

Winning Your Case Using Visual Grammar

FRANK SOMMERS AND DAN ROAM

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We want to convince you that you need to start drawing free-hand sketches while you're making your next oral presentation—whether in the boardroom or in the courtroom. Have you ever felt that jurors seem to pay more attention when you are taking notes during an exam, be it cross or direct? When you page back through them and observe, “Well, sir, Mr. X told us that. . .,” have you sensed that your notes became “their” notes and that they trust the information more?

People's brains process visuals more immediately, more viscerally than our long-winded speeches. So using notes and, even more effective, simple pictograms to illustrate what you're saying makes your message much more convincing to the listener.

Even if you aren't an artist, “visual grammar” based on pictograms you already know—stick figures, charts, graphs, timelines, maps, and flowcharts—allows any complex idea to be visually clarified through the use of only six elemental picture types: The portrait illustrates who and what, the chart illuminates numbers and quantifiable measurements, the map shows the spatial relationship of elements, the timeline clarifies temporal relationships, the flowchart makes causal relationships visible, and the visual equation summarizes the resulting lesson.

Let's use a fact pattern we all know to see how drawings can help trial lawyers and other presenters win. We start with the earnest associate's memo to the litigation partner. . . .

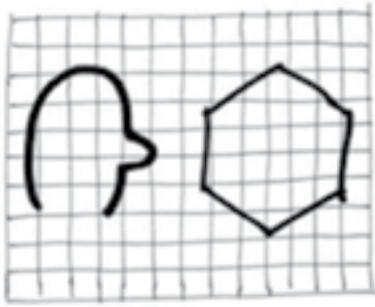
To: Partner

From: Associate, Intake

I interviewed H. Hare today, who has been widely featured (and derided) for his recent loss of a foot-race to T. Tortoise. Mr. Hare is a courier by profession and explains that, due to Tortoise's having spread the story far and wide, he is now unable to get any new contracts. More interestingly, he contends that the story is false—that he lost, not because he loafed and dilly-dallied, but because he had to interrupt the race to help a key client. What's more, he claims that Tortoise knew these facts when he started talking to the media after his “win.”

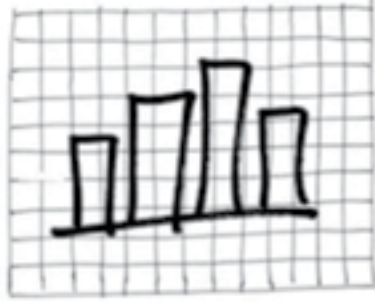
We may have a per se defamation claim, as the falsehoods injure Mr. Hare's work ability, as well as an interference claim. Tortoise's new endorsement contracts will cover the verdict.

The trial team graphic designer adds the following:



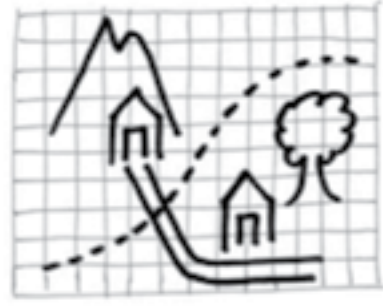
1} PORTRAIT

- Illustrates **Who & What**.
- Used for clarification of people, deliverables, and objects.



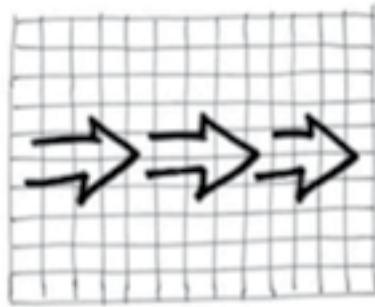
2} CHART

- Illustrates **How Many or How Much**.
- Clarifies number, measurement, and quantitative comparison.



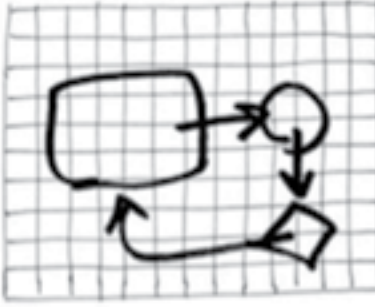
3} MAP

- Illustrates **Where**.
- Used for clarification of location, overlap, and spatial relation.



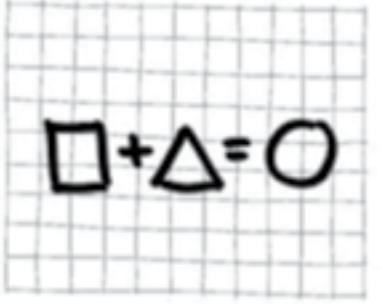
4} TIMELINE

- Illustrates **When**.
- Used for clarification of sequence, duration, and temporal relation.



5} FLOWCHART

- Illustrates **How**.
- Used for clarification of cause-and-effect, liability, and complex flow.



6} EQUATION

- Illustrates **Why**.
- Used for clarification of underlying rule or "the moral of the story."

V I S U A L G R A M M A R

To: Partner

From: Trial Support Team

Re: *Hare v. Tortoise*

I just saw the intake memo on the Hare case. I have a new trial graphics option that you should consider using. Coincidentally, I had just reviewed a new book which argues that freehand drawings created by the speaker as "live" lecture notes are much more convincing than either oral presentations or, surprisingly, complex designer graphics.

Following are the usual trial PowerPoint slides I would make for this case juxtaposed with some sketches so simple that you could draw them while you are presenting. Let me know what you think.

Each sketch represents one (and only one) of the six elemental pictures from the 6x6 Visual Grammar illustrated above. I have identified each picture type as it appears in the narrative, along with the type of information it conveys.

1. Ladies and gentlemen, this is a case about a blogger who thought he could say whatever he wanted and who destroyed our client, Mr. Hare, as a result.

HARE V. TORTOISE

"A lie runs the world round while the truth is putting on its boots."

Mr H. Hare



Mr T. Tortoise



Illustrations by Frank Sommers

2. Mr. Hare is a tireless courier who uses his speed and agility to deliver critical items that your neighbors in the garden need to arrive quickly and efficiently.

THE PARTIES

- Mr. H. Hare
 - ◆ Security Courier
 - ◆ Speed and reliability
 - ◆ “Gets there before you send it”
- Mr. T. Tortoise
 - ◆ Flaneur, man-about-town
 - ◆ Blogger
 - ▲ “The Steady View”
 - ▲ Wide circulation



3. Mr. Tortoise, in contrast, has been lucky enough to parlay the sale of his first company into a life as a blogger who posts his opinions on the Internet in the belief that they are valued.

THE PARTIES

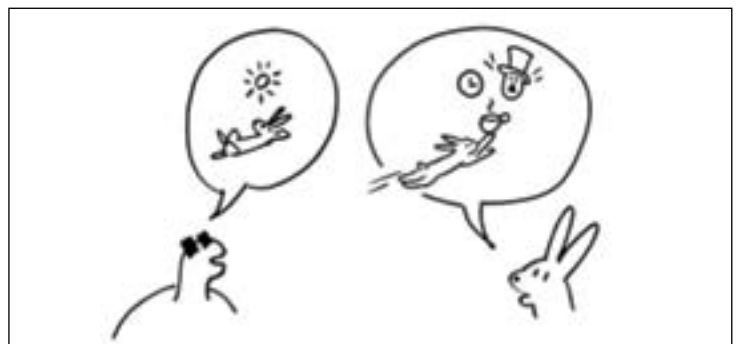
- Mr. H. Hare
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4. Why are we here? Because Mr. T has been telling false tales about why he won the recent footrace between the two.

THE CLAIMS

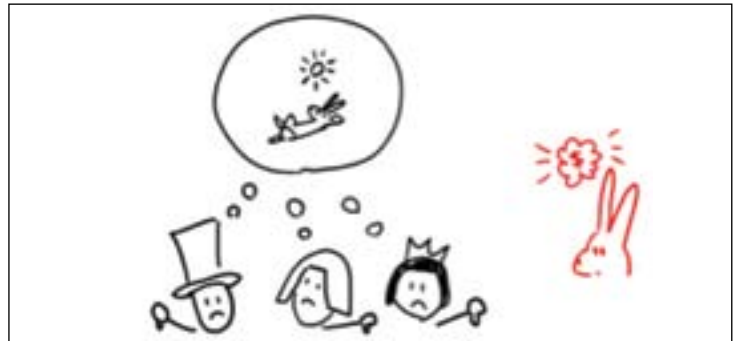
- Tortoise lied about why Hare lost
 - ◆ Claimed: loafing, careless
 - ◆ Reality: Hare stopped to help
- Result: Injury to Hare’s work
- Clients: “lazy and careless”



5. As a result, Mr. H’s business and reputation have suffered greatly.

THE RESULT

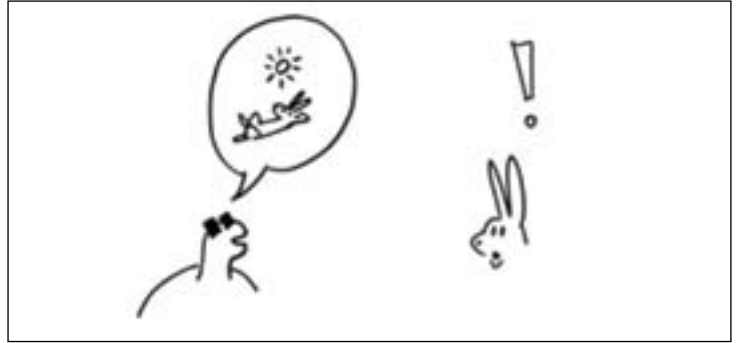
- Hare’s reputation smirched
 - ◆ “Lazy & Careless”
- Hare’s business damaged
 - ◆ Courier’s fees dropped by 80%



6. This case arises from T's challenging H to a footrace, after announcing that H had "lost it."

THE FACTS: 1

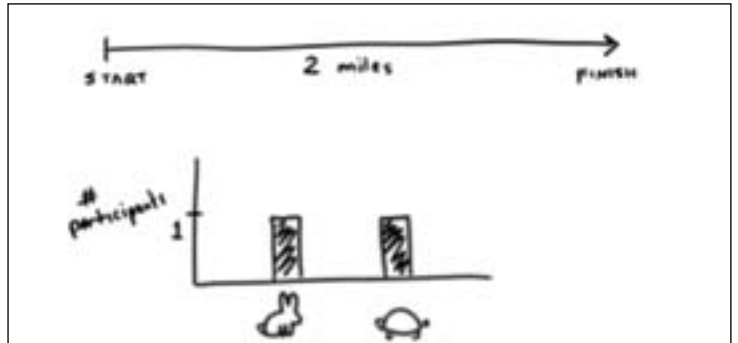
- T's Challenge
 - ◆ Hare has lost it
 - ◆ Even I can beat him
 - ◆ He is hiding his disabilities
 - ◆ Afraid to race a tortoise
- H had no choice



7. The race was going to be two miles, with only the two of them participating.

THE FACTS: 2

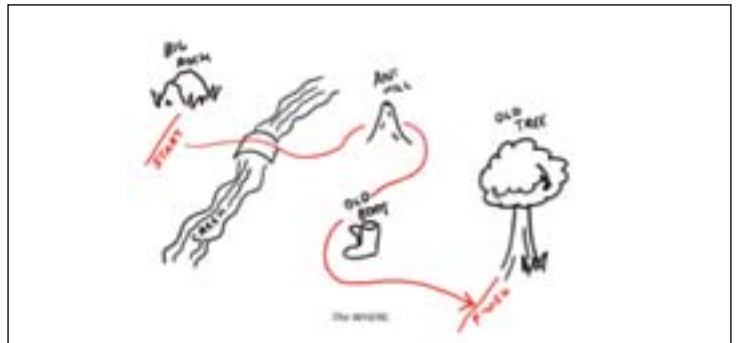
- Terms:
 - ◆ "Just two miles"
 - ◆ "Just the two of us"



8. The course was from the Big Rock, across the creek, around the Old Boot, and would finish at the Old Tree.

THE FACTS: 3

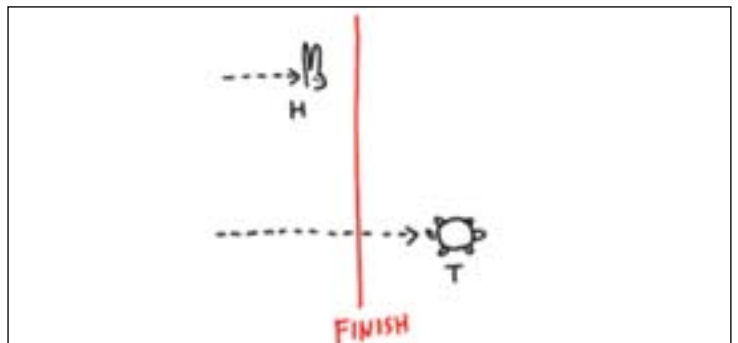
- The race course
 - ◆ Start at Big Rock
 - ◆ Cross the creek
 - ◆ Past Ant Hill
 - ◆ Around the Old Boot
- Finish at Old Tree



9. What happened? Tortoise won.

THE OUTCOME

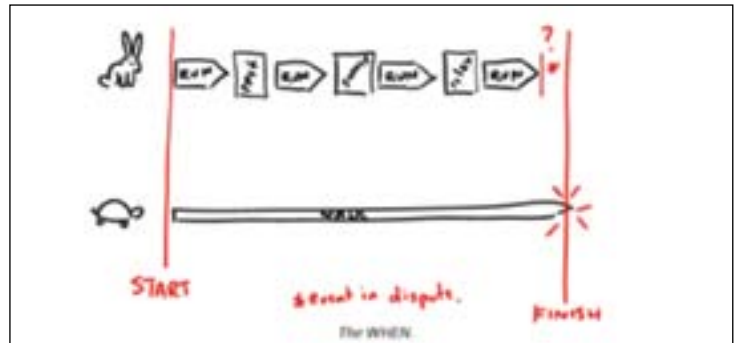
- Tortoise won



10. Why? Well, according to T, his opponent was lazy, stopped for a rest, and ended up taking a nap.

TORTOISE'S VERSION

- My opponent was so arrogant that he:
 - ◆ Stopped to eat
 - ◆ Took a nap
- While I continued, slow but steady, and won

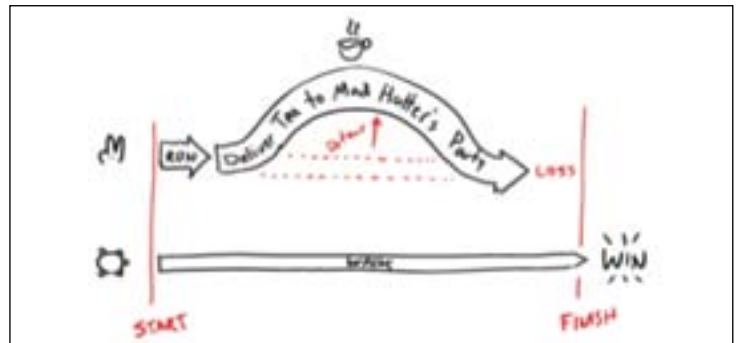


11. H, on the other hand, will tell you that he got a call from the Mad Hatter, his best client.

H made the requested delivery but lost the race.

HARE'S VERSION

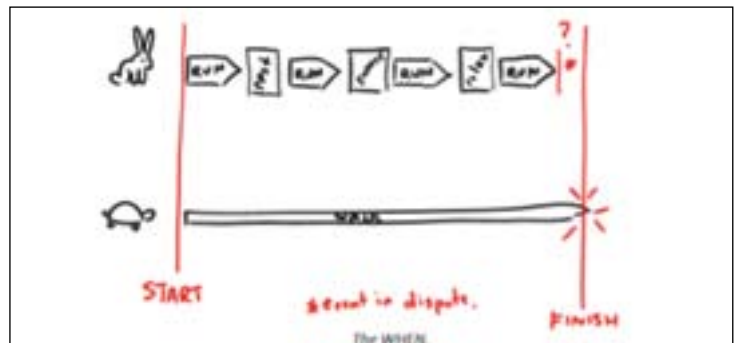
- Off to clear lead
- Got a call from Mad Hatter
 - ◆ Best client
 - ◆ Needed rush delivery to Tea Party
- Made the delivery
- Couldn't catch tortoise



12. H is suing for defamation. He has to prove that T made false statements, which he knew were false, and that those statements hurt him.

PROVING THE CLAIM-DEFAMATION

- Publish fact statements
- Knowingly false
- Tends to injure ability to work
- Actually damages work



13. T made his statements on his blog, which has many followers. We will prove their falsity.

THE PUBLICATION

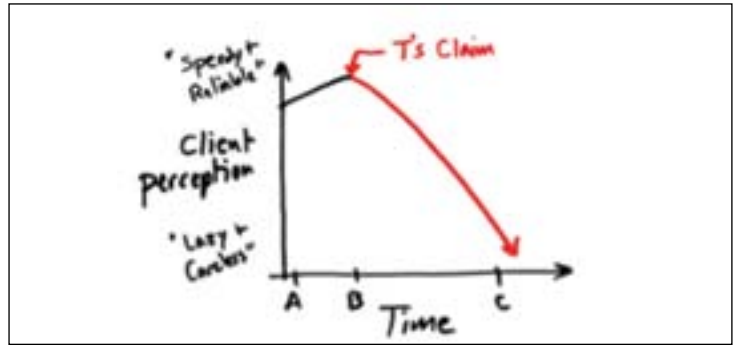
- Tortoise knew the facts
- Blogged to all and sundry



14. H's reputation has been damaged. Public comments range from "slacker" to "just too damn slow."

REPUTATION DAMAGE

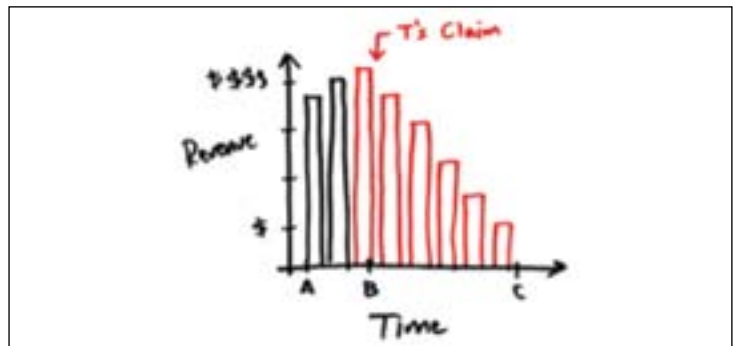
- Public reactions on the net
 - ◆ "Slacker"
 - ◆ "Lost more than a step..."
 - ◆ "Too slow for my business"



15. We will also prove damages. H's post-race income has dropped by hundreds of dollars a week.

REPUTATION DAMAGE

- Public reactions on the net
 - ◆ "Slacker"
 - ◆ "Lost more than a step..."
 - ◆ "Too slow for my business"



So there you have it, a taste of illustrative graphics to punch up your presentations. We've given you drawings that are a little "aspirational," a little more stylish, to give you an idea of how

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simple it is to storyboard a theme. If you start with the basic "grammar" ideas listed above, you'll find that communicating visually is not about being a cartoonist but about letting your hand diagram what's already in your head.

For example, each time you wish to introduce a person into

the case, provide a simple visual representation (portrait). This will help the jurors keep in mind precisely who is being spoken about, even as many litigants and witnesses are introduced. Each time you introduce a measured quantity (distance, amount, speed, etc.), provide a visualization of the numeric data (chart). This will help jurors to see for themselves what the precise numbers mean. To clarify position and spatial information, include a map. To sort out temporal sequences, draw a timeline. And last, illustrate apparent cause and effect by diagramming a simple flowchart.

Once you try it, you will find that using your own visual style to create these six elemental pictures will go a long way toward helping you clarify complex issues. More important, these simple flowcharts, graphs, and maps will find a ready-made place in your listeners'/watchers' brains, too—to your benefit as an advocate. Remember: If you're speaking, you should have a marker in your hand. Good luck. ■