

TECHNOLOGY IN THE COURTROOM

A few months ago, while waiting around at the court house for something to happen, I was showing another lawyer some exhibits that we had prepared for the trial of a personal injury case. Several of the lawyers sitting around were intrigued by the images on my laptop, but were extremely apprehensive about using this type of technology in the courtroom. One lawyer, who has been very successful over the years in front of a jury, said:

“That’s great, but I would be afraid to use something like that in front of a jury.”

This is a common fear among even the most experienced trial attorneys. Another fear is that the jurors will either be intimidated by the technology or somehow overwhelmed by what is going on in the courtroom. Nothing could be further from the truth. We have been using high tech evidence in the courtroom for years with great success and almost total jury acceptance.

The plaintiff’s lawyer has a heavy burden of conveying to the jury the true nature of our client’s injuries. The jury can’t see or feel pain and disability. Demonstrative evidence has always been the key to getting over this hurdle. Years ago, we would walk down the halls of the court carrying skeletons or other body parts. While there still may be times we should bring a physical model into court, our computer lets us show the jury potentially endless exhibits, whether they be x-rays, MRI films, key medical records, models or diagrams of a body part, photos, lists, charts, depositions transcripts and even videotapes. Almost anything can be scanned into our laptops and projected through the computer onto a giant screen in the courtroom.

Another intimidating factor for many attorneys is the cost associated with this type of presentation. While costs on a file must always be a consideration, the enhancement of the potential jury verdict usually justifies the expense. In my experience, when a case is prepared for trial in this manner, it frequently is a catalyst for a better settlement as soon as a jury seated. Perhaps most importantly, this type of a well -organized presentation sends a clear message to the jury that you believe in your client and your case. Jurors tend to feel that they are part of the process since the evidence is presented in a way they can better see and understand. When an MRI is projected on an eight-foot screen and the doctor marks it up in front of the jury so that they can see and understand the evidence, it truly becomes an interactive learning process.

This type of trial takes preparation. If you are not willing to take the time, then you should stay away from this method, because real effort is involved in the preparation. The computer is not a shortcut, but a proven strategy for those who desire to excel in the courtroom.

Lawyers should begin to look at the case early with an eye toward how it will look in the courtroom. Many of the tools necessary to prepare and cut costs are already in our offices. Most of now have laptop computers. You need a minimum of certain software.

PowerPoint, which is relatively common and inexpensive, is a must. We use a program called Sanctions, which operates along with PowerPoint, to put these exhibits in proper presentation format. With a little training, this software lets you make pretty good exhibits in your office with minimal costs. In addition, all of the key medical records and transcripts can be scanned into the computer. Investing in a scanner today is not a large investment. A digital camera should round out your equipment purchases. With practice and creativity, you really can do well on your own.

Many offices prefer to have outside consultants do the preparation and presentation for them. This is clearly the best method, but more expensive. Over the last several years, we have gained experience using and preparing cases with the technology. We have found that the best mix is some in-house and some outside consultants when preparing a case. This assures a professional presentation while reducing costs. While some of this technology seems extremely complicated and foreign to the average trial lawyer, I have found that the average high school or college student can do an excellent job preparing these cases.

There are several companies and consultants that can assist in the preparation and trial of a case using computer-assisted technology.

The use of a technological assistant in the courtroom is a necessity. It would be impossible for a trial attorney to conduct their trial, interact with a jury, and run a computer at the same time. Many times we use someone from our office to run the computer system in a smaller case. In any case of significance, it is well worth the cost of having a professional in the courtroom to properly run the computer and to create charts and exhibits as the case progresses. The biggest advantage of having a consultant in the courtroom is his ability to observe the effectiveness of your presentation. Many times when we try cases, we get lost or sidetracked with our own views of the case. Many trial lawyers make the mistake of not paying attention to the jury during a trial. A good trial attorney should be constantly looking for feedback from the jury and modifying their strategy as the case goes on. An assistant in the courtroom, whether it is an associate or someone operating the computer system, can assist in assessing the atmosphere of the trial and make modifications in preparation of exhibits as the case flows.

All demonstrative evidence allows the attorney to communicate with the jury in an interactive way. As you can see from examples of some of the exhibits printed in the pages of this paper, the exhibit and its explanation to the jury enhances the jury's understanding of the key issues.

One technique that we have found to be extremely helpful is the scanning and enlarging of X-rays or MRI's. Often this is our best evidence of our client's injury. In a typical trial, the defense doctor argues that either the injury is not present or that it is unrelated to this accident. Actually showing the jury the film and having your expert highlight the injury enables the jury to better understand the nature of the injury.

An additional way to highlight this technique is with an animated drawing of the injury. Along with this article, you will see several examples of how we have produced this in trial. One of the best presentation formats is having the actual MRI or X-Ray on one half of the screen and the animated drawing on the other. The exhibits, along with this article, are good examples of how a complicated injury is made simple for the jury. A simple and clear presentation of a complicated issue is always the best approach.

These side by side comparisons allow your expert to explain complicated anatomy in a way the jurors can understand. In addition, these side by side drawings send a very clear message about your client's pain and suffering. We have found that they are also helpful in proving the critical "significant impact" required in many of our auto accident cases. These drawings can either be professionally created by numerous medical drawing companies for a fee, or many times, found on the internet. We have had great success in finding stock drawings on the internet that match up extremely closely to our client's injury. A good computer technician can often modify the stock diagram and download it from the internet in order to replicate the image on an MRI.

Often my opponent objects to these drawings. As long as they are anatomically correct and your expert is willing to testify that they are an accurate depiction of the plaintiff's injuries and helpful for the jury in understanding the case, they will be admissible.

A technique that has been used in the American courtroom for more than a century is writing out or drawing a list or a diagram. Years ago, we would use a flip chart and a magic marker to emphasize key points. One problem with this technique is that it is slow, sloppy, and often distracting to a jury. With the computer, we can make outlines and charts instantaneously. This method is improved greatly if there is preparation in planning before the trial begins. One technique that I routinely employ is making an outline on the screen of a witness's testimony while they are on the witness stand. This visual reinforcement of what the witness said is extremely helpful and often brought back and shown to the jury at the time of closing. Once the method you use is determined to be effective, it can be repeated trial after trial since we always have a different jury panel.

With today's technology in the home, jurors are very much accustomed to a computer and a digital display. The biggest limitation in the use of this technology in the courtroom is the attorney's fear of doing something new. There is nothing worse, however, than an unprepared attorney shuffling for papers and digging through his file to find an exhibit. This type of computer-generated evidence requires preparation and organization. The computer actually improves organization since many of the exhibits are prepared in advance and the attorney using it tends to spend a great deal of time focusing on how the presentation will flow.

It is becoming more and more difficult to represent a plaintiff in a personal injury case. Jurors, unfortunately, are more and more skeptical of an individual who brings a lawsuit

as a result of injuries sustained in an accident. If we are to be successful as plaintiff's attorneys, we must explore this new technology, not only to win large verdicts for our clients but to level the playing field. Whenever I step into the courtroom having prepared a big case with the use of this computer technology, I know that the jury is going to listen carefully to our case and to respect the fact that we took the time to prepare the evidence in such a way that they could see it and understand it. There is nothing more important than having juries feel that the lawyer believes in his case and in his client.