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# LITIGATION: TRIAL TECHNOLOGY



## IPads at trial

*With recent advances in technology, attorneys can go beyond the basic apps to make compelling case presentations*



**Morgan C. Smith**

Attorneys often ask me about the use of iPads in their practice, and they especially want to know how the iPad can help in mediation and trial. I start by telling them the good news: that the number of highly functional and practical apps developed specifically for attorneys has increased dramatically, making the investment in an iPad for your practice much more attractive than even six months ago.

Then I tell them it pays to invest at least a few hours to learn how to optimize the iPad for case management and litigation presentations. Otherwise, that cool tablet may stay parked by the bedside as a high-powered tool to read a digital newspaper (or a toy that kids run off with to play Minecraft).

If you're considering spending \$600 on a new iPad, or if you already own one and are figuring out what to do with it, this article will help

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by covering some of the key technical issues and apps that assist attorneys in myriad ways.

### NEW IPAD VERSUS IPAD 2

Should you buy the latest and greatest iPad? Sure, if you don't have an iPad already. If you have the slightly older iPad 2, it will serve you fine for the foreseeable future, since at present time the best apps for attorneys were designed for the iPad 2 and work equally well on both.

The primary difference between the models comes in the screen and processing speed. The new iPad (which is not officially called the iPad 3, but "the new iPad") has a "retina display" that has a much higher resolution than the iPad 2. This means photographs, images and text appear sharper than on the older model; however, if you are looking at websites, you will probably notice that the photos look bad because the iPad screen has finer detail than lower resolution photos online.

The new iPad also has about twice the processing speed of the iPad 2, which doubled the speed from the original iPad. Additionally, the new iPad works on the 4G network, so download speeds over the networks (at a minimum cost of \$20 per month) are greatly enhanced.

### LAW PRACTICE MANAGEMENT

Once the shiny new iPad is out of the box, what should you consider putting on it to help your practice? Far and away some of the most useful apps for attorneys have to do with file management and accessibility.

Apps like Dropbox.com and Box.com are two of the leading "cloud" file management systems around. With these services, you can

access any of your case documents that you put on the server anywhere at anytime from your iPad. You can view PDFs, Word documents, movies and most anything else. These apps really help attorneys have their entire office file system at their fingertips in deposition, mediation, trial or any other situation.

There is seemingly no end to the various billing programs available for iPads and iPhones that attorneys can use to help keep track of time. For solo practitioners and small firms, I personally have been very happy with bill4time.com, which is entirely online and has a good iPhone and iPad app that allows you to enter your time by client and case, and online you can easily create invoices to email to clients.

If you don't already have a good PDF reader for your iPad, I recommend either Goodreader or PDF Reader by Adobe. Either is very important since so many legal documents are in this format. I also recommend iPleading, which creates formatted documents for filing in state and federal courts.

Finally, the Fastcase app provides primary law access for both federal and all states — very handy and free.

### PRESENTATIONS

While I like using my iPad for the practice management tasks described above, I'm most excited about using it for presentations. If you're interested in utilizing the iPad to present your case, I have the following recommendations.

You've probably heard about and perhaps even tried creating "e-briefs" to consolidate and

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flawless with a double-tap of the iPad's home button.

Highlighting words, phrases or key portions of documents was easily handled on the iPad's touchscreen by simply moving a finger to select the portions of the document that needed emphasis. As with TrialDirector, this can be accomplished in real time as the lawyer or witness is reading the document aloud.

From opening statement to closing argument, we were never more than a few steps away from quickly accessing any document in the case, enlarging it for the jury through the projector with a pinch of the iPad's touchscreen, and annotating the document with colored circles, lines or just highlighting portions of text in a long police report.

We brought our own regular computer speakers to the courtroom, with a compact auditorium-style speaker as a backup. We also used our own portable large screen for the jury — it was positioned in such a way so that it was also visible to witnesses and the trial judge. (If the courtroom had been equipped with monitors for the jurors, witnesses and the judge, we would have plugged in to that existing system.)

With a long VGA cord and adapter connected to the projector, we could walk with the iPad as we moved about the courtroom, or rest the device on a gallery rail while examining a witness. For the times when audio or video was played, a small audio cord ran from the iPad's audio output to the speaker.

### TIMING IS EVERYTHING

The iPad's 10-hour battery life meant we never had to worry about crashing — but we were very careful to start each day with a full charge, as the iPad will not support charging while in display mode, due to its single dock

connector port.

Another feature that became vital during witness examinations was the iPad's ability, like TrialDirector, to process mark-ups and highlights on documents. We could "time" our delivery of images, because the iPad allows users to enlarge portions of documents without the image feeding to the projector until the "active" indicator is pressed. This meant one of us could sit at counsel table readying a document for impeachment while the other lawyer examined the witness.

Similarly, TrialPad could mark "hot docs" as well as help us organize documents into separate folder — so we could create folders for opening, closing and each witness. As new documents and demonstrative aids were needed, we used Dropbox, a web-based document storage and transfer system. With it, our colleagues at the office could transfer documents directly to our iPad trial app, ready for use.

One moment where the device's brilliance became apparent came when we were examining a witness about the alleged signature of Albarran on a beverage receipt signed the day of the shooting. The restaurant took the position that he was not an employee nor was there any evidence he working that day. With the pinch and zoom feature of the iPad's touchscreen, what was almost an illegible faded receipt showing an obscure signature became "exhibit one" in our case for establishing Albarran's employment — and presence at the scene on the day of the crime.

On April 19, 2011, the jury returned a verdict in favor of Golden's family in the amount of \$37.5 million, assessing damages of \$25 million against Albarran as well as \$12.5 million against the Jalisco restaurant. No appeal was filed and the time for appeal has expired.

## SMITH

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hyperlink all of your case documents for easier reading and sharing. Typically, e-briefs are created as PDFs. An e-brief created for and displayed through an iPad, however, has numerous advantages over a simple PDF brief. E-briefs for the iPad can incorporate photographs, videos and best yet, 3D-modeled images that you can rotate 360 degrees with your finger by swiping the image. This presentation format has great potential for mediation and trial, as it allows you to project the brief on a screen for use as an interactive PowerPoint type of presentation. To learn more and download a sample iPad e-brief for viewing, go to cogentlegal.com/blog and search for "e-briefs" to find the downloadable link and instructions.

If you're looking for a more traditional method of presenting a case, either in mediation or trial, the iPad offers many different ways in which to do that as well. My all-time favorite is Keynote, which works in a linear presentation format like PowerPoint, but frankly works much better than PowerPoint. Keynote can be installed on both a desktop computer or in a version available on the iPad itself, both of which can be used to create and modify all the slides. While I like to create the Keynotes on a desktop Mac, if you do not have one, you have all the same functionality right on your iPad. The program has templates to start with, allows easy import of photos and video, adding drop shadows and drawing basic shapes.

For those of you who are determined to stick with PowerPoint rather than transitioning to Apple's Keynote, there are options as well. Slideshare is a free app from the iTunes store that allows you to set up an account online and upload your PowerPoint to the site, where it is made into an iPad-friendly format for viewing. Unfortunately, videos do not work on it, but it does a very good job with most everything else. It's extremely useful if you already have a PowerPoint made and simply want to show it on an iPad.

Another option for PowerPoint presentations with the iPad is an app called OnLive, which allows you to create and modify PowerPoints, Word documents and Excel sheets right on your iPad. With the premium version, you get access to Dropbox.com so you can bring up any of these files right on your iPad.

### ADDITIONAL EQUIPMENT FOR PRESENTATIONS

Once you create your Keynote or e-brief, you have a few choices of how to present it. The easiest way is to buy an adapter for the iPad that costs about \$25 and has either an HDMI or a VGA output. Most modern projectors accept HDMI, which allows sound through the same cable as the video feed. I

have the Epson 1775W Multimedia Projector (costs around \$1000), which is a nice, easily portable choice, but many other projectors on the market work well, too, some for half the price if you don't care about widescreen or wireless.

Then, using the adapter, you simply hardwire your iPad to the projector; when you start the Keynote presentation, the iPad recognizes that it has an external display attached. You will see the presenter screen on your iPad, which indicates the current slide, the next slide up and any notes you have added, but the audience sees only the current screen projected. It's quite easy and pretty foolproof.

If you want a setup that allows you to freely roam the room and not be tethered to your projector, there's another way to go. If you purchase an Apple TV device (\$99), and both your iPad and Apple TV (generation two or later) are connected to the same Wi-Fi signal, then you can use the Air Play function to wirelessly connect to the Apple TV. (The Apple TV device is connected by an HDMI cable to your laptop.) This setup will allow you to hold your iPad anywhere in the room within the Wi-Fi signal and control the presentation. It's by far the best way to go, but a bit more technically complicated.

At last year's American Board of Trial Advocates Masters in Trial MCLE event, I prepared the opening statement graphics for the plaintiffs in a Keynote presentation that was controlled wirelessly from an iPad held by my former law partner, Robert Arns. Judge Jon Tigar of Alameda County Superior Court praised the use of the seamless technology with a powerful oral presentation and said both enhanced each other. It just goes to show that when done well, this technology can really help attorneys present their cases and connect with the judge and jury.

One potential problem with the remote setup describe above is that you cannot necessarily rely on the location where you're presenting — such as a courtroom or mediator's office — to have Wi-Fi you can access for the presentation. For this reason, I also recommend getting an Apple Airport Extreme that creates a Wi-Fi spot wherever you plug it in. If you set this up beforehand, then both your iPad and Apple TV will find and connect to it as soon as you plug it in, and it provides the Wi-Fi connection.

There's no question the iPad is becoming a much more useful tool for case presentations and should be considered by any attorney for use at mediations or in court. I had the chance recently to test out an iPad presentation in one of the "tech ready" federal courtrooms in San Francisco, and I'm happy to report that with a simple VGA adapter, my iPad plugged right into the system and worked with no fuss. If you can use the iPad that easily in federal court, you can use it anywhere.

## KUMAR

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times bypassing the standard document review process, to deliver the best possible outcome for the clients at lower costs — sometimes as much as 50 percent cost savings. These firms realized that specialists provide a deep understanding of technology that helps them build powerful and successful arguments in court.

These specialists have proven their mettle in many instances, helping the lawyers realistically and efficiently assess the strengths and weaknesses in a case from the perspective of the alleged product and the code in question. They do this by speeding the evidence-gathering process, increasing the depth of the evidence, and improving the quality of the final argument by laying the groundwork for the expert to put together the final report.

Attorneys always lead the effort, managing

the legal process, and more importantly, the case strategy, while technology specialists navigate the seemingly endless swamp of code and find the important elements. They are able to do this effectively because they understand what is critical and noncritical in relation to the specific code and the greater world of technology.

Working with a SWAT team of technology specialists provides the much-needed leverage to the expert and enables attorneys to better manage the process, increase efficiency and, ultimately, succeed.

What can dramatically alter the course of technology litigation is that "secret sauce" of high-end technology competency. It is not the process that matters so much as the "eureka" moment in a litigation that unearths powerful evidence. Technology insights that can lead to a positive business outcome is a new kind of intellectual arbitrage, and one that will play a crucial role in litigation in the near and long term.



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