COURT TECHNOLOGY AND TRIAL PRESENTATION

The Court Technology and Trial Presentation Blawg features articles, reviews and news of interest to lawyers and other legal professionals. This blog is published by Ted Brooks, Trial Presentation and Legal Technology Consultant, Author and Speaker, with experience in hundreds of civil, criminal and family law matters, for Plaintiff and Defense. High profile trials include the Los Angeles Dodgers McCourt divorce trial (with David Boies), and People v. Robert Blake (with M. Gerald Schwartzbach). Offices are located in Los Angeles and San Francisco.

Trial Presentation in Large and Complex Cases

So, you think you're ready for trial? Here are a few key items that should be typically handled by a dedicated Trial Presentation Consultant. You might consider using this as a check-list when vetting trial support providers for your next case.

Large and complex cases – particularly those involving Co-counsel and multiple parties face unique challenges in getting everything ready for trial. Different firms handle things in different ways, which can be a recipe for disaster. Someone needs to be assigned to manage and present each party's evidence during the trial. It is not generally a good idea to throw this task on anyone who is already working in another capacity, as it is a full-time job for one or more people – preferably someone who really knows what they are doing, as opposed to just training someone to use TrialDirector and expecting them to handle it.

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1. Evidence Management

This is probably the single most important task assigned to a trial presentation consultant, hence it is the first on this list. As with any other form of construction, **if the foundation is weak, the building will fall.** This is also one of the main reasons for problems during trial. If the database is not set up properly, resulting in delays, lost exhibits or video impeachments that won't play, you may find the Judge telling you that if you cannot operate the technology, then don't use it. Although it's not the purpose of this article to offer examples, there are right ways and wrong ways to do it. Someone who is not comfortable in organizing and managing hundreds of thousands of exhibit pages, video files, graphics and transcripts has no business taking charge of the database in a large and/or complex case.

2. IT/Technology

Who are you going to call when you have a problem with the audio or projector in the courtroom, or how about when you have trouble printing to the networked printer at 9:30 PM in the war room? You won't have the convenience of making a phone call and having someone immediately at your disposal. While technology has made incredible progress, it is great – but not flawless. **It is never a question of "if" something will go wrong when in trial, but rather "when," and then how quickly it can be recovered or fixed.** An experienced Trial Presentation Professional will be able to handle most any technology-related problem.

3. Expert at Trial Presentation

It should be obvious that if you are using someone with little or no actual experience presenting evidence in trial, you have chosen to compromise the best available resources used in representing your client. Although I am not aware of a case like this leading to a malpractice suit, I suspect it is only a matter of time, as it has happened in a case when a Jury Consultant was not used during Voir Dire. The safest bet is for the Attorney to try the case, and not attempt to handle everything else personally, nor merely attempt to keep billable hours in-house with Associates or others, regardless of qualifications. **An experienced Trial Presentation Consultant will know when they can help "argue" the exhibit with a highlight or underlining the text, or will keep that exhibit up just a little longer because the Judge or jurors are still taking notes from it.** Rather than just "running the software," it should be a case of engaging in the proceedings.

4. Understanding of the Legal Process

While there are not many Trial Presentation professionals out there with actual in-house law firm experience, the best of them do have an understanding of the basics gained from their years in the profession. This is often the weakest part of the link when it comes to inexperienced Trial Technicians. The background of the individual prior to getting into trial presentation work can be a significant factor in their true value to the trial team. While many are often proficient with the software (some only having been recently trained), they are not able to recognize problems or offer best practice tips and ideas. If they are not comfortable communicating with Court staff and/or the Judge, or don't even understand proper attire or courtroom etiquette, you and your client can suffer. Time management and the understanding necessary to properly prioritize several tasks are also key attributes when dealing with the needs of several attorneys at once. **Actual experience working with large trial teams on complex matters is crucial.**

5. Demonstrative Graphics and Visual Communication

Not every Trial Presentation professional is proficient at handling the development, design and production of demonstrative graphics, but the best of them can get the job done. Last-minute changes or onsite development of slides are not uncommon. This is actually a specialty in itself, often handled by graphic artists from the trial presentation provider or an outside vendor, but again, **a good trial presentation consultant will have the necessary skills and software.** This is also something that many attorneys feel they can handle themselves. I have seen some PowerPoint slides in trial that were clearly not done by professionals, breaking every basic rule of presentation, and causing jurors to cringe. (For more info on this, see http://trial-technology.blogspot.com/2009/07/top-ten-tips-for-creating-professional.html).

While utilizing technology to assist with trial presentation is becoming commonplace even in smaller matters, it would really be a disservice to a client these days to attempt to manage and present a large collection of evidence without it. If the case is worth trying, it is worth trying properly, and providing every available advantage. **The "it looks too slick" or "too costly" arguments expired over 10 years ago**, and this has been confirmed in post-trial juror interviews. To them, it looks like little more than a PowerPoint presentation, and they are certainly intelligent enough to realize that trial presentation and technology costs are only a tiny drop in the bucket of legal expenses. Also worthy of consideration is that jurors have openly stated their appreciation when technology is used, as it helps them to better understand, and helps speed the process – precisely why the Courts are purchasing and installing presentation systems. Never offer your clients anything less than the best – that's why they called you.

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