

JUDGE'S TECH TIPS

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State Bar of Texas
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CHAPTER 49

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EDUCATION

1997-2000 Juris Doctorate from Baylor Law School
1994-1997 Bachelor of Arts from Baylor University

EMPLOYMENT

2012 - present Partner, Goranson Bain, PLLC
2005-2012 Associate Attorney, KoonsFuller, P.C.
2003-2005 Associate Attorney, Albin & Harrison
2000-2003 Staff Attorney, The Ayco Company

MEMBERSHIPS

Collin County Bar Association
Dallas County Bar Association
Denton County Bar Association
Frisco Bar Association
Collaborative Law Institute of Texas
Unauthorized Practice of Law Committee Member (2009-2012)
Fellow of the Texas Bar Foundation

HONORS

Board Certified - Family Law
Best Lawyers in America - 2013, 2014, and 2015
Texas Super Lawyers - 2014
Texas Super Lawyers - Rising Star 2008, 2009, 2010, 2011, 2012, 2013
Interim Associate Judge - Dallas Family Courts - 2011
Top 10 Attorney Award by National Academy of Family Law Lawyers - 2015

AUTHOR AND LECTURER

Top Evidentiary Mistakes Made by Attorneys - Advanced Family Law - 2015
Collaborative Myths - Collin County Bench Bar - 2015
Professionalism - Baylor Law School - January 2014
Top Evidentiary and Discovery Mistakes Made by Attorneys- Advanced Family Law - 2013
To Catch an Alcoholic-A Soberlink Case Study -Collin and Denton County Bench Bar - 2013
Using your Ipad effectively in the Courtroom - Plano Bar Association - 2012
Evidence and Trial Procedure - Frisco Bar Association - Speaker - 2012
Texas Annotated Family Code - LexisNexis - Editor - 2010
Getting Your Case From 0 to 60 - Collaborative Conference - Speaker - 2010
General Practice Institute - Family Law Update - Speaker - 2008
Estate Planning Council of North Texas - Estate Planning and Divorce (2008)
Texas Practice Guide - Family Law - Editor - 2005

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Education

J.D. — Southern Methodist University School of Law (1997)
The Order of Barristers
B.A. — The University of Texas at Austin (1994)

Employment

Judicial

Presiding Judge, 219th Judicial District Court, Collin County, Texas, 2010- present
Local Administrative Judge, 2015- present

Professional

Collin County District Attorney's Office (McKinney, TX.), 2003-2010
The Becker Law Firm, P.L.L.C. (Dallas, TX.), 1999-2003
Albert, Neely, & Kuhlmann, L.L.P. (Fort Worth, TX.) 1997-1999

Professional Associations & Achievements

State Bar of Texas
Texas Bar Foundation
Board Certified in Family Law by the Texas Board of Legal Specialization
State Bar of Texas Family Law Section
Texas Academy of Family Law Specialists
Collin County Bar Association
Curt B. Henderson Inn of Court

Presentations & Publications

“The Elephant in the (Court) Room: Religion, Sex, and Child Custody Issues,”
North Texas Families in Transition Professional Workgroup
(Plano, Texas) (February 2015)

“What Judges Think is (& isn’t) Persuasive with the Use of Technology in the Courtroom,” Family Law Technology 360: Everything You Need to Know for Your 21st Century Practice 2014
(Austin, Texas) (December 2014)

“Tips for Tablet Technology,” Advanced Criminal Law Course
(Houston, Texas) (July 2014)

“Playing at the Game of Love: Therapy, Family Law, High Conflict Personalities, Reunification, & the Courts,” North Texas Families in Transition Professional Workgroup (Plano, Texas) (February 2014)

“Tips for Tablet Technology,” Advanced Criminal Law Course
(Dallas, Texas) (July 2013)

Collin County Bench Bar Conference, Professionalism (Fort Worth, Texas)
(May 2013)

Collin County Bench Bar Conference, Using iPad in the Courtroom
(Grapevine, Texas) (May 2014)

Collin County Criminal Defense Lawyers’ Association “Use of Technology in the Courtroom”
(McKinney, Texas) (2013)

In Chambers: “Tablet Tips for Judges: Working Smarter Not Harder”
(Spring 2013)



COUNTIES:
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HON. ROY B. FERGUSON - CURRICULUM VITAE

Education and Honors

- Bachelor of Science in Civil Engineering, University of Texas at Arlington, 1992
- Juris Doctorate of Law, St. Mary's University, San Antonio, Texas 1994
- American Jurisprudence Award recipient in administrative law
- Member, Chi Epsilon, honorary fraternity for civil engineering students
- Member, Kappa Kappa Psi, honorary fraternity for college bandmembers
- Member, Phi Alpha Delta, honorary fraternity for law students

Professional Affiliations and Honors

- 2013-Present, Judge, 394th Judicial District Court
- Member – State Bar of Texas, 1995-present
- Licensed to practice before the United States Supreme Court
- Member – College of the State Bar of Texas
- 2014 Special Service Commendation – State Bar of Texas, GPSOLO Section
- 2012 Lawyer of the Year – State Bar of Texas, GPSOLO Section
- 2011-2012, Member, District 17 Grievance Committee, State Bar of Texas
- 2000-2011 Five-time Member, Pro Bono College of State Bar of Texas
- 2010 Participant, Veterans Legal Clinic
- General Practice Solo and Small Firm Section, State Bar of Texas
 - 2003-2013, 2015 Councilmember
 - 2005-2006 Secretary/Treasurer
 - 2006-2007 Vice Chair
 - 2007-2008 Incoming Chair
 - 2009-2010 Chair
 - 2010-2013 Chair Ex Officio
 - 2014-2015 Judicial Liaison
- Juvenile Referee, Juvenile Referee Court, Presidio County, Texas, December, 2001 – 2003
- Justice of the Peace, Presidio County, Texas, December, 1999 – July, 2000

Public Speaking and Articles

- 2015 State Bar of Texas Annual Meeting, Speaker, “Effective Advocacy – What Does and Doesn’t Work in the Courtroom from a Judge’s Perspective.”
- 2015 American Legion District Convention, Keynote speaker, “And Justice for All.”
- 2014 State Bar of Texas CLE, Speaker/Panelist, “What Judges Think Is (and Isn’t) Persuasive With the Use of Technology in the Courtroom.”
- 2014 State of Texas Juvenile Probation Chief’s Conference, Speaker, “Sex, Violence and Video Games.”
- 2014 Region 18 Meeting of School Administrators, Speaker, “Sex, Violence and Video Games.”
- 2014 State Bar of Texas Annual Meeting, Speaker, “Practical and Ethical Impacts of *In re Stephanie Lee*, or: Who Will Speak for the Children?”
- 2013 West of the Pecos Republican Women’s Association, Speaker, “Freedom of Speech is Under Attack!”
- 2012 American Legion Regional Meeting, Speaker, “Defending Freedom of Speech.”
- 2012 State Bar of Texas Annual Meeting, Speaker, “Legal Ethics vs. Moral Compass.”
- 2011 Texas Bar Journal, January Edition, “Referendum 2011 – How Would You Advise a Lawyer to Vote?”
- 2011 State Bar of Texas Annual Meeting, Speaker, “Ethics and the Small Law Firm – That’s an Impact Tremor, That’s What THAT is!”
- 2010 State Bar of Texas Annual Meeting, Moderator and Speaker, “Recent Ethical Issues for the Solo and Small Firm Practitioner.”
- 2010 General Practice Institute, Waco Texas, Moderator
- 2010 Baylor Law School Student Outreach Program, Speaker and Moderator
- 2010 St. Mary’s School of Law Student Outreach Program, Speaker and Moderator
- 2009 State Bar of Texas Annual Meeting, Speaker, “Hot Topics in Legal Ethics.”
- 2008 State Bar of Texas CLE, Speaker, “Ethics and the Small Law Firm.” (webcast)
- 2008 State Bar of Texas CLE, Speaker and Moderator, “Ethics and the Small Firm: Use of Technology in the Development of a Successful and Profitable Practice.”
- 2008 State Bar of Texas Annual Meeting, Speaker, “Ethics and the Small Law Firm – Ten Hot Tips on Avoiding Grievances.”
- 2007 State Bar of Texas Annual Meeting, Speaker, “Ethics and the Small Law Firm – Avoiding Grievances through Early Detection.”
- 2006, Article, “Ethical Pitfalls for the Community Lawyer – an Outline for Discussion among General Practitioners.”
- 2006 State Bar of Texas Annual Meeting, Speaker/Moderator, “Panel Discussion on Legal Ethics.”

About the 394th Judicial District

The 394th Judicial District is comprised of Brewster, Culberson, Hudspeth, Jeff Davis, and Presidio Counties. Containing 4 of the 5 largest counties in Texas, it is reportedly the largest state judicial district in the continental United States. It encompasses 20,500 sq. miles, and includes approximately 25,000 residents. It is larger than 9 states, and slightly smaller than West Virginia. The District encompasses over 400 miles of border with Mexico, being approximately 1/3rd of the Texas/Mexico border, and more than 1/5th of the United States/Mexico border.

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JUDGE'S TECH TIPS

I. INTRODUCTION.

Technology is advancing relentlessly, and the legal profession is scrambling to keep up. More technology exists than can be mastered, much less used on a daily basis. "60 Apps in 60 minutes" provides fantastic information, but for many lawyers, using *any* of those apps on the fly in the courtroom seems daunting, if not impossible. Incorporating technology into your courtroom presentations requires a change in both process and style. Remember, the goal is not to be the most gimmicky. The goal is to win. To do so, you must use technology effectively, so as to enhance, rather than supplant, your skills of persuasion.

This presentation does not address the law practice management aspect of technology, nor does it discuss ways to improve efficiency or profitability through technology.¹ Instead, we will focus on the effective use of technology in the courtroom – both to the bench and to a jury – and provide practical tips on what works and what doesn't.

First and foremost, remember the overriding rule of courtroom technology: just because you *can* doesn't mean you *should*.

II. KNOW YOUR AUDIENCE.

In 2014 FY, 357,518 family law cases were disposed of by Texas courts.² Of those, 544 were tried to a jury in District or County Courts at Law. This yields an average of fewer than one family law jury trial per court per year across Texas. And it means fewer than 1,100 Texas lawyers (out of over 90,000 licensed) tried a family law case to a jury last year.

Although family law cases comprise the largest share of all cases disposed in 2014 (40.2%), they account for only 8.5% of jury trials during that same period. Only 0.15 percent of family law cases were settled by jury trial.

Bench trials and hearings are the meat and potatoes of the family law legal practice. Few family law attorneys have more than one jury trial a year, while many have hundreds of contested bench hearings during that same time span. Family law lawyers must know the practical differences between bench and jury presentations, and be effective in both settings. Effective advocacy is not "one size fits all."

III. TO THE BENCH.

Different judges have different preferences. Some judges only grudgingly tolerate digital evidence, while others require it. For example, some judges prohibit intrusive equipment and visible cables. If you are coming before a judge with whom you are unfamiliar, call the court coordinator and inquire as to the judge's preferences. You want to avoid unpleasant surprises and distractions.³

Be succinct and organized with your evidence. Don't waste the court's time or attempt to emotionalize the case. Filters and soft music might work with a jury, but it is likely to have the opposite effect with a judge who is more interested in getting the relevant information and moving on to the next issue than in glitz and glamour. Judges want technology to make presentations quicker and easier, not more complicated or belabored.

IV. TO A JURY.

We are in a transitional era, where an entire segment of the population fears technology, and another segment has no idea how to live without it. There are some people who require methodical spoon-feeding of information, and others who prefer five-second soundbites. Over the next few years, the former will begin to outnumber – and ultimately eclipse – the latter. Today, however, jury pools include both segments, and you must successfully reach ten of the twelve in the box. To do that, you must bridge the generation gap, and communicate effectively with them all. You must give the tech-savvy generation what they need, without overwhelming the technophobic generation. Have a flip-chart or dry-erase board for the less tech-savvy, and fancy animation for the younger, hipper jurors. And always use both in closing argument, in order to reach each juror in the way they learn best.

Use technology to keep jurors interested and engaged, without being condescending. Educate without insulting. Watch out for throw-away statements such as, "Well, I don't know about the jury, but I sure don't understand how this works," or "Can you put that into a way that the jury understands?" You're two years into a lawsuit, at trial. The jurors realize that either: (1) you *do* understand everything by this point and are simply being condescending, or (2) you're an idiot. Either way, you don't look good.

Stimulate without over-stimulating. Cable news channels overcrowd the screen and create a screaming flood of visual information – more than anyone can possibly process and absorb at one time. You are not competing for the attention of the jurors. They are a

¹ See fantastic papers and presentations by Mark Unger, Charles Hardy, Rick Robertson, Charles Awalt, and others on this and related topics.

² FY2014 Annual Statistical Report for the Texas Judiciary, Office of Court Administration (99.2% reporting)

³ Unless, of course, you practice in counties with a rotating docket, such that you don't know who you will be presiding until you arrive for the hearing.

captive audience. Use technology to focus their attention, not scatter it.

V. GENERAL RULES.

Tell your story. All the bells and whistles in the world can't take the place of a coherent story and cogent argument. You tell the story, and use the digital presentation to illustrate it. It is easy to fall in love with technology. Many young lawyers seem to want their toys to tell the story, and see themselves more as directors and producers than litigators. While the presentation of evidence has changed from passing small photos around the room to displaying enlarged images on back-lit screens using touchscreen displays, the keys to victory remain unchanged. You must inform, explain, and persuade. Tell a story, and use the PowerPoint images to enhance and support – not replace – your presentation.

A picture is worth a thousand words, unless it's a picture of a thousand words. Use bullet points to highlight important phases and words, in huge font sizes. Don't expect judge or jurors to read and listen at the same time. Use blank white space to frame simple words and phrases. Sometimes an empty screen with one giant word or simple image says it all.

SIMPLIFY! Five simple slides are more compelling than one complicated slide. For example, rather than a single screen with a long list, display them one at a time. The only circumstance in which you should have a frame full of text is if you are going to read it aloud and you want the jury to read along with you. Remember, if it distracts the jury, you are better off without it. Cull your photos, so as not to be duplicative or boring. If the jury has to strain to figure out how one photo is slightly different from the next, then it is probably unnecessary. If multiple angles and perspectives of a single item are necessary, try using 3D or panoramic viewing, rather than 50 still images from slightly different angles.

Use split screen comparisons where you can. Side-by-side “before and after” pictures can dramatically illustrate the impact of living with the other parent, the results of abuse, the need for a protective order, or material and substantial change for purposes of modification.

Better safe than sorry. These items are a must-have for any traveling trial lawyer:

- Power bars / surge protectors
- Outlet splitters and 3-to-2 prong converters
- Extension cords
- Extra monitor for witness/judge
- Portable scanner
- Portable printer
- Projector and screen
- High quality blue tooth speaker(s)

- Duct or packing tape
- Laser pointer

Scout the Scene. Visit your courtroom ahead of time. Determine the number of available electrical outlets and their proximity to counsel table, witness stand, and jury box. Note where the witness sits, and examine the angle to the judge and jury. You may need to bring your own monitor or screen, or it may be built-in. You might also need a temporary mounting clip, or an adjustable-height stand.

Do a test run of your presentation, from setup to breakdown. Ensure that the speakers are loud and clear, and audible from each juror's seat. It doesn't matter what is on a recording if the playback is unintelligible. Verify that each juror can see the screen/monitor/easel. Arrange the room so that your back is never to the jury, judge, or court reporter. Practice changing from one image to another on the laptop, and from the witness remote – forward and backwards.

Don't be afraid; be prepared.

I cannot remember a trial where the lawyers relied heavily upon electronics – either for presentation of evidence, voir dire, or to present video depositions – in which nothing went wrong. Computer crashes, projector bulbs going out, not enough outlets, thumb-drives missing, power disruptions, and distorted audio from speakers are a few examples. You must be prepared for Murphy to rear his head at the least opportune moment.

Be prepared for the Internet to crash. Wi-fi goes down sporadically, and phone service is unreliable or in some courthouses nonexistent. Bring a hot-spot or a wi-fi signal booster, just in case. If the signal goes down, you don't want to be caught empty-handed. Be sure to have redundant systems, for each possibility. Bring thumb drives for the judge and court reporter containing all of your exhibits, pre-labeled and numbered. Bring a three-ring binder with hard-copies as well, in case your judge is struggling with the computer files, there is a compatibility problem, or the dreaded blue-screen of death strikes. Turn off Windows Updates to prevent lag or spontaneous reboot. You must be ready to keep trying your case, with or without your toys. If you come into the courtroom carrying only an iPad with your head (and your exhibits) in a Cloud, you are *daring* Murphy to intervene.

Bring an ELMO in case everything else crashes. You can still display your documents on the screen with the ELMO. There is one incredibly useful app called CamScanner. CamScanner uses your tablet or cell phone camera to digitize documents. You take a photo of the document, and CamScanner squares it up,

crops it, enhances the color/brightness, and saves it as a PDF file that you can name, email, project, message, or send to OneDrive. With this app, you can take the other side's printed documents, and within seconds project it onto the monitors and start making changes.

Demonstrative evidence is fun to create and use. However, be cautious about building your entire presentation around it. Demonstrative exhibits may not make it into the jury room. If there is no agreement between counsel, some judges will not permit demonstratives to go into the jury room. If you plan carefully, you may get them admitted as a summary of the evidence, which then *will* go into the jury room with the other evidence, during deliberations.

Know your Software.

Be good with the software, on the fly. The judge may sustain an objection and exclude or require modification of a photograph or image. If you accidentally show an excluded document to the jury, claiming accident will not save you from an instruction, an admonishment or even a mistrial, if it prejudices the jury. And if the item was excluded under Rule 403 as overly prejudicial, you'll have a tough time convincing the judge that it wasn't really that prejudicial after all after it is accidentally displayed to the jury.

Consider giving the witnesses a PowerPoint remote while on the stand, and allow them to move through the images, rather than having them stand next to the screen and point. This can be the difference between a smooth presentation, and a disjointed mess, full of, "Go back to the other screen. No, the *other* one. The *first* one. Wait...is that it? No... um... YES! Okay..." With experienced expert witnesses, doing so will likely facilitate a much more polished presentation.

Bring a laser pointer or two. If you hover over the witness under the auspices of pointing to things on the screen, you may soon be sat-down by the judge. And the witness will be less effective if he or she has to point at a big screen from across the room, when identifying things in the image. Remember, laser pointers do not work on monitors or television screens!

Illegally Obtained Evidence and Possible Exclusion.

Watch out for illegally obtained digital evidence! Very often, former spouses or partners remember each other's social media passwords, or easily figure them out. Simply booting-up the other party's computer post-separation may constitute a crime.⁴ Logging into the other party's e-mail, Facebook, or other accounts,

without consent, may be criminal.⁵ However, illegally obtained evidence has generally been held to be admissible in civil lawsuits.⁶ As such, illegally obtained Facebook messages, chat logs, and e-mails may be admissible in civil court if they satisfy traditional evidentiary standards.⁷ But this victory may be short-lived, and come at a high price.

Texas and Federal statutes prohibit and criminalize the use or attempted use of certain illegally obtained electronic communications.⁸ Texas law also creates a civil cause of action for use of certain intercepted aural communications.⁹ As a result, an attorney who offers illegally obtained digital evidence in court may also be guilty of criminal conduct. It is important that you question your client carefully as to the origin and acquisition of any electronic evidence they bring you. If you suspect that evidence was illegally obtained, be cautious about using it in the proceeding. If such evidence is offered by the other side, ask to take the witness on voir dire as to the source of the evidence. If you determine that it was or may have been illegally obtained, ask the judge to admonish the witness *and his lawyer* as to their right against self-incrimination and the possible ramifications of offering illegally obtained digital evidence. This may keep the lawyer from offering the evidence at all.

In addition, one court has held that where the use of such evidence would itself be a crime, the Court should exclude the evidence so as not to be a party to, or facilitate, the crime. See *Collins v. Collins*, 904 S.W.2d 792 (Tex. App. – Houston [1st Dist.] 1995, writ denied) (*en banc* opinion by Justice O'Connor, holding that illegally obtained evidence must be excluded where its use also constitutes a crime and the statute attempts to prevent its dissemination).¹⁰

⁵ Tex. Penal Code Ann. § 16.02 (unlawful interception, use, disclosure, or attempted use or disclosure); Tex. Penal Code Ann. § 16.04 (unauthorized access to stored electronic communications).

⁶ See e.g., *State v. Taylor*, 721 S.W.2d 541, 551 (Tex.App.--Tyler 1986, writ ref'd n.r.e.); see also *Allison v. American Sur. Co.*, 248 S.W. 829, 832 (Tex.App.--Galveston 1923, no writ).

⁷ For an in-depth discussion of admissibility of electronic evidence, see "Evidence – Update and Current Issues," 2014 Advanced Family Law Conference, King and Janicek.

⁸ See Tex. Crim. Proc. Code Art. § 18.20 §2 (prohibiting use of intercepted communications in certain civil cases), 18 U.S.C. 2515 (barring use of wrongfully intercepted communications in any state or federal proceeding); Tex. Penal Code Ann. § 16.02 (criminalizing use or attempted use); Tex. Crim. Proc. Code Art. § 38.23 (prohibiting use of illegally obtained evidence in State criminal cases).

⁹ Tex. Civ. Prac. & Rem. Code § 123 et.seq.

¹⁰ But see *Allen v. Mancini*, 170 S.W.3d 167 (Tex.App.—Eastland 2005, pet. denied)(declining to follow *Collins*)

⁴ Tex. Penal Code Ann. § 33.02 (accessing computer, network, or system without consent).

Further discussion of the exclusionary rule is expected, based in part upon the Legislature's recent change to Texas Family Code section 6.501 regarding *ex parte* temporary restraining orders in divorce cases.¹¹ For divorce cases filed on or after September 1, 2015, Courts can prohibit parties from using any password or "PIN" to gain access to the other party's electronic accounts, including e-mail, banking, or social media accounts, or from reading the other party's e-mail or other electronic communications. Although the amendments do not expressly call for exclusion of evidence obtained in violation of these orders, lawyers should be prepared to argue both sides of the issue.

Audio and video recordings.

When using video depositions or audio recordings, be mindful of your purpose. First, if you are using clips to impeach a hostile witness, *know your clips*. Have a list that briefly describes the issue in each clip and the run-time, so that you can quickly jump to the one you need. You never know what the witness is going to say, and you must have the evidence at your fingertips at all times. Searching through clip after clip looking for a particular answer, or jumping around in a 90 minute video file searching for a single phrase, will derail your train of thought, and give the witness time to craft an answer. You want to remain in control of the witness on cross-examination, and you will lose momentum if you give them time to recover. And if you say, "We'll come back to that in a minute when my assistant finds the right clip," you almost certainly won't. Remember, trials have been won or lost with a single "gotcha" moment.

Second, if you are offering a witness by deposition only, compile the relevant segments into a single video clip, so you can just play it and let it run. Bring a written list of the line/page designations contained within the clip, and tender it to opposing counsel before the video is presented, to avoid interruptions. If your client can afford it, have the court reporter scroll the running text across the bottom of the video concurrently with the spoken words. This proves extremely helpful to the finder of fact, and should

¹¹ The changes to § 6.501 also (1) prohibit offensive or threatening communications toward a party through electronic voice transmissions, video chat, and electronic messaging, in addition to traditional means, (2) protect electronically stored or recorded information and intellectual property from falsification, nondisclosure, damage, destruction, or tampering, (3) prohibit destruction, disposal, or alteration of any email, text message, video message or chat message, social media content, or other electronically stored information relevant to the suit, regardless of where the information is stored, and (4) prohibit modification, change, or alteration of the native format or metadata of any electronic data.

improve retention levels. It also keeps jurors' eyes from wandering off the screen.

Remember that just because a conversation was recorded does *not* mean the witness can't testify as to what he heard and saw. Have the sponsoring witness testify as to the posture, the facial expression, and the body language of the speaker. A statement may be interpreted completely differently, depending on whether the speaker was smiling or frowning.

Temporary Orders Hearings.

Temporary orders hearings typically occur shortly after service of citation, before any discovery or through investigation has been conducted. The lawyers often have been on the case for mere days, and have not had time to obtain business records affidavits or issue subpoenas. Despite this fact, the Court is often expected to make a quick best interest determination and designate the primary custodian of the child. Judges want to hear *all* relevant evidence, and may overlook technical evidentiary rules when the evidence is crucial to determining best interest or is related to health and safety of the child. Many times, relevant evidence such as audio/video recordings, photographs, and text messages are still on the parties' smart phones. If you have the proper cables, you can connect the phone directly to the laptop or projector, and project the images onto a screen or monitor. If not, place the phone underneath the ELMO, and project an image of the phone itself. Then, rather than placing the phone into evidence, ask the judge if you can download the images/videos/texts, and submit them in digital format later in the week.

VI. CONCLUSION.

Top Ten Tips to Take to Heart.

1. Tell your story, and use the digital images to help paint the picture.
2. Don't waste the Court's time.
3. Keep it simple; don't overwhelm the jury, but have something for everyone. Remember, "Just because you can, doesn't mean you should."
4. Scout the courtroom first, and do a practice setup/breakdown before trial.
5. Be prepared for the worst. Always have redundant equipment, and bring both resident and printed backups, in case the Internet or computer go down.
6. Organize and know your exhibits, paying special attention to audio and video clips, so that you can call on them instantaneously.
7. Be capable of modifying your electronic exhibits on the fly.

8. Use split screen images during closing argument.
9. Practice your PowerPoint presentation with the witnesses ahead of trial.
10. Watch out for ill-gotten goods, and fight for exclusion when justice demands it.

