



# Visual Persuasion

Demonstrative Evidence That Informs and Transforms

## Origins of Demonstrative Evidence: Earl Rogers

Earl Rogers (1869–1922) “was the first trial lawyer to make extensive use of props.” (*Time*) It is reported that he used scale models, blackboards, charts, or any other device that would communicate his goal.

In 1899, Rogers defended William Alford, who shot Jay E. Hunter, a prominent attorney. Alford testified that he shot upward at Hunter in self defense, when Hunter beat him to the ground with a cane; however, the coroner testified that the bullet passed downward through the body. Rogers had the deceased’s intestines brought into the court as an exhibit and an expert witness testified that the bullet had traveled upward through the body, just as Alford testified. (Snow)

In another case, witnesses claimed they had seen a crime through holes in a door. Rogers had the door brought into court and invited the judge and jury to try to see the defendant through the door. When they could not, the defendant was acquitted. (*Time*)

W.W. Robinson (*Lawyers of Los Angeles*) wrote that Rogers brought a gun into the court to challenge the credibility of a witness (Harry Johnson) who repeatedly testified that he was not afraid when a gun was pointed at him. During closing argument, Rogers pulled out a Colt .45 and aimed it at opposing counsel, causing them to take cover. “When the uproar was over, Rogers told the jury that what they had seen was the normal reaction of any person to a threat of death—thus completely discrediting Harry Johnson and winning the case.” (Grace)

Earl Rogers’ life was retold in the movie *Final Verdict* (1991)—based on a book with the same name that was written by his daughter, Adela Rogers St. John. Rogers was also personified as Perry Mason in the works of Erle Stanley Gardner. (The Perry Mason character was featured in more than 80 novels, movies, radio shows, and a popular television series.)

While many of Rogers’ “antics” would not be tolerated by today’s courts, it is clear that he helped to pave the way for the use of demonstrative evidence as a valid means of communicating to the court.

For more information:

Alfred Abraham Cohn and Joe Chisholm, *Take the witness!* New York, Frederick A. Stokes Co., 1934.

Roger M. Grace, “1902: Republican DA Rives Defies Wishes of GOP Governor,” *Metropolitan News-Enterprise*. January 9, 2007, Page 7.

Richard F. Snow, “Counsel for the Indefensible,” *American Heritage Magazine*. February/March 1987; Vol. 38, Issue 2.

Adela Rogers St. Johns, *Final Verdict*. Doubleday, 1962.

“A Criminal’s Best Friend,” *Time*. Nov. 2, 1962. A review of Adela Rogers St. Johns’ *Final Verdict*.

Mike Trope, *Once Upon a Time in Los Angeles: The Trials of Earl Rogers*. Spokane, WA : Arthur H. Clark, 2001.

## Standards for Creation of Demonstrative Evidence

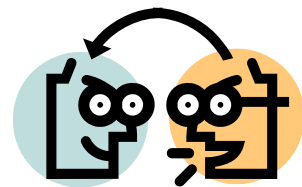
Dale C. Howe is a demonstrative evidence specialist at Campbell & LeBoeuf PC, and a member of Demonstrative Evidence Specialists Association (DESA).



The purposes of DESA include:

- ▶ Promoting excellence in the preparation and presentation of demonstrative evidence.
- ▶ Sharing ideals and raising industry standards.

Members of DESA seek to hold one another to high standards of professional performance. At the annual meeting, they examine current issues in demonstrative evidence and feature the work of talented specialists. More info about DESA can be found online at <http://desa.org/>.



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Dale C. Howe, DE Specialist, editor  
[dhowe@cllegal.com](mailto:dhowe@cllegal.com)

**Campbell & LeBoeuf, PC**

4201 Spring Valley Road, Suite 1250  
Dallas, Texas 75244

972-277-8585 • 972-277-8586 (fax)

[www.CampbellLeboeuf.com](http://www.CampbellLeboeuf.com)

