
Eye-Catcher

Courtroom presentations can enhance your ability to communicate with the jury, thereby maximizing your opportunity for a favorable outcome.

By David Hunter

The age of courtroom technology is here to stay, and it's changing the way attorneys present their cases. Whether you're a seasoned veteran or a technophobe, your ability to communicate to the jury effectively can be enhanced greatly with courtroom technology, thereby maximizing your opportunity for a favorable outcome.

Sophisticated courtroom technology, however, can be difficult to use effectively. For example, as prosecuting attorneys prepared for opening statements in a case earlier this year in Los Angeles, they discovered that their system wasn't displaying the documents they wanted to show to the court. They did not know how to operate the court's equipment properly.

Panicked and without a courtroom technology expert

of their own to call, they asked opposing counsel's technical consultant for help. The consultant said he couldn't because of a conflict of interest. Exasperated, the lawyers continued on gamely without the courtroom technology they had counted on.

These lawyers had made two classic errors: They hadn't checked the courtroom equipment ahead of time, and they didn't have a consultant there at crunch time.

Myriad things can and do go wrong with courtroom presentations:

Lack of preparation

It's a mistake that Los Angeles multimedia consultant Chuck Vaughan has seen opposing counsel make many

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times in courts nationwide.

“I’ve seen a lot of disasters in the courtroom,” Vaughan says, “and the vast majority of them were the result of lack of preparation.”

Washington, D.C., multimedia consultant Gabriel Walsh adds, “Not planning for the contingencies either in the setup itself, the use of the technology, or the content of the presentation can make you look confused or ill prepared. Preventing this may mean having extra equipment as a backup, knowing the functionalities of your presentation system and being able to change direction on the fly in questioning and presenting your case.”

Typical mistakes resulting from lack of preparation include difficulty using a barcode gun, not understanding how documents are coded and named for retrieval or not knowing how to activate your system’s feature buttons.

Another common problem occurs when lawyers wait until the last minute to determine the type of courtroom technology they will need or to decide whether they will require a litigation consulting firm to help out.

Remember: Practice makes perfect. Do a dry run early in the trial preparation process, so you will know how to work with the system as a presenter. And make sure you have a contingency plan if things don’t go well. Or work with a consultant who will run the system for you.

Wrong equipment and poor setup

Many trials have been derailed because of these factors. For instance, in an important patent case, lawyers were frustrated when they learned during post-trial interviews that several of the jurors were unable to see the information because of a poor line of sight. And in Pennsylvania, a courtroom shorted out when the facility was incapable of handling all the modem equipment. Judges don’t tolerate well courtroom delays caused by technology glitches.

According to Vaughan, little things mean a lot in equipment and setup. Make sure, for instance, that the circuit the projector is plugged into doesn’t have sagging voltage, in case the building’s air conditioning kicks in during the presentation. Also, the projector screen should be adjusted so it doesn’t block the judge’s view of the jury, and make sure the cleaning staff from the night before didn’t unplug anything.

Setting up enough screens so everyone can see without straining their eyes is also important. If possible, have a single large screen to act as a focal point for everyone.

Some lawyers use a television and VCR to show vid-

eos or a visual presenter and screen to show graphics or documents. A few years back, that may have been acceptable, but today it is definitely not advisable. Documents, animation, graphics and video look much better when they are displayed through a computer and shown on high-resolution monitors and screens.

Not using technology effectively

In order to be effective, lawyers must make the most of the equipment they have at their disposal. For example, in a Los Angeles federal court case, the lawyers used a multimedia system during trial to pull up document after document. The jury watched listlessly.

Then, the opposing counsel came up and displayed their information by highlighting key language, using a split screen to compare documents and incorporating video clips into their presentation. The jury sat mesmerized.

Both sides used similar technology, but one trial team clearly prevailed over the other. The case typifies a common error some lawyers make: They don’t use their technology effectively.

Lawyers often neglect the versatility of their presentation technology because they’re too focused on getting through the points in their case. They overlook the way information should be presented.

Many lawyers are unfamiliar with all the possibilities technology makes available to them. For instance, where two documents are being compared, an attorney might show them consecutively and unknowingly lose an opportunity to help the jury make the connection with a split screen that would leave both documents on the screen simultaneously.

Putting a document on a screen and emphasizing a particular sentence or phrase by speaking louder may work, but highlighting the phrase would help the jury or judge understand the context more easily. Also, a second color, when used sparingly, could effectively point out relevant sentences and key words.

Making “snapshots” or pre-treated graphics can help keep a presentation going in a precise manner, but effectively annotating documents live, as you talk, is more versatile and less likely to seem canned.

Overkill

“Overly fancy graphics, too many video clips and reading entire documents while they are on the screen can be technology overkill and may distract from the delivery of

your presentation,” says Chicago multimedia consultant Brian Turner.

As Walsh points out, “value might equate to quantity at an all-you-can-eat buffet, but with technology there can be diminishing returns.”

Some lawyers try to show every page of every document, highlight every paragraph and play every video clip, forgetting the adage that just because you can do something doesn’t mean you should. They end up losing the jury’s attention and focus.

Moreover, some lawyers feel the need to play extremely long segments of digitized video clips, where a few questions and answers might be more effective. Also, just because you have prepared 100 potential clips to impeach a witness doesn’t mean you have to play 100, or even 50. Five or six might be enough if used properly and effectively. Remember that just because something was prepared doesn’t mean you must use it.

Some lawyers also mistakenly use computerized documents for every point rather than for key points and summaries, and they read or highlight the entire document. Lawyers don’t need to project every slide exactly the way it is ordered in their notes. Instead, use them as necessary, or skip some slides.

Underuse

Lawyers often fail to take advantage of the full value of presentation technology, such as using it for only their opening and closing arguments and neglecting to use it in direct and cross-examination.

Some use only video or documents, failing to realize that a balanced, diverse presentation is usually far more effective.

Other lawyers, trying not to portray their client as too rich or powerful, will avoid using technology under the mistaken impression that the jury may view it negatively. Jurors, however, usually see a computer presentation system as an effective tool to help educate them about the facts of the case. According to Chicago senior trial consultant Daniel Wolfe, “91 percent of jurors would describe a lawyer who uses a computer system as professional and well prepared, whereas only 9 percent felt it was too glitzy and flashy.”

Wolfe adds, “Eighty-two percent of jurors view lawyers representing a big company that use technology as trying to present their case effectively and would not hold it against them. They do not consider them to have an unfair advantage.”

Perhaps the biggest mistake lawyers make is not using courtroom technology. With improving technologies and increasing acceptance of it among judges, jurors and lawyers, there’s simply no reason not to use it.