

New York Law Journal

November 29, 2002, Friday

SECTION: NEWS; Vol. 228; Pg. p. 3, col. 1

HEADLINE: Trial Advocacy;

The "Freeze-Frame" Technique: A Method for Exposing Key Points

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BODY:

IN EVERY trial there are facts that must be presented to develop the strong points of your case. Proper emphasis on these points at various stages in the trial can work to support your position during final argument. Although there are many ways of emphasizing key points during the trial, one of these techniques, known as the "freeze frame" approach allows you to develop a point, emphasize it, and make the importance of that point unmistakably clear to the jury.

Although life moves quickly, it is, in reality, nothing more than an infinite series of frames, strung together in the same manner as an illustrator creates a cell for a cartoon. To maximize the impact of any quickly evolving event, the trial lawyer should attempt to break it down into those multiple snapshots, revealing all of the emotions, thoughts and actions that make up one short period of time.

Careful consideration must be given to the moments that you choose to emphasize. You may, of course, focus on one particular event for liability and a different moment in time altogether for damages. Once you have your primary focus in mind, you can utilize this technique throughout the trial's phases, starting with your opening statement, continuing through your witness' examinations and concluding with your summation, all to emphasize the importance of the moments you have selected.

The opening statement is unquestionably one of the first real opportunities to persuade. It is at this point of the trial where emphasis must be placed on key points or you will have lost a golden opportunity to persuade.

Take, for example, a wrongful death case in which a young girl was killed in an auto accident while being driven to school by her father. In support of his client's [father's] claim for zone-of-danger damages a lawyer could state in simple terms that:

A truck hit the car. The next thing the father knew was that his little girl was injured. ... The next thing he knew was that his little girl was dead.

The problem with this approach is that it is flat and fails to emphasize the importance of the father's actions and reactions. Indeed, it fails to emphasize his own emotional suffering in witnessing the death of his daughter.

The better approach is to work with the "freeze-frame" technique to paint a vivid picture in the minds of the jurors as to exactly what was happening at that particular moment in time. You are, in effect, telling the jurors, to "freeze this moment in time."

Take for example, the same set of facts using this technique by freezing just one moment in time:

Ladies and gentlemen, it was at this point in time when the truck slammed into the car. It was at this point in time when [the father] realized only too clearly that it was his daughter's side of the car that was struck. It was at this point in time when he knew he would have to turn back and look at his daughter. And it was at this point in time when he looked and saw the one thing he hoped he would never see - and the one thing he will never, ever forget. This was the moment he saw his daughter covered in blood, with blood coming out of her nose, mouth and more importantly, her ears. This was the time he realized his daughter was gasping for air.

It was at that moment that [the client] never felt anything as painful in his life.

Obviously, this technique paints a more dramatic impression of the horror of the moment.

The technique, however, is not limited to opening statements. It is an approach that can be used at every part of the trial. For example, on direct examination, too often lawyers fail to emphasize key points that would unquestionably support their argument on summation. Taking the same set of facts, the questions that are usually asked are ones like these:

Q: What did you do after impact?

Q: What did you see?

Q: What happened next?

The problem with these questions is that they fail to impress in the minds of the jurors the horror of the events that just took place. The better approach is to expand the moment in time by "freeze framing" these crucial moments. A transitional phrase such as "I'd like to direct your attention to a [specific time]" or "I'd like to focus your attention on [a specific point]" can help you achieve your goal. Consider the following questions in contrast to the above example:

Q: I'd like to focus your attention on the moment just before impact. Where were you looking?

Q: At that moment what did you hear?

Q: When you heard the sound of brakes screeching what was the first thing you did?

Q: What was your first reaction?

Q: At that point what was your most important concern?

Q: Tell us exactly where you looked?

Q: Tell us step by step what you did as you turned to look at your daughter?

Q: Tell us exactly what you heard as you turned?

Q: Tell us what you saw?

Q: Describe [your daughter's] face when you first looked at it?

Q: At this point in time how did you feel?

Q: At that moment in time describe your reactions?

The "freeze-frame" approach is not limited to dramatic proof related to pain and suffering. It is a technique that is portable and can be used on cross-examination to expose the lack of credibility of a witness. It can help turn what might otherwise be a minor point into a major one. A deceptive act that takes a second to transpire is likely the product of great thought and planning by the actor. Instead of exposing a lie or a deceptive answer with just one or two questions, the "freeze-frame" technique will allow you, as the examiner, to expand the deception thus allowing the jurors to develop a clear distrust of the witness.

Take, for example, an accountant who prepared a quarterly statement for a large company and knowingly changed a few numbers to make the statement seem more favorable than it actually was. On direct, his lawyer tried to diffuse the change by having the accountant explain that it was only a "minor" one. While a lawyer could, on cross-examination, force the witness to admit his wrongdoing, unless the point is emphasized it will lack power:

Q: You made the change, true?

Q: You knew that was not proper, correct?

Through the use of the "freeze frame" technique, you can demolish the witness' credibility. By focusing on one moment in time surrounding the wrongdoing you can pose a series of questions that serve to undermine the witness' credibility. Simply set the witness up and knock him down by "freezing" that one period of time:

Q: When you prepared the statement you knew others were relying on you for accuracy, true?

Q: Stockholders and board members relied on you, correct?

Q: You knew that your results would be published?

Q: Before you made the change, you thought about it, true?

Q: At that point in time you knew you could either tell the truth or you could choose to deceive?

Q: At that point in time you made your choice, true?

Q: Your choice was to present information that was less than truthful?

Q: At that point your choice was to present information that was less than honest?

Q: At that point in time you took it on your own to falsify a record?

Q: And at that point in time you were able to look others in the eye and make them believe you were telling the truth?

Q: At that point in time you never chose to reveal the change, however slight you say it was?

Q: Because you believed you could get away with it, true?

The remarkable part of this approach is that by expanding one moment in time you not only focus on that witness' past conduct but you give yourself an opportunity to bring the point home by linking his past conduct to his present testimony during cross-examination:

Q: When you made the change you were the only one who knew of the inaccuracy, true?

Q: You were able to look others in the eye and make false representation, correct?

Q: You wanted them to believe you?

Q: You successfully convinced them the information was true?

Q: Even though you were aware of the deception?

Q: Simply put, you were good at making others believe you when you were telling less than the truth?

Now bring it home by allowing the jurors to realize the connection between his past conduct and his in-court testimony:

Q: Today, you are speaking to the jury?

Q: You have the ability to look them right in the eye?

Q: You certainly want the jurors to believe you?

Q: Just like you wanted the others to believe you in the past?

If you have presented the proof in your case utilizing this technique, it will be easy to give a closing statement that recites the step-by-step account of the events on which you want the jury to focus during its deliberations. Under the best of circumstances, you will succeed in focusing the jury's attention so clearly on the key moments of your case that it will already be favorably disposed to resolving the disputes in the case your way. Under all circumstances, this technique helps the jurors

answer your adversary's arguments, as you have provided them with a lasting impression of the events that entitle you to a favorable verdict.