



iPads for jurors

Replacing the exhibit binders, iPads appear to help jurors better connect with the case

BY WILLIAM M. MARGOLIN

Remember the fun that we had as kids, in a science museum, pressing the electric buttons to make the electricity arc? Touching the buttons everywhere making kinetic energy react to a touch?"

Today that's called "interactive."

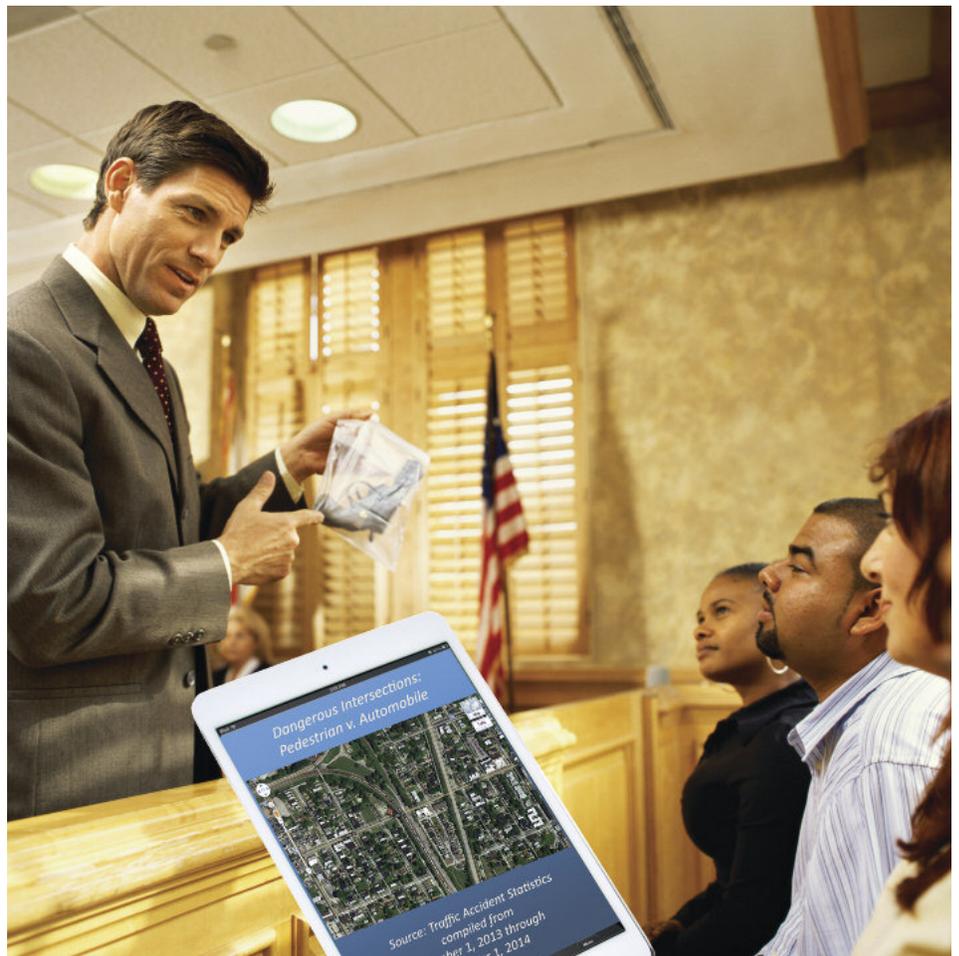
The fascination of pressing a button and making something happen is a way of creating something. That is why "the clicker" for the TV is so possessory! Interacting with electronics is really a way of controlling "mini" robots. Today there are millions of people who play interactive online games with each other. More than that, in a room full of 100 people, it seems that every one of them will be on their smartphones or iPads and not interacting with each other when, before these machines, people actually spoke to each other.

State of the art

To convince a jury – to have the jury stand and applaud your closing argument, (perhaps a bit much) – is the goal of all trial lawyers. Trial attorneys have experienced the "sleepy" juror, the "disinterested" juror, the "bored out of their mind" juror, the "eye-rolling" juror, the "making faces" juror, and the "doodle on the notepad" juror.

Today, there are jurors who can't wait for the next direction from the judge or the attorneys to turn to the next exhibit on their own personal iPads.

One of the earliest civil jury trials where the jurors were each provided with their own iPads was conducted by attorney Lisa Maki and her co-counsel, Genie Harrison, in Los Angeles Superior Court, before Judge Michael Linfield. These iPads presented all documentary evidence that was not subject to authentication challenges. The trial



was a high-profile celebrity case involving Reality TV star Lisa Vanderpump (from Bravo's *Real Housewives of Beverly Hills*), and Kenneth Todd's Beverly Hills restaurant, Villa Blanca. The manager of the restaurant was alleged to have been sexually harassing a server.

Judge Michael Linfield told me that he was generally pleased with the use of iPads in the courtroom for jurors. Those jurors not familiar with using them were helped out by other jurors and members

of the court staff who were familiar with the iPad, and all learned quickly. The judge found no court rules or limitations for the use of the electronic exhibits that were loaded up into the iPads other than the usual normal objections. He felt conceptually that they were no different than any other electric machine, like an Elmo or screen projection. The judge indicated that the jurors liked them and enjoyed using them, for the most part. He also indicated that the iPad was in lieu



of and replaced the typical exhibit book, and he felt that it worked well. It seems that if a particular document has an authenticity issue, then that document would not be part of the exhibits until authenticity is either established, or not.

The use and coordination of the iPads was performed by a courtroom presentation company in Los Angeles, MotionLit (www.motionlit.com). They were in the courtroom and provided the iPads to each of the jurors. The cost was not exorbitant. Judge Linfield wanted all jurors to have their own exhibit books that included all exhibits. This would have totaled 18 books, including the court and the clerk's copies and copies for both the defendant and plaintiff attorneys. Attorney Maki liked the idea that this was "green" technology and that she felt that she was saving trees by using no paper. She also felt that the ease of use and the ability to avoid flipping tabs and turning paper pages was great and that the ease of use for multiple exhibits was fantastic.

Coordination with opposing counsel can be difficult during litigation — it's the nature of the beast. But if opposing counsel is cooperative, then coordination of all exhibits for both sides onto the iPad can be accomplished. [Note that the special iPad software for trial exhibits allows all potential exhibits to be loaded onto the tablets in advance, but through the use of an encryption pass code gives the judge control of when the exhibits can be viewed by the jury.]

In the instant case, the defense did not agree to use the iPads until after the trial had started. Perhaps their agreement, late as it was, arose out of seeing that the jurors enjoyed using the

devices. Maki suggested to me that the use of the iPads for "Day in the Life" videos and accident reconstruction animations would be a fantastic use of this "hands on" approach to persuading a jury.

Co-counsel Harrison's take on it was similar to Maki's. She thought that the use of the iPads created a heightened sense of interactivity with the jury and kept the jurors more engaged in the proceeding. She also told me that taking the iPads into the jury room during deliberations and being able to actually touch the evidence and make it "appear" seemed to empower them. She felt that this created a personal experience for each juror and their own relationship with the evidence. Harrison also felt the iPads acted as an "ice breaker" between the jurors. It enabled them to become more of a group as they helped each other with the iPad use. This, of course, made conversations less awkward as time went on amongst the jurors.

Guide to iPad use in the courtroom

•Step One

List all the demonstrative exhibits planned to be introduced into court. Label the exhibits as it is normally done for the specific courtroom pursuant to the local courtroom or courthouse rules for preparing a trial exhibit book. Other evidence or visuals that can be videos or photos should also be prepared for submission to the court. Even tab the verdict form and anything else that is wanted to be shown to the jury (discovery, etc.).

•Step Two

Opposing counsel must be met with to discuss co-usage of the iPad and other

technology. Discuss whether they will join you in the utilization of the iPads for all exhibits and demonstrative presentations. If so, then they can help with the cost of the iPad technology. If not, then the side using the iPads will bear all the costs. This will still be cost-effective for the sole user. The cost will vary based on the type and number of exhibits. Contact the courtroom presentation vendors for pricing.

•Step Three

Meet with the judge to see if he or she will be inclined to allow you to use iPads in their courtroom. You can advise hesitant judges about Judge Linfield's experience in LA Superior Court, Department 34. I have also read that, in San Diego County, the District Attorney's office has conducted many criminal trials using iPads.

•Step Four

You will need a technology company to load exhibits before trial and manage the iPads during trial. At trial, the company assisted counsel with use of the iPad software (called iBinder - www.motionlit.com) that controls the tabs to be opened by jurors. Prior to trial, the technology specialists had helped prepare graphic exhibits, scan documents, and load both onto the iPads.

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