

Using Multimedia in Legal Proceedings

Digital Trial Notebook

A trial notebook is a system for organizing trial materials, legal and factual, to assist you in establishing your case. Trial notebook organization and use vary as to the practitioner. What works for you in your preparation and use for trial should be retained. A digital trial notebook should merely reflect the function of your manual trial notebook. Such a format will provide immediate access to the organization of the facts and law of your case. It should literally be your command post to locate and retrieve the relevant information in your case. The following sections will explore in what form, paper vs. electronic, case information should be available to the litigator in the courtroom.

Legal Materials

In any case, certain legal materials need to be accessible to the practitioner. The pertinent caselaw, statutes and rules of procedure are some of those materials. To what extent should the legal material one uses at trial be in an electronic or paper format? If the court wants the exact wording in a rule of evidence to support the admission of evidence, does one locate the information on the computer or have it available in a paper format? The answer to this question will depend on a number of factors:

- How voluminous is the paper format of the legal information? Caselaw and statutes for all jurisdictions are available on CD-ROM. Caselaw for a particular jurisdiction is usually found in several hundred-reporter volumes. This same caselaw can be stored on one or two CD-ROM disks for immediate access in the courtroom. One CD-ROM disk holds approximately 300,000 pages of full text data. If opposing counsel or the court raises a legal issue during the proceedings then the caselaw can be searched within minutes to locate relevant cases on the issue and can then be printed out. On the other hand, the rules of evidence can be in a small paper booklet and may be more accessible and useful in a paper format.
- How long will it take to locate the information in an electronic format as opposed to a paper format? Again, this generally will depend upon the amount of material. In an electronic format, the material can be accessed in seconds or minutes. It would be beneficial to have predefined searches for the legal issues important to your case. In a paper format, the amount of material determines the time to locate the specific legal information needed.
- Is the paper equivalent available nearby and accurate with up-to-date supplements? Many courts have law libraries that may or may not be accessible to the practitioner. Assuming the court grants you permission to use their legal materials, have they been updated with the latest supplements and advance sheets? After locating the materials, do you have access to a copier to copy the materials?

- Will the court want to see an actual copy of the materials? If the court and opposing party want to see the authorities in a paper format, one needs a printer attached to your computer to print out the relevant case, statutes, or other material.
- Is one able to reasonably anticipate the courts questioning regarding particular legal issues? If one can anticipate the legal issues to be raised in the courtroom, it would be advantageous to have the legal materials and copies available beforehand in a paper format for the court and opposing parties so that time will be saved.
- Is the legal information available on-line? If you have a useable telephone or cellular connection in the courtroom or nearby, one could call up the on-line service for caselaw or statute access. However, will the court permit you access to their telephone system for access to a legal on-line database? How long does it take to dial up the service? What happens if I am cut off and unable to use the service?

Case Materials

Set out below is a discussion of what case materials to have available in a paper or digital format. The decision whether to have paper or electronic copies of motions, documents, and other materials will depend on:

1. Importance to Your Case. Case materials for legal proceedings generally will be important or only marginally relevant. Through discovery proceedings, pretrial statements, exhibit lists, and so forth, the critical information in whatever form for both parties will generally be identified before the legal proceeding. These important documents should be available in an electronic and paper format.

2. Cost of Converting to an Electronic Format. The two primary methods of storing case data are in a full text or in an imaged format. Full text means the words of a document are in a word processing or ASCII format. In this format, individual words of the document can be searched and the location in the document can be rapidly accessed. Court reporters will provide ASCII disks of depositions for approximately \$25.00. To convert existing paper documents to ASCII text can be quite expensive, so the decision to convert documents to this format must be judiciously made. The conversion process involves sending the paper through a scanner with Optical Character Recognition (OCR) software and then manually correcting the errors in the text.

Converting paper documents into an imaged format is generally inexpensive with a cost of

approximately 15 cents per page through a service bureau. However, the individual words in an imaged document cannot be searched with a full text software program, so a database type indexing system must be set up, which provides sufficient information to enable one to locate the imaged document.

The following table reflects a suggested trial notebook and which case materials would be in a paper or electronic format for use in a legal proceeding. The Digital Format (Options) column provides suggested different computer formats that the data may be in. Technically, the materials may be a variety of formats such as word processing, database, full text or images.

Case	Materials	Paper	Digital	Format (Options)
Trial Plan		YES	YES - (Word Processing)	Internal
Witness List/Trial Order of Witnesses		YES	Plaintiff (Word Processing) / Defendant (Word Processing)	Internal
Opening Statement		YES	- (Word processing)	Internal
Direct/Cross Examination Outline		YES	- (Word Processing)	Internal
Exhibits List/Order of Proof, Exhibits		YES	- (Database, Images)	Internal
Complaint/Answer		YES	- (Full text, Images)	Internal
Motions in Limine Trial Briefs and Memorandum		YES	- (Full Text, Images)	Internal
Orders/Stipulations		YES	(Full Text, Images)	Internal,
Interrogatories and Answers		YES	(Full text, Images)	Internal
Request for Production and Actual Documents if important to Case		YES	- (Images)	Internal
Requests for Admission/Responses		YES	- (Full Text, Images)	Internal
Depositions		YES	- (Full Text, Images)	Court R
Depositions Summaries		YES	- (Full Text)	

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Damages		YES	YES	- (Full Text, Spreadsheets) Internal
Jury	Profile Jury Questionnaire & Responses	YES	YES	- (Full text, Databases, Images, or sp Internal
Jury	Instructions	YES	YES	- (Full Text, Word Processing) Internal,
Final	Argument	YES	YES	- (Word Processing, Databases) Internal