



Technical

Presenting Time Claims in Adjudication - It's Jackanory - The Use of Graphics to Prove Your Entitlement

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I'll tell you a story

About Jack a Nory;

And now my story's begun;

I'll tell you another

Of Jack and his brother,

And now my story is done.

1. Presenting a claim for adjudication is concerned primarily with telling a clear and persuasive story, making plain what happened on site or during the design process, and how this did or did not cause loss. To be effective the narrative needs to be concise and simple to understand. It must have a beginning and end but most importantly provide a clear exposition of events in between. However, this is not

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always a straightforward matter, as often the detail is complicated and may be difficult for a lay person to comprehend. Reaching a full understanding may take some time, which is not always available, as the dispute resolution process may be time-limited and expert witnesses may be afforded a short period in which to present their argument. Given these circumstances, it is important to be able to present information in a clear, concise and persuasive format.

The tale of Pennington, Hastie and the story-telling model

2. Although in fiction the power of a good story well told seems obvious, it may come as a surprise that a story-telling model of persuasion has been proposed and investigated in a legal context. In experiments with mock juries, Pennington and Hastie found that jurors tend to make sense of the complex information presented by organising trial information as a narrative and that these stories have a significant effect on the verdicts reached. Pennington and Hastie highlight the importance of coverage and cohesion in favouring one story over another, where coverage refers to how completely a story takes all the relevant evidence into account, and coherence is the degree to which the narrative is free from contradictions. In another study they manipulated the order of presentation of evidence and showed that participants favoured the theory backed by the story that was easiest to assemble. In presenting a case to an adjudicator, similar principles will apply and the outcome is likely to favour the side with the most convincing narrative.
3. However, at the root of many construction disputes are delay issues, the consequences of which may be difficult to illustrate using words alone. Hence a powerful story can be made better with good illustrations.

Adventures with Graphics

4. There is a well-known and widely accepted adage; *"a picture is worth a thousand words"*. Even Napoleon is said to have remarked; *"a good sketch is better than a long speech"* (probably in French).
5. In adjudication, carefully selected and prepared paper-based visual aids can greatly clarify the story.

6. Possibly the most comprehensive study of the role of visual presentation on persuasiveness was carried out by Douglas Vogel in which it was found that the use of visual aids enhanced audience attention, comprehension, and retention. Visual presentations were found to be 43% more persuasive than those that were unaided.
7. Appropriate visual presentation provides a less time consuming way of understanding a narrative. People are more likely to remember information when it is presented both visually and orally compared to when visual or oral presentation is used alone. This idea is supported by the so-called 'vividness effect' in which graphic presentation of an event is thought to affect an individual's perception of a situation.
8. Currently, in adjudication, visual material usually takes the form of paper-based visual aids, such as; bar charts, network diagrams and production schedules. However, these are not always easy to interpret without considerable experience and expertise.

Once upon a time-based animation

9. Buildings occupy our three-dimensional world and time delays are sometimes at the root of a dispute. The significance of both spatial and temporal information in construction disputes suggests that animation could provide the most suitable means of conveying the facts about a real-world, physical situation. There are a number of possible ways of incorporating the time element in a visual representation. Flip books are an economic method of presenting time-changing information. These can be based on diagrams, illustrations or time-lapse photographs. More recently, improvements in software and the 3D graphic capabilities of personal computers, allow computer animations to be constructed to illustrate events related to a dispute.
10. Used appropriately, animations can be more persuasive than verbal descriptions or still images, providing a less time-consuming way of understanding an argument. They can provide a vivid representation of spatial factors relating to a project. They serve to clarify sequences of events, aiding the piecing together of an accurate and consistent account and highlighting the causes and consequences of delays or disruptions. Animations permit 'what-if' scenarios to be explored and tested as well as enabling impossible scenarios to be recognised and eliminated quickly. It is even feasible to view a situation from a new perspective, even one that would have been a physical impossibility at the time, such as a bird's-eye view. It is also possible to visualise non-physical concepts, relationships, or flows of information over time.

11. When it comes to adjudication, presenting a clear and concise narrative of events is crucial but, to maximise persuasiveness, this should be supported by appropriately considered and prepared visual materials which, in the case of construction disputes, needs to also employ effective techniques to illustrate the timing of events.
12. Unfortunately, there are no guarantees for living happily ever after but life during adjudication can certainly be more predictable when your case is effectively presented through suitably constructed narrative and appropriately presented graphics.

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