



CASE STUDY

Why Information Design is Essential to an Effective Litigation Strategy

In complex litigation, attorneys often need to convey highly technical or complicated concepts to their triers-of-fact. Whether it's an intellectual property (IP) legal dispute involving the method used with electrical components, or a white-collar criminal case involving the timing of events and interactions that took place, information design plays an integral part in communicating a position effectively.

At DOAR, we have more than 30 years of experience helping attorneys understand how to best communicate case themes in a clear and concise manner. We sat down with two of DOAR's directors to get a better understanding of the important role that information design plays to a winning litigation strategy.

“The most important element of information design is understanding what it is you're trying to convey, identifying the key point(s), and presenting it in the simplest way possible.”

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Maria Obregon and Melissa Pomerantz have each developed thousands of demonstratives, diagrams, and visual presentations for hundreds of litigation matters throughout their careers. They have experience working on a range of graphic needs—from idea generation and concept development for educational PowerPoint presentations to animations and 3D models in complex IP cases. Regardless of the type of design, the response to the visual presentation can be impactful to the development of the litigation strategy.

themes or topics in a different light when depicted visually,” said Obregon. “Testimony will get restructured to better fit the visual narrative. Also, interesting conversation always arises when reviewing and discussing demonstratives—enabling attorneys and experts to see their case differently.”

“We really focus on consulting with our clients about what they're trying to get across and on becoming an integral part of their trial team,” adds Pomerantz. “Each time we do, we shine, and our best work is produced.”

“Sometimes attorneys will see

EMPLOYING A DESIGN METHODOLOGY THAT WORKS

Graphics consulting and design starts with getting a good understanding of the information.

“Even when I receive a concept from a client or expert, I take the time to read the information surrounding that demonstrative to determine if there is a better way of presenting the evidence,” Obregon said. “For every graphic, regardless of type, I always start with a blank slate and will build the concept based on the information. From there, I use different styles depending on the audience and venue.”

While understanding the audience and venue are key to developing a visual strategy that will resonate, other factors also play a determining role in design creation.

“A lot depends on how a graphic is expected to be used,” said Pomerantz. “Is it for pre-trial research? An opening statement? An expert report? Different events have different requirements.”

Timing is also an inevitable factor. The development of graphics for litigation is by nature an iterative process that may require weeks of revisions for a complicated 3D model. However, time is a luxury that isn’t always available and turning around simple graphics in 20 minutes can be the norm.

Obregon and Pomerantz agree that regardless of the type of case they’re working on, the design methodology doesn’t change and the creation of a design boils down to really understanding the information and the purpose for the graphic.

“The most important element of information design is understanding what it is you’re trying to convey, identifying the key point(s), and presenting it in the simplest way possible,” Pomerantz says.

Obregon adds, “I read all the material available to me and try to really understand all the nuances and themes of the



Melissa Pomerantz (left) consulting with colleagues about a design strategy for a demonstrative.

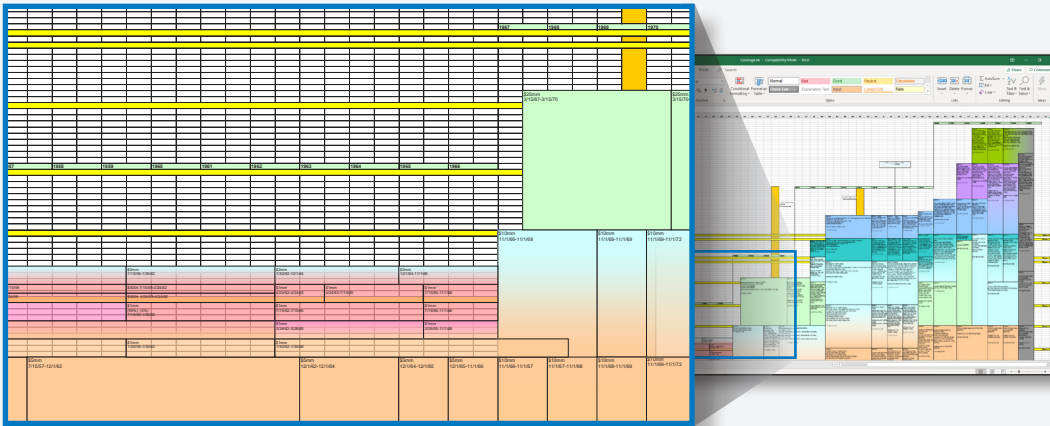
case. For more complex cases, like those in IP, I may have to do additional research or schedule more meetings/ phone calls with more technical consultants to understand what we are trying to demonstrate. Even in white-collar criminal matters, we often have to develop demonstratives to explain complex financial products or transactions. So, each case requires a good level of understanding of the subject matter.”

WORKING WITH EXPERTS

The use of expert witnesses is often an essential part of a litigation strategy. Experts can help educate the triers-of-fact on complex concepts and reinforce key points of the attorney’s position. While experts have clear subject-matter expertise, they often need guidance on how to best communicate their points visually.

“I remember one case where the expert provided me with a huge, confusing excel spreadsheet to explain insurance policy coverage,” said Pomerantz. “We took that information that the expert provided and developed an animated graphic to illustrate step-by-step how the insurance policy worked. It was an effective way for the expert to explain his points about the case clearly.”

IMPROVING EXPERT DEMONSTRATIVES

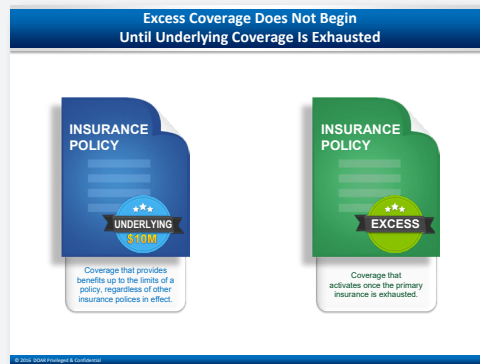
**Figure 1:**

The excel spreadsheet provided by the expert to explain insurance policy coverage.

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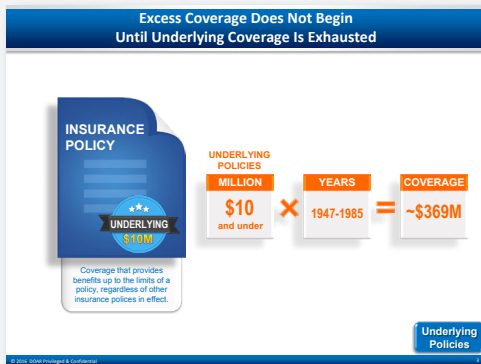


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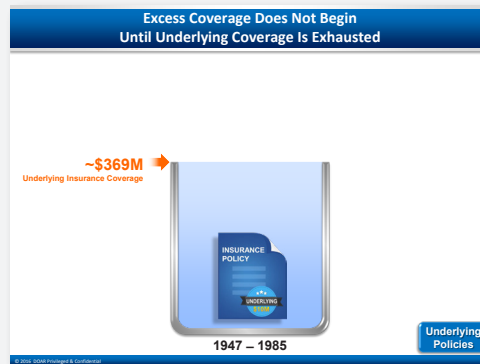
**Figure 2:**

The animated graphic developed to illustrate the expert's key points.

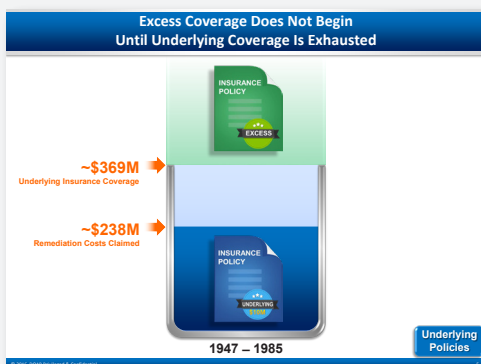
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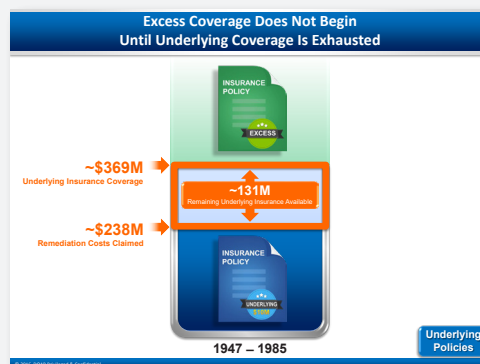
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While a compelling visual presentation is an important component to expert witness testimony in court, clear graphics are also essential to concisely communicate an expert's point-of-view in their expert report.

"Because the graphics that we develop for expert reports are static, we keep the amount of information to a minimum so that it's easily digestible. The ones that we've developed have been simpler and cleaner than what was originally presented," Obregon said.

MAKING AN IMPACT THROUGH EFFECTIVE INFORMATION DESIGN

Having developed thousands of visuals aids for complex, high-stakes cases, both Obregon and Pomerantz have experienced the impact made from effective information design.

"We worked on an insider trading case where we needed to refute claims by the government that implied that the defendants communicated more than usual during the period when the alleged insider trading occurred," said Pomerantz.

The expert for the case provided an analysis of the communication between the defendants during the one month when the alleged trading happened (Figure 3). Pomerantz and the DOAR team looked at that information and suggested expanding the analysis to show three months before and three months after the alleged trades—making a much more compelling argument for the attorney to highlight that the defendants always spoke frequently, not just during the times of the alleged insider trading (Figure 4).

"Those graphics became cornerstones to one of the central themes in the case," said Pomerantz. "And I believe that they played a hand in getting the client acquitted."

Obregon recalls a patent case where an expert in mechanical engineering had to testify on the validity of a claim involving magnetic data storage tapes and cartridges. The expert needed to succinctly describe

the inner workings of the mechanism and highlight the primary components—a pin and the spring device in question which was roughly the size of a penny.

"We needed to show that our client's product functioned as a single device, not two distinct but connected springs as the opposing counsel claimed which would infringe on their client's patent," said Obregon.

Obregon and the DOAR team worked with the expert to illustrate how the product responded to other components in the cartridge under different scenarios to show its functionality as a single device (Figure 5).



Maria Obregon (right) reviewing research materials provided by an expert with a colleague.

"We developed an animated 3D model of the cartridge that showed the pin making contact with the spring at the point of entry and then the adjustments that were made by the spring while inside," Obregon said. "Because the tape cartridge is a fully closed apparatus, it's impossible to see how the individual pieces respond to each other without a visual diagram."

USING INFORMATION DESIGN TO TELL A MORE COMPELLING STORY

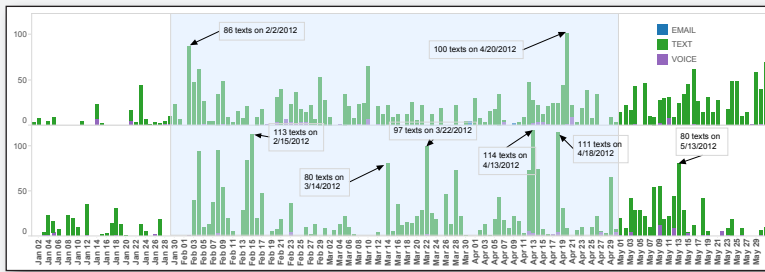
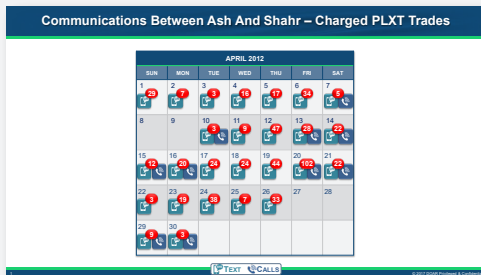


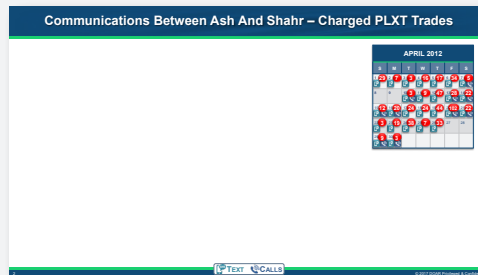
Figure 3:

The chart provided by the expert for an insider trading case. It highlights the month when insider trading occurred.

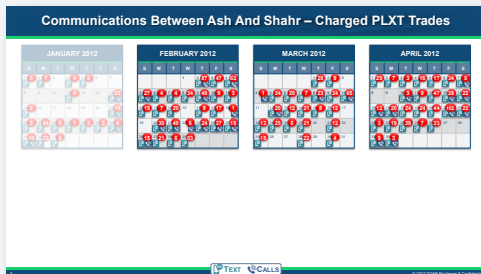
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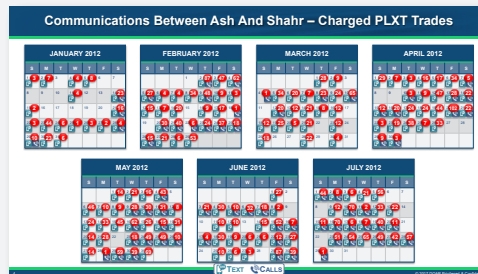
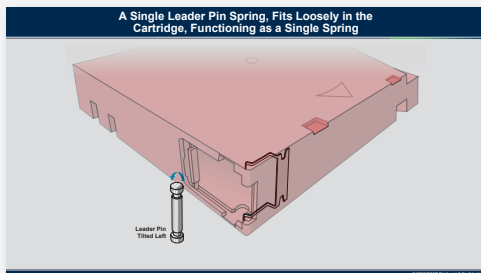


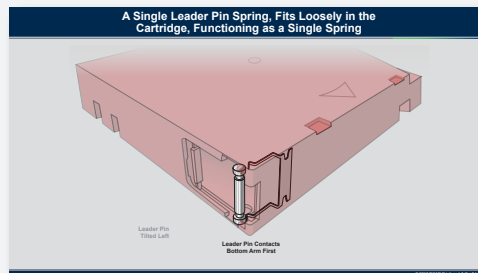
Figure 4:

Used for an insider trading case, the animated graphic developed by DOAR illuminates the defendants' position that the two often spoke, irrespective of the time of the alleged trading.

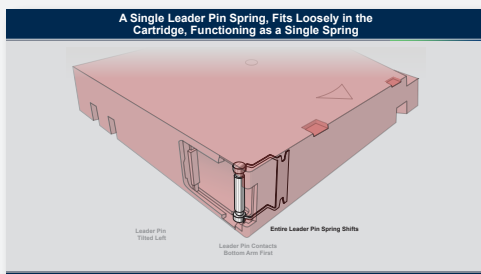
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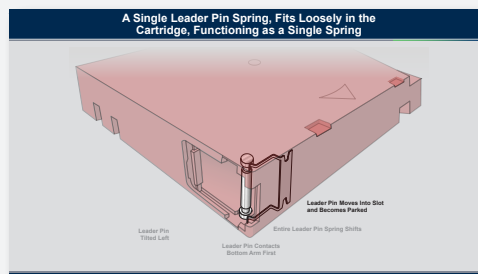


Figure 5:

A 3D model used for a patent case regarding magnetic data storage tapes shows an animation of the leader pin making contact with the spring and then the movements made within the cartridge.

The demonstrative the DOAR team developed not only amplified the size of the mechanism but also how it worked.

“The expert was able to detail each scenario for a highly intricate piece of technology. I believe our demonstrative enabled him to communicate his point clearly.”

This testimony was one of many in the case. In the end, DOAR’s client won the dispute.

FIVE ESSENTIAL ELEMENTS OF INFORMATION DESIGN

1. Understanding the information and purpose of the visual
2. Implementing clarity
3. Avoiding clutter
4. Using animation to build complex concepts
5. Understanding color theory and using images and icons to make visuals more interesting

CONCLUSION

A litigation strategy is only effective if the position can be communicated clearly and concisely. Information design is an essential tool that can simplify complex concepts as well as enhance important details of a case in a powerful way.

DOAR has proven expertise in graphics consulting and design and has guided attorneys and experts on some of the most complex, high-stakes cases. Our team delivers a unique perspective on how to communicate effectively and has helped thousands of attorneys achieve better outcomes on their legal disputes. ■

About DOAR

DOAR is the leading global consulting firm advising lawyers at top tier law firms and major corporations. We leverage our more than 30 years of experience to provide the insight, expertise, and support required to handle the most complex, high-stakes legal disputes. We stay at the forefront of the most impactful trends and technologies affecting the legal community and deliver valuable insight that informs and advances our clients’ litigation strategies.

For more information about DOAR, visit DOAR.com and follow us at [@DOARlitigation](https://twitter.com/DOARlitigation).

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