



Trial Presentation Services Are Back in the Hot Seat

After years of stagnation, trial consultants are coming back with a new game plan: data analysis.

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It wasn't too long ago that prepping for major litigation meant hiring graphic designers, technology support staff, and courtroom specialists to manage evidence. But as the number of jury trials have declined, litigation support professionals have been squeezed. "There has been a clear reduction in demand for trial presentation consultants," said Paul Unger, attorney and founding principal of Affinity Consulting Group. "In part, that's because firms have brought more of that work in-house and are good enough to do some of it themselves, and in other cases, the technology is so easy to use on an iPad that you don't need a support team to run a case."

But after a rough several years, trial support companies have re-emerged leaner and perhaps better positioned to win new litigation-related work. In part, that is because there is more trial work to be had. After a steady decline from 2007 to 2011, there is an uptick to the number of cases pending in federal district courts. Similar trends are found in many state courts. See Figure 1.



Figure 1: Chart from the U.S. Courts 2013 Judicial Caseload Indicators. Click image to enlarge.

Filings vary wildly from state to state and jurisdiction to jurisdiction, but observers agree there seems more trial work than in the recent past. "Companies are feeling more aggressive and are more resistant to settlements than five years ago, and are more likely to go to trial," said Dan Winter, senior consultant with litigation services firm Chicago Winter Company.

Trial support work will always be an unpredictable business with irregular revenue. Consultants can work for months or years on a pending matter, only to have the parties settle days before trial. Compounding that challenge, two separate but related trends converged on the industry around the same time. First, the technology used in courtroom presentations became easier to use, allowing lawyers to do more of the work themselves. Second, as the technology matured, more firms hired their own specialists and built in-house trial support groups.

NEW FACE FOR OLD BUSINESS

Though trial presentation and support business may slowly improve, the trial presentation industry is going through an evolution. The trial presentation and technology support industry was once dominated by a handful of giant companies like FTI Consulting and DecisionQuest. However, in recent years, many of the large companies that had dominated this line of work moved into different lines of businesses.

FTI Consulting used to control many markets for litigation services work. But according to FTI's most recent quarterly earnings report, the company earned more than \$100 million in revenues from litigation-related services, only some of which is related to courtroom presentations. The company's other sources of revenue, such as economic consulting, corporate restructuring, technology consulting, and several other lines of business, were responsible for the majority of its quarterly earnings of more than \$450 million.

As large firms abandoned trial work, many of the trial support specialists left large firms to strike out on their own. One person with a laptop could suddenly do what used to require a roomful of professional designers and computer support staff. This led to an industrywide trend towards decentralization and specialization.

However, that trend may now reverse. FTI Consulting recently acquired Infographics, a New York-based courtroom presentation firm. And RLM acquired TrialGraphix, divesting any assets or staff not part of its core graphics and trial support services. "At some point ... deconsolidation has gone as far as it can go," said Guy Joubert, founder and managing principal of RLM | TrialGraphix. "One guy with a laptop can be very responsive for a client, but if that person gets sick or gets double-booked, things can fall apart quickly."

Despite the recent merger activity, others are skeptical that bigger competitors can conquer the market again. As trial presentation work rebounds, there is new pressure to bring value for clients. "The litigation services industry is shrinking not because the service is unnecessary, but because the services offered are often outdated," said Randy Juip, a trial attorney and an owner/member of Foley, Baron, Metzger & Juip. "If the industry wants to grow, it has to show lawyers what it can do for me today."

ARE TRIAL SERVICES EARNING THEIR KEEP?

Juip is a practitioner who does most of his presentation work himself. He believes that any firm or solo practitioner or law firm can create and present high-quality presentations in court at a low cost. Juip believes that applications like TrialPad (\$89) and Apple's Keynote (\$20), his firm can create presentations like professional graphic designers that charge thousands of dollars for similar work. Authentic3D offers three-dimensional animations of medical scans for just \$750 that can be proffered in court.

However, presentation specialists believe that as more cases go to trial, their services will continue to be in demand. "We see more in-house capability, but usually focused either on graphics or technology," said Joubert. "It's hard for any firm to do both well, so we are often called in to help out where they have a gap or need more support."

Experienced trial support professionals agree that even if the demand comes back, they have to adapt to new realities. Because technology is more powerful and easier to use, the work is more collaborative, and pricing is less flexible. Clients are more prone to set maximum budgets or set fixed rates. "Our people now need more technical skills. We're hiring science majors and people with less graphics and more math and statistical expertise," said Winter. "We need to have more sophistication in data analysis to find more powerful and persuasive ways to present evidence."

Even though trial work is finally bouncing back from the doldrums of the recession, litigation support professionals must be more nimble and cost-effective than ever. Pricing is much more constrained and inflexible, and clients are more capable of doing presentation work themselves if they are unhappy with a consultant's services or fees. "We've emerged from a couple of negative years into a more positive cycle," said Winter. "The world has definitely changed, but I think the survivors who have emerged will be stronger than ever."

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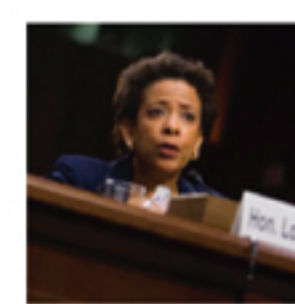
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