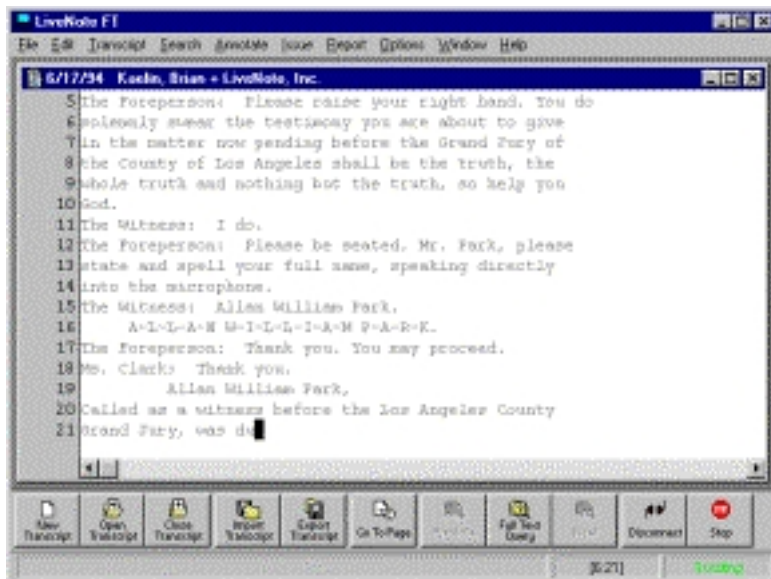


Using Multimedia in Legal Proceedings

Real-time Transcription of Evidence



A second technology employed in courtrooms is the real-time transcription of the witness's testimony. The witness's testimony is transcribed into English onto the computer screen seconds after a witness testifies. This provides the court with a copy of the witness's testimony, as well as being able to broadcast the testimony to counsel in the courtroom, as well as the capability to transmit the testimony back to their law offices for other members of the firm to review. See also, Chapter 7, Depositions and Trial Testimony, Real-time Translation of Testimony.

Benefits

- Reading Back the Testimony Is Eliminated - The court reporter does not have to read a witness's testimony back, since the previous testimony can be viewed on-screen immediately.
- Actual Testimony Can Be Viewed While Considering an Objection - The court can now refer to the precise testimony when considering an objection.
- Crowded Bench Conferences are Eliminated - Clerks, associates, paralegals, and others can be "present" while viewing the discussions on-line.
- Hearing Impaired Litigants and Jurors Can Now Participate - Viewing the testimony and other proceedings on-screen enables hearing-impaired litigants to participate in court proceedings.
- Witness Control is Enhanced - Testimony can be immediately searched for redirect, cross-examination, closing argument, and so on.
- An Uncertified Copy Can Be Printed Out - Commonly referred to as a "dirty" copy of the testimony, this uncertified copy can be immediately printed out for review or discussion with

your clients.

- Testimony can be Transmitted Worldwide - The actual witness testimony can be distributed real-time to other law firm personnel back at the law firm or to clients and experts located anywhere in the world over the Internet using a regular phone line.
- Examinations, Motions and Closing Arguments are Supported by Actual Witness Testimony - Since all testimony and court rulings are available in a searchable format, testimony can be reviewed for factual support during the court proceedings.
- Translation to other Languages Enhanced - Interpreters can view the testimony on-screen and interpret for the benefit of a witness or other party.

Checklist - In-court Real-time Reporting.

- Determine if you want to use real-time reporting.

Explore the benefits of using real-time technology. Reading back the testimony is eliminated; witness control is enhanced; actual testimony can be viewed while considering an objection; crowded bench conferences are eliminated; witness testimony can be immediately printed out; hearing impaired litigants and jurors can now participate; testimony can be transmitted worldwide; examinations, motions and closing arguments are supported by actual witness testimony; and translation to other languages is enhanced.

- Formulate best strategy to obtain consent to use in court.

Is opposing counsel cooperative? Should you request real-time reporting for the first time in pretrial conference without notice to the opposing counsel? Do you know the judge or clerk's attitude toward real-time reporting? Should you file a pleading outlining the technology and benefits? Should a demonstration be given to the court? Have available technical and practical benefits information for the court. Do you wish transmission to a remote location such as your office, expert witnesses' office and so on? Does the court have an extra phone line(s) for your on-line connect needs? If long distance, how are you going to pay for any charges?

- Determine if court reporter can translate testimony in real-time.

Transcription of live testimony to real-time cannot be done by all court reporters. Most court reporters do not write in real-time, which results in many untranslates in the transcript that lessens the utility of the technology. The court reporting industry has a certifying process for certifying real-time reporters. Can the court's reporter write in real-time? Will it cause undue resentment if a real-time court reporter is requested to write the case instead of the regular court reporter? Is there an extra charge for real-time reporting? Can you download the daily-uncertified transcript for use? Will the same court reporter be doing the whole trial? Is the court reporter capable or someone else available to ensure their equipment is correctly

transmitting the testimony to your computer and to fix any problems?

- Select and purchase real-time software and train litigation team and, if needed, the court personnel.

Select real-time software that is non-proprietary, open, easy to use and can be connected to any of the different computer aided transcript (CAT) machines that court reporters use. The real-time industry has been hampered with software from vendors that only works with certain CAT systems, forcing court reporters to upgrade and purchase certain CAT systems. In the last few years, new non-proprietary real-time software has become available which works with any CAT system. Provide training to your staff on the software features and the strategy for capturing and controlling witness's testimony. If possible, practice under actual conditions with a connection to a court reporter's machine. Don't forget to ask the judge, clerk, law clerks and any other court personnel whether they need training or assistance in selecting appropriate software. Helping them to make their jobs easier will be appreciated. Software selection criteria should include whether the notes, cross-references, and searches can be saved and subsequently used in your full text program and whether the real-time annotations will be linked to the final certified transcript or whether you have to re-enter your notes.

- Select hardware equipment needed for the courtroom.

To view and actually control the transcribed testimony, each person needs a computer, monitor and to be connected to the court reporter's CAT system. Will you need to bring in a computer or does the court have them installed? Does the judge need one? Do you have a backup system? If more than one person will be using the real-time, do you have the necessary equipment to split the signal or transmit it to remote locations? Can you cover the cables for safety and make them blend in with the courtroom? Will it be part of an in-court presentation system? If so, how many monitors will you need?

- Install and test system with court reporter, judge or his computer, and other connections two weeks before trial.

With the court's consent, set a time for all the parties to test their equipment in the courtroom. Find out ahead of time the court's attitude toward having equipment in the courtroom and their preferences. The judge's bench area should be configured in a way that does not interfere with his or her other judicial duties nor take away from the dignity of the courtroom. If sending testimony to a remote location, test the system.

Also, check to see if remote users can transmit messages back to you in the courtroom via the computer. Have a laptop or other computer configured and tested as a backup in case of problems.

- Test two days before trial.

With the court's consent, set a time for all the parties, including the court reporter, to complete a final test of their equipment in the courtroom. Find out from the court who has access to the equipment and whether you can work on it at night or over the weekend if the need arises.

- Using real-time during trial.

Have a specific strategy as to who will be viewing real-time testimony and your objectives. If you are alone in the courtroom, have easy to use, one keystroke commands available to mark important testimony. Don't forget to watch the non-verbal communications of the witness. Make sure witnesses excluded from the courtroom do not view the real-time testimony. Have the judge explain to jury the real-time technology and why they will or will not see the transcribed testimony. Print out important testimony on paper or on a transparency with a portable printer to display to the trier of fact with an overhead projector or with an in-court presentation system. Try to review the real-time testimony during breaks, while the witness is reviewing a document, or any other time when your full attention is not required on the proceedings.