

Using Multimedia in Legal Proceedings

Preparing Case Themes and a Visual Presentation Plan.

In all of your cases, a multimedia visual plan should be developed, along with your trial themes. Consideration should be given to what type of multimedia to use to support your case strategies. At the same time, you are developing the theory, themes and labels for your case, including your witness examinations. Your visual trial plan should include the plaintiff and defendant's main contentions and the key points you wish to make in support of your case or in opposition to the opposing party's case.

- Organize your presentation. It is imperative that you build your case story one step at a time. Explain to the jury each point you are making and how it fits into the overall presentation of your case. When you move from one point to the next, tell the jury what you are doing. It is effective if you can have one visual for each point you are making to the jury. Then, as you build your case during the opening statement, each point will be in front of them as you present the themes of your case. Do not make your case too complex for a jury to understand.

- Opening Statement Considerations. Provide your main points in the opening, but do not provide a laundry list of all the evidence. Instead, make your main points and support them by key evidence, analogies, or anything that will simplify the points and increase the juror's understanding of your case. Again, well thought out graphics for your major points will be especially useful during your opening statement. Be flexible and creative in your opening by using a variety of visual exhibits to keep the jury's attention. You should tightly weave your opening statement with your demonstrative evidence. These exhibits should be used throughout the trial with expert witnesses, etc. The jury will then tie it together as they continually see the exhibits

- Build Your Case around Three to Five Themes. The themes of your case should make the jury want to decide in your favor as being the only right thing to do. The themes, if properly supported by visuals, will always be in front of the jury. They will be the points they remember when they go back to the jury room.

- Use simple but strong visuals. The jury will view your visuals as important, so make sure they convey in a simple way the major points of your case. List the type of demonstrative evidence and how they will be used in your case. For example, determine if you will be using graphic exhibits in your opening statement. If so, then determine the conclusion you want the trier of fact to take with them after seeing the exhibit. What is the message of the exhibit and in what format -charts, graph, etc. - should the visual evidence be in? These visual exhibits can be used in pretrial with clients, expert witnesses, and members of your team, or for trial itself.

Organization charts and documents blowups all lend credence to your presentation. However, a

word of caution is that too many may distract from the main points of your presentation. Always maintain a link or thread throughout your exhibits so that the jury follows your argument.

Some of the ways to maintain the thread is to use consistent colors and style for all of your demonstrative evidence. For example, you may wish to provide a consistent color and only one graphic for each of the important points of your case. Red can be used for evidence impeaching the other parties' contentions. So, if you have three graphics impeaching the evidence, they should have red as a common color.

Outside Trial Service Bureau

There are many litigation support and trial service bureaus that will assist you in handling the multimedia presentation of your case. If you decide to engage an outside service to assist in the presentation of your case in court, the following questions will be asked.

- Approximately how many pages of documents will be accessed during your presentation?
- How many pages will require enhancement or special treatment?
- Will documents be marked up or manipulated real-time, or do some documents have to be pretreated or prescribed? Scripted preparation may include highlighted callouts, split screen segments, video deposition edited clips, or comparison pieces.
- How many hours of video depositions will have been taken? What is your best estimate of how many minutes of these videos that you will need to access? How many tapes are there? What formats are the tapes - VHS, Beta cam? Are they time-coded?
- Will there be a need to design and produce demonstrative exhibits for presentation on the system? How many exhibits will need to be produced and what type - charts, animations, etc?
- Will there be a need to incorporate any additional visual elements, such as photographs or other already completed visual items other than documents? If so, how many?
- Is this a jury trial, mediation, arbitration, or a public hearing?
- How long will the proceeding run? Will a system be required for pretrial preparation?
- Is technical hardware needed for the presentation?
- Do you need the services of a presentation consultant who will assist in designing a presentation based upon their evidence and the nature of the case? Tasks would include

presentation scripting, video editing, scripting, expert witness presentation, static and moving graphic charts, coordinating meetings between attorneys, and witnesses and presentation designers.

- Design rights - make sure any graphics created are your exclusive property and are considered confidential work product.
- Make sure there is no conflict of interest by the service bureau.
- Do you need the services of a graphics or technical consultant? The technical consultant will ensure the smooth operation of the technical presentation of the evidence. System checks, backup systems will be ready and available in case of problems.
- Who will set up and tear down the equipment?

Confidentiality agreement should be included. Terms should include:

- During the course of the case and while providing equipment and technical support, employees of ____ will be exposed to exhibits and other information which ____ deems to be attorney work product, privileged information, proprietary information or some other kind of information which is deemed to be confidential by the law firm of ____.
- No employee shall divulge to any person or entity in any manner whatsoever any information related to this case, whether or not this information has been identified as confidential. Each employee agrees to be bound by any and all stipulations of counsel, orders of the court and any other agreement of the parties regarding confidentiality and non-disclosure of information.

Here is an example of a proposed timeline and sequence of work that a service bureau would propose in assisting you in using a trial presentation system.

- Collect documents, pictures and other materials to be used as exhibits;
- Scan and digitize materials;
- Choose storage system for materials - CD-ROM, hard drive, DVD, etc.;
- Collect video taped depositions and other taped materials;
- Synchronize and edit video tape depositions;
- Transfer video tape to laser disks;
- Scan or import into ASCII format transcripts;
- Synchronize each disk with the text;
- Prepare moving charts for testimony in case - moving charts are charts that build on one another as the testimony progresses;
- Script moving charts and documents and other exhibits in your case;

- Create and collect static charts and graphic exhibits into presentation system;
- Enlarge and print certain charts;
- Prepare call outs from documents for presentation - certain paragraphs, sentences, etc.;
- Scan, integrate and script all photographs in the case;
- Create a moving timeline for the case for opening and/or closing argument.

There are a number of graphic, image and animation service bureaus that will prepare your images and graphics for presentation and if you need, to assist you in the courtroom. Some service bureaus to consider are inData (www.indatacorp.com), Verdict Systems (www.verdictsystems.com), Lex Solutio (www.lexsolutio.com), TrialPro (www.trialpro.com), and Doar Communications (www.doar.com).