



Legal News

Tech savvy attorneys wanted in court

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When attorney Bruce A. Olson comes to court, he often has a technological arsenal at his fingertips. Not because it will guarantee a victory, but trial presentation software allows him to display testimony at the touch of a button during closing arguments, rather than rifle through paper documents during the crucial moment of a case.

Olson, a litigator at [Davis & Kuelthau S.C.](#) in Green Bay, has used trial presentation software such as Microsoft PowerPoint, TrialDirector and Sanction to quickly showcase key evidence to jurors and judges during a trial.

"I've been using this stuff day-to-day for so long, but I know that in several trials judges have been skeptical of the technology, until we showed them what it can do," Olson said. "Now I'm finding that more agree it not only is helpful for a jury, but also speeds up the process of a trial and makes it more manageable."

He and others suggested that even in a tight economy, attorneys should invest in some type of trial presentation software because jurors typically expect it and judges increasingly welcome it.

Handy Hardware

But Olson said attorneys are going to have to overcome their fear of technology to meet what he calls the "CSI effect" many jurors expect.

Arizona trial consultant Tim Piganelli who presented on the topic at the [ABA TechShow](#) in Chicago, noted that in his experience, jurors tend to be timid when they first walk into a courtroom, but become increasingly impatient the longer a trial lasts.

He suggested efficient use of trial presentation software such as TrialDirector, Sanction or even Microsoft PowerPoint can cut a "four-week trial into a two-week trial."

Both TrialDirector and Sanction can be purchased for about \$700 and many operating systems already include PowerPoint. All of the software allows attorneys to retrieve documents and use animation to illustrate their arguments, while the high-end products can incorporate video and audio.

"Jurors will actually get a little irritable when you are not proficient in technology," Piganelli said. "They don't want to see an attorney bumbling around not knowing what they are doing."

Neither does a judge.

Washington D.C. Superior Court Judge Herbert B. Dixon Jr. encourages the use of trial presentation tools, but he warned that they can bog down a trial if not utilized properly. He noted that one of the best uses is video depositions allowing jurors to see and hear a witness without them actually having to be in court. Dixon said the technology is especially helpful in cross examinations to undo witnesses on the stand.

"I've seen witnesses become very hesitant in terms of their testimony and therefore their credibility becomes suspect when effective video deposition impeachment has been used," Dixon said.

Milwaukee defense attorney Arthur P. Simpson used a remote video deposition for the first time for a key medical witness in the Falk Corp. explosion case in 2006.

While he did not do a live feed for jurors, Simpson, who represented mechanical contractor J.M. Brennan, said the technology was effective and more cost efficient than having to fly the witness in from New Delhi. "We would have had to have gotten him there in person," Simpson said. "He was a critical witness and he would definitely have testified, but it just worked out better and it was a little less expensive to do it this way."

Relying on Tech

Even if an attorney invests hundreds of dollars in software, he or she should not completely rely on it during trials.

Canadian attorney Nils Jensen said no matter how many gadgets a lawyer brings to court, what matters is how strong the case is.

“If you don’t have a good plan, technology is not going to make a difference,” said Jensen, a senior litigator with the British Columbia Prosecution Service in Victoria, B.C. “I figure out where it can help me, but it can also hurt in that it takes away flow and interaction with jurors.”

Technology is also unreliable at times, noted Dixon, which means it is essential for attorneys to have a back-up plan.

“Technology malfunctions do occur,” Dixon said. “It’s a good idea to have a second laptop ready to go, or, if all else fails, you might as well have some paper documents there.”

Olson added that unlike many federal courts, most circuit courts in Wisconsin are not tech-ready, so attorneys who want to utilize trial presentation software often have to provide their own hardware.

Ultimately, Olson said it depends on whether the attorney or firm is willing and able to make use of technology during their trial.

“If you are just a solo and you are looking at that investment, that maybe is a hard nut to crack,” Olson said.

“On the other hand if you are at a firm where multiple people are trying cases throughout the year, it is not a bad way to go.”

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