

### Using Multimedia in Legal Proceedings

#### Focus on the Legal Proceeding

The dynamics of a trial are complex and usually very subtle. In my experience, the astute trial attorney has to be aware, listen, and respond to the concerns of all the participants. These include the trier of fact, judge, opposing counsel, witnesses, bailiffs, clerks, and any other person, including the court reporter, who may have some impact upon one's presentation in the courtroom. Their verbal and non-verbal feedback is critical to understanding their reaction to you and the presentation of your case. The extent to which the lead attorney uses technology in the courtroom depends upon his/her ability to be sensitive to the needs of the other participants. Remember that technology is only a tool and must not divert your attention from the goal of persuading and being sensitive to the trier of fact.

The question is often asked whether an attorney should take a computer into the courtroom and use it for his opening statement, direct and cross-examination of witnesses, and so forth. The answer to this question depends upon a number of factors that we will explore below. Suffice it to say that there is no definitive answer to this issue.

Trial notebook integration programs have not been sufficiently developed to give you complete confidence in locating all of your litigation material. Different programs, formats, and command structures do not inspire confidence in immediately locating material on a computer. Until they do, I recommend a paper/paperless trial notebook. Decisions concerning what to put into a paper vs. computer format will depend on the factual and legal issues of a case and the attorney and court's comfort level with technology. For this reason, I generally do not suggest that lead counsel operate a computer during trial, with the exception of an easy-to-use exhibit presentation system. It is far too important to focus on the multi-faceted trial factors then to worry whether ones opening statement outline is under the OPEN.DOC or OPENCASE.DOC filename.

Remember that the computer is only a tool. It does not have a brain to think like a lawyer. It cannot prepare a clear opening statement. It cannot judge the demeanor of a witness, when to make objections, how to sell your case to a jury, or the most effective way to present your evidence. It will never take the place of the attorney, but instead, it will make his or her job a lot easier. Technology is only a tool. It should never be used as a crutch for your presentation. Your credibility and competence as an advocate is the most important ingredient in the courtroom. Use technology to enhance your presentation and to persuade.