

ARTICLES

Trial Presentation Made Easy

By Steve D. Larson and Angel Falconer – December 19, 2013

Jurors, trial judges, and arbitrators have grown to expect that lawyers will use technology in the courtroom to help present the evidence. As a result, lawyers must know how to manage the trial exhibits, demonstrative aids, and other visuals to be used at trial in an electronic environment.

With all of the new apps available for the iPad and other tablets, a lawyer can now do much more on his or her own. Complex cases like class actions, however, typically have a large number of trial exhibits, videotaped testimony, and fact patterns that involve hard-to-grasp issues that require more sophisticated demonstrative aids. In those cases, it can be invaluable to have an assistant who can rapidly find and display trial exhibits, visually connect a piece of testimony to a demonstrative exhibit, and pull up videotaped deposition testimony for impeachment.

Many capable, independent third parties offer their services to assist with trial presentation. An in-house paralegal experienced in current trial presentation software, however, provides several advantages over an outside consultant:

First, an in-house paralegal may be as familiar with the documents as the lawyer, if not more so. That familiarity makes the process of calling out or highlighting a specific part of a document very smooth. It also makes the process easier if the lawyer goes “off-script” during the course of his or her presentation. Jurors, judges, and arbitrators notice and appreciate that a lawyer and trial assistant work well together.

Second, an in-house paralegal has a more hands-on role pretrial than an outside consultant and therefore will be familiar with the witnesses, themes of the case, and what demonstrative aids are intended to emphasize. He or she will often be able to suggest a trial exhibit to use for cross-examination and may offer a layperson’s perspective on how the evidence is unfolding during trial.

Third, it is easier to practice opening statements and closing arguments when working with someone in-house. The lawyer will have the opportunity to practice different approaches before trial because in-house paralegals are in the office almost every day. And the paralegal’s feedback could lead to important changes to how and in what order visuals are used during opening statements and closing arguments.

It may seem like a huge undertaking to train a paralegal to use the necessary hardware and software, but a few simple steps can make it relatively painless.

Trial presentation software programs offer customized training solutions, including on-site training for lawyers and staff and thorough written materials. Then it’s just a matter of practice, practice, practice. Starting as early as possible with building the trial database and practicing

with case evidence in the database will give the paralegal the opportunity to see what works, identify technical problems, make corrections and adjustments, or seek out more training in advance of trial.

Going through the practice sessions together multiple times will help the lawyer and paralegal learn the best ways to communicate with each other. A paralegal who knows the case may also be able to help the lawyer refine the message. Others who sit in on a practice session can provide additional feedback.

Courtroom logistics are a critical part of trial presentation. Coordinate with courtroom personnel in advance to make sure that equipment and additional furniture can be accommodated (there might not be room at counsel's table for your paralegal). Visit the courtroom to get a feel for the layout, including where to access electrical outlets, set up a projector or monitors, and place demonstrative aids. You should also figure out where the attorney can best engage the jury while being able to communicate with the paralegal. The technology available in courtrooms varies greatly; you may need to make arrangements with opposing counsel to share some of the technology, such as monitors or projectors. If possible, set up and test all equipment the day before trial to prevent disasters from happening later on.

There is no replacement for experience, but the more the lawyer and paralegal practice together, the more confident both will be in each other's abilities.

Given the potential for better performance, increased satisfaction from the fact-finder, more peace of mind for the trial lawyer, and lower costs for the client, using an in-house paralegal for trial presentation is an alternative that should be considered.

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