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Is your attorney utilizing the latest technology?

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With the emergence of new technology the law has changed dramatically. Cell phone technology, the Internet, MP3 players, Napster, software copyrights, biotechnology -- even Google has seen its share of lawsuits of late.

In response, a whole new practice of law has formed in the last decade to understand, manage and respond to the disputes that arise from new technologies. But while technology has added to the legal headaches of corporations and individuals, it has also served to relieve unnecessary time and costs associated with legal affairs.

Clients would be well-suited to ask their attorney about their business practices, ensuring that they are fully utilizing the available technology to control fees and costs and to obtain the best results.

In the past, large commercial cases required significant staffing. Complex commercial cases can involve hundreds of thousands or even millions of documents. The need to review and understand the documents, as well as organize the

documents for use in depositions and trial, traditionally required a small army of attorneys, paralegals and file clerks. Technology now allows these tasks to be completed with a much smaller number of legal professionals.

Today, it is possible to scan a document and create an electronic image as quickly as one can copy a document. The images are transmitted to companies that specialize in "coding" documents to capture key information and create a searchable database.

Documents can also be coded by paralegals within a firm. Coding consists of selecting certain fields, commonly including author, recipient and date, that will be linked to the scanned image so that all documents authored by a particular individual or received by a particular individual can be immediately identified and viewed.

Some clients balk at the initial cost of scanning and coding documents. However, this initial expense can result in enormous savings over the life of a case.

For example, once documents have been properly coded and scanned, an attorney preparing for a deposition can query a database containing thousands of documents and locate all documents sent or received by the witness being deposed. In a matter of seconds, the documents can be chronologically sorted. Once the key documents have been selected, they can be printed on a high-speed printer and prepared as exhibits for the deposition.

When contrasted with the effort and the resulting fees required for attorneys, paralegals and file clerks to identify documents by hand and then arrange them in chronological order, the initial cost of coding and scanning is quickly recovered. These efficiencies also mean that clients can choose their preferred attorney with much less concern about the size of a firm or the ability of a smaller firm to manage a large commercial matter.

There are pitfalls to the technology. For example, a breach-of-contract case may require showing the contract to a witness whose name does not appear in the contract. Depositions consist of more than asking witnesses about documents containing their names. Therefore, while technology is a valuable starting point and can result in savings for clients, it is not a substitute for an experienced attorney selecting key documents and formulating a deposition strategy.

At depositions, there are software programs that immediately translate a court reporter's shorthand into a rough deposition transcript on an attorney's laptop. In the past, it was days or weeks after a deposition before an attorney received a deposition transcript and realized that the elicited answers were not as clear as the attorney believed. Today, by glancing at one's laptop, it can be immediately determined whether the questioning has yielded clear and concise answers that may prove beneficial for summary judgment or at trial.

Most programs allow an attorney to highlight crucial portions of the transcript so that those portions can be reviewed later that

day or many months down the road during trial preparation.

Again, technology is not a substitute for an attorney with good instincts and judgment. Often, the most valuable insight into a witness is gleaned from carefully observing a witness and noting when he appears uncomfortable, confused or anxious to volunteer information. Attorneys who embrace technology too completely are quickly spotted by their focus on the written transcript rather than their careful observation of the witness.

Again, technology must be viewed as a tool for the attorney and not as a substitute for the judgment and instincts gained with experience.

During trial preparation, an attorney can review documents that have been electronically flagged as key or deposition testimony that has been highlighted as particularly helpful and can more quickly compile key exhibits and deposition testimony for trial.

At trial, key exhibits and deposition testimony can be taken to court on a laptop and quickly projected onto a screen for use when questioning witnesses. In fact, more and more courtrooms are requiring that trials be conducted utilizing electronic exhibits.

The bottom line is your bottom line. Although technology will never substitute for the good judgment and instincts of an experienced attorney, a client should ensure that he or she is also obtaining the efficiencies and savings available from the full utilization of technology.

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