Innovative Course Teaches Visual Persuasion of Juries

By Meg Barone

Throughout the ages, attorneys have relied on their skills as writers and orators to convey points and persuade judges and juries.

In a culture dominated by the mass media, however, visual images—in the form of PowerPoint slide shows, computer animations, video and other media—are increasingly being employed in courtrooms and conference rooms to present evidence and support legal arguments. In some courtrooms, for instance, each juror now watches displays of trial evidence on his or her own video monitor in the jury box. Lawyers who do not become adept at the kinds of visual argumentation made possible by new technologies are going to be at a competitive disadvantage.

Yet in all of American legal education there is only one course in which students can learn to argue using images as well as words. That course is Visual Persuasion in the Law, the creation of Quinnipiac University School of Law Professor Neal Feigenson, artist and Adjunct Professor Christina Spiesel, and New York Law School Professor Richard Sherwin. The three have pooled Feigenson’s understanding of law and the social sciences with Spiesel’s talents as a visual artist and writer, and Sherwin’s expertise in law and popular culture to introduce students to the role of visual materials in legal argumentation and decision-making.

“Successful lawyers must be able to understand and deploy visual language in addition to more traditional means of legal analysis and communication,” says Feigenson, the author of Legal Blame: How Jurors Think and Talk About Accidents (American Psychological Association 2000). “People who go to law school are good with words, and they get better with words while they’re there,” adds Spiesel, a painter whose work has been featured in more than 40 exhibitions. “The assumption of the profession is that it’s a verbal discipline. However, there are all these visual materials that are entered into evidence, and it’s very important for lawyers to understand that those visual materials do not merely illustrate their words but add other kinds of information to the communication.” Thus, Visual Persuasion in the Law fills a growing gap between the traditional law school education and the rapidly changing legal profession.

The course combines several pedagogic techniques to hone students’ visual intelligence, inspire their creativity, and help them integrate those skills with their ability to analyze the law and the facts in a given case. A series of simple, hands-on visual exercises (designed by Spiesel) get students used to working and thinking visually and to talking critically about their own and others’ work. Multidisciplinary readings in rhetoric, the psychology of persuasion and judgment, the psychology of visual perception, graphic design, narrative theory, advertising, film theory, media studies and other fields, as well as relevant readings in the law of evidence and courtroom strategy, provide deep and broad perspectives on visual advocacy.

Examples of legal visual persuasion and guest lectures by professionals who make visuals for courtroom use (e.g., day-in-the-life videos) show students the practical dimensions of their work. Students then deploy their
knowledge and skills to create persuasive visual (and verbal) displays for use in a simulated legal case. And it all takes place in a cooperative, team-taught environment in which students are encouraged to collaborate (modeling the collaborative nature of the typical legal workplace).

Feigenson and Spiesel take students on a legal and artistic odyssey that challenges them to unleash a creative side of themselves they might not otherwise explore. "We're expecting them to put a lot of themselves into their work," Feigenson says. "Law students don't come to law school expecting to do art work," Spiesel says. But artistic talent is not required of the students, both professors agree. What's important is the students' willingness to be open to new ideas and visions.

The professors work to sharpen students' powers of persuasion and get them to think and work in ways they might not otherwise have considered. "Obviously, we're not expecting professional-level productions, but we want to see what kind of thinking lies behind the images and words the students choose," Feigenson says. The course stresses depth of visual understanding rather than mastery of particular skills, he points out. "It would be a mistake just to teach [students] how to make a [PowerPoint] chart. It would become instantly irrelevant," Spiesel says, because technologies change, whereas the critical visual intelligence the professors hope the students will develop will continue to be important, regardless of the particular tools used.

"Lawyers are going to have to deal with people being more technologically proficient, and more and more technology is seeping into the courtroom," says Jonathan Snyder '00 of Madison, Conn., an associate at the law firm of Shipman & Goodwin LLC in Hartford, and a recent graduate of the Quinnipiac School of Law. "What these professors are doing is really cutting edge, and I'm benefiting from it and having fun with it. This course gave me a leg up," Snyder says. "Law can be pretty dry. This is much more creative and flowing. It's less stale. It's more vibrant. You're bringing in images that really can communicate with people on a lot of different levels," adds Snyder. He has applied his newly acquired video knowledge to his legal pursuits.

Another student so enjoyed the work in the Visual Persuasion course that he is now planning to go into legal video production rather than staying on his intended career path of becoming a practicing attorney. As lawyers become more aware of the need to use video and other visual materials, there will be more demand for videographers who understand the legal system, the professors say. Snyder agrees, saying that legal arguments can be translated into a visual presentation tailored specifically for the courtroom setting or for the negotiation process.

The course is limited to 15 students and is labor-intensive. In addition to doing the visual exercises and the substantial multidisciplinary readings, students must master all of the law and facts relating to the case hypotheticals, and then create two major projects. The first is to make a still visual display (etc., chart, graph, photo array) for use as demonstrative evidence (i.e., a visual illustration of oral testimony). The second is to work in small groups to create a short digital video for use in a closing argument-in effect, a mini-documentary or advertisement for the client's theory of the case. For this second major project, students take crash courses in video production and editing, learn to storyboard their arguments, film and collect from archival sources the necessary footage, and then edit their videos. At the end of the semester, the entire class watches and critiques the videos.

"It's experiential learning, not just hearing lectures," says Spiesel, who has been a faculty associate of Bard College's Institute for Writing and Thinking the last eight years. "You can't teach people about picturing without making pictures. You simply cannot read about it and know it."
Last semester, an intern from the Quinnipiac School of Communications attended all classes, participated in class exercises and discussions, and provided the students with video production and editing assistance. “We were very lucky to have her expertise in the ‘closet’ [the small room in the law library the students used to edit their videos],” Spiesel says. “It was a wonderful collaboration between the two programs.”

The hypothetical cases on which the students work are both vivid and realistic. In Spring 2000, the first year the course was offered, students were assigned to represent the parents of the victims of the Columbine High School shootings in a then-hypothetical lawsuit against the makers of the video game Doom, which the killers had regularly played. After the course was in progress, some of the real parents actually filed such a lawsuit.

In Spring 2001, students were assigned to represent prisoners incarcerated in a “supermax” high-security prison who were bringing a class-action lawsuit against the grounds that the extreme isolation and sensory deprivation (among other things) to which they were being subjected constituted cruel and unusual punishment in violation of the Eighth Amendment to the U.S. Constitution. After Feigenson and Spiesel designed the problem, a real case raising these issues turned up in a federal courtroom in Wisconsin, and the professors incorporated materials from that case into the students’ hypothetical.

In both versions of the course, all students were required to argue the same side of the case, which led them to appreciate the nuances of different visual strategies. They ultimately visualized very different arguments in support of their clients’ position. “It’s very satisfying to see that happen,” Spiesel says.

Visual Persuasion in the Law represents the confluence of the professors’ varied backgrounds and interests. Spiesel recognized the growing interest in visual media and law while attending a 1996 meeting of the College Art Association, where it was suggested that lawyers did not know how to handle visual materials. She then created and taught a course titled Envisioning Law at Yale Law School in Spring 1998, which covered a wide range of topics relating to visual experience, visual communication and law.

Feigenson had been researching in the psychology of legal judgment, including collaborations on two experimental studies of juror decision making with members of the Yale Psychology Department (where Feigenson became a research affiliate). He learned about Spiesel’s course and audited it. Their overlapping interests led them to propose a new course that would combine Spiesel’s visual expertise with Feigenson’s law and social science background, and anchor the material to legal case simulations of the type Feigenson previously had taught in lawyering skills courses. They then brought into their project Richard Sherwin, with whom Feigenson had taught at New York University School of Law in the mid-1980s and who was completing his own groundbreaking book, When Law Goes Pop: The Vanishing Line Between Law and Popular Culture (University of Chicago Press 2000). Spiesel and Sherwin are co-teaching Visual Persuasion in the Law at New York Law School this fall.

The course’s innovative pedagogy and its combination of theory and practice is clearly paying off for the students. Clement Naples ’00 of Stratford, Conn., an attorney at the law firm of Wiggin and Dana in New Haven, Conn., liked the way the class focused on other types of persuasion besides than the typical writing that lawyers tend to do. “Now is the time in the legal profession when it’s critical to have the power of persuasion beyond the use of words,” he says.

“Through your whole law school career, you’re constantly trying to persuade people through your words, spoken or written. This course really enlightened me, and the rest of the students, to the fact that, while the words you choose are extremely important, you can really persuade people very effectively visually,” Naples says. In fact, the course persuaded him that perhaps visual images can, at times, have even more of an impact than words.

“What this class is about is breaking open the conventional ‘words-only’ paradigm in a courtroom. Some attorneys will use exhibits and graphs, but they’re not dynamic,” says Jonathan Snyder. The course underscored the power of video and animation in a courtroom, and taught students not only the value of video as a legal tool but also about the finer points of production. “Something as subtle as a camera angle can affect the viewers,” he says. “For example, cropping a frame so that a subject’s head is not entirely visible can really annoy the viewer, and, therefore, influence his or her opinion, so it’s best to include a full head shot in the frame.”

Snyder has applied the class lessons to several cases. Although attorney-client privilege prevents him from discussing specifics, Snyder was able to speak generally about applying the course to his job. “I personally have been involved in doing public access television and television commercials for different advocacy groups, trying to convey a message through video. What the class really gives is more sophisticated tools for someone who has an interest to be able to put them into practice,” he says.
Although it’s unlikely Snyder ever will have to make another legal video—because there are companies beginning to specialize in legal video production—he says the act of going out and shooting his own footage and editing the video for class already has proved useful in his career. “It was very important. If you don’t put it together yourself, you’re not going to know what’s possible. When I’m thinking about how I want to convey my message, I need to know what’s possible to happen or I’m limiting myself,” he says. Knowing what services are available and how the material should be edited allows for better communication with the video producer and ensures a finished product that will carry the intended message, he notes.

“I hope to combine my background in communication with my law degree, whether it’s in media law or communication law, or just in using both of those degrees in presenting a case to a jury,” says Androski, who interned over the summer at the City of New Haven Corporation Counsel’s office and is planning a career as a litigator. Androski says the skills she refines in Visual Persuasion in the Law will help her present information to juries and witnesses in a way that will help them to understand her points better.

Meanwhile, Feigenson and Spiesel are busy developing a new hypothetical case for the students in next spring’s course, and, together with Sherwin, they are also at work on a book and other teaching materials they hope will make Visual Persuasion in the Law available to wider audiences.

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Students are already clamoring to get into the course, which will be offered again at Quinnipiac in Spring 2002. Caroline Androski of Ansonia, a third-year law student, has been looking forward to taking the class since entering Quinnipiac. Androski has an undergraduate degree in broadcast journalism from the University of Alabama.