



Does Deposition Video Camera Angle Affect Witness Credibility?

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Introduction

SOME TIME AGO, we (a group of jury consultants) were debating whether or not it increased a witness's credibility to have the video camera used in the deposition aimed directly at the witness or to the side at an angle. After all, this was a question we got from clients from time to time. The argument for putting the camera directly on the witness was that the viewer got direct eye contact and the look and feel was similar to something you would see on a television news program. Newscasters look straight ahead and speak to their audience by looking directly at the camera. The concern about this strategy was that it seemed too intentional. The witness would appear to be an advocate, thus decreasing their credibility. The argument for putting the camera off to the side was that it appeared more natural, and thus, it would bolster the witness's credibility. Unfortunately, the diagonal angle did not have the benefit of the perceived eye contact between the witness and the viewer. This left us wondering, where should the camera be positioned to maximize witness credibility in a videotaped deposition?

The importance of speaker credibility to the process of persua-

sion has been documented as far back as the ancient Greeks. As Aristotle noted, credibility "may almost be called the most effective means of persuasion" (1941, p. 1329). While scholars differ on the precise dimensions of credibility (elements such as expertise, charisma, and trustworthiness), decades of research has confirmed its importance for persuasion. Historically, credibility was conceptualized as a source characteristic—an individual speaker had varying degrees of credibility based on their qualities. Recent efforts have shifted away from a source-based view of credibility and focused instead on a receiver-based view of credibility. There is now strong support for the idea that credibility is a perception held by the receiver (Stiff, 2003, p. 107).

An important aspect of the perception of credibility relates to the eye contact of the speaker. A long line of research has established the importance of eye contact for the perception of credibility. Beebe (1974) documented increasing amounts of eye contact resulted in increasing amounts of credibility. Similarly, Burgoon, Coker and Coker (1986) found "gaze aversion carries generally negative relational connotations" (p. 518). The link between eye contact and credibility has a direct effect on

persuasiveness. Burgoon, Birk and Pfau (1990) noted greater immediacy was associated with more favorable character judgments which was attributable mostly to eye contact. In addition, they found that as immediacy increased so too did persuasiveness, due mainly to factors such as eye contact. They also confirmed that increased credibility is associated with increased persuasiveness. Additional studies have supported the position that speakers are perceived positively when they exhibit strong eye contact. Brooks, Church and Fraser (2001) studied the duration of eye contact and confirmed “eye contact is clearly a dominant nonverbal cue that appears to convey confidence, control, and a positive emotional state” (p. 77). Wheeler, Baron, Michell and Ginsburg (1979) found increased eye contact was associated with the perception of higher intelligence. The lack of eye contact is related to negative perceptions of a speaker. Gaze aversion has been linked with the perception of deception (Zuckerman, Koestner & Driver, 1981). In fact, the Global Deception Research Team (2006) “uncovered a pan-cultural stereotype: that liars avoid eye contact” (p. 69). While the stereotype might not be reliable indicator of the truth, the perception remains that liars will not look you in the eye.

In a legal context, several studies have investigated the use of video taped depositions and witness credibility. Hemsley and Doob (1978) used video taped testimony of a witness to compare the effects of gaze maintenance versus gaze avoidance. The testimony was approximately 2 minutes in length. In the gaze maintenance condition, the witness looked directly at the target of their communication, in this case, the attorney. In the gaze avoidance condition, the witness testified while looking slightly downward. In both cases, the attorney was not visible on the videotape. Their finding was obvious: witnesses who look away from the target of their communication were less credible than those who looked at the target of their communication.

Neal and Brodsky (2008), in their study of eye contact and expert witness credibility, manipulated the amount of eye contact by a witness on the witness stand while delivering approximately 5 minutes of testimony. There were three important differences between this study and that of Hemsley and Doob. First, the camera angle included a part of the attorney’s body (the back of the shoulder and head) to provide a clear reference that the witness was speaking directly to the attorney who asked the questions. Second, the eye contact of the witness varied between the attorney (with eyes shifted slightly to the side of the screen) and with the mock jury (with eyes looking directly in to the camera). Finally, eye contact was the cumulative gaze at both the attorney and the jury and it was varied to include a total amount of eye contact that was low (30-seconds), moderate (2.5 minutes), or high (4 minutes). The findings of their research are not surprising: witnesses in the high eye contact condition had significantly higher credibility ratings than those in the moderate and low eye contact conditions.

Finally, Miller and Fontes (1978) used real jurors to investigate a wide range of topics related to the introduction of video-

taped information at trial. In one particularly useful study, they compared strong and weak witnesses presented on videotape using various camera shots (close-up, waist up, and long). Not surprisingly, they found that strong witnesses were rated better than weak witnesses on characteristics such as composure, dynamism, and perception of qualification. The type of camera shot used, however, had no significant effect. As they stated, there are “no grounds for concluding that the type of camera shot used (closeup, medium, or long) would independently influence juror perceptions of witnesses” (Miller & Fontes, 1978, p. 172)

These studies provide clear support for the proposition that witnesses should maintain eye contact when providing testimony. That is, gaze maintenance is superior to gaze avoidance. But, none of studies provide clear support for where deponents should cast their gaze. In a traditional videotaped deposition, the deponent is forced to choose between looking straight ahead, as if they are speaking to the jury, or to the side, speaking to an attorney who almost always is not visible. The question of credibility remains: will jurors infer gaze avoidance by the lack of direct eye contact with the camera? On the basis of the prior research, this project set out to investigate the effect of horizontal gaze on speaker credibility. In particular, we were guided by the following research question: Will depositions videotaped at different horizontal camera angles result in different witness credibility evaluations?

Methodology

The design was a 2 x 2 (witness and camera angle) variable study. The stimuli for the experiment were two different mock depositions involving the demutualization of a company’s stock. The topic was chosen to reduce bias since we assumed few, if any, participants had significant knowledge or expertise in the subject area. Both recordings were approximately 5 minutes in length. One deposition portrayed the plaintiff in the lawsuit and the other deposition portrayed a board member of the defendant company. The depositions were recorded using two cameras, one directly in front of the witness and one angled to the left of the witness. In order to control for possible confounding variables, the same individual portrayed both witnesses in the same clothing.

Two hundred and seventy-four participants were recruited from Amazon’s Mechanical Turk online labor service (in exchange for \$.80 to complete the survey). Mechanical Turk provides a reliable pool of participants for academic research (Buhrmester, Kwang & Gosling, 2011). After watching the video, participants answered several demographic questions and a modified version of the Witness Credibility Scale (Brodsky, et al., 2010). One adjective (“scientific”) was removed from the 20-item scale. The dependent measure used to assess the witness’s credibility showed high internal consistency ($\alpha = .943$). Participants ranged in age from 18 – 70 years with a median age of 30. 53.3% were female and 46.7% were male. 77% were white, 7.7% were African American, 7.3% were Asian, 6.2%

were Hispanic, less than 1% were Native American, and 1.5% described themselves as “other.” Participants were randomly assigned to one of the four conditions.

Results

A 2-way ANOVA was conducted on witness credibility with camera angle (straight, angled) and witness (plaintiff, defense) as between-subjects independent variables. There was no significant main effect for camera angle, $F(1, 270) = .035, p = .851$. The witness was not rated as significantly more or less credible when the camera was directly in front of him ($M = 131.62$) than when it was angled to the side ($M = 132.50$). There also was not a significant interaction between camera angle and the witness, $F(1, 270) = .927, p = .337$. The plaintiff witness credibility ratings were not significantly different when he was viewed directly ($M = 124.26$) than when he was viewed at an angle ($M = 128.10$). Likewise, the defendant witness credibility ratings were not significantly different when he was viewed directly ($M = 139.89$) than when he was viewed at an angle ($M = 137.31$). There was a main effect for the role of the witness, $F(1, 270) = 13.86, p < .001, h^2 = .05$. The defendant witness ($M = 138.60$) was rated as significantly more credible than the plaintiff witness ($M = 126.15$).

Conclusion

The perceived credibility of a witness can play a significant role in the outcome of a case. Traditional factors such as demeanor, confidence, appearance, vocal quality, nonverbal gestures, and eye contact clearly affect the perceptions of a witness. The increasing use of videotaped depositions at trial introduces additional elements, such as production quality and camera angle, that could further influence the perceptions of a witness. This project sought to investigate one production technique, horizontal camera angle, to determine its role in the persuasive process. Would perceptions of a witness’s credibility be influenced by the horizontal camera angle? The results were clear: camera angle had no impact on participants’ ratings of witness credibility. The witness was no more or less credible when he was recorded looking directly at the camera than when he was recorded at an angle. Neither camera position offered an advantage over the other.

The results shed light on the role of the camera in the process of conveying eye contact. Previous studies conceptualized direct eye contact with the camera as analogous to eye contact with the jury. Looking toward the camera suggested the witness was looking at the jury whereas looking away from the camera conveyed avoidance with the jury. One possible explanation for the null results of the current study is that the witness maintained strong eye contact regardless of the camera angle. The witness rarely broke eye contact with the attorney asking questions. While the attorney was not visible, the witness looked

straight ahead. In the direct camera angle condition, it created the appearance of looking in to the camera. But, even in the angled camera condition, it was clear that the witness maintained eye contact with *someone*, who was off camera. Regardless of the camera angle, the witness did not exhibit gaze avoidance. This suggests a powerful role of context in the evaluation of a witness, even one providing testimony via videotape. The participants easily inferred the witness was making eye contact. The classic cues of looking away (either down or up) or moving the head to gaze in a different direction (lacking focus or giving the perception of being disengaged) were not present in the videotaped deposition. The participants did not penalize the witness, or otherwise judge them to be less credible, since they were making eye contact, even if it wasn’t directly with them. This is consistent with other research on juror’s expectations for eye contact by witnesses. Boccacini and Brodsky (2002) asked respondents where a witness should look when testifying at trial. The respondents understood that eye contact would shift between the attorney asking the questions and the jury. The most common answer, with 41% support, was “at you [the jury] some of the time and at the attorney some of the time.” An additional 24% thought it should be “at you [the jury] occasionally and mostly at the attorney,” with another 20% offering that it should be “not at all at you [the jury] and always at the attorney.” In other words, jurors expect the witness to make eye contact, but they understand it will vary between the attorney and the jury. As our research confirmed, witnesses who sustain eye contact, even with an attorney who is not visible during a videotaped deposition, will not suffer damage to their credibility by the jury.

One potential limitation of the current study is that the witness in the “direct” camera position never broke eye contact with the camera lens, possibly appearing unnatural and atypical of an actual witness in deposition. Likewise, a less “polished” witness performance could produce varying results. Future research should seek to explore whether variations in eye contact affects ratings of witness credibility. Furthermore, it is worth noting that one of the primary criticisms of the direct deposition view is the inability for many deponents to naturally look into a camera lens instead of another person’s face. Their discomfort with looking at the camera could send unintended non-verbal messages to the viewer that lower credibility. This could be magnified if the deponent must turn back and forth between the attorney asking questions and directly in to the camera for the answer. It is possible that the current study, with the attorney seated very close to the camera, minimized the awkwardness and artificiality of looking at a camera. Future research should consider the direct view with the attorney asking questions from various locations in the room. Finally, future research should consider testing all of these conditions with average and low performing witnesses to determine if any of these differences become more pronounced based on witness ability. ●

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