorts of creative uses will occur to you, but use care to insure the animation doesn't get in the way of the message. A frequent mistake of PowerPoint users is an infatuation with pointless animation. If your text or enhancement doesn't need to bounce or tumble into the slide, then don't do it! Animation should be as subtle as possible (or entirely absent where it serves no purpose). Don't cry wolf! Reserve dramatic animation for emphasis of dramatic points, and be mindful of objections to inappropriate emphasis. What you can do in argument you may be prohibited from doing in jury selection or with a witness.

To add animation to a line, arrow or any screen object, right click on the line, arrow or object, then select **"Custom Animation."** The Custom Animation menu will appear (Fig. 11). In PowerPoint 2002, you would then select **"Add Effect"** and be prompted to choose an animation effect from any of four

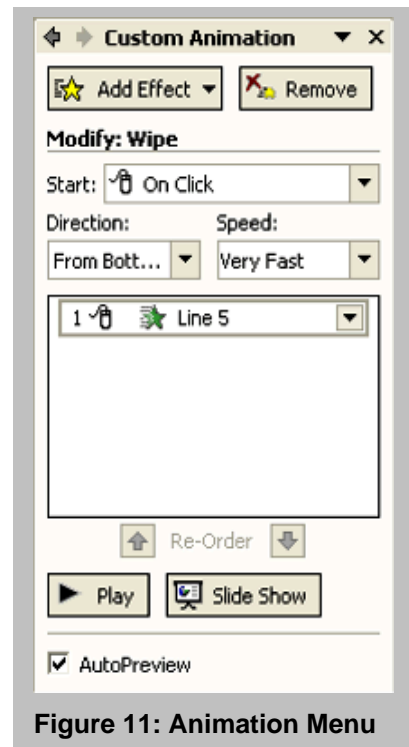


Figure 11: Animation Menu

categories of effects: **Entrance**, **Emphasis**, **Exit** or **Motion Paths** (Fig. 12). Entrance effects set the way in which a screen object appears on your slide. Emphasis effects animate objects while onscreen, leaving them onscreen after animation. Exit effects set the way in which a screen object leaves the slide, and Motion Paths enable an object to move around the screen during presentation on a path you select or create. When you select “Entrance,” a partial list of entrance effects will appear. If you don’t see the entrance effect you want on the partial menu, select “**More Effects**” for a complete list. For example, to cause the arrow in Figure 10 to appear to be drawn from the typed name to the signature, right click the arrow, select **Custom Animation>Add Effect>Entrance**, then select the *Wipe* effect as its entrance animation effect. I could then customize the animation, selecting “*From Left*” from the “**Direction**” option (so the arrow appears to be drawn from left to right) and “*On Click*” from the “**Start**” options (setting the action that will start drawing the arrow across the screen, from name to signature). If you want to see how the animation will look in your presentation, click the “Play” button, or click “Slide Show” to run your presentation from the current slide.

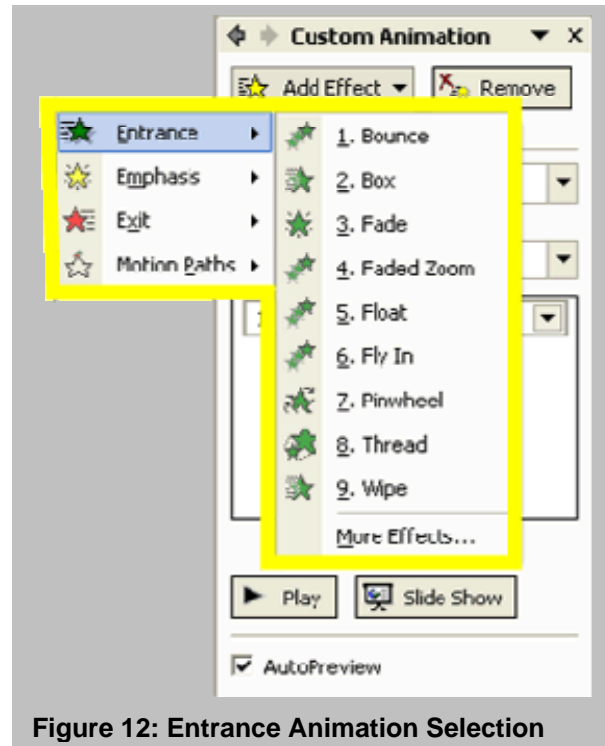


Figure 12: Entrance Animation Selection

The variety of animation options may seem daunting at first blush, but you will quickly come to appreciate the high degree of flexibility and creativity these choices afford. The ability to choreograph animation to match the pace of your presentation, apply multiple overlapping animation effects to a single object, allow multiple objects to animate at the same time, adjust animation speed and control a host of other customization choices is invaluable in a courtroom persuasion tool.

Boxing and Circling

Boxing and circling around text or other features of a document—especially when paired with a well-chosen animation effect like “*zoom out slightly*”—are great ways to focus a viewer’s attention and serve as the perfect preludes to the text callouts described later in this paper.

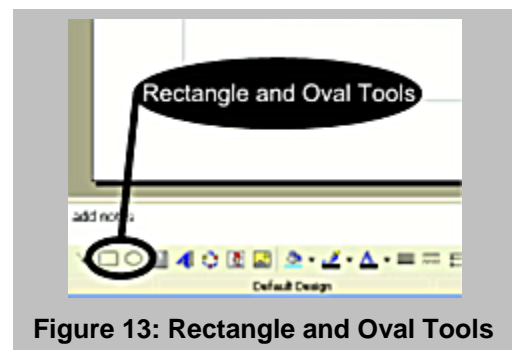


Figure 13: Rectangle and Oval Tools

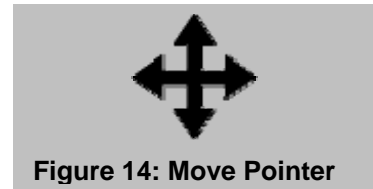
To draw a box or circle around text, click either the **Rectangle** or **Oval** tool on the drawing toolbar (Fig. 13). Then, in the slide window,

click and drag a rectangle or oval around the passage to be highlighted. Don't worry about perfect size or placement just yet as the shape you've drawn needs a little work. First, the shape is, by default, filled with an aqua color that blocks the text. To clear this fill color and make the box or circle transparent, find the **Fill Color** paint bucket icon on the drawing toolbar and click on the down arrow to its right, then select "No Fill." Now, just as we did before, use the "**Line Style**" (Fig. 7) and "**Line Color**" (Fig. 8) tools on the Drawing Toolbar to select the line thickness, style and color you prefer. Use the sizing handles to precisely size and position your shape and enclose the text or other content you want to emphasize. I find a red or yellow line at six point thickness works well.

TIP: *If you want the shape you draw to be a perfect square or circle, hold down the Shift key while you draw it. This will maintain the correct aspect ratio and keep you from inadvertently drawing a rectangle or oval.*

Positioning

Although the sizing handles will suffice for positioning most enhancements, sometimes you just want to grab and move an enhancement without (or before) resizing it. As in many Windows applications, when you left click on and select the shape you've drawn, you will note that, when you position your mouse pointer anywhere on a filled object or on the fuzzy outline edge of an unfilled shape, your pointer changes to the Move pointer, a four-pointed arrow like that in Figure 14. While the move pointer is visible, you can left click and drag the object anywhere on or off the slide. You can also use the arrow (cursor) keys to nudge the object in precise increments and in even finer increments if you nudge it while holding down the CTRL key.

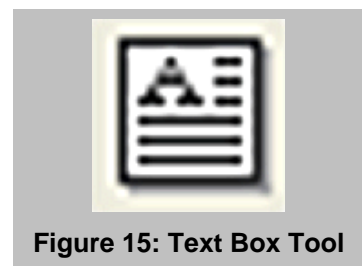


Animating your Box or Circle

The procedure for adding an animation effect to your enhancement is really no different for a box or circle than it was for a line; however, one entrance effect I highly recommend is "**Zoom**," with the zoom method set to "*Out Slightly*." This causes your outline to appear somewhat larger than the document region to be enhanced and then contract until it stops at the dimensions you selected. It's quick and clear, without being distracting.

Adding Text

So far, these exercises have centered on overlaying simple line drawings like boxes on top of scanned documents. But, sometimes you need to put text in those boxes, or perhaps annotate a scanned photograph. Creating a text box is as simple as clicking on the "Text Box" icon on the drawing toolbar (Fig. 15) and drawing a text box in the same way you created an empty box, except the box you create with the text box can contain—big surprise here—text!



To create a text box, just click the Text Box icon, position your pointer (which now looks like an arrow pointing down to the baseline of your text) on the slide, draw the rough outline of the box and start typing your text. You can control, text color, font size and style and a host of other text options in PowerPoint exactly as you do it in other Microsoft Office application. Note that the drawing toolbar contains a handy “**Font Color**” icon (Fig. 16), but, of course, you can also add and customize text boxes using the Insert and Format options on the menu bar. You can also animate text boxes and their contents as you would any other object on a PowerPoint slide.

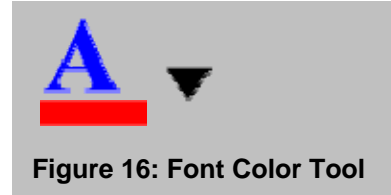


Figure 16: Font Color Tool

Callouts

Boxing or underlining text is useful, unless the highlighted text is so small onscreen that viewers can't read it. This is a common issue when working with letter size documents on PowerPoint slides, but one that can be resolved easily by adding callouts to your slide. You've probably seen callouts before, likely added to documentary evidence that's been blown up and mounted on foam core board. A callout simply denotes and magnifies selected text in a document, usually displaying it in the margin at a size sufficiently large to allow jurors to read the passage “called out” from the page. Mounted document enlargements with callouts are effective and they still have their place in your arsenal of demonstrative evidence; however, they have drawbacks, too. Mounted enlargements with callouts are expensive, running anywhere from \$150.00-\$400.00 per page. They can be tricky to transport, especially on a windy day, they require easels, and they are set in stone (well, in foam, anyway) and can't be altered on the fly when the court orders particular matters excluded. On the other hand, you don't have to boot them up, you don't need a projector and they never crash, except perhaps on those same windy days!

Callouts fall in two varieties, which I distinguish as “**Retyped Callouts**” or “**Zoomed Callouts**.” The difference between them is that the text called out in a retyped callout has been keyed into the text box. In a zoomed callout, the text called out is an enlarged segment of the document. Each has their advantages. A retyped callout is usually easier to read and to fit on a slide without obscuring the source document. A zoomed callout is the “real” document and, for some, that makes it more persuasive. Where there is any question about what the document says (as occurs with handwriting or poor copies), zoomed callouts forestall claims of misrepresentation. Where legibility is an issue, the retyped callout has the edge.

Retyped Callouts

To create a retyped callout like that shown in Fig. 17, insert your source document in the

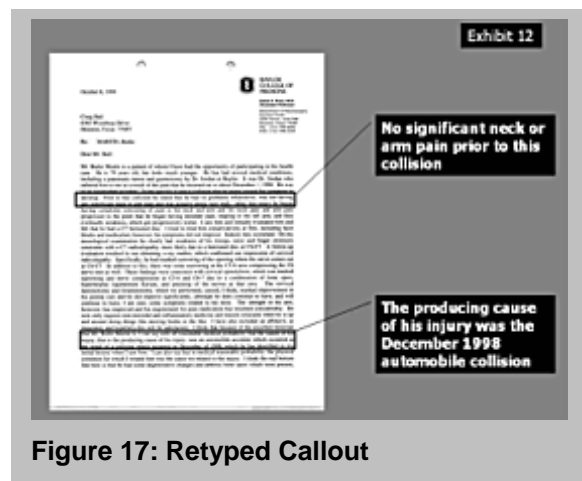


Figure 17: Retyped Callout

slide and box the text to be highlighted using the techniques previously described. Be sure to resize the document to afford room for your callout, unless you want the callout to cover part of the source document.

There are then two ways to complete your callout. The simplest is to use PowerPoint 2000 and 2002's built-in callout feature. To do so, click "**AutoShapes**" on the drawing toolbar and select "**Callouts**" from the AutoShapes menu (Fig. 18). Choose the style of callout you prefer, then click and drag from the edge of your boxed text to the margin area reserved for your callout. PowerPoint will create a filled text box ready for your insertion of the highlighted text by retyping it into the text box. Before you start typing, resize and reposition the text box for the best appearance. You can also use the drawing toolbar to change the text box's background color. Use the "Font Color" tool to select the color for your text before you type because if both background and text colors happen to match, you won't see your text at all.

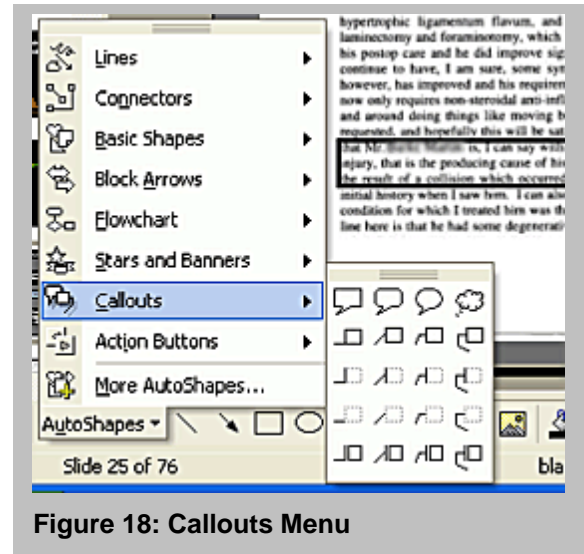


Figure 18: Callouts Menu

The second way to fashion a retyped callout is to combine the skills you learned previously to draw a line or arrow combined with a text box. Doing so can give you a bit more precise control over the individual stylistic elements of the callout; but for those whose copy of PowerPoint includes the callouts feature, using the feature is easier and faster.

Zoomed Callouts

Creating a zoomed callout is a bit more involved than creating its retyped sibling, and sometimes the results are less than stellar, especially where the source document scan is of poor quality. However, a successful zoomed callout can be a slick and impressive piece of demonstrative evidence, as Fig. 19. The trick to a zoomed callout is cutting out from a duplicate of the source document just the text you want to emphasize and then resizing the excised text. To get started, insert your source document in the slide and box the text to be highlighted using the

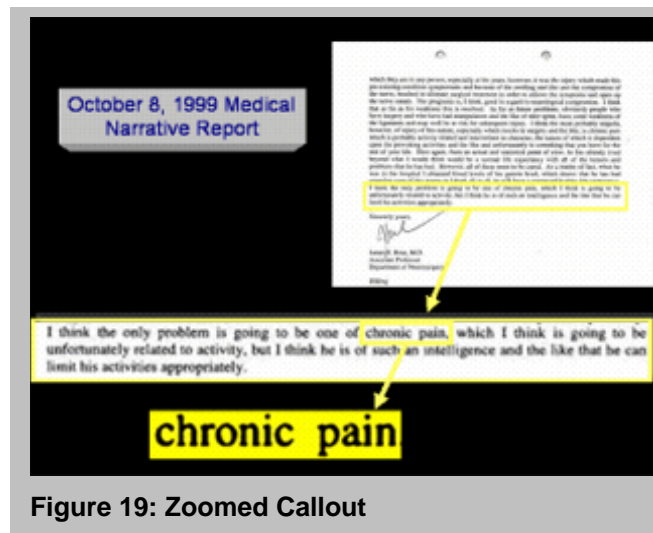
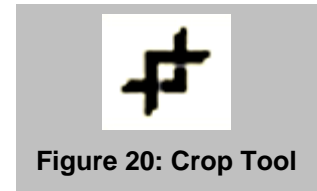


Figure 19: Zoomed Callout

techniques previously described. Here again, resize the source document to afford room for your callout. Zoomed callouts tend to be about twice as wide as the source text, so leave plenty of space below your source document unless you don't mind the callout overlapping and concealing part of the source document.

Now, select your source document (if not already selected) by left mouse clicking on it and type CTRL-D to duplicate your source document. The duplicate should appear atop and slightly offset from the source document. We will use the duplicate to cut out the emphasized text. The duplicate should already be selected, so click on the "Crop" tool on the drawing toolbar (Fig. 20). Note how the sizing handles on the duplicate have changed into cropping handles. By clicking and dragging on these, you can crop out everything on the duplicate document except a rectangle containing your emphasized text. Just crop roughly at first, leaving wider margins around the emphasized text than you want in the final product, because you can crop again after you've enlarged the text. When finished, click the Crop tool button once more, and the cropping handles will again become sizing handles. Click on a corner sizing handle (not a side handle, which will distort the text) and stretch the cropped text until it is roughly the size you want for the zoomed callout. Note that your text may become somewhat blurred as you enlarge it. Strike the best balance you can between clarity and size. After you've enlarged the selected text, you can again click on the Crop tool to fine tune the margins. It's should be easier to accomplish with precision now that the text is enlarged.



Once your enlarged text is the right size, drag it to its intended location. You might want to box the enlarged text by selecting it, then clicking on the Line Color tool. You can adjust the line thickness, style and color just as before. Now, to complete your callout, just draw a line or an arrow from the edge of the boxed text in your source document to the edge of the enlarged text.

Grouping and Animating Callouts

Judicious use of animation reinforces the impression that the enlarged text is emerging from the source document. To add animation to a callout, you need to employ an additional step because callouts are comprised of more than one object, e.g., the boxed text, the line or arrow and the text box or enlarged text. Though you could animate each object and adjust their settings to appear simultaneously, the easier approach is to "group" the callout objects before you apply an animation effect to them. To group objects, they must first all be selected. To do so, hold down the Shift key while you select each of the objects you wish to group. Once selected, group the objects in any of three ways. You can group the objects by typing CTRL+SHIFT+G or by clicking the word "Draw" on the drawing toolbar and choosing "Group," or by right clicking on the edge of any of the selected objects and selecting Grouping>Group. Once grouped, the selected objects become one object until ungrouped (CTRL+SHIFT+H).

Now that you've grouped the callout components, apply an animation effect to the group. You might want to use the *Wipe* entrance effect for a retyped callout and a *Faded Zoom* entrance effect for the zoomed callout. You can even tier callouts as shown in Fig. 19, where the block of text is first enlarged, followed by the enlargement of a single phrase within the block. Experiment until you find something you like, but remember, the goal is *communication*, not coolness.

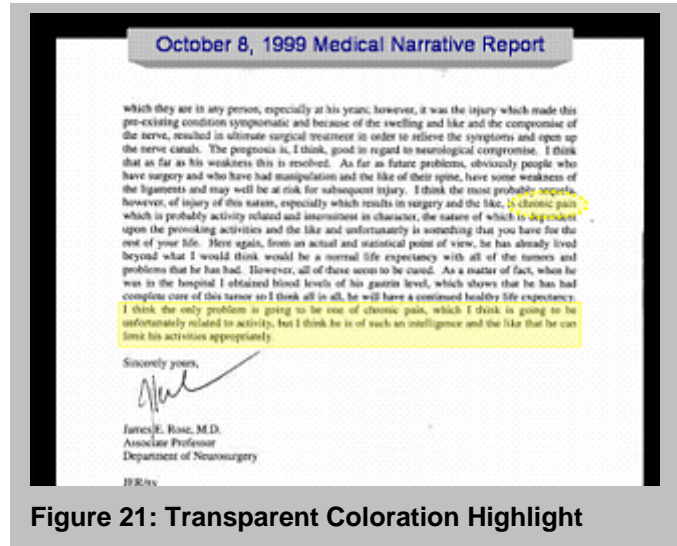


Figure 21: Transparent Coloration Highlight

Transparent Coloration

When you use the Rectangle tool to box in text, by default PowerPoint created a filled rectangle, which you then must clear of the fill color to reveal the text below. What if instead you could make the color translucent so that it could be used much like a highlighting marker, to emphasize blocks of text? It can (Fig. 21). When you create your rectangle or oval, instead of clearing it by clicking on the down arrow to the right of the **Fill Color** paint bucket and selecting “No Fill,” select “the “More Fill Colors” option. This will open the **Colors** menu, with its honeycomb containing all the standard fill colors (Fig. 22). Select a suitable highlighting color by clicking on its color (bright yellow is always an excellent choice for highlighting), and then locate the “**Transparency**” slider at the bottom of the Colors window. Move the slider to about 85% transparency. I find the optimal range to be something between 70-90% transparency, depending upon the highlight color selected and the brightness and contrast of the document being highlighted.

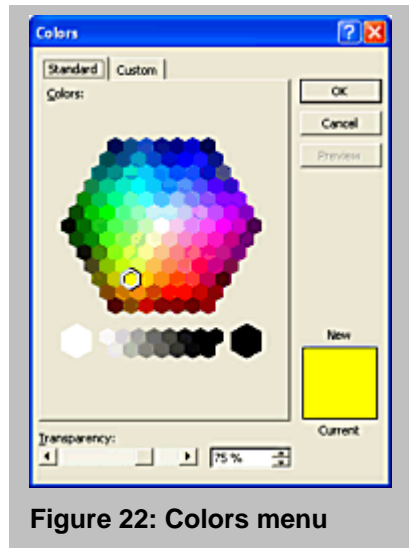


Figure 22: Colors menu

Negative Coloration

Just as you can emphasize parts of a document using transparent coloration, conversely you can add emphasis by shading the entirety of the document *except* the part you want to highlight. In Figure 23,

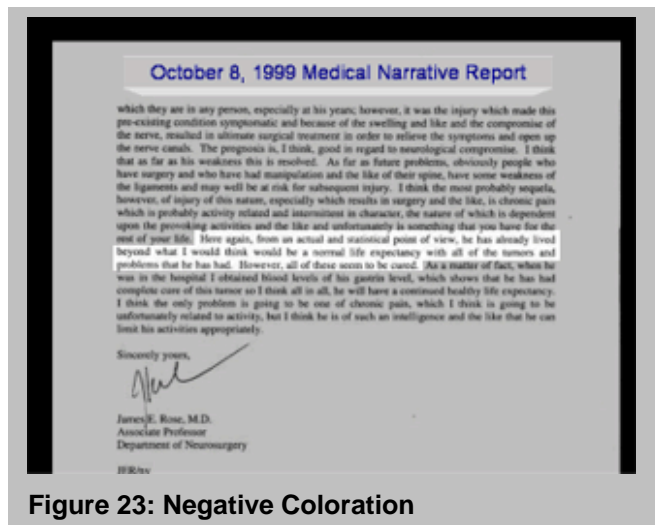


Figure 23: Negative Coloration

the entire document save the emphasized text has been obscured by six black rectangles, each abutting another, surrounding the highlighted text, and all set to 75% transparency. Their margins have been eliminated by setting the Line Color to “*No Line.*” The net effect is that the unshaded area of text jumps out. Grouping the shading rectangles, then using animation effects to fade them in, followed by enlargement of the emphasized text in a zoomed callout, is a very effective combination (and one frequently used to good effect by many television news shows, in particular “*Sixty Minutes*”).

Last Words

Keep in mind that the enhancements discussed in this article are just a small sampling of the exciting things presentation software can do to enhance your advocacy. By combining the rudimentary drawing skills just discussed—drawing, styling and animating lines, arrows, rectangles, ovals and text boxes—you can build increasingly complex and interesting enhancements like animated time lines, process drawings, flow charts and so on. If you pair your fertile imagination with these basic techniques, plus the more advanced ones you will come to know as you experiment with PowerPoint, you may find that not only will your presentations be less boring; you might even find yourself having a little fun with this stuff!

High Tech from Day One

Do you ever find yourself vowing, “Next trial, I’m going to do things differently?” Are electronic discovery, paperless case management and digital presentation something you’re saving for “the big case” down the road? If so, *tempus fugit ergo carpe diem*; or, as the Nike shoe folks say, “*Just do it!*”

Let’s dispel a few misconceptions and common anxieties about going high tech in your trial preparation.

- ***I need to be a rocket scientist.*** Heck no! Anyone who is reasonably comfortable using e-mail and surfing the ‘net has the requisite computer savvy to take advantage of digital trial tools and online discovery resources. Will you do everything right the first time? Probably not. Will you be more effective this trial than last? Almost certainly.
- ***I’d have to buy new and expensive equipment.*** To paraphrase Henry David Thoreau, “Beware of all enterprises that require new computers.” Unless you are using six-year-old systems, chances are the hardware and software you currently own have enough horsepower to get you on the high tech bandwagon (and if your systems are long-in-the-tooth, prices for new technology have never been lower). There is no better time to start than now, using what you’ve got.
- ***The way I do things doesn’t lend itself to technology.*** Nonsense! If the path you take to higher tech trials means you’ve got to abandon what you already know, it’s the wrong path. Let tech tools simplify and amplify the way *you* do things. Start slowly. Introduce new techniques incrementally as your comfort level grows, and keep at it, building on your progress.
- ***Juries think high tech stuff is too slick.*** You’ll only hear this from those who have never used tech tools. Unless your jurors are Old Order Amish, they are using computers, too. They also watch the same TV programs and movies. Their expectations are forged by a barrage of visually rich content from every medium and by trials, real and fictional, on TV and the big screen. More importantly, they don’t come to court content to be bored to tears or see their time wasted. *If you want their attention and need their retention, engage their senses.*

The explosion of electronic evidence and growing sophistication of jurors means you’ve got to *try*. No zealous advocate cedes the technology high ground to the other side without a fight. The good news is *you can do this stuff*. It’s easier than you think and it might be...dare I say...*fun*.

Getting Started

There are a hundred ways to be a more effective, organized and persuasive advocate using technology, but let’s start by pursuing four goals:

1. Use technology to bolster and grow the visual component of your case.

2. Avoid paper where it slows you down or is less effective.
3. Access online resources to secure better intelligence.
4. Pursue electronic discovery aggressively, tactically and with finesse.

Entire books have been written about each of these goals (see *Recommended Reading* sidebar), but you can get going using Web resources alone.

Visual Persuasion from Day One

The Internet was around for years before it leapt into the public consciousness; but, hardly anyone paid attention to the 'Net until it acquired a new dimension: *pictures*. We are wired for sight and weaned on "Show and Tell," not just "Tell." Arguments end on the assertion, "I saw it with my own eyes." Our ability to retain information is proven to be 650% better when we see and hear information, compared to acquiring it by ear alone. Visual persuasion is powerful, and technology makes it easy.

Going High Tech from Day One for visual persuasion requires that you get in the habit of asking yourself, every step along the way, "How do I depict that?" It also requires having a still camera at the ready—a digital camera is easier, but a film camera and scanner will do—and not being shy about photographing people, places and things in the case. In an injury case, consider digital video or photographs of the scene, witness statements, injuries, vehicles, buildings, signs, debris, even bumper stickers.

What you're seeking is a visual "anchor" for every idea you want the jury to accept and retain. These images, like hieroglyphics or icons on a computer's desktop, serve as visual shorthand for the testimonial and documentary evidence. The Web can serve up satellite imagery and maps to anchor locale. Make it your practice to videotape every deposition; but, if budgetary constraints

Recommended Reading

Visual Presentation

Effective Use of Courtroom Technology: A Lawyer's Guide to Pretrial and Trial, by D. Siemer, F. Rothschild, A. Bocchino, and D. Beskind (NITA 2002)

PowerPoint® 2002 for Litigators, By Deanne C. Siemer and Frank D. Rothschild (NITA 2002)

Persuasive Computer Presentations: The Essential Guide for Lawyers, By John H. Goodhue and Ann E. Brenden (ABA 2001)

Case Management and Paperless Office

Computerized Case Management Systems: Choosing and Implementing the Right Software for You

By Andrew Z. Adkins (ABA 2002)

The Myth of the Paperless Office

By Abigail J. Sellen and Richard H. R. Harper (MIT Press 2003)

Online Resources

Lawyer's Guide to Fact Finding on the Internet

by Carole A. Levitt and Mark E. Rosch (ABA 2004)

Electronic Discovery

Electronic Discovery and Evidence

by Michael R. Arkfeld (Law Partner Publishing 2003)

Electronic Evidence and Discovery: What Every Lawyer Should Know,

by Michele C.S. Lange and Kristin M. Nimsger (ABA 2004)

Essentials of Electronic Discovery—Finding and Using Cyber Evidence

by Joan E. Feldman (Glasser LegalWorks 2003)

make that impossible, don't leave without snapping a few photos of the deponent. Using video capture devices that sell for between \$50.00 to \$100.00, it's simple to convert analog video from VHS tapes to digital clips you can simply drag-and-drop into a PowerPoint presentation, edit on your PC or digitally project from your computer. If you, your staff or your court reporting service synchronize video time codes to the deposition transcript, cross-examining a witness can be almost as simple as highlighting the inconsistent statement and clicking "play."

Imaging technology has never been more powerful, accessible or affordable than it is today. Megapixel digital still cameras have fallen far below the \$200 level and afford direct-to-digital convenience. They're practically giving away analog video cameras, and a full-page color flatbed scanner can be had for as little as \$50, enabling you to manipulate, enhance and resize images using your computer. Even devices that allow you to burn your own DVDs have slipped below the \$100 range. DVDs, with their support for content menus and hours of high-quality video, are fast becoming the perfect way to store and share graphics-rich PowerPoints and digital video.

Trial presentation suites, like Trial Director and Sanction, are impressive tools, but you can perform amazing feats of power persuasion using an application you might already own: Microsoft's PowerPoint. Most users barely scratch the surface of PowerPoint's capabilities and some err at the outset trying to use PowerPoint's cheesy templates to structure a presentation. But, you can benefit from PowerPoint most easily by forgetting any way you've ever seen it used and simply regarding it—at first—as a simple way to organize, access, present and enhance visual evidence.

It's a mistake to wait until the eve of trial to begin using a presentation program. Instead, flex your power persuasion muscles throughout the process—interviewing witnesses, working with experts and during discovery. From Day One, begin a PowerPoint presentation consisting of nothing more than a white background with black type, or vice-versa. Then, start inserting your visual evidence, client photos, scene video, maps, graphs, scans of key documents, bullet points, jury issues and the like, each on a single slide. I like to scan in the covers and relevant pages of codes or standards my opponent violated, just to make those obligations "real" to the jury. Don't concern yourself with appearance or order at first—and certainly waste no time on bells and whistles like animated titling or sounds. Just get every visual you might use into the presentation, resizing images for effective viewing. All you want at this stage is a vessel to hold your visual anchors. As new visuals materialize, insert them into the presentation...and don't forget to periodically back up your work. Don't forget sound too. Voice mail, recorded statements, 911 calls can all be dropped into PowerPoint, so engage as many senses as possible.

Once your visual evidence and demonstratives are in PowerPoint, you have an easy mechanism to get to them. Though most think of PowerPoint as a linear presentation tool, in fact, the program supports direct access to any slide (simply type the slide number then the Enter key) and hyperlinks from any object in any slide to any other

slide, file or external application. Now, you should find yourself frequently returning to your PowerPoint as the case develops—to show a photo to a witness, a medical illustration to a doctor or perhaps a deposition video clip to the court during a motion hearing. Along the way, you'll add titles, labels, highlighting and animation, as well as tweaking the order of presentation, keeping what works and dropping what doesn't. The PowerPoint presentation evolves with the case, and a polished presentation emerges gradually as your skill level grows.

Rediscover PowerPoint Animation

PowerPoint has long offered users the ability to animate text (often “enhanced” by grating sound effects like screeching tires), a tedious capability much to blame for the trepidation with which some approach PowerPoint presentations. Use animation only when it serves to increase comprehension or draw attention to what's really important. The animated effect that's intriguing the first time you see it is like fingernails-on-a-blackboard by the tenth time. But, as banal and distracting as animation is when misused, it's stunningly effective when astutely employed.

The enhanced animation capabilities added to PowerPoint in versions 2002 and 2003 might have just been an effort to afford presenters slightly less obnoxious ways to bounce text on, off and around the screen. But, PowerPoint animation is capable of so much more. Now, objects appearing on a slide can fade in or out, change in size or follow a precise path. More importantly, multiple objects can be animated at the same time, with tightly controlled sequencing of appearances, movements and disappearances. Plus, animation effects can be applied to the same object simultaneously, such layered animation allowing an object to follow a defined path while also, e.g., rotating and growing. The upshot is that, with a little patient tinkering and creative thought, any PowerPoint user can turn out animations rivaling those once requiring expensive professional assistance. You can animate complex mechanical processes; visually reconstruct automobile collisions and air crashes; depict needed safety features in operation or re-enact medical procedures. I've used PowerPoint animation to animate things as diverse as a birds-eye view of an intersectional collision, a petrochemical plant explosion and the operation of a computer's hard drive. It was child's play to bring an investigating officer's scene drawing to life, with his little hand-drawn cars colliding as if the police report were enchanted. Now, adding that screeching tires sound effect makes a point!

Experiment with animation by re-creating an intersectional collision in PowerPoint. Begin by drawing a rectangle to represent a car. PowerPoint includes a toolbar of basic drawing tools (if you don't see it onscreen, select View on the menu and check Toolbars>Drawing). Then, right click on the rectangle and choose Custom Animation from the context menu. Select Add Effect, then Add Motion Paths>Draw Custom Paths>Curve. Now, click on the center of the rectangle and drag a motion path for the object to follow, clicking again on every point where you'd like your “car” to change direction. Now, you may want to superimpose some rotation on the object to better mimic the real world. Left click on the rectangle and again select Add Effect from the

Custom Animation menu, then Emphasis, then Spin. You can adjust the amount, speed and direction of spin and, most importantly, you can instruct that the Spin animation event start with the motion path movement you've previously assigned (Start with Previous). Now, you can adjust the settings to achieve fluid movement.

Once you know how to animate an object, you can layer multiple effects or animate several objects at once or according to a time line you control. The conceptual version of the wreck built with rectangles may suffice, but you can graduate to applying the same animation techniques to, e.g., an aerial view of a vehicle animated against a background of an aerial photo of the scene.

Building your skill at complex, layered animation in PowerPoint will take some time and experimentation, but the unexpected benefit is that it's a great deal of creative fun. Plus, imagine the intimidation factor when your opponent asks, "Who created those animations that so impressed the adjuster."

Video

If a picture is worth a thousand words, then video must be worth 24,000 words *per second*. It's the rare piece of video that doesn't need editing before presentation to a jury, and almost any video deposition is more effective when it can be distilled to a 15-30 minute excerpt. Once, we had to hire a video editor or manage a crude edit with two VCRs. Video production was the domain of those with five-figure production budgets. Now, computers, digital camcorders, video capture devices and video editing software have made video editing and the ability to add broadcast-quality effects and titling so cheap and easy. Any lawyer in any case can produce impressive results for peanuts.

Full-featured video editing programs like Microsoft's Windows Movie maker can be downloaded for free and many excellent editing suites cost less than \$100.00. Video editing software breathes life into static images as well. If you scan the still photos and drawings in your case, you can use the pans, fades and transitions of a video-editing program to inject a dynamic element that works well in alternate dispute resolution and argument. Adding an evocative song in the background works wonders for touching hearts in mediation or in final argument.

Taming the Paper Tiger from Day One

Do you seem to spend nearly as much time *looking* for file materials as you do using them? Lawyers are experts at using technology to generate an ever-increasing volume of documents, but we've lagged behind in our use of technology to manage the documents we create. Electronic mail usage far outstrips postal mail, and ninety-five percent of all business documents are "born" electronically. Two-thirds of documents created electronically are never printed. So, why are we still drowning in a sea of paper?

One reason lawyers haven't gone paperless (or close to it) is that we weren't content to make the leap gradually. Digitizing an existing docket of case files is an enormous and costly undertaking, and requires the mastery of new tools to manage the volume. Instead, why not start small, in a handful of new cases, from Day One. When the client comes in with paperwork, scan it from the very start. Don't worry about formats or management systems at first; just get the content into digital format. The \$149.00 Adobe Acrobat application (not to be confused with the free Acrobat Reader software) scans paper directly into Adobe PDF format, and even prints your documents straight to PDF. Adobe Acrobat supports free optical character recognition of smaller documents (e.g., fifty pages or less) but larger documents will require buying additional services or software. Scan everything as it comes in. Develop a simple, rational naming convention for your files, incorporating a matter name or number along with the creation date of the document and a unique identifier. Beginning the file name with the date using the YYMMDD format is an easy way to chronologically order your documents, and simplifies printing index pages for the paper counterparts of your pleadings and discovery files. Yes, you can still maintain a paper file in this model but, done right, you'll never use it.

Take advantage of the organizational features built into the operating system to add order to your paperless case as it grows. It's astounding how many users lump every document in their My Documents folder! Computers users have been free of the tyrannical 8.3 file name structure for years, so use long file names—up to 256 characters long in Windows XP—to be as descriptive as you'd like, and employ folders, views and shortcuts to best effect.

As your paperless file system grows, you may want to manage it with more powerful tools than the operating system alone affords. There are a host of powerful and inexpensive programs on the market capable of getting you to the information you seek at lightning speeds. Off-the-shelf applications like AskSam or DTSearch support powerful search, indexing and reporting functions for under \$200.00.

If you aren't already getting an ASCII disk containing the full text of every deposition in your cases, start doing so. Even if your search technique consists of no more than opening the ASCII file in your word processor program, you're faster than paper. Loading the full text of all the depositions into one of the search programs mentioned above is far better still.

A paperless (or simply a *less* paper) system will save you hours of wasted time and offers the added benefit of extreme portability. Thanks to recordable DVDs and massive hard drives, you really can take it with you. The goal is to eliminate the bits-to-paper-to-bits workflow. Don't give up paper, but confine it to output only. Documents born digitally only go to paper when it makes your job easier. If you've ever tried to read a long document on a computer screen, you know that going utterly paperless works better in theory than practice. My rule of thumb is, if a document is large enough that a

standard staple wouldn't work if it were on paper, it's too long to read on-screen. Print it out.

Cybersleuthing from Day One

Has the most damaging witness in your case been your own client, perhaps arising from a vulnerability the client didn't reveal? Before or right after the first appointment, use online resources to learn as much as you can about your client's other claims, criminal record, financial status, business dealings, and discussion group participation. Secure a credit record release authorization and buy the report.

The Internet and for-fee information databases afford us the ability to, in minutes from our desks, learn more about witnesses, counsel, companies, products, jurors, judges and experts than we can glean from months of discovery. Using the web, it's a simple matter to track down former employees, network with lawyers in similar cases, create demonstrative aids, identify other claims and suits, locate assets, and even gauge political views based on contribution and voter registration records.

Free resources like www.searchsystems.net are a gateway to thousands of revealing public records, and dirt-cheap databases like www accurint.com afford lawyers unprecedented access to personal and financial data. It costs nothing to set up a news alert at Google.com to e-mail you each time your client, opponent or whatever you select is mentioned in any of hundreds of news sources. For trial lawyers, the power to search and review ten million pages of expert testimony at trialsmith.com seems almost superhuman.

Data found online can be unreliable, and certainly shouldn't be used in court or at deposition without verifying its accuracy, but once you develop the knack for cybersleuthing, you'll find that it's invaluable as preparation for cross-examination, especially for expert witnesses. For an extensive list of cybersleuthing links and other resources, visit the author's website, cybersleuthing.com.

Electronic Discovery from Day One

Ninety-five percent of all business documents are "born" digitally, and most are never printed. The average business person receives over fifty e-mails *daily*, and few of those messages wind up on paper. Records that impact our lives aren't always discrete compilations, but may live fleetingly onscreen, compiled in response to database queries. If your discovery focus still centers on paper, you may be missing the evidence that makes your case. Winning with electronic discovery demands more than just adding the phrase "electronic data compilations" to your definition of document, and there's no "form" set of discovery requests to shortcut the task. Each case is different and requires unique strategies.

Electronic data is at once fragile and tenacious. Failing to act quickly and decisively to force preservation from Day One allows the digital smoking guns in your case to simply disappear forever. The duty to preserve electronic evidence doesn't hinge upon receipt

of a preservation letter, but a well-crafted notice specifically identifying media and content to be protected and detailing actions which cause spoliation of evidence makes inadvertent destruction less likely and raises the stakes for culpable behavior.

E-discovery has enormous tactical value when aggressively pursued to impose broad preservation duties coupled with narrowly focused requests for production. Forget the “any-and-all” requests so typical of paper discovery requests. With computer data, it’s much harder for an opponent to meet a series of highly specific requests than to simply ignore or move to quash a scattershot demand. Specificity is warranted for other reasons. Don’t assume that your opponent understands computer systems well enough to appreciate where or how to find all discoverable electronic evidence without specifics. Plus, the narrower the request, the greater the likelihood it will be enforced and won’t serve as grounds for a motion to shift costs.

It’s hard to win with e-discovery if you’ve no idea how and where your opponent stores electronic records. Use interrogatories and Rule 30(b)(6) depositions from Day One to gather intelligence about the other side’s systems and procedures. What are the back up procedures and rotation schedules? Is there a document retention policy? How is e-mail traffic or file deletion logged? Who works from home or using a laptop? Enlist an electronic discovery consultant or former member of your opponent’s IT staff to help you target your inquiry, and don’t forget computer forensics. Computers keep much of what people believe is deleted and closely track users’ activity without their knowledge. On the right facts, a computer forensic analysis can make the case.

Confer with opposing counsel, and seek the court’s assistance with e-discovery efforts from Day One. A temporary restraining order may be necessary to curtail destruction of evidence in the ordinary course of business or secure forensically-sound duplicates of key players’ hard drives, thereby insuring the opportunity to access electronic evidence is not lost to the passage of time...or to shenanigans. Early appointment of an e-discovery special master helps balance the rights of the party seeking e-discovery against the producing party’s need to safeguard privileged, confidential or proprietary data.

Be sure to specify the form in which the data should be produced. If you’re set up to handle it, obtaining data in its native format is preferable because it permits automated searches and preserves revealing *metadata*—data about data intrinsic to every computer record. Unless you prefer it, a producing party shouldn’t be permitted to increase your workload and costs by converting discoverable information from its native format—*the way it’s used in the ordinary course of business*—to unwieldy image formats or, worse, to paper printouts, stripped of metadata.

Remember, electronic discovery is more than just e-mail. Consider the wealth of evidence that resides in personal digital assistants, voice mail systems, cell phones and even automobiles. Modern digital copiers have hard drives which store scans of copied documents. Fax machines have memories, too. Did you know that many vehicles

currently on the road digitally store speed and braking activity for five seconds *prior* to air bag deployment? Imagine how that evidence might impact a disputed red light case. The digital smoking gun that makes your case may soon be downloaded from under the dash!

Just Do It

When you were sixteen or so, you devoted yourself to learning to operate a powerful machine in a complex environment. You studied. You took lessons. You practiced. Perhaps you even blundered a time or two, but ultimately you made it. You passed the test, and you had your driver's license. The skills acquired in learning to drive a car serve you every day.

Computers are as much a part of modern life as the automobile, yet few have devoted themselves to mastering their computers with the same dedication and enthusiasm as the automobile. We aren't sixteen anymore but, at any age, learning to "drive" your computer is a skill that will serve you every day.

You don't have to implement perfect high tech systems. The judicious use of technology from Day One improves any case, not just the big or complicated ones, but you don't have to use technology in every case to reap its benefits. Each time you implement a new technology, it gets easier. The greatest impediment to success isn't cost or complexity. It's intimidation. The longest journey starts with a single step. *Just do it.*

Power Persuasion for Peanuts

By Craig Ball

Not long ago, something wonderful happened in the world of trial technology: The price of a bright and portable digital projector fell below a thousand dollars. It was a quiet revolution, but one paving the way to more powerful and persuasive advocacy.

Walk into your local Sam's Club and you'll find a 1200-lumen Epson PowerLite S1 digital video projector small enough to fit in a briefcase selling for just 895 bucks. Sure, dramatic drops in the price of techno-gadgetry are nothing new, but the speed of this decline was supersonic. Three years ago, it simply wasn't possible to get a small, bright, high-resolution projector for less than about \$3,500, a hefty sum for a device that most trial lawyers won't use more than a few times a year. So, we borrowed from colleagues, paid high rental prices or just did without, because only the big cases justified the trouble and expense. No more. Now we can afford to buy one of our own systems and use it all the time.



Certainly, great trial lawyers can work their magic with nothing but a flip-chart or blackboard, but lawyers of every stripe can enhance understanding and improve retention through the judicious use of electronic presentation. Note that I said "judicious." After all, a tedious presentation projected digitally is just a *big* tedious presentation. But, there's no reason why your presentation has to be boring, thanks to a host of new, low-cost tools.

As a small firm practitioner, I don't have the manpower and resources of the megafirms. No jury consultant whispers in my ear. No graphics whiz hands me masterpieces on foam-core board.

I have to do it myself and, truth be told, I wouldn't have it any other way. Some of the best advice I can share with my solo and small-firm brethren is "Learn PowerPoint" — and use it!

Other industries have relied on Microsoft Corp.'s PowerPoint for years. PowerPoint is easy to learn and use, and it affords you a simple, polished way to present information — jury charges, photographs, deposition excerpts, video clips, animations, graphs and sounds. Changes on the fly are a snap. It's not the only presentation product, and perhaps not the best, but it's the standard by which all others are judged.

The thought processes that go into framing a PowerPoint presentation for trial or mediation will make you a better advocate. PowerPoint forces a presenter to focus on a coherent, linear presentation, while helping you to define and identify the key points of your case. Best of all, using PowerPoint frees you from reliance on notes, so you're not chained to a lectern or leafing madly through a legal pad.

Most users of PowerPoint never get much beyond the creation of a routine bullet point talk, perhaps jazzed up with one of the uninspiring or distracting templates that come with the program. Arguably, this is better than nothing, but surely, there's a special place in hell for really bad PowerPoint presenters. Forget the templates. Start with a plain, solid background of white, black or dark blue. Add an unornamented font in a contrasting color (think "white on black" or vice-versa).

Explore PowerPoint's power and flexibility. Try "call outs" and highlighting. Or the simple built-in animation tools to simulate processes, operations and events. You can drag-and-drop photos, drawings, animated Gifs, sounds and even video right into a PowerPoint slide. You can easily reorder and annotate your work.

A little-known but powerful feature is the ability to hyperlink any word or image in a presentation to any other slide, and even to external items like Web pages or software applications. These features help you use sophisticated presentation techniques in even modest cases.

You can teach yourself the basics of PowerPoint in a single evening, but to move beyond the basics, check out the specialized tutorials found in the PowerPoint area of Microsoft's Web site (<http://www.microsoft.com/office/powerpoint/>) or review the postings in one of the PowerPoint newsgroups (e.g., microsoft.public.powerpoint).

Two good (albeit pricey) books are available specifically for lawyers: PowerPoint 2002 for Litigators, by Deanne Siemer and Frank Rothschild (National Institute for Trial Advocacy, \$69.95); and Persuasive Computer Presentations: The Essential Guide for Lawyers, by Ann Brenden and John Goodhue, (American Bar Association Law Practice Management Section, \$79.95).

Digital Video

Another quiet revolution in presentation technology is digital video. Using courtroom video is old hat, but the emergence of low- and no-cost video and animation tools is big news. It's the rare piece of video that doesn't need editing before presentation to a jury and almost any video deposition is more effective when it can be distilled to a 15-30 minute excerpt.

Not long ago, we had to hire a video editor or manage a crude edit with two VCRs. Now, digital camcorders, video capture devices and video editing software are so cheap and easy to use, any lawyer in any case can produce impressive results for peanuts.

Recently, I bought a Panasonic digital camcorder that'll do everything but the dishes from my local Wal-Mart for just a bit more than \$300.00. If you've already got an analog camcorder or tapes, video capture devices, such as the Dazzle Digital Video Creator, record TV-quality MPEG video from your VCR or camcorder and come bundled with video editing software for about \$75 at your local Sam's Club or Target store. Video editing software breathes life into static images as well. If you scan the still photos and drawings in your case, you can use the pans, fades and transitions of a video-editing program to inject a dynamic element that works well in alternate dispute resolution and argument.

Imaging technology has never been more powerful, accessible or affordable than it is today. Megapixel digital still cameras have fallen far below the \$150 level and afford direct-to-digital convenience. They're practically giving away analog video cameras and a full-page color flatbed scanner can be had for as little as \$50, enabling you to manipulate, enhance and resize images using your computer. Even devices that allow you to burn your own DVDs have slipped below the \$150 range. DVDs, with their support for content menus and hours of high-quality video, are fast-becoming the perfect way to store and share graphics-rich PowerPoints and digital video.

So, take a moment to consider how far we have come in courtroom presentation technology, at least in terms of price and power. While e-filing and paperless files continue to be the promise for tomorrow, today we enjoy presentation tools that do more than—yet cost only a fraction of—their 20th century counterparts.



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Craig Ball is a Board Certified trial lawyer and computer geek with twenty-three years experience resolving a wide range of personal injury and products liability disputes. He's also dedicated his career to teaching lawyers about technology and trial tactics. Lately, the geeky side has taken over completely, and he publishes, lectures and consults on computer forensics, emerging technologies, digital persuasion and electronic discovery. While Chair of the State Bar of Texas' Technology Advisory Committee, Mr. Ball created the MYTexasBar web portal now used by over 45,000 Texas lawyers. Named as one of the Best Lawyers in America and a Texas Superlawyer, Craig is a recipient of the Presidents' Award, the State Bar of Texas' most esteemed recognition of service to the profession.

EDUCATION

Rice University (B.A., triple major, English, Managerial Studies, Political Science, 1979); University of Texas (J.D., with honors, 1982); Oregon State University (Computer Forensics certification, 2003)

SELECTED PROFESSIONAL ACTIVITIES

Law Offices of Craig D. Ball, P.C.; Licensed in Texas since 1982.
Board Certified in Personal Injury Trial Law by the Texas Board of Legal Specialization
Certified Computer Forensic Examiner, Oregon State University and NTI
Admitted to practice U.S. Court of Appeals, Fifth Circuit; U.S.D.C., Southern, Northern and Western Districts of Texas.
Member, Editorial Advisory Board, Law Technology News (American Lawyer Media)
Special Master, Electronic Discovery, Harris County (Texas) District Courts
Special Prosecutor, Texas Commission for Lawyer Discipline, 1995-96
Council Member, Computer and Technology Section of the State Bar of Texas, 2003-
Chairman: Technology Advisory Committee, State Bar of Texas, 2000-02
President, Houston Trial Lawyers Association (2000-01); President, Houston Trial Lawyers Foundation (2001-02)
Director, Texas Trial Lawyers Association (1995-2003); Chairman, Technology Task Force (1995-97)
Member, Texas State Bar College
Member, Continuing Legal Education Comm., 200-04, Civil Pattern Jury Charge Comm., 1983-94, State Bar of Texas
Life Fellow, Texas and Houston Bar Foundations
CLE Course Director: Electronic Discovery and Digital Evidence Institute 2004; Advanced Evidence and Discovery Course 2003; 2002; Enron—The Legal Issues, 2002; Internet and Computers for Lawyers, 2001-02; Advanced Personal Injury Law Course, 1999, 2000; Preparing, Trying and Settling Auto Collision Cases, 1998.
Member, SBOT President's "Vision Council" on Technology, 1999-2000; Strategic Planning Committee Liaison, 2001-02; Corporate Counsel Task Force 2001-02

ACADEMIC APPOINTMENTS AND HONORS

The March 2002 CLE program planned by Mr. Ball and Richard Orsinger entitled, "Enron—The Legal Issues" received the Best CLE of 2002 award from the Association for Legal Education National Planning Committee, Legal Works 2004 (San Francisco)
Recipient, State Bar of Texas Presidents' Award (bar's highest honor), 2001
Faculty, Texas College of Trial Advocacy, 1992 and 1993
Adjunct Professor, South Texas College of Law, 1983-88
Listed in "Best Lawyers in America" and Selected as a "Texas Super Lawyer," 2003
Rated AV by Martindale-Hubbell

LAW RELATED PUBLICATIONS AND PRESENTATIONS

Craig Ball is a prolific contributor to continuing legal and professional education programs throughout the United States., having delivered over 300 presentations and papers. Craig's articles on forensic technology frequently appear in the national media, including in Association of Trial Lawyers of America, American Bar Association and American Lawyer Media print and online publications.

PERSONAL

Craig and his law partner wife, Diana, have a daughter, Elizabeth, 14 and a son Madison, 12. Craig is active in a variety of community and public service projects, including Habitat for Humanity, Camp for All, LegalLines, Rice-Cambridge Exchange Program, Harris County Civil Justice Center design team, Rice University Alumni Association and as a volunteer instructor in computer science, web site development and Greek mythology for the Montgomery (Texas) Independent School District.