



Visual Persuasion

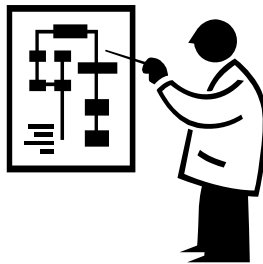
Demonstrative Evidence That Informs and Transforms

Demonstrative Evidence in Construction Disputes

Construction disputes are resolved more easily by using visual aids because demonstrative evidence helps everyone see the issues. For example, the dates of events are often critical, so one of the most effective tools an attorney can use is a timeline that illustrates the important events.¹

Demonstrative evidence is any display that is principally used to illustrate or explain other admissible evidence (testimony, document, or real) or judicially noticed fact.² It could be presented in timelines, charts, graphs, photos, slide shows, animations, scale models, or any number of formats.

The testimony of an expert witness is greatly enhanced by visual aids. A blowup of a blueprint, a callout from a document, or a cutaway of a product will help the hearer to better understand the testimony. Also testimony is more memorable when it is both heard and seen—retention increases 400% when information is presented in an Audio Visual format.³ (If a specialist is employed to run the AV equipment, it is important for the expert to rehearse his testimony with the specialist, so that the presentation is free of technical glitches.⁴)



The careful use of demonstrative evidence enables “the trial attorney to shape the form in which the evidence is presented as well as the sequence of the documents, which may be important to an understanding of the problem in the minds of the jury.”⁵

Demonstrative evidence that is shown to be relevant, material, and competent, may be admitted into the record, at the courts discretion. This ensures that the jury will have full access to the exhibit during deliberation and that the exhibit will be considered in the event of an appeal. So, whenever applicable, provide letter-sized copies of the demonstrative evidence for the court’s convenience.

Resolving construction disputes is facilitated by demonstrative evidence because much of the information is better presented and understood in visual form.

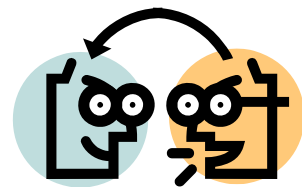
Experience in Resolving Construction Disputes

Nicole T. LeBoeuf, of the firm Campbell & LeBoeuf, PC, is an experienced attorney in resolving commercial construction disputes. Her skills include litigation, arbitration, mediation, and collaboration.

She employs demonstrative evidence in a variety of ways: to define the relationship between entities, to provide a virtual tour of the construction project, and to display documentary evidence.

“Our firm’s commitment to the use of creative and compelling visual aids is one of the attributes of which I am most proud. We have moved far beyond clunky PowerPoint slides and hand drawn charts, all to the demonstrated benefit of our clients.” —Ms. LeBoeuf

Recently she displayed photos from a completed project, using point-and-click technology to easily move from the visual menu to the hyperlinked enlargements.



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¹Flake, Richard, “Mediating Construction Disputes,” *American Arbitration Association*, May-Jul 2003.

²Brain, Robert D., Broderick, Daniel J., “The Derivative Relevance of Demonstrative Evidence: Charting its Proper Evidentiary Status.” *UC Davis Law Review*, Vol. 25, p. 957; 1992.

³National Training Laboratories, 1998, Online.

⁴Robert F. Cushman, Esq., John D. Carter, Paul J. Gorman, Douglas F. Coppi, *Construction Disputes: Representing the Contractor*. Aspen Publishers, 2001; p. 466.

⁵Thomas J. Kelleher, Brian G. Corgan, William E. Dorris. *Construction Disputes: Practice Guide with Forms*. Aspen Publishers, 2002; pp. 840 – 841.

