ATTORNEY
ADVISORY
GRAPHIC CONTENT

Panelists

Adrian L. Bastianelli, III,
- Partner, Peckar Abramson, PC

W. Michael Birmingham, CCP, PSP,
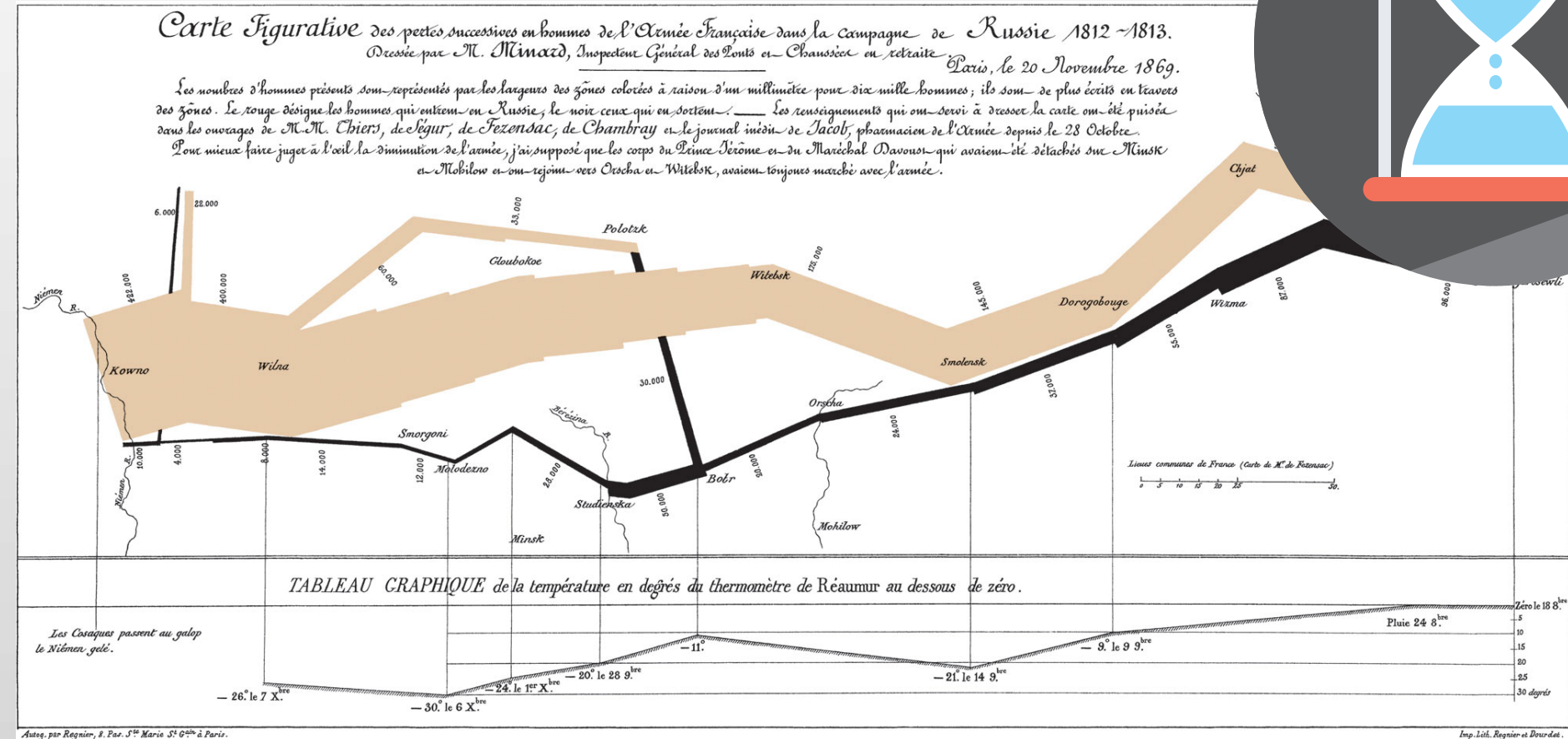- Executive Director, The Rhodes Group

David W. Owen,
- Partner, Bradley Arant Boult Cummings LLP's

Roger J. Peters, Esq.,
- Construction Neutral

History

Charles Joseph Minard: pioneer of the use of graphics in engineering and statistics. He is most well known for his cartographic depiction of numerical data on a map of Napoleon's disastrous losses suffered during the Russian campaign of 1812

Demonstratives Can Strengthen or Undermine Case Findings

Retaining Information

- People forget about two-thirds of what they hear.
- Add a visual component and they are more likely to retain information.

Persuasion

- Graphics and animations can be very persuasive tools.
- Modern advertising is a testament to how powerful well-designed graphics and animations can be.
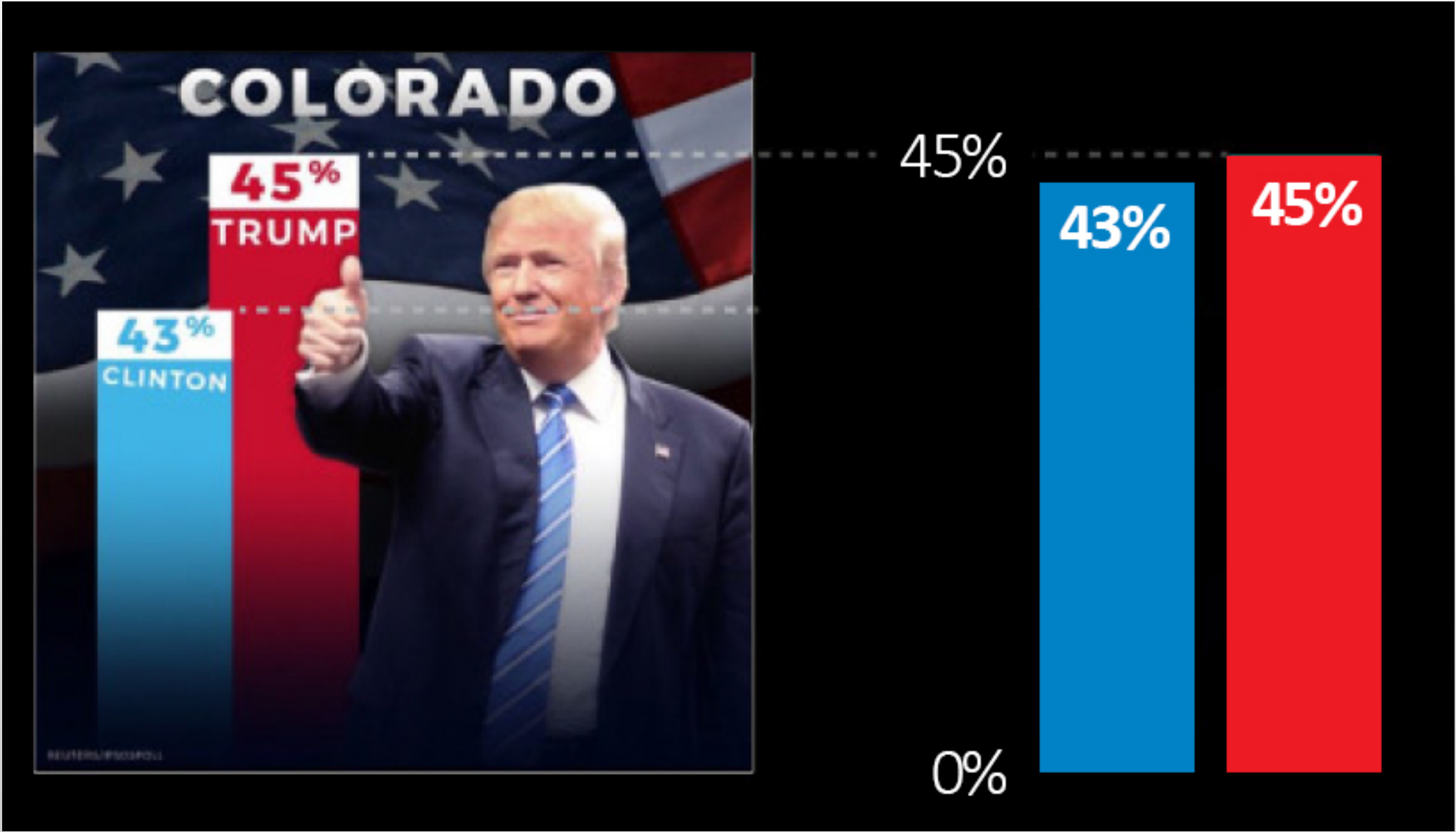
Distraction

- Presentation bells and whistles are distracting (but easy to add).
- If your audience is trying to digest a confusing chart or is staring at text flying in, they are less likely to be listening to you.
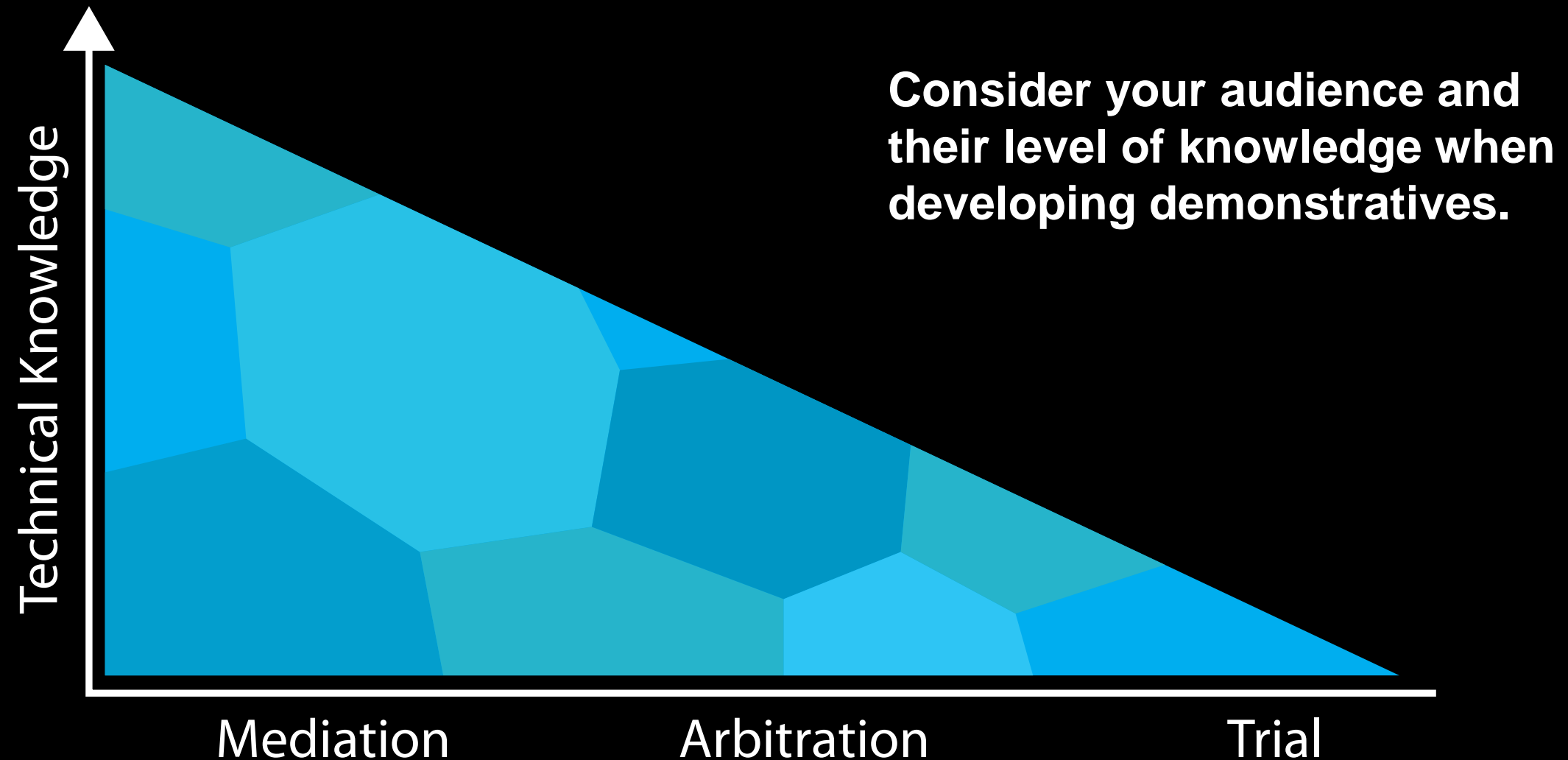
Misleading or Inconsistent

What Happens if the Technology Doesn't Work?

- Better graphics, means new technology to present it.
- It seems as soon as the technology becomes reliable, something new is introduced.

- Have you experienced something going wrong?
- Did the issue affect the results?

Which Demonstratives are Best for the Various Dispute Resolution Forums?

Consider your audience and their level of knowledge when developing demonstratives.

Technical Knowledge

Mediation   Arbitration   Trial

- Considerations:
- Both sides should have a general understanding of the issues.
- Graphics can be more complex, but be careful not to talk over the Mediator's head.

Mediation

- ## What to Show:
  - Timeline
  - Photographs and overview of the project
  - Highlighted contract terms
  - Highlighted key letters
  - Summary of damages

Mediation

- Your Goal:
  - Educate the Mediator
  - Shake the decision maker's convictions.

Arbitration

- Typically arbitrators understand construction and claims.
- Therefore, graphics can have some technical knowledge requirements.

- Graphics still should be simple.
- Trying to show too much generally adds to the confusion.
- Simplified presentations are normally better even for experienced arbitrators.

Trial

- Judge:
  - Understands the law, but may know little about construction.
  - Graphics need to educate the judge on both construction and the issues in the case.

Trial

- ## Jury:
  - No understanding of construction, the law or claims. Wants to be entertained.
  - Graphics should be highly refined and simplified so that any audience can understand.
  - Break issues out into several graphics, charts, tables or animations.
  - Make it entertaining!

Selecting the Appropriate Demonstrative Tool

- Presentations
- Timelines
- Charts
- Videos, Animations
- Physical Media

Presentations

- Presentations are a great way to collect the content of your case and allow you to build the story in a way you can control.
- Avoid the temptation of adding exciting animations and sound effects.
- Stick to a single slide theme.

PPT

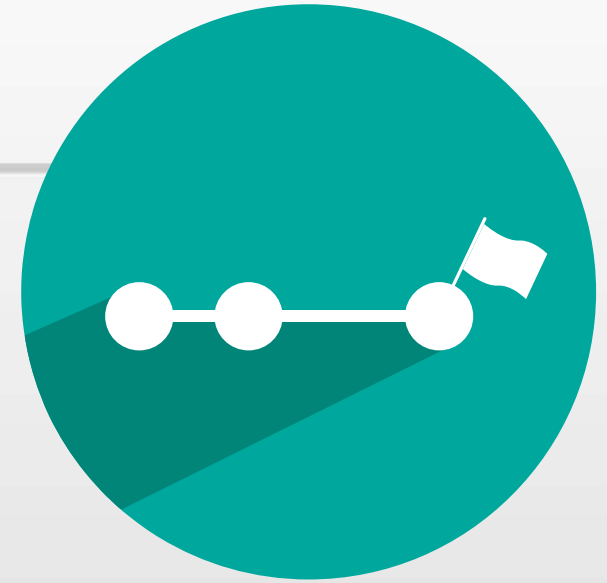30 CONSTRUCTION SUPERCONFERENCE 1985-2015

Presentations

- Avoid long lists of text.
- Make sure the print is big enough to read.
- Break information out into separate slides.
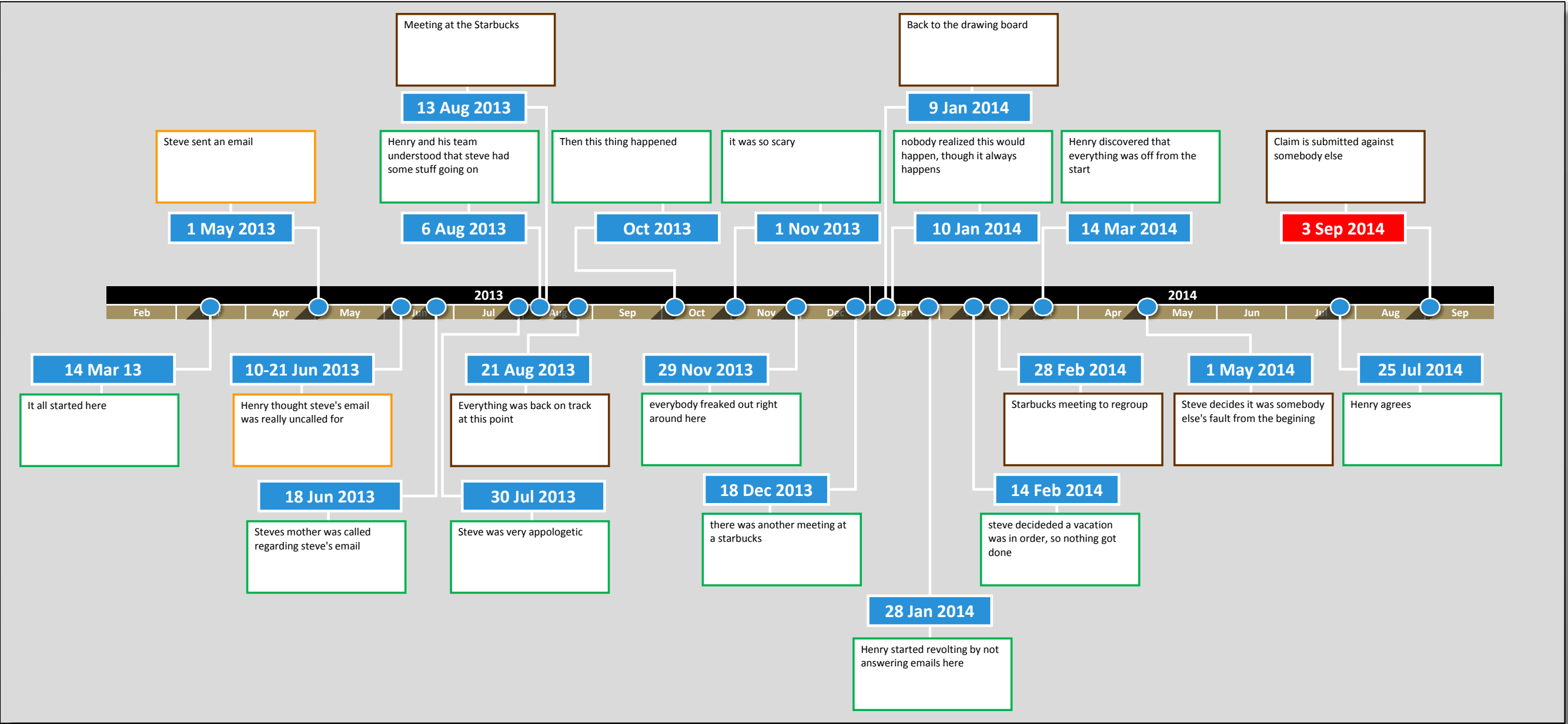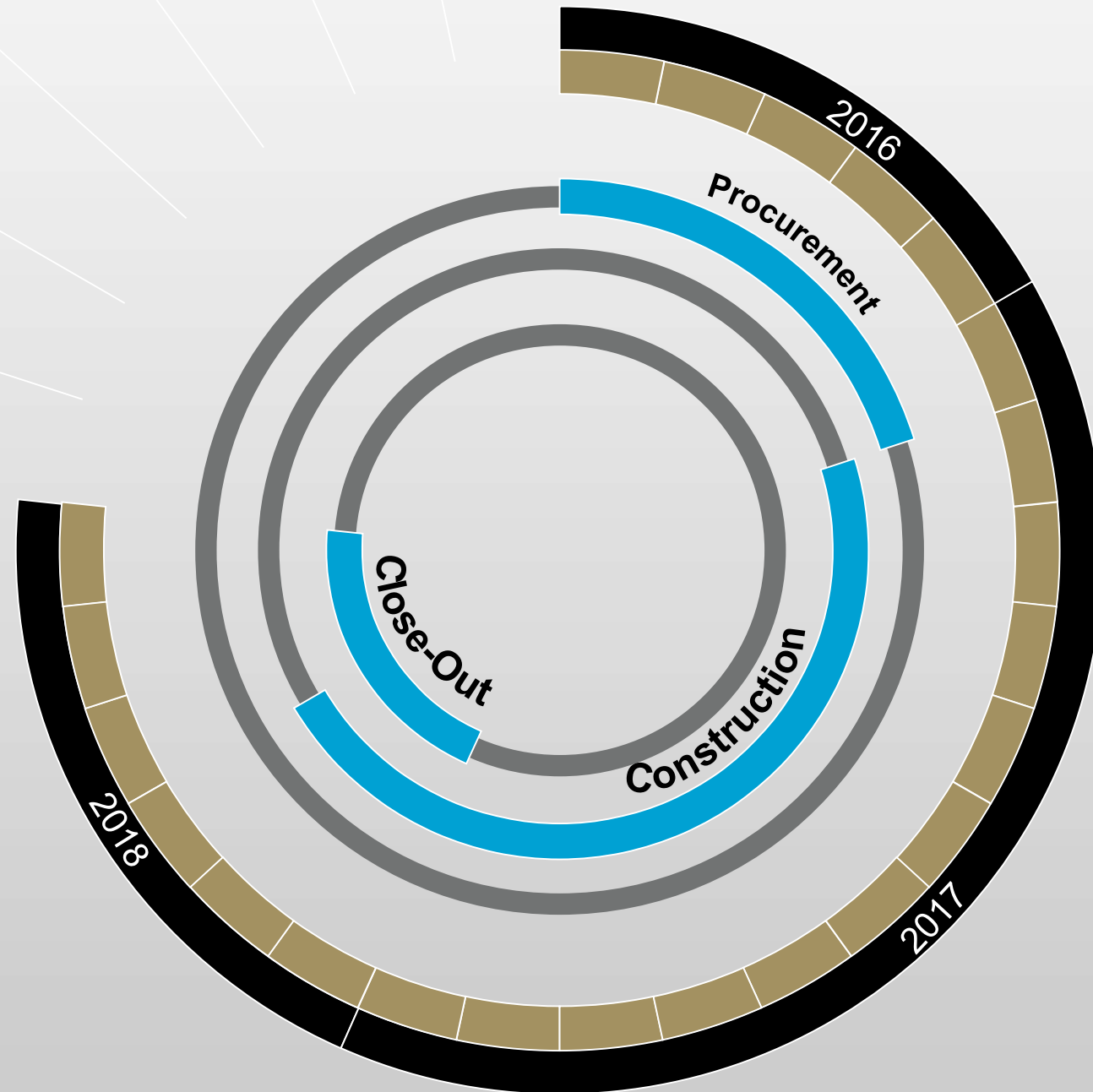- Do not simply reread your slides for your audience.

Timelines

- Timelines help show how different events occurred relative to each other.
- Restrict your audience's view to show one or two events at a time.
- Include only the key events.
- A timeline with too much information doesn't help.

Timelines

Meeting at the Starbucks

13 Aug 2013

Back to the drawing board

9 Jan 2014

Steve sent an email

1 May 2013

Henry and his team understood that steve had some stuff going on

6 Aug 2013

Then this thing happened

Oct 2013

it was so scary

1 Nov 2013

nobody realized this would happen, though it always happens

10 Jan 2014

Henry discovered that everything was off from the start

14 Mar 2014

Claim is submitted against somebody else

3 Sep 2014

2013   2014

Feb   Apr   May   Jun   Jul   Aug   Sep   Oct   Nov   Dec   Jan   Apr   May   Jun   Jul   Aug   Sep

14 Mar 13

It all started here

10-21 Jun 2013

Henry thought steve's email was really uncalled for

21 Aug 2013

Everything was back on track at this point

29 Nov 2013

everybody freaked out right around here

28 Feb 2014

Starbucks meeting to regroup

1 May 2014

Steve decides it was somebody else's fault from the begining

25 Jul 2014

Henry agrees

18 Jun 2013

Steves mother was called regarding steve's email

30 Jul 2013

Steve was very appologetic

18 Dec 2013

there was another meeting at a starbucks

14 Feb 2014

steve decideded a vacation was in order, so nothing got done

28 Jan 2014

Henry started revolting by not answering emails here

Timelines

Charts

- Use charts to display quantitative data in a simple to understand way.
- Avoid the use of "Chart Junk".
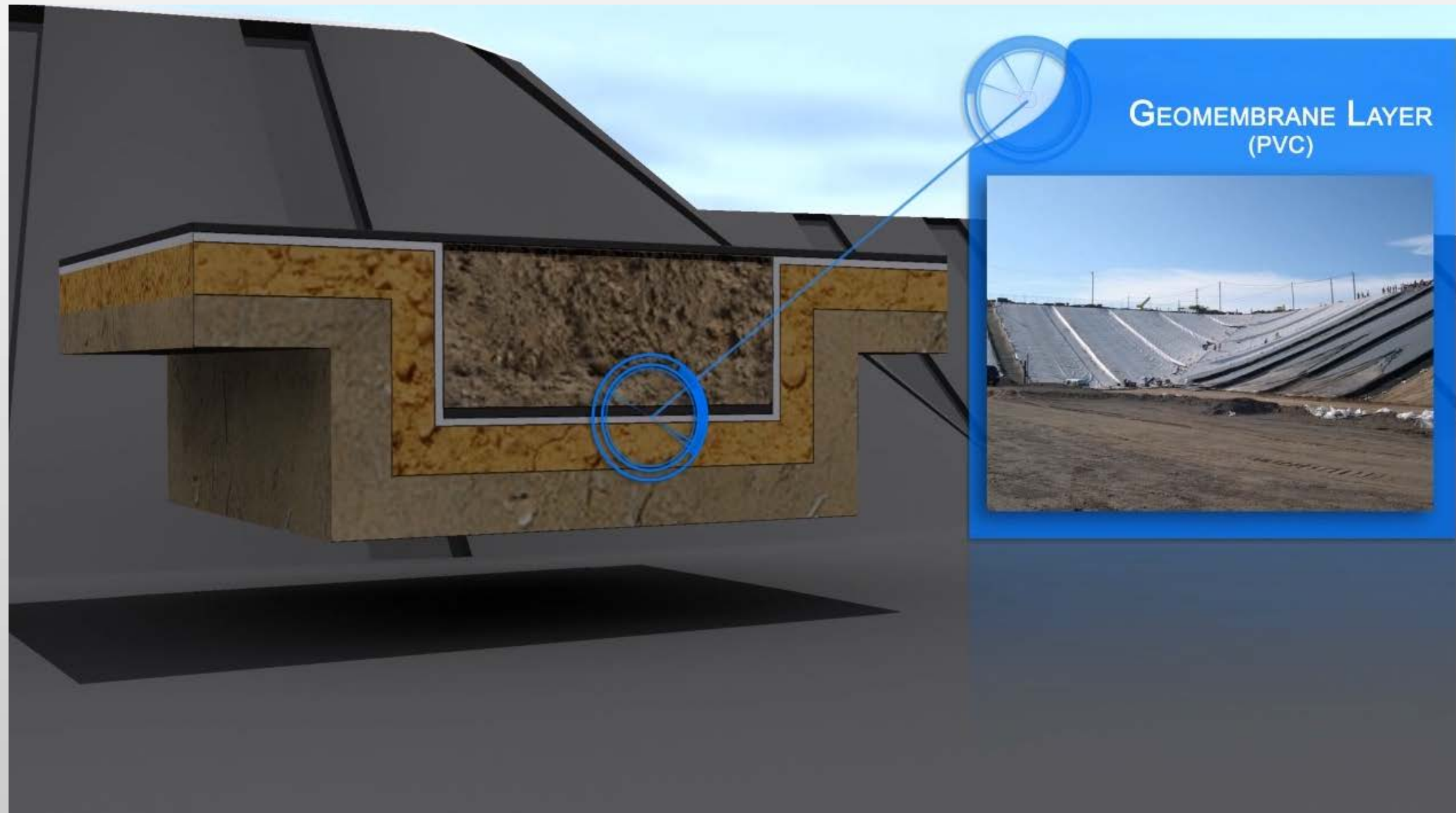- Consider if a table would be easier to understand.

Videos and Photos

- A picture is worth a thousand words.
- Great for grabbing your audience's attention.
- Videos can be long sometimes its easy to miss the point.
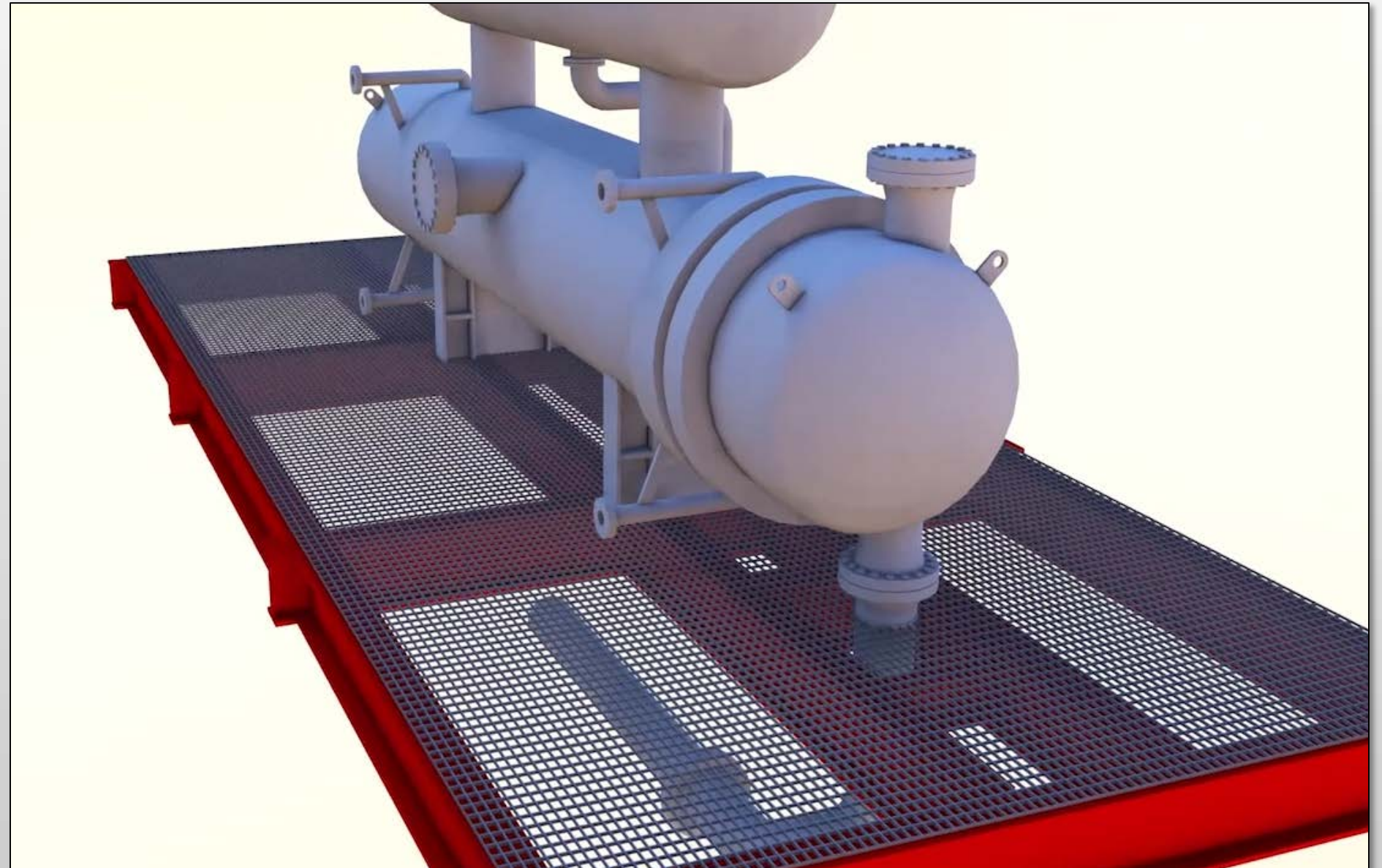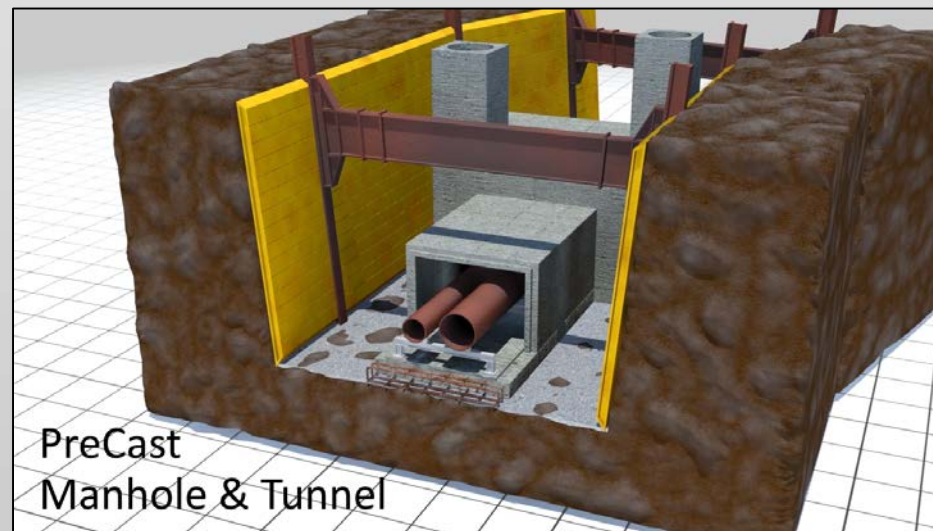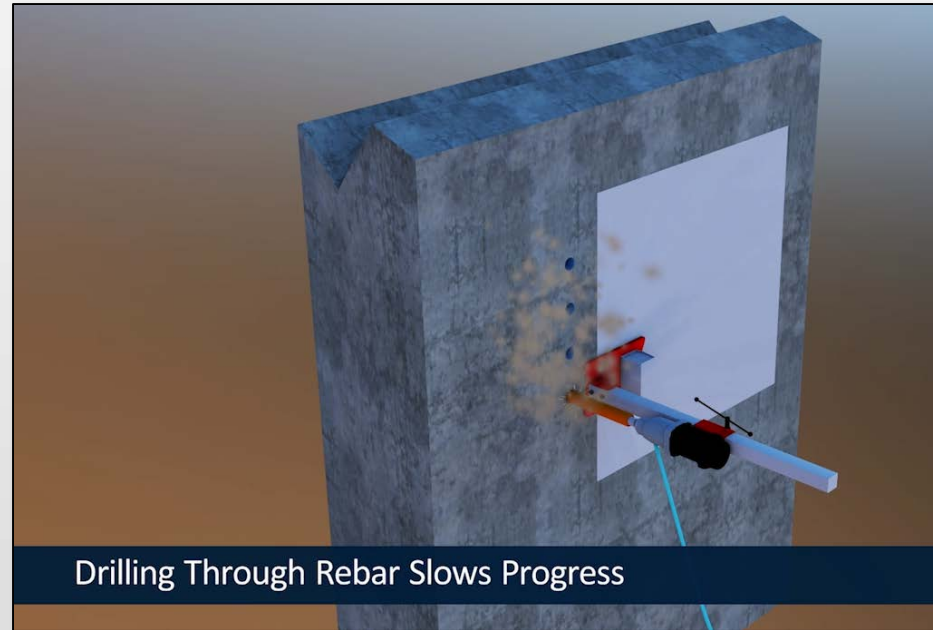
Videos and Photos

GEOMEMBRANE LAYER
(PVC)

Animation/Interactive

- When you didn't catch an issue with a video or photo often animation is a perfect solution
- Be cautious of the speed
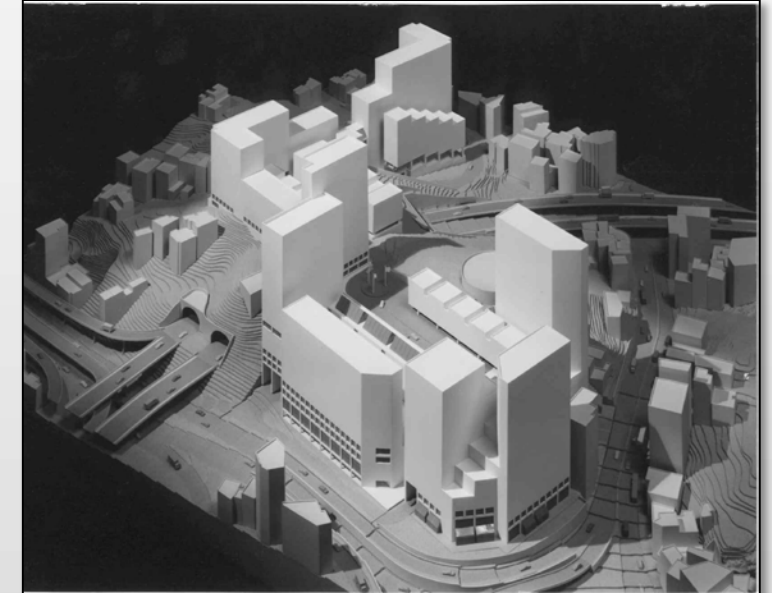
Animation/Interactive

Drilling Through Rebar Slows Progress

PreCast
Manhole & Tunnel

Physical Media

- Don't underestimate "tried and true" methods
  - Posters
  - Maps
  - Scale Models (3D Prints)

Physical Media

Physical Media

- Pros: Physical media doesn't rely on technology.

- Cons: Static – A printed poster can't be changed last minute.
  - Has the tendency to be boring

Accuracy

- Is the information being portrayed accurately and factually?
  - Supported by documentation
- Admissibility Across Forums
  - Mediation
  - Arbitration
  - Trial

Admissibility Across Forums

- Cross examination of person(s) involved in the creation of the graphic.
- Inaccurate or misleading graphics are discovered on cross examination.
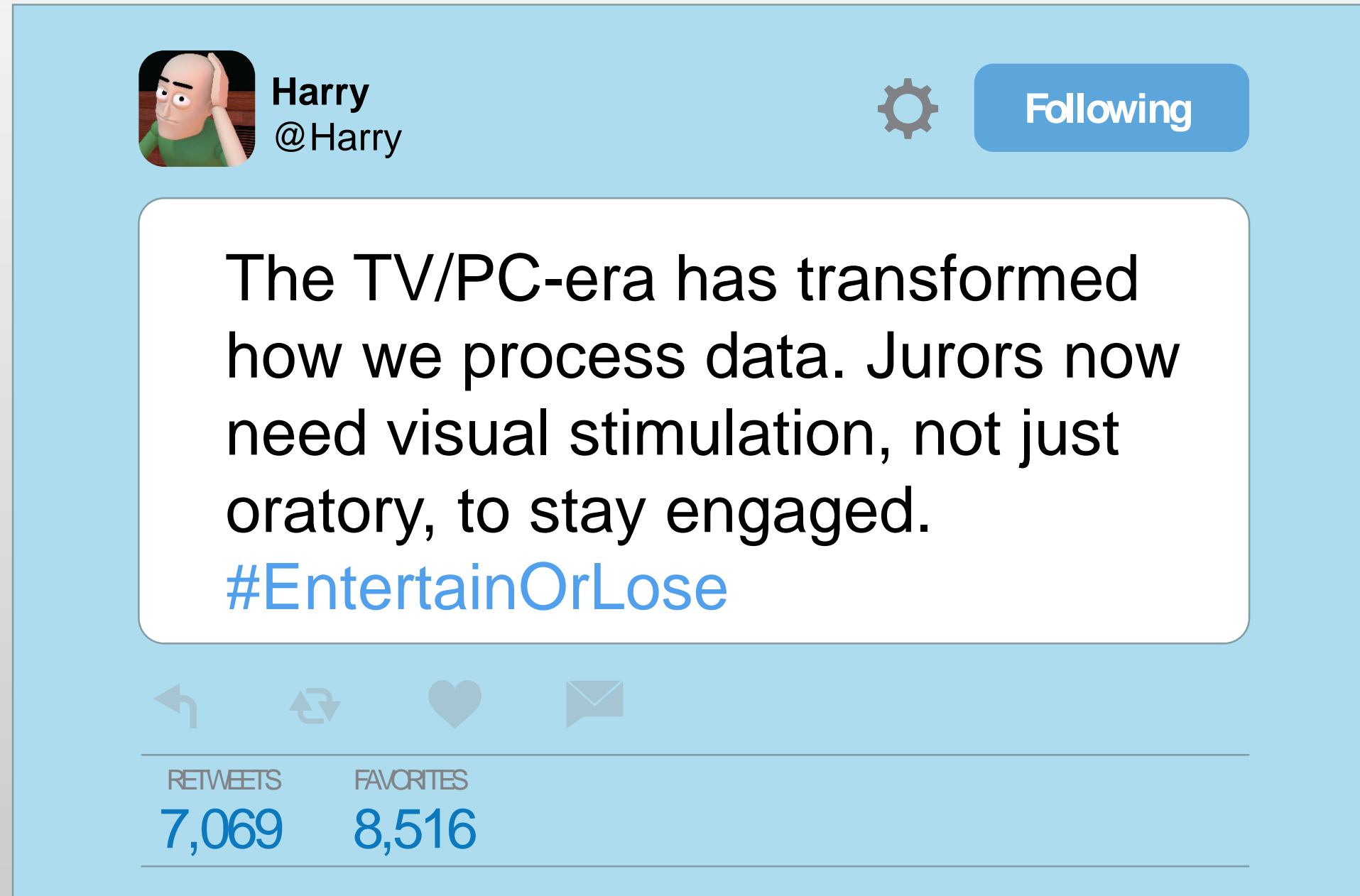
The Intent of the Graphic

- The scale of accuracy can be judged on the intent of the graphic.
  - A process graphic can be illustrative but not necessarily perfect in every nut and bolt.
  - Issue graphics must have a higher standard and must be supported by documentation.
- Testimony

What Makes a Compelling Graphic

What Makes a Compelling Graphic

Harry
@Harry

⚙ **Following**

The TV/PC-era has transformed how we process data. Jurors now need visual stimulation, not just oratory, to stay engaged.
#EntertainOrLose

RETWEETS
7,069

FAVORITES
8,516

What Makes a Compelling Graphic

- Content or Story is King
- Simplification
- Use of Color

Content or Story is King

- Without supporting information and/or a compelling idea a graphic will be dull and uninteresting.

Use of Color

- Color can influence viewers in various ways.
- It is possible to overdo the use of color.
- There are regional considerations - colors have different connotations from place to place.
- Examples of colors that have negative and positive implications.

Simplification
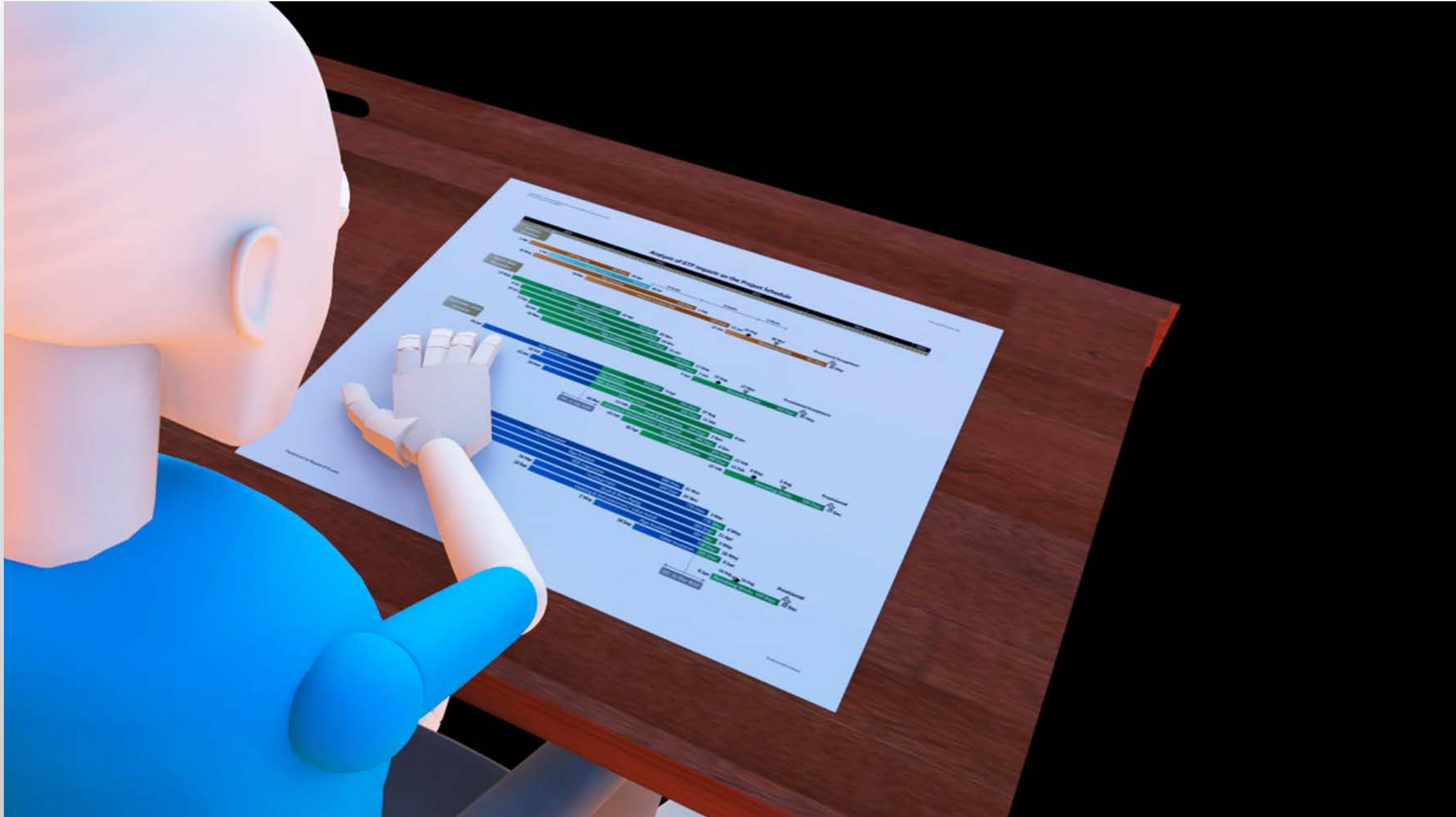
Simplification

- Simplification is a double-edged sword.
- An overly complicated graphic will quickly lose your audience.
- A graphic that is so simple that you lose the information that you are trying to explain is a waste of a graphic.

Simplification Techniques

- Some good techniques for simplifying a graphic are:
  - Reducing Chart Junk
  - An attempt to make graphics more compelling by using extra lines, textures and colors can simply confuse and distract the audience.
  - Maximizing data ink
  - The information presented should not be overwhelmed by grids or axis lines.
  - Consider the ratio between how much ink is used for the necessary information and the ink used for information that isn't essential.

Cost

Cost Drivers

- Quality of source data
- Turn Around time
- Understanding of issues

- What used to take hours now takes seconds
- Hardware improvements due to improvements from other industries
- Software designed specifically for construction

Costs Compared to the Past

- Costs have gone down by nearly 40% in the past 10 years
- Attributed to faster processing speeds, lower render times and increased efficiency.