

# The Use of Technology in Mediation: Inexpensive Tools to Present Your Case

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By **Howard J. Schulberg** | January 15, 2018 at 09:27 AM



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With today's technology, there are many inexpensive, yet powerful tools that can be used to present your case in a mediation setting. As the saying goes, "a picture is worth a thousand words," so why not make it as effective as possible? For a case with some holes, you may create an impression with the opposition that you have a great case or if you have a surefire winner, you can buttress that fact. Not to mention, there's the side benefit of showing your client that you have given their case added or special attention.

**Let's start with some of the basics.** Not everyone can bring a projector and screen to a mediation, and many cases don't need it. But, if you have a laptop, tablet or even a smartphone, you can accomplish a lot by harnessing its potential.

By way of example, let's consider a fairly common type of car accident case involving fractures of the femur and some facial injuries. Do you have photos of your client with pins and screws in place and a black eye, the scene of the accident and others showing the vehicle(s) and extent of damage? Load them onto a thumb drive, along with some of the essential medical records, recent photos of your client, a download from Google Maps, damage calculations and other vital information. It would be nice to display that on a big screen, and if it's available I recommend using it, but a laptop placed in the middle of a table for all to see can be just as effective. Remember, we are talking about mediation, so the audience tends to be small. As you present, you can pull up the necessary information by accessing the thumb drive directory. While it may seem organized as you load it, I still recommend doing a dry run to ensure that you're comfortable with the presentation.

If it's a fairly straight-forward injury case, you may want to simply display some photos of the scene and of your client. While it sounds simple and basic, your smartphone is all you need here. Your client will be impressed that you kept the photos they provided and your opponent will likely be taken off-guard by the use of technology, as it isn't as popular in mediation as you would think.

**If you want to add markings to photos, drawings or maps, there are numerous software applications available.** [Adobe Photoshop](#) allows for adding arrows, symbols, other effects and text. If you're Mac-based, the photos application is great for storing, editing and showcasing photos. Still, there are other software programs and apps that can make your photos more useful and informative. Consider adding a car to a photo of the roadway to show its position or N,S,E,W symbols where appropriate. If you can envision it, you can likely find a program that has the ability to do it.

**With medical records, consider using Adobe Acrobat Reader for highlighting before you save the records to the thumb drive and be sure to add comments to those records.** If you're using a tablet, I also suggest the app [GoodReader](#) for this purpose, which is basically a more powerful version of Acrobat Reader. Not only can you highlight and comment, but you can use bookmarks, allowing you to find a particular entry among a volume of medical records.

Once you create a bookmark, you can quickly locate it with a tap. This app also allows you to highlight in more than the usual highlighter color of a line at a time, and circle or frame information that you believe is crucial. A key element of the app is that it automatically tracks your adjustments, and then allows you to quickly access this information based upon the type of adjustment.

**If you are further along in your case and have developed information through discovery, load that on the drive as well.** What about deposition testimony that you want to point out during the mediation? Most court reporting services provide electronic versions of their transcripts. If you take a few minutes to go through it, highlight some of the testimony and save it on the thumb drive. If it isn't in PDF format, be sure to add the court reporter's software to the drive. Better yet, there is another app for that—and likely more than one. I've used an app called [TranscriptPad](#) for years and it's relatively inexpensive (about \$50). It allows me to import transcripts, which then go into folders for individual cases. I can highlight the transcript, tag certain issues (that I create) and then view a summary of what I highlighted. If you keep up with the transcripts, even in a deposition-intensive case, these summaries are useful in preparing for the mediation, refreshing your recollection about the testimony and the issues addressed with that witness. You can also display that transcript on your laptop or tablet. **That same developer has a more robust product called [TrialPad](#), which allows you to store all information gathered through the various stages of the case, including depositions.** This is a full-on trial presentation app (and, therefore, a little more expensive) and allows you to import depositions, both transcripts and video, medical records, discovery responses, expert material, etc. and then display the information in a split screen fashion. So, while you are showing the applicable statutory provision that has been violated on one side of the screen, you can also display the photo of the scene of the accident, showing how the defendant violated that provision on the other. While it may be a little more than necessary for a mediation, you can enlarge exhibits and pull out the particular point you want to make. It can be a very effective presentation tool to demonstrate your perspective. With all the information at your fingertips, it would certainly be an impressive display. **Perhaps you aren't inclined to load everything onto a thumb drive.** In that case, there are numerous "cloud" services for storing information in large quantities (usually including a fee for storage above a certain minimum). Some of the more common providers of cloud-based storage are [Dropbox](#), [OneDrive](#), [Google Drive](#), [iCloud](#) and [Amazon Cloud Drive](#). Be aware, however, that there is controversy about the security of these cloud services and that storing information in the cloud may subject sensitive client information to public disclosure. The impact this may have on the attorney-client privilege is beyond the scope of this article, but simply be aware that these services can be hacked and expose your client's information to disclosure. In short, while this may be the latest and oftentimes more popular format for storage in today's era, you must be aware of the risks involved when storing sensitive client information in the cloud.

If you do use one of these services, you can create folders for your various cases, store the required information in that folder and present it when needed. Access is quick and easy—but be forewarned, it is also imperative to ensure that you will have a seamless internet connection at the time of your presentation!

**Oftentimes one of the parties cannot make it to the mediation, making video-conferencing a practical option.** As with most technology, video-conferencing was outrageously expensive when it was first introduced. That cost has been significantly reduced, making the equipment much less expensive to own, and therefore more popular and accessible. If you are looking to have your client excused from a mediation, you can offer to have them available via video-conference, as an alternative.

**An even less expensive alternative is to use FaceTime or Skype.** The only potential problem is ensuring that both sides of the call have the same software. [FaceTime](#) requires Mac-based users on both sides, while [Skype](#) can only video with other Skype users. In both cases, the platforms have to match. Fortunately, they are common enough that with even minimal planning, they can serve as great platforms for your conference.

**This only scratches the surface of all the technology available.** You might have some features that are not listed here, and with the pace of technology, there will be more available soon, I'm sure.

Just remember, whether the case is a two-car accident, a fall-down, a civil rights matter or a complex commercial transaction, technology can be of great assistance in a mediation. It's relatively simple to gain a comfort level with the various programs, and most times, it's just one program that will be used at any mediation. Once you get to that comfort level, the presentations you make will be crisper and more refined, to your benefit and to the benefit of your client.

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