

PRACTICE TIP SHEET

Preparing Trial Exhibits

Call me crazy, but I really like preparing trial exhibits. After all, they are the culmination of all the fact finding in the case. Further, preparing trial exhibits is a task requiring proficient use of technology and great project management skills – my favorite aspects of a paralegal’s job description! Here are some practice tips:

Allow plenty of lead time. Deadlines for exchange and filing or lodging of trial exhibits and lists differ from jurisdiction to jurisdiction. In federal court, exhibit lists are filed 30 days before trial ([F.R.C.P. 26\(a\)\(3\)](#)) unless your judge sets a different deadline. In California, deadlines for exchange and filing of exhibits and exhibit lists are governed by local rules and/or a judge’s standing or case specific orders. Be sure you understand all relevant statutes, local court rules and your judge’s orders regarding trial exhibit deadlines, and begin preparations well in advance.

Possible sources for trial exhibits. Trial exhibits might be selected from deposition exhibits, from declaration exhibits, from the document productions of any party or third party by subpoena, or from attachments to expert reports.

Things to verify from court rules, standing orders or the court clerk:

- **Numbering.** Each jurisdiction or even each judge may have unique requirements regarding the numbering of exhibits. For example, some assign one number range to the plaintiff(s), and another number range to the defendant(s).
- **Exhibit Labels.** Many jurisdictions and judges have unique exhibit label formats too. For example, there may be requirements about the color, placement, and contents of exhibit labels.
- **Electronic Exhibits.** An ever increasing number of courts are requiring “e-Evidence” or exhibits in digital format on thumb drives or hard drives for the court’s use, or for the jury’s use.
- **Copy sets.** If paper sets are being provided, verify how many copies of each exhibit set the court requires, and in what format. For example, many judges want tabbed binder sets of each party’s exhibits.

Carefully review the local rules and your judge’s standing orders for instructions on these issues. Call the court clerk to ask questions about any exhibit procedure you’re uncertain about.

Strategy decisions to be made:

- **Witnesses.** Multiple witnesses may have knowledge of any given document; decide through which witness to introduce each exhibit.
- **Document version.** Decide which version of a particular document to use. For example, the version with a particular witness’s deposition exhibit stamp, or the version from one party’s document production might be preferable.
- **Organization.** Decide how the exhibits will be organized. Some attorneys organize and number exhibits in the order they will be introduced. Others organize and number trial exhibits chronologically. (Note: a few jurisdictions, such as U.S.D.C. Central District of California, have very specific rules about the order in which exhibits must be numbered. See [L.R. 16-6.1](#) and [L.R. 26-3.1](#).)

Technology. Use of technology at trial is a looming consideration these days. As referenced above, increasingly trial exhibits are being exchanged among the parties in digital format rather than, or in addition to, hard copy. Many judges now request electronic versions of trial exhibits on a thumb drive as well. In this age of tablets and smart phones, technology can have huge impact at trial, according to jury experts. In cases where digital exhibits are not mandated by the court, whether to prepare exhibits in electronic as well as paper format is a strategy and cost decision the trial team will make. However, there are great advantages to preparing electronic versions of trial exhibits. An exhibit in PDF, TIFF or JPG format can be projected in court for greater visibility and impact. Trial presentation software can make a striking visual out of an otherwise straightforward trial exhibit.

One thing is certain. The most successful trial teams have thought through and discussed all of the above considerations well in advance of trial. Careful advance planning is the key.