The Big Squeeze

Trial tech options for small firms with small cases and small budgets.

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Litigation management and trial presentation technology has a high-priced reputation. Traditionally, this reputation is reasonably well-deserved. Few question that bet-the-company litigation justifies whatever it takes in terms of using technology tools to maximize the chances of winning.

But what about smaller cases? And smaller firms? What about clients with smaller budgets? Are the chances of prevailing diminished just because there is a meager, if any, budget for litigation technology and high-tech approaches to case preparation and presentation?

The answer to these questions is … maybe.

But wait. Before you panic, there is good news. With clever repurposing of mainstream, general purpose software; free and inexpensive tools; and smart shopping, you can be technologically savvy in your next litigation without breaking the bank.

Let's explore some of the tips, tools, and techniques that can help any lawyer handle lower-budget cases.

WAR CHEST
First, let's categorize the systems normally used.

The first group addresses the broad area of pre-trial litigation information management. This can include:

• *Transcript management*: Review, searching, summarizing and annotation of transcripts.

• *Discovery management*: Everything from managing inbound and outbound production requests and status, to organizing inbound paper and electronic files, to the forensic aspects of acquiring electronically stored information.

• *Case strategy*: Tracking facts, issues, parties, witnesses, and workflow.

• *Presentation*: Marshalling all your case information and building presentations — either formal or informal — for settlement negotiation, hearings, and/or trials.

TRANSCRIPT MANAGEMENT

For transcript management, the "big iron" approach has been to use powerhouse software such as CT Summation (**www.summation.com**) (which just merged with **AccessData**); LexisNexis Concordance (**law.lexisnexis.com/concordance**); RealLegal's Transcript Manager (**www.reallegal.com**); or LiveNote SR (**http://west.thomson.com/products/services/livenote/default.aspx**).

LexisNexis' CaseSoft suite and its TextMap module have also started offering transcript review and annotation (**www.casesoft.com**).

A less costly alternative is effectively free, and is comfortable for any lawyer already using any version of **Microsoft Excel**.

RealLegal e-Transcript Reader (**reallegal.com/eTranscript**) is a free tool that helps you read electronic court-reported, formatted transcripts. (Think **Acrobat PDF Reader**).

It uses a format generally referred to as "Court Reporter ASCII" that incorporates pagination and line numbering. Many court reporters provide output in the e-Transcript format — a virtual lingua franca of the transcript world.

While you cannot annotate the transcripts generated by the e-Transcript Reader, no worries. You can create a simple template (via a **Microsoft Word** document or any spreadsheet program, such as Excel, **Google Docs Suite**, or **OpenOffice**) for your annotations. Then, you can use that file alongside the transcript to track your issues.

To do so, just create a simple table with columns representing key items — such as page, line number, issues, witnesses, or other element you want to track. (Think of concepts that you might later wish to use as searching and sorting criteria.)

Granted, this simple system is not as nuanced as an integrated engine provided by the big guns' software. You won't have digesting tools, or be able to easily connect passages of testimony to entries about discovered documents. But it works, and it's effectively free.

DISCOVERY MANAGEMENT

Without a discovered document database (such as those integrated into CT Summation and Concordance), how can you track and review documents and link them to related testimony?

Again, necessity is the mother of invention for tightwad technologists.

Create another Microsoft Excel spreadsheet, with discovery document fields. Then link the electronic documents — PDFs, Word files, jpgs, .wav files, etc. to the row entry in your discovery tracking spreadsheet.

To be sure, this is litigation technology circa 1995, but sometimes simple and cheap is better than complicated and costly. Create columns to track source, date, description, party, witness, issues, comments, etc.

Alternatively, set up discovered document tracking entry screens in your practice management system.

Customizable programs — such as STI's Practice-Master (**www.tabs3.com**), LexisNexis' TimeMatters (**www.timematters.com**), or Gavel & Gown's Amicus Attorney (**www.amicusattorney.com**) — all support the creation of database screens to track discovered documents.

Users can then search through records, and when integrated with document managers such as World Software's Worldox GX2 (**www.worldox.com**) pull up the actual documents and generate reports in a number of ways.

DISCOVERY REQUESTS

You can use these same practice management systems (**or Microsoft Outlook**) to track discovery requests.

Make entries for due dates for outbound production when your client is the recipient of a discovery request. When you are initiating the discovery, you can track the requests in progress, to determine when responses have been received or remain outstanding and might require further action.

If you're using Outlook, use the Categories function to organize these entries by case and type of discovery activity (i.e., *Jones* v. *Smith* — Production Request).

Then use Outlook's "filtered view" function to see just a status calendar for the *Jones* v . *Smith* — Production Requests.

TRIAL PRESENTATION

When does **Microsoft PowerPoint** suffice, and when do you need a dedicated visual trial presentation system, such as inData's TrialDirector (**www.indatacorp.com**) or Sanction Solution's namesake product. (**www.sanction.com**)?

The easiest answer is to read anything on the subject by *LTN* columnist Craig Ball (**www.craigball.com**). Ball has authored a series of highly instructive articles and continuing legal education presentations on the subject of how to twist and turn **PowerPoint** into a compelling tool to persuade any judge or jury.

On the other hand, for solo and small firms, single licenses of TrialDirector and Sanction are well under $1,000 and both go beyond PowerPoint's capabilities. They may be an investment well worth making, both in training time and money, as the return on investment will be the confidence you have entering the courtroom or deposition room with their sophisticated options.

CASE STRATEGY

How can you reduce costs for case strategy and managing the flow of case information?

Combine two potent resources. Any practice management system can track litigated matters — core case information (facts, issues, parties, key dates, event chronologies, case notes, accumulated fact and legal research, case to-do lists and more). Some systems, such as STI's PracticeMaster, offer reasonable practice area-specific litigation templates, which translates to "faster, better, cheaper" management of your case's electronic information.

For brainstorming, two thoughts: First, what about the outlining feature in Microsoft Word (and other word processing tools)? Maybe it's time to actually learn how to use it, instead of struggling with its hierarchical organization eccentricities. Cost? Free — you already own it.

Alternatively, think about tools such as LexisNexis' CaseMap from the CaseSoft suite. This relatively inexpensive tool ($495) is an outliner-on-steroids, almost more of a thought processor than an outlining word processor.

For extreme multi-tasked thinkers, map your thoughts in multiple directions with the cost-effective Mindjet MindManager (**mindjet.com/products/mindmanager-8-win/overview**) ($349).

Finally, think about alternate litigation suites — all-in-one systems that are alternatives to the high cost, über-sophisticated systems that may have more bells and whistles than you need.

Check out MasterFile (**www.masterfile.biz/products/masterfile.html**). It is a combination of tools that parallel CT Summation, including transcript management, a discovery database and full-text searching. A single license costs $395 and a five-license version is just $995.

Downsides? Fewer features than big systems — but when your client has literally no budget for software to manage its case, and your practice isn't as flush as it might have been under the old economy, the willingness to take a less-is-more approach could be wise.

The bottom line is that litigation-specific technology options usually offer an integrated, cohesive approach to managing all aspects of handling disputed matters — but at a price.

A collection of existing, inexpensive tools (perhaps not specifically oriented to litigation case management) can be surprisingly up to the task. This may be the ideal prescription for smaller firms, smaller cases and smaller budgets . . . with big budget results.

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