

Better Visuals Via Brainstorming



By Greg Krehel

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Brainstorming helps you develop effective visuals. You identify the most important ideas to attack with visuals and ensure you have graphics that address all critical case issues. And your brainstorming work product makes it easy to communicate with artists about the purpose of each visual and to test the effectiveness of the designs they develop.

Brainstorming helps you control the cost of courtroom graphics. During the brainstorming session, you estimate the costs associated with your visual ideas and make informed trade-offs to keep demonstrative evidence expenses under control. The brainstorming process also reduces demonstrative evidence costs by minimizing the number of visuals you begin but don't complete or complete but don't end up using in court.

You can employ our brainstorming technique no matter whether you're a sole practitioner or a member of a large trial team. And it doesn't require one ounce of artistic skill. To the contrary, it helps you take what you do best (digest the evidence to create the most forceful case possible) and translate it into a powerful set of visuals.

Plan Ahead

Schedule your brainstorming session at least three months before trial. Plan to focus exclusively on demonstrative evidence as it is too important to risk diluting your discussions with other topics. Depending on the complexity of your case, set aside anywhere from three hours to a full day.

Make sure senior members of the trial team are available to attend and understand that they are to be primary contributors. If you've hired outside graphic consultants to assist in the design and production process, invite them to attend also.

Let all attendees (especially any artists and artist wanna-

bes) know that they'll be expected to check their paintbrushes at the door. The goal of this skull session is to develop a detailed list of the most important demonstrative evidence ideas, not to design the visuals that will communicate these ideas. Keeping idea definition separate from design development yields better ideas, better designs, and reduced costs.

Assign one attendee the role of scribe. He or she will capture the results of the proceedings using a computer with an LCD projector attached. This makes it easy for everyone participating to see the list of ideas being discussed and for the scribe to make revisions as the session proceeds.

Set up a Demonstrative Evidence Worksheet that the scribe will use to organize the thinking developed during the brainstorming session. A Demonstrative Evidence Worksheet is a table composed of rows and columns that you create using word-processing or database software. Each row represents a single demon-

strative evidence idea. And the columns are used to capture critical information about each. Here are the columns you'll want: Full Name, Type, Issue(s), Mission Statement, For Use By, Data Source, Estimated Cost, Key, and Production Status. The purpose of each column is described below.

Develop an outline of the issues in your case. As you brainstorm, you'll use this outline to ensure you're developing ideas for all case issues. By having this outline completed before your session, you'll minimize the risk of turning your demonstrative evidence brainstorming session into an issue outlining one.

Finally, circulate a memo laying out the objectives, agenda, and ground rules for the brainstorming session. Include your issue outline as an attachment.

The Brainstorming Process

Begin your session by reviewing the agenda and making sure all attendees understand the ground rules. Then plunge right in. There are three phases in the meeting: (1) developing ideas, (2) fleshing out the details behind

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each, and (3) evaluating your ideas to determine which make the cut.

Step One: Define Ideas

The first phase of the brainstorming process is to create an exhaustive list of demonstrative evidence ideas. At this stage, all ideas are great ideas. Avoid debating the merits of any idea; simply build your list. Don't worry — your chance to cut out lame ideas will come soon enough.

Capture Favorites

Over the months or years of working up a case, trial team members have no doubt built up a mental list of favorite demonstrative evidence ideas. Offer each attendee a chance to contribute.

Give each idea a name and have the scribe enter it in the worksheet. In the worksheet's Type column, list your expectation regarding the medium that will be used for each visual: blow-up, chart, model, animation, video, and so forth.

Work Issue By Issue

Once everyone has had a chance to list pent-up ideas, break out the issue outline you prepared in advance of the meeting. Work through it issue by issue, and develop additional ideas that would help communicate your position on each issue. For each idea, capture a name and an indication of the type of visual you expect it be.

Step Two: Flesh Out Ideas

After you've generated your list of graphic ideas, it's time to work back through them one by one and add critical details about each.

Capture Issue Relationships

Use the Issue(s) column in your worksheet to capture the name of the issue or issues on which each visual will help you prevail. Once you're done, tally the number of visuals you have planned for each case issue. You may discover that some issues have a multitude of graphics and others have too few. If this is the case, take corrective action.

Develop Mission Statements

In the Mission Statement column, capture a description of the intended impact of each visual, i.e., what the trier of

fact should think after seeing it. Make explicit the inference you want jurors to draw. If you find yourself struggling to define the mission of the visual, kill the idea.

Mission Statements play an important role in the process of designing the actual visuals. They keep artists focused on the communication goal of each visual. And they provide a benchmark by which to judge the success of your artists' design efforts.

One caveat: your Mission Statement should define what you want to communicate, not how it should be done.

List Who Will Use the Visual

In the For Use By column of your worksheet, identify the witness or other trial segment (e.g., opening or closing) with which each visual is to be used. If you're unsure, enter a question mark. If you're trying to decide between a number of candidates, list their names followed by question marks.

Capture the Data Source

In the Data Source column, name the piece(s) of evidence on which each visual will be based.

Sometimes the source is obvious. For example, the source for the Blow-up of the Lang Memo is the Lang Memo. However, many times the source of the data is unclear and needs to be defined for those who will be creating the visual. For example, suppose you're working up an antitrust case and want a visual showing the defendant's market share over time. Where is this data coming from?

Don't let your artists start designing a visual before you have in hand the data that underpins it. Frequently, the actual data doesn't have the oomph that was anticipated and the idea must be abandoned. The result: time and money down the drain.

Step Three: Evaluate

Once you've fleshed out your list of demonstrative evidence ideas, you can step back and assess their merits. Evaluate the absolute value of each idea, as well as its value relative to its likely costs and relative to the potential impact of other competing ideas.

Estimate Cost

Based on input from your graphics consultants or your prior experience developing courtroom graphics, esti-

mate the cost of each visual and capture this appraisal in your worksheet.

Evaluate Criticality

Discuss the relative merits of each visual taking your cost estimate into consideration. Use the Key column in your worksheet to flag the most important ideas. If you later find the cost of your visuals is exceeding your budget, refer to this assessment to determine which ideas to push overboard.

Give the Green Light

Finally, identify the ideas that your artists can start to design. Also be sure to take the important ideas for which you're still missing data and assign members of the trial team to develop it.

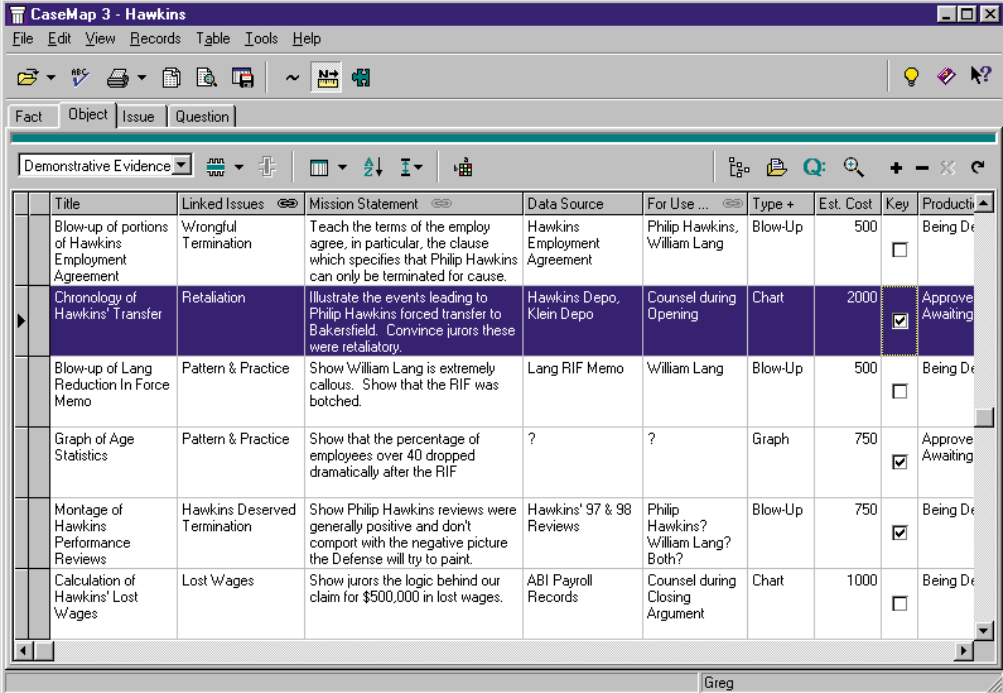
Update the Production Status column of your worksheet based on these determinations. As your visuals proceed through the production process, you'll track progress by moving each idea along this continuum of possible values: Unapproved Idea, Approved Ideas - Awaiting Data, Being Designed, Design Approved, In Production, and Produced.

Follow-up

After your brainstorming session, have the individual who acted as scribe distribute copies of the Demonstrative Evidence worksheet you've created. When artists submit mock-ups of your visuals, use the information contained in your worksheet to critique their designs.

Soon enough, you'll be the proud owner of a winning set of courtroom graphics. Investing a few hours in a demonstrative evidence brainstorming session will have paid handsome returns.

Here's a sample of the Demonstrative Evidence worksheet you'll create as you brainstorm and subsequently use to guide and critique the design and production of your visuals.



The screenshot shows the CaseMap 3 - Hawkins software interface. The main window displays a table titled "Demonstrative Evidence" with the following columns: Title, Linked Issues, Mission Statement, Data Source, For Use..., Type, Est. Cost, Key, and Production Status. The table contains six rows of data.

Title	Linked Issues	Mission Statement	Data Source	For Use...	Type	Est. Cost	Key	Production Status
Blow-up of portions of Hawkins Employment Agreement	Wrongful Termination	Teach the terms of the employ agree, in particular, the clause which specifies that Philip Hawkins can only be terminated for cause.	Hawkins Employment Agreement	Philip Hawkins, William Lang	Blow-Up	500	<input type="checkbox"/>	Being De
Chronology of Hawkins' Transfer	Retaliation	Illustrate the events leading to Philip Hawkins forced transfer to Bakersfield. Convince jurors these were retaliatory.	Hawkins Depo, Klein Depo	Counsel during Opening	Chart	2000	<input checked="" type="checkbox"/>	Approve Awaiting
Blow-up of Lang Reduction In Force Memo	Pattern & Practice	Show William Lang is extremely callous. Show that the RIF was botched.	Lang RIF Memo	William Lang	Blow-Up	500	<input type="checkbox"/>	Being De
Graph of Age Statistics	Pattern & Practice	Show that the percentage of employees over 40 dropped dramatically after the RIF	?	?	Graph	750	<input checked="" type="checkbox"/>	Approve Awaiting
Montage of Hawkins Performance Reviews	Hawkins Deserved Termination	Show Philip Hawkins reviews were generally positive and don't comport with the negative picture the Defense will try to paint.	Hawkins' 97 & 98 Reviews	Philip Hawkins? William Lang? Both?	Blow-Up	750	<input checked="" type="checkbox"/>	Being De
Calculation of Hawkins' Lost Wages	Lost Wages	Show jurors the logic behind our claim for \$500,000 in lost wages.	ABI Payroll Records	Counsel during Closing Argument	Chart	1000	<input type="checkbox"/>	Being De

During your brainstorming session, you'll create a Demonstrative Evidence Worksheet. It will help you organize and explore your ideas and communicate them to the artists helping to design and produce your visuals.

About the Author

Greg Krehel is CEO of DecisionQuest's CaseSoft division (www.casesoft.com). CaseSoft is the developer of litigation software tools including CaseMap and TimeMap. CaseMap makes it easy to organize and explore the facts, the cast of characters, and the issues in any case. TimeMap makes it a cinch to create chronology visuals for use during hearings and trials, client meetings and brainstorming sessions. In addition to his background in software development, Mr. Krehel has over 15 years of trial consulting experience.

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