The Trial Lawyers Toolbox: Technology Tools for Litigation

Hon. Emily Miskel
470th District Court

Mark Unger
The Unger Law Firm

Brett Burney
Burney Consultants LLC

Texas Bar CLE
*Hearsay = Not an Admission by Party Opponent Nor an Adoptive Admission
THE TRIAL
LAWYER’S TOOLBOX –
CHRONOLOGICAL TOOLS FOR--

MOBILE SECURITY
RESPONSIBLE SOCIAL MEDIA
BASIC CONNECTION TYPES
PERSUASIVENESS
TRANSCRIPT REVIEW
POWERPOINT TIPS
TIMELINING
INFORMATION GATHERING
WHY ARE WE HERE? WHAT IS OUR GOAL?
ALL LAWYERS ARE NOW MOBILE SECURITY -- TOOLS FOR MOBILE LAWYER
IPHONE/IPAD SECURITY: HIPAA
**IPAD**: PASSCODE – LOCK – REQUIRE PASSCODE “IMMEDIATELY”
Find My Phone
FIND IPHONE/ PLAY SOUND
ANDROID USERS “DROIDS”
LOCKSCREEN

Pattern

Password

Pin

Via Jeff Taylor TheDroidLawer.com
LOCKSCREEN

Via Jeff Taylor TheDroidLawer.com
Android Device Manager

➔ App Menu
➔ Google Settings
➔ Android Device Manager

Via Jeff Taylor TheDroidLawer.com
1 PASSWORD OPTIONS

- Logins
- Secure Notes
- Credit Cards
- Passwords
- Reward Programs
- Custom Folders
Last Pass

All your data, everywhere you need it.
VPN
2-Factor Authentication
SOCIAL MEDIA ETHICS

THINGS TO KEEP IN MIND WHILE YOU’RE IN TRIAL
I don't envy your job, but I must say you did an exceptional job today. Thank you again for giving the parties their 'day in court' and I don't think anyone could have come up with such a well-considered final order, taking into account all you heard today. My client is taking this as a bitter win, and I'm sure the father's taking it as a moral victory. And, time will tell if that will maybe be enough for them both to move on and go in peace. Thanks again. That was a tough, emotional case and I think you cut through it all and did what had to be done. 👍
Headed to court in Collin County wish me luck.
You misspelled. It's Colon.

K: Oohhhhh what did you dooooon????

M: It was for work. 😅

K: Oh I know.....just rubbing her a bit. 😊

M: Lol

K: She went first made her so mad that she she she didn't want to cross examine me hahaha

M: I got cheated

K: I love it!!!!!! Sorry you got cheated though!

M: Cin said she was banging her fist on the table, saying non responsive non responsive, cin said I said no, objection unresponsive

M: She's been watching too much john cook lol

M: Or perry mason hahahaha
Awwww... did little first year lawyer get all butthurt because she was an idiot?

Like · Reply 1 · July 20 at 12:23am

Write a reply...

Only thing is, you have to watch your back they will be out for vengeance.

Like · Reply July 20 at 8:01am

Well, y'all know what I think of the colon county court system... and yes, the misspell is intentional.

Like · Reply July 20 at 6:07am

You are good. Don't worry. Good luck

Like · Reply 1 · July 20 at 8:44am

Great judge. Emily Mickel

Website · July 20 at 7:01am

You will do fine 😊😊😊

Like · Reply 1 · July 20 at 9:56am

Good luck!

Like · Reply 2 · July 20 at 12:17pm

Who got red in the face?

Like · Reply July 20 at 9:26pm

The other atty I think I made her angry

Like · Reply July 20 at 10:09pm

You rocked it

Like · Reply July 20 at 10:08pm

Write a reply...

Tnx. Let's hope the judge agrees.

Like · Reply July 21 at 1:06am
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- Processing
- Review
- Analysis
- Production
- Presentation

VOLUME

RELEVANCE

Electronic Discovery Reference Model / © 2014 / v3.0 / edrm.net
Facts of the Case:

• Donny Ray has leukemia and dies.
• Insurance carrier is Great Benefit.
• Donny Ray most likely could have been saved by a bone marrow transplant but the medical claim was denied by Great Benefit.
• Great Benefit wrote a letter to Donny Ray’s mother calling her “stupid, stupid, stupid.”
July 7, 1998

Mrs. Willis Black
601 Squires St.
Memphis, TN 38101

Re: Policy #245649-004-00

Dear Mrs. Black:

On several prior occasions this company has denied your claim in writing. We are sorry to see the eighth and final time.

Sincerely,

[Signature]

Everett Lucas
Vice-President, Claims Department

cc: Russell Kroft
    George Fettro
You must be stupid, stupid, stupid!

- Russell Lofkin, Vice President, Claim Department
- Russell Koch, Vice President, Claim Department
- Russell P. Koch, Vice President, Claim Department
Visual Advocacy: The Effective Use of Demonstrative Evidence at Trial

By Janet L. Hoffman
Hoffman & Associates LLC

This article explores the favorable and unfavorable impact demonstrative evidence may have on jurors at trial and the effective ways in which trial lawyers may use demonstrative evidence to educate and persuade jurors about their theory of the case. Judges have repeatedly felt compelled to declare a mistrial—referred to in one report as an outcome that “might be called a Google moment.” In another notorious instance, a juror not only posted updates on the case on Twitter and Facebook, but alerted his readers theory would do well to employ various forms of media when presenting their case. For one, scientific studies have shown that demonstrative exhibits can exist in making the jury understand relevant facts and data. Yet, as advertising has taught us, images and visual messages have the potential to manipulate the emotions of jury members. Visual presentations may send subconscious messages to jurors, creating a significant risk that jurors reach verdicts based on emotion instead of the facts in evidence. Effective advocacy, therefore, requires an attorney to understand both the potential benefits and the risks associated with sophisticated visual tools. In doing so, the attorney must formulate persuasive arguments for the admission and exclusion of certain forms of demonstrative evidence.

1. Introduction

Jurors today are shown in modern technology and accustomed to its uses in all kinds of settings and at all times. Media reports have discussed the impact of trials during which jurors were observed texting, tweeting, or to a “big announcement,” coming on Monday. No mistrial was declared in that case and the defendant was found guilty. Lawyers for the defendant subsequently used the juror’s conduct as grounds for appeal. While new technology lends itself

...jurors at trial will absorb more information and be more receptive to the attorney’s message when the case is presented in a multimedia format, rather than by strict narration and recitation.
“Linear”

“Dynamic”
PowerPoint is NOT the Enemy!
PowerPoint should **supplement** what you’re saying!
Do NOT use PowerPoint as your OUTLINE!
Tip #2
Use Bullet Points SPARINGLY!
Use Fonts that are EASY to READ
Avoid Clutter and SIMPLIFY!!
TRANSCRIPTS OF PRIOR TESTIMONY

Mark
WORKFLOW:
DOC CREATION OF CROSS EXAM

1) KeyWord
2) Get Transcript
3) Import Into TranscriptPad
4) Search Keyword
5) Hilight Text
6) Create REPORT/ EXP/

1) EMAIL TO TRIAL TEAM/ PARA OR OPEN IN GOODREADER
On the 26th day of February, 2013, the following proceedings came on to be heard in the above-entitled and numbered cause before the Honorable Laura Salinas, Judge Presiding, held in San Antonio, Bexar County, Texas.

Proceedings reported by computerized stenotype machine.
On the 26th day of February, 2013, the following proceedings came on to be heard in the above-entitled and numbered cause before the Honorable Laura Salinas, Judge Presiding, held in San Antonio, Bexar County, Texas.

Proceedings reported by computerized stenotype machine.
Q. Is it a fair and accurate representation of a summary of what you would testify would be all of your visitation?

A. Yes.

Q. Okay. And approximately how often would you have visitation of Ethan?

A. I would say -- for the year or for --

Q. Regularly. What was your regular visitation over the course of last year?

A. I would say probably four days a week.

Q. Four days a week. And during -- from January till September, who provided day care for your son?

A. My mother.

Q. How many days a week and how many hours a day, approximately, would that be?

A. She would watch him every day, Monday through Friday --

Q. And --

A. -- in the mornings until about 2:30, sometimes later in the afternoon.
The PDF Detail report includes the page and line information, and the actual transcript testimony. This report will open within TranscriptPad and can be emailed, printed, exported, or saved with your case.

Flags

- Flags: ON
- Flag Notes: ON

Highlights

- Yellow: ON
- Blue: ON

Underlines

- Red: ON

Issue Codes

- CPS: ON
- Search: visitation: ON
- Visitation: ON
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