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Trial Technology for any Budget

by Joe Tunstall

When dinosaurs roamed the earth, trial technology was the use of a VHS player, an x-ray viewer and a super heavy, very expensive Elmo that was attached to a projector that if you strained and turned off all the lights would just barely work. Fast forward seventeen (17) years and many attorneys are still using the same technology in trial.

This article is about my use of trial technology after having tried nearly 100 civil plaintiff's trials. I am the first to admit that I have a love-hate relationship with technology and that this article will be out of date by the time it is printed.

I use Apple. Over five (5) years ago I decided to switch from using an IBM laptop, PowerPoint, Trial Director and other technology to using Apple. At that time, I read an article on how to try a case using just an iPad. I was hooked and have since learned the following lessons.

First, technology must be simple in the courtroom. Why spend 100 hours getting ready for a four (4) day trial but decide a week prior to trial to change how you are going to use your evidence by throwing in some new technology? Almost always you will be too late to the game to have your new technology bullet proof by the time you start picking your jury. There is nothing worse than an attorney getting frustrated in front of a jury when their super cool new technology refuses to work. The blame when that happens, no matter what caused it, is on YOU.

Second, in trial anything that can go wrong will go wrong. In my office I keep my trial setup sitting against a wall to allow me to constantly use (and break) what I plan to use in a courtroom. One of the worst mistakes I see attorneys make is simply that they have not practiced using the technology in the manner in which they would use it at trial before they show up in the courtroom.

My goal walking into the courtroom is to use technology that grabs a juror, is simple, can be replicated and doesn't take too much time to setup. My primary trial "tool" is an iPad Pro and I have my MacbookAir as a backup. I use a 50-inch flat screen television I bought on sale on Amazon.com for $300.00. I use a 50-inch TV because it is the largest TV I can carry with one ape-like arm into a courthouse. To the base of the TV is velcroed a DVD player, Apple TV, Apple wireless router and Elmo wireless receiver. On the back of the TV, I fasten a power strip. I carry a Pelican case that has all the remotes, backup batteries, a speaker and a long power cord with a three-plug head. A small Bose speaker that I plug into the back of the flat screen television is my secret weapon. In many cases the speakers in the back of a flat screen television are simply not strong enough to push your sound in the courtroom. The addition of the small speaker gives me great flexibility as I know regardless of the size of the courtroom, horrible acoustics, etc., I can make my video depositions loud enough for the jury to hear.

This setup enables me to find a plug somewhere in the courtroom, plug in one power strip and turn everything on. Wham, I'm now done. Within a few minutes the wireless router will connect to the Apple TV and I now have a closed private network between my Apple TV, Router, iPad and laptop (that I have run both at home and in the office and practiced with numerous times). That closed network allows me to use both my MacBook and my iPad to project both deposition video and TrialPad technology from across the courtroom. In any larger case where I expect to use documents that (a) I am not familiar with or (b) may be used by the defendant, I go ahead and plug in my wireless Elmo on the desktop in front of me.

An Elmo was the essential new technology of the 1980s. The old Elmos are the size of an overhead projector and essentially do the same job; however, they allow you to project your document through a projector. My Elmo is the size of a small Ipad and connects wirelessly to either my projector or TV. It's not just that the Elmo is smaller and more portable, the quality of the picture is also outstanding.

The downside of this new technology trial setup is that in some courtrooms a 50-inch television seems a bit small. Further, it is difficult to broadcast identical images over two separate televisions using the simple Apple TV setup. However, if you prefer, this same setup can be easily adapted to a projector. Personally, over the years I've had issues finding space for a projector screen or wall projection and waiting the time it takes for the projector to come to life.

Trial by Ipad. It can be done. I have tried over fifteen (15) trials using ONLY the above setup.

The most powerful app I use is TrialPad. TrialPad is an app for your iPad that allows you to put every document you MAY put into evidence on your iPad in advance and project it in the courtroom when you need it. One main difference between using TrialPad and PowerPoint is that with TrialPad I can go in any order I wish, stop, blow up a document, use a highlighter, a pen, or increase the size or even redact the document on the fly. In fact, I have taken a picture of a document with my iPad and projected it through TrialPad within seconds in the courtroom. In addition to documents, pictures, and exhibits, TrialPad will also play MP4s, allowing you to try your entire case directly from your iPad.

To use TrialPad you first create and name a case. Your case is where you will put all of your data, PDFs, photos, documents and movies. Within each individual case you can rearrange, order, rename individual slides, mark them up, etc. The main menu is broken into documents, multimedia and key docs. All of your documents that are not movies or media are initially placed under the "documents" section.

For example, you may want to import all of the defendant's discovery into the documents section of the case. To allow for quick use of documents at trial, you may save individual documents, or individual pages of documents that are marked up, under "key docs". I routinely import all of the defendant's discovery, every medical record in the case, the accident report and any other document that may be used at trial under documents. I only move into "key docs" documents that I specifically need to reference at trial or that have been marked up or redacted to display in front of the jury. If I want a specific page out of the defendant's discovery responses, but need to redact three of the four interrogatory responses from a specific page to show to the jury, I quickly do so and then save that page. TrialPad includes options to make changes to documents including using callouts (blowing up a section), highlighter, pen (to write directly on the document), a redact tool and a laser for presentations.

In slip and fall cases I may have the defendant's policy manual in my documents. In those documents there may be a page about what you're supposed to do in the case of a spill. I would then take that one page, redact any information objectionable and mark it up for a certain witness and then save it under "key docs." I can mark up the same document a different way for a different witness. Making these
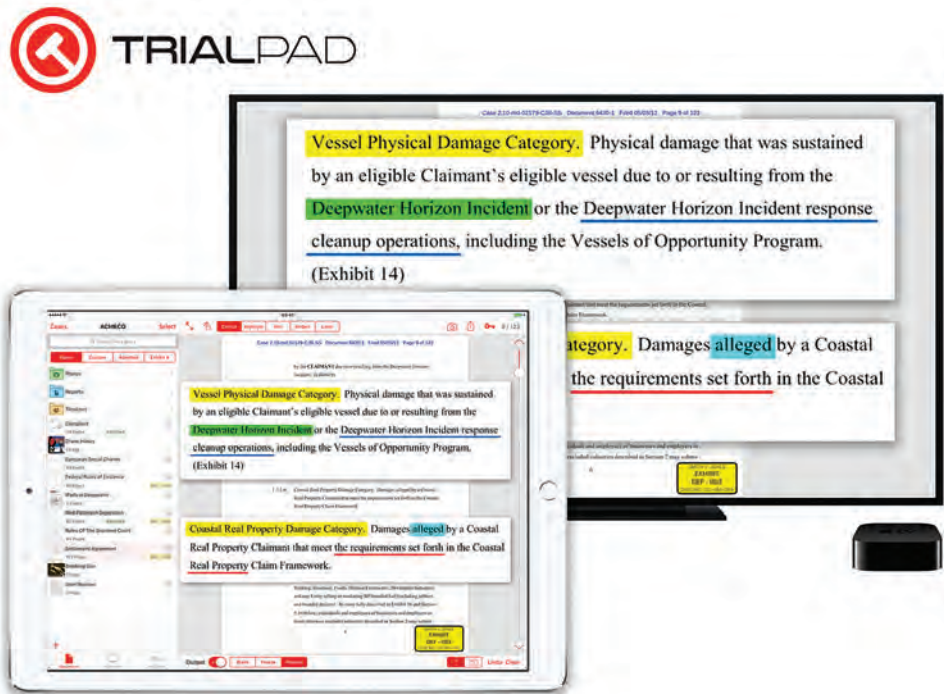
adjustments to your documents can also be done on the fly. For example, if a witness suddenly testifies at trial contrary to his/her deposition and specifically indicates something s/he has previously agreed to is not a procedure, I may quickly go to the procedure, pull it up, mark it up and then show it to the witness under "documents" and after I finish marking it up with the witness, I will then save it (prior to exiting that document) as a "key doc." Saving a marked-up document allows in closing to show the jury exactly what we were looking at without having to spend a lot of time. The beauty of TrialPad is you can work the entire thing from your seat or if you like to wander, from anywhere in the courtroom you take your iPad.

TrialPad separates what you see on the screen from what you see on your iPad. So, this allows you to show the jury either a blank page, or the prior exhibit, while you pull up or edit a second page. You decide when to "present" your next document to the jury from a short menu at the bottom of the screen.

The second most useful trial app I use is Depo View. Depo View allows a synched deposition to show both the deposition as well as the transcript at the same time. Although this technology is not new, the ability to do this for under several hundred dollars a deposition is a game changer.

Although Depo View cannot be described as pretty, it is extremely powerful in that you can edit any portion of the video synched to the transcript with the push of a few buttons allowing you to take portions out or add portions to a deposition being played for a jury in a matter of moments. Depo View allows quick editing in the courtroom. That abil-

ity is more valuable than a little of the flash of other programs. This low cost allows even a moderately technology savvy attorney to do away with an IT person in the courtroom and prevents Defendant from arguing *motions in limine* on Monday that destroys your two weeks of video splicing.

The third most important app I use in the courtroom is TranscriptPad. TranscriptPad allows you to carry all transcripts from every deposition that you have in a case with you wherever you go allowing you to edit, markup and keep up with all of your depositions at any time. You can also print reports based on what you've marked up, view, sort and run reports based on keywords to any deposition at any time. It will also keep up with any exhibits to those depositions. The only drawback is it takes a .txt file from the court reporter. TranscriptPad can be viewed on the screen very quickly in the courtroom if needed. Additionally you can download directly out of TranscriptPad into TrialPad and use those documents within a few moments.

Three other apps I use constantly in the courtroom are E-Transcript Viewer, Westlaw, and Pro View. Westlaw allows you to have updated legal research. Having Westlaw at your fingertips in the courtroom is essential when the judge has a laptop in front of them and can quickly look at any cases handed to them. Additionally, in Westlaw, as you can save your folders for different types of research, you can quickly and within a few strokes or swipes of your finger find the necessary case you used last year or the year before on any particular topic in the courtroom. I try never to reinvent the wheel and to always have every case that I anticipate being needed in a folder organized in Westlaw. E-Transcript viewer

allows transcripts your court reporter refuses (typically the defendant's court reporter refuses) to send you in .txt to be edited. Finally ProView allows the rules of evidence, local rules, etc., to be searchable at your fingertips throughout trial and motions.

Technology continues to evolve as apps and iPads go the way of the blackboard and chalk. Our children use iPads and computers in schools and they will expect to see the same technology when they sit on our juries. Part of staying competent as attorneys is staying up to speed with the technology. ◆