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Enhancing Courtroom Presentation Through Technology

by Fredric I. Lederer

I CAN SEE IT IN MY MIND'S EYE:

Judge: *Very well, Mr. Jefferson, you may proceed with your examination.*

Jefferson: *Thank you, Your Honor. Let the record reflect that I am using the courtroom document camera to show Mr. Jones an image of plaintiff's exhibit one. What is the document I am showing you, Mr. Jones?*

Jones: *The deed to my farm.*

Jefferson: *Your Honor, may the record reflect that I am now using my computer to display to Mr. Jones Exhibit Two with the second paragraph enlarged — a call-out, I believe it is termed.*

Judge: *Certainly.*

Jefferson: *What is this, Mr. Jones?*

Jones: *The letter I received from Mr. Smith advising me in that paragraph that the deed was forged.*

Magically transported to the present, Mr. Jefferson, student of George Wythe and noted technologist, might well find himself drawn to trial practice enriched through technology. After all, Jefferson was intrigued by how technology could improve life.

There appears to be a consensus that evidence presentation technologies at least improve understanding by fact finders of the evidence and substantially shorten the time necessary to try a case. The key is the visual presentation of information: opening statement, evidence, and closing argument.

The adage has always been that "a picture is worth a thousand words." In

technology-augmented trial practice, we place the emphasis on image. Rather than have the fact finder focus on the description of a document by a witness, after admission of the exhibit we display the image of the document while the witness testifies about it. In closing argument, counsel anchors the summation with key images: evidence, key words and dates, and concepts.

The most basic way of doing this is to use a document camera — a television camera that displays paper or objects placed below it on a display monitor or television. More advanced presentations use notebook computers. Counsel can display images of documents, spreadsheets, pictures, multimedia depositions, or any other form of image. Of course, this type of presentation has requirements.

First, counsel must have access to the technology. If not practicing in one of the nation's increasingly high-technology courtrooms, with the court's permission counsel can bring this technology into the courtroom. Where displays are not installed, counsel can use a small but bright projection unit that displays images on a portable screen or a wall. If counsel is going to use a computer for courtroom presentation, counsel also has to have software. Although Word, WordPerfect, or Adobe Acrobat can be used, basic presentation ordinarily is based on PowerPoint. Technologically advanced lawyers tend to use specialized and powerful litigation software such as Trial Director or Sanction.

Second, counsel must have the ability and the self-confidence to use technology — unless of course counsel employs an assistant or a vendor to run the presentation. Technology use at trial

is an acquired skill that takes some training and practice, but it's not particularly difficult to learn. Getting the information into the computer in the desired way usually does take some specialized knowledge. The College of William and Mary Law School's Center for Legal and Court Technology offers basic courses for lawyers interested in learning these skills.

Keep in mind that in a time where nearly all evidence originates in computer form, using printed versions of that information is inefficient and sometimes insufficient. Sometimes the invisible metadata that supplies critical information about an exhibit — such as its author and date and time of creation — is important. That information cannot be communicated easily without showing the original digital document.

Technology is only a tool. But shouldn't lawyers who like to win use the best tools available?

New Features in Virginia Lawyers Weekly

Virginia Lawyers Weekly has recently posted a new online user manual for its revamped website, available at <http://www.valawyersweekly.com/web-site-manual>. It features tips on how to get the most out of the site's features, including the archives of past stories, case digests, and verdict and settlement reports. The manual includes a series of hypotheticals showcasing the different legal research tools available on the site. The new site has a running compendium of each month's important opinions. VLW subscribers have access through the site to free full-text PDFs of these cases and all others digested in the newspaper.