

Become a trial technology rock star

By Alex Cianfrocco

You probably never thought of presenting evidence through the use of technology as being glamorous. You may be asking yourself, "What does rock and roll have to do with trial technology?" Well, I can tell you that as a musician, a wannabe rock star, and a trial technology consultant, I see the similarities all the time.

Whether a rock star or presenter in court, you are performing for an audience. To be successful you need to know your audience and give a presentation that is engaging, satisfying, and memorable. Like any great concert, flash and dazzle is not as important as the substance of the presentation. You could use the best and most expensive equipment but you'll find that you can put on a very compelling show quite economically. And remember, whether on the stage or in the courtroom having a backup and checking your equipment is essential. So, let's get ready to rock!

From acoustic to electric: new possibilities with technology

For a time, beautiful music was only made with acoustic instruments such as the acoustic guitar. Then amplifiers and electric guitars arrived, opening up new possibilities. Similarly, in the courtroom, you have been using paper documents or blown up foam boards to present evidence for a long time. With the explosion of technology in recent years you now have even more ways to present your case effectively.

Today, all of your evidence can be

stored on a single laptop. It's no longer necessary to lug around boxes of exhibits and binders. With technology, you can call up any exhibit at random allowing you to efficiently present your case without the interruption of finding exhibits. Further, you can present documents, graphics, photos, and animations without the need to pass them out. You can even show video depositions with scrolling text.

Document presentation capabilities have changed significantly also. A document can be called out, zoomed, highlighted, cropped, annotated, or redacted, all "on the fly." These options allow you to really control the focus of your audience which aids in understanding and retention. Just like the additional amplification and flexibility of electric instruments, technology amplifies or accents the content.

But people still play the acoustic guitar, you say? You're right—don't throw away those foam boards yet. Taking advantage of new techniques and technologies just adds to your repertoire; it doesn't mean dispensing with your tried and true hits. An exhibit on the screen is only temporary since it is taken down as the case moves on. However, a foam board is lasting. A timeline can be placed on an easel and left for the jury as a reference throughout the trial. To be a technology rock star, create your set list based on the venue, the audience, and the message you need to communicate.

The introduction of technology into the courtroom provides you with more tools and flexibility for presenting your

evidence. These tools will aid the audience in understanding and remembering your case. Having all the evidence at your fingertips and putting on a case effectively and efficiently can be a benefit whether you are presenting to a mediator, arbitrator, judge, or jury.

Give the fans what they want: jurors expect technology and a visual presentation

Imagine attending a Rolling Stones concert without Mick Jagger or U2 without Bono. The fans come to see the stars and the show would not be the same without them. In the courtroom, the main attraction is the evidence presentation. Today's jurors expect that the evidence will be presented visually, just like they see in the news and on TV, and a trial without this technology just isn't the same.

Every day you are bombarded with visual stimuli from billboards, TV advertisements, headline news clips, and the Internet. Advertisers have known for years that most people are visual learners and the key to selling is to use visuals. Further, technology has become an integral part of our daily lives. Information is provided to us quickly and efficiently. Today's jurors are accustomed to the benefits of technology and a visual presentation and upon entering the courtroom they expect to see it.

To the jury, an attorney using technology appears more organized and prepared. They look favorably upon the party using technology and appreciate the efforts to aid in comprehension and retention. They also appreciate the efficiency of a presentation that reduces their time in court. I recently sat down with the Honorable R. Stanton Wettick to discuss his experience and thoughts on trial technology. He indicated that the ability to manipulate documents alone was "very valuable" to help the jury focus on the evidence. Further, he finds that the use of technology aids the jury in better understanding the case.

Create music with meaning: substance over style

Some of you may remember that the 1980s brought about the rise of the "hair bands." They had glitzy shows, fancy costumes, lipstick, and really big hair. However, those that endured into the next phase of rock had more than just dazzle. With technology, you can also put on a glitzy show. But more important than your show is the content you present.

With technology, you can fit twenty callouts on one screen, you can make text fly, and you can show bright and beautiful colors. But that does not mean you SHOULD. The jury should be focusing on the content of your presentation, not what you can do with your great technology. Judge Wettick commented that many attorneys are "putting too much up on the screen" to make many points at once. This can quickly lead to distraction and reduced understanding and retention. You should use technology to enhance and only show that which is necessary to make your point and no more.

My general rule is one slide, one point. You present something and make a particular point, not three or four. Trying to play two songs at once can really confuse your audience! Keeping it simple will make the information easier to digest and remember. With too much information the audience has to work to extract the content and one thing you never want to do is make your audience work for the information—because often they won't.

Make beautiful music without breaking the bank: technology doesn't have to be expensive

A rock star could spend immense amounts of money to have a gigantic stage, with synchronized lighting, amplifiers stacked to the ceiling, and

huge explosions to punctuate the beats of the song. However, you can also make beautiful music with just an acoustic guitar. In court, you can spend a lot of money if you choose, but you can still communicate your message effectively with an economical setup.

Hardware

You may have seen that many of the newer courtrooms have built-in technology such as a projector, monitors, screens, document cameras, and microphones. In this courtroom, your hardware is simply a laptop (and a backup which I'll get to later). You just plug into the court's system, and away you go.

However, with an "unwired" courtroom, you'll need to bring in the equipment. A very basic setup (and my preferred setup for mediations, arbitrations, and trials) includes a projector, a screen, a laptop, and cables. With this equipment you can present your entire case quite effectively. The equipment will more than pay for itself as you use technology in your future cases.

If the up-front costs are an issue, you can rent all of the equipment (even the laptop) from a number of different local vendors. Since judges frown upon both sides bringing in their own equipment, the cost of the setup can usually be shared between the parties.

In certain situations, where the judge, witness, or counsel can't see the big screen, individual monitors are appropriate. However, you will have the most success when using one large screen for the jury. Logistically, monitors take up more space, require transporting more equipment and create additional costs. More importantly, when the jurors have their heads bowed to look at the monitors, they are not looking at you. The monitors can actually act as a distraction and reduce the jurors' focus and attention. With a single large screen you control the jury's focus as you interact with them and your evidence at the same time.

Software

There are many economical programs that can be used to present evidence including Acrobat, PowerPoint, Word, and WordPerfect. PowerPoint is excellent for presenting an opening statement or closing argument. Using PowerPoint you can present documents, photos, videos, graphics, and animations just by clicking a button on a remote.

PowerPoint and the other mentioned programs are great for a linear presentation. However, if you need instant random access to your evidence and the ability to annotate and manipulate exhibits "on the fly," you will need a more powerful trial presentation program such as TrialDirector or Sanction. Both programs cost about \$595. If the up-front cost is an issue, you can rent laptops that come with the programs already installed. Whether you use TrialDirector or Sanction, you or your operator should consider training to fully understand and get the most out of these powerful programs.

Once you have chosen your software you will need to get your evidence into electronic form, if it isn't already. If you have in-house scanning application, that will work fine. However, for larger jobs use a vendor. Scanning prices vary but can be found for around \$.13 per page. This up-front cost can actually result in savings in the long run. Having the exhibits organized in electronic format can make finding, searching, sending, and printing copies a breeze.

Although you can put on a great show without breaking the bank, some fear that using technology creates the perception of having "deep pockets." However, research has shown jurors actually perceive the cost of technology in the courtroom to be minimal. It is

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Bar Briefs

News and Notes

Robert E. Tucker was installed as President of the Longboat Key, Fla. Kiwanis Club.

Henry M. Sneath, a partner at Picadio Sneath Miller & Norton, P.C., has been named First Vice President of DRI—the Voice of the Defense Bar.

Joan Ellenbogen, managing partner at CrawfordEllenbogen, has been elected to a two-year term on the board of directors of the International Network of Accountants & Auditors.

People on the Move

Elliott & Davis, PC is pleased to announce that Daniel Corbett is joining the firm as an attorney. Corbett's practice will center on trademark law, corporate law, nonprofit law, estate planning, and civil litigation.



Erica L. Koehl

Erica L. Koehl recently joined Babst, Calland, Clements and Zominir, P.C. as an associate in the Litigation Services Group.

Changes in Status

Krista Marie Kochosky has complied with the Pa.C.L.E. Board's Rules and Regulations and has been reinstated to active status.

Robert Vincent Mitchell has been placed on temporary suspension.

Bar Briefs Policy

1. All submissions for "Bar Briefs" should be sent to the attention of David Blaner, ACBA Executive Director, 400 Koppers Building, 436 Seventh Avenue, Pittsburgh, Pa., 15219, or e-mailed to dblaner@acba.org.

2. The "News and Notes" section is limited to announcements regarding legal or community service awards or organization appointments. Announcements related to Best Lawyers in America, Pennsylvania Rising Stars, or Pennsylvania Super Lawyers will not be published.

3. The "People on the Move" section is limited to promotions, new positions, and firm establishments. Only ACBA member announcements will be published.

4. The "Changes in Status" section is limited to Court notices regarding attorney status. These announcements come directly from the state and federal courts and are not edited by ACBA staff.

5. The editors retain the right to accept, edit, or reject submissions at their sole discretion.

6. Due to the overwhelming number of submissions received and the nature of the *Lawyers Journal* production schedule, your announcement will be placed in a queue upon receipt and will be published in the next available issue. If you have a question regarding when or if your announcement will be published, contact Joanna Taylor at 412-402-6604 or jtaylor@acba.org. ■

All submissions for "Bar Briefs" or "In Memoriam" should be sent to the attention of David Blaner, ACBA Executive Director, 400 Koppers Building, 436 Seventh Ave., Pittsburgh, Pa., 15219, or e-mailed to dblaner@acba.org.

GISMONDI AWARD continued from cover page

ship with the husband and wife duo, adding special meaning to the honor.

"Bill [Goodrich] has been a friend of mine for over 20 years," Gismondi said. "To receive this award from another plaintiff lawyer and a personal friend, it adds to it."

"I gave Judge Lazzara her first job," he added. "I have the utmost respect for her. She was the best law clerk I ever had and then my right hand as an associate."

Gismondi said he was honored to be recognized for professionalism, especially considering his career in litigation—"an adversarial endeavor."

"When you're in litigation things can get testy," he said. "To be recognized for your professionalism in that sort of work makes you appreciate it."

"To me, one of the most rewarding things about being a trial lawyer is to have the ability to vigorously litigate your case, but still retain the respect and friendship of the other attorneys."

A graduate of the University of Pittsburgh and the University of Pittsburgh School of Law, Gismondi began his career in law as a law clerk to The Honorable Gustave Diamond, serving the U.S. District Court for the Western District of Pennsylvania. Gismondi spent six years with Gilardi, Cooper & Gismondi, P.A., before founding the personal injury firm Gismondi & Associates in 1987.

Gismondi is a past president of the ACBA (1996), as well as the Western Pennsylvania Chapter of the Pennsylvania Trial Lawyers Association (1988-1989), where he serves as the chairman of the Medical Malpractice Section and a member of the Board of Governors. He also served as chairman of the Trial Advocacy Foundation of Pennsylvania from 1987-1990.

Gismondi is a member of the ACBA, the Pennsylvania Bar Association, the American Bar Association, and the Academy of Trial Lawyers of Allegheny County, where he serves on the Board of Governors and as chairman of the Membership Committee.

"[Gismondi's] record of service to the ACBA and to other legal associations is outstanding," Kunselman said.

Gismondi is widely regarded as one of the state's leading experts on personal injury law and civil litigation. He has lectured at well over 100 seminars and conferences, reviewing "various phases of civil litigation" at venues across the state. Gismondi's written work has been featured in a number of legal and professional journals.

In addition to practicing law, Gismondi has spent his last 25 years as an Adjunct Professor with his alma mater, the University of Pittsburgh School of Law, where he teaches a weekly course titled "Trial Advocacy." The University of Pittsburgh School of Law also offers a unique trial attorney certificate program bearing Gismondi's name: The John P. Gismondi Civil Litigation Certificate Program. The program is designed to provide law students with a curriculum "devoted exclusively to training the trial lawyers of tomorrow," according to the university's website.

The University of Pittsburgh honored Gismondi with the Distinguished Alumnus award in 2008. Other honors include the Israel Bonds Corporation Legal Person of the Year award in 2006, as well as the prestigious "A/V" rating—the highest tier for both legal ability and qualities such as reliability, diligence, and ethics—from legal biographer Martindale-Hubbell.

As the 2009 Professionalism Award winner, Gismondi received an engraved Lucite plaque. He said he was humbled to receive the award, noting that many attorneys in Allegheny County place a high value on professionalism.

"I am very proud to receive it, but I feel like there are a lot of other people who are equally worthy of this honor," Gismondi said. ■

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viewed as just a normal cost in presenting the case. Further, attempts to discredit a party that is using technology by saying something like, "they must be trying to hide something with that fancy show" are not persuasive when you consider that most jurors have better setups in their own family rooms! Jurors expect to see visual technology and do not associate a high cost with this benefit.

The show must go on: practice and backup

When Eric Clapton breaks a guitar string on stage, he doesn't stop the show and stare blankly at the audience or pull his hair out. He calmly walks to the side of the stage and grabs his backup guitar without missing a beat. It shouldn't be any different in the courtroom. Computers will fail and you'll have glitches. How well you are prepared to deal with these unplanned setbacks will determine whether it's something that the jury barely notices or whether it will be a show stopper.

My motto "expect the best but plan for the worst" has saved me more than a few times. Although the upfront cost may be a bit more, I highly recommend using two "mirrored" laptops in any trial. Should one crash you can quickly switch to the other. For example, in a recent arbitration one of my computers stopped responding. Without a backup laptop we would have suffered an embarrassing delay. However, since I was prepared I just flipped a switch and the show went on without anyone noticing.

Another great backup is the document camera. These look somewhat like an overhead projector. Just turn it on, put the document under the camera and it appears on the screen. These come in handy when you need to show an exhibit that isn't in your laptop database. I do not, however, recommend using a document camera as your sole method of presenting your case. Getting the document oriented and zoomed takes some fiddling and documents are much harder to read than from a computer.

Every great band practices together. If you are working with an operator you too must practice your presentation. The key to a seamless presentation is for the attorney and operator to be in sync. A good example of being in sync occurred recently when an attorney was examining a witness and forgot the correct exhibit number. He remembered it was an agreement sometime in May. Because we had recently practiced, I recalled the agreement and brought it up without delay. You too should practice exhibit presentation. An excellent time is during witness preparation. Exhibits can be brought up on a laptop as they are discussed during preparation. Be sure to discuss important documents and passages or callouts before they are used in court. Annotating a document (highlighting, zooming, etc.) can be done "on the fly" in court, but being prepared can avoid confusion and delay in getting the right paragraph or sentence on the screen.

Don't skip the sound check: know the courtroom and test the equipment

What happens before every concert? The sound check! The crew surveys the stage, sets up the equipment, and tests everything. Getting ready to rock the house on stage and finding out that none of the microphones work would be a disaster. In order to avoid problems with your presentation, you also need to conduct a "sound check." Whether you bring in your own equipment or use the court's, be sure to test everything.

Also, keep in mind that every judge views technology and equipment a little differently. Work with the clerk to find out details like the judge's setup preferences, times when the equipment can be installed, and building security. A judge generally will not allow both sides to bring in their own equipment so you should coordinate with opposing counsel. If possible, view

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