Guide To Personal Injury Cases



Cari L. Sheehan, Esq.

- Conflict/Ethics Attorney, Scopelitis, Garvin, Light, Hanson, & Feary, P.C.
- Frequent Seminar Speaker



Pleadings and Motions Checklist

Preliminary Considerations

- Before drafting the complaint, counsel should consider theories of liability, elements of the cause of action, and remedies available given the facts presented.
- Court rules generally require short, plain statements in the allegations. It is plaintiff's counsel who must clearly allege facts that support a claim against the defendant.
- The complaint may be drafted with multiple counts stating the respective issues and relief requested.
- It is important to investigate the applicable statute of limitations period because the case will be dismissed if the complaint is filed too late.
- Jurisdiction is an issue that will determine where to file a complaint. Review court rules and/or applicable statutes to determine proper jurisdiction.

Elements

The common elements consist of:

1. the names of the parties and their status (plaintiff, defendant, etc.);

2. the court in which the case is to be tried; and

3. the docket number.

The initial complaint will not have a docket number until one is assigned by the clerk's office at the time of filing.

Elements – Counts

Each count in a complaint is identified as to its nature (Count I – Negligence, etc.).

Each allegation within an individual count is numbered.

State codes of civil procedure allow plaintiffs to plead as many of the claims has they have against the defendant(s).

Prayer for Relief

- The “Prayer for Relief” appears at the end of the complaint and is usually identified by those words. It contains the remedies the plaintiff is requesting the court to grant.
- These may include a request for money damages; an injunction; restitution; reasonable attorney’s fees and costs; or other relief authorized by the cause of action. There is usually a general request which asks the court to grant “other and further relief as the Court deems just and equitable.”
- The answer to a complaint may also contain a prayer for relief.
- These may include a denial of the plaintiff’s prayer in the complaint; a request to the court to dismiss the case; and attorney’s fees; or specific relief on the basis of a counter-claim(s). A request for attorney’s fees should identify the statute that authorizes the fees by citation.

Verification

Signed by the party or attorney of record.

Fact v. Notice Pleading

- Many states use fact pleading, which requires plaintiffs to plead all facts supporting the cause or causes of action. Discovery is then narrowed to the issues raised by the facts.

- The federal courts use the more relaxed standard of notice pleading. The Federal Rules of Civil Procedure, specifically Rule 8(a) requires that a complaint to set forth "a short and plain statement of the claim showing that the pleader is entitled to relief."

- Federal Rule 12(e) allows for the defendant to file a motion for a more definite statement when the complaint is too vague. The motion must be filed before filing a responsive pleading (the answer).

- The alternative to attacking a complaint is to file a 12(b)(6) motion to dismiss for failure to state a claim upon which relief can be granted.

Answers

- The defendant may have procedural options prior to filing an answer to the complaint.
- Procedural Options: motions to dismiss the complaint for failure to state a claim, a motion to strike parts of the claim, objections to jurisdiction, or an attempt to remove the case to a different court among others.
- The answer should mirror the complaint as much as possible including the caption.
- The answer should be organized and numbered in reference to the counts and allegations of the complaint.
- There should be a denial that the plaintiff is entitled to the relief sought and a request for defendant's costs.
- The answer should raise any affirmative defenses that are available.
- An affirmative defense are facts asserted by the defendant that will defeat the plaintiff's claim even assuming that the allegations in the complaint are true.

Answer Responses

- Admit
- Deny
- Lack Sufficient Knowledge to admit or deny the allegation

Counterclaims

- The defendant may also raise any counterclaims against the plaintiff as part of the answer.
- Counterclaims are those claims that the defendant may have against the plaintiff arising out of the same set of facts.
- The counterclaim should follow the responses to the allegations and affirmative defenses.
- Stating a counterclaim in the answer generally follows the same rules for pleading that apply to a complaint.
- A counterclaim will require a response from the plaintiff as to the allegations contained in the counterclaim.

Third Party Claims

Third party complaints are appropriate in circumstances when there is a party who is not listed as a defendant in the initial complaint but who may be liable for all or part of the plaintiff's claim.

Amendments

Add or Subtract Counts or Parties

Discretion of the Court

Motions

- Depends on the type of motion
- Do your research
- Examples

Discovery Checklists and Forms: Requesting and Receiving

Discovery

Public Records Requests (Steps):

Step 1:

- Figure Out Specific Information Needed
- Figure Out What Agency or Agencies Have the Information

Errors:

- Overly Broad Requests – Sent Back

Tips: Keep specific on requests and request from multiple agencies if unsure of location of documents.

Discovery

Step 2:

- Before making request, search online to make sure information isn't posted on the agency's reading room

Tips:

- There is a lot of public data that is newsworthy but nobody's pored through and written about it

- Searches online help narrow request

Discovery

Step 3:

- Write down the request in an email or a letter – or the preferred method of the agency (check websites for online request submissions)
- Best contact for agency to reach you (email, phone number, mailing address)
- Preferred method of receiving the records (email, paper, mail)
- Payment of fees for records or request exemption – allow exemption for media if purpose is to disseminate the information or educational purposes
- Include timeframe in which you want to hear back from the agency
- Other Contents:
  - Information requested
  - Dates when it was maintained
  - Other information to narrow search/describe records
  - Other information based on agency requirements and regulations, e.g. “FOIA” needs on both envelope and top of letter

Discovery

Step 4:

- Follow-Up with the agency if do not receive response within your timeframe or regulation timeframe

Notes/Roadblocks:

- Most take 20 business days for a response, and agencies often ask for extension of time
- You can request expedited – but not guaranteed
- Information disclosed can be redacted
- Agencies can refuse disclosure based on exemptions,
  - E.g. national security, trade secrets, privileged communications, information that impacts right to fair trial, information related to agency's internal personnel rules, prohibited from disclosure by federal laws, law enforcement techniques, etc.

Discovery

Public Records Requests – Tools to Assist:

- Website: IFOIA.org – request generator wizard, database of agencies and offices and resource page
- MuckRock – cost $$ - files requests and automates the process

Discovery

Interrogatories

- Either answer the questions or object to the questions, e.g. overly burdensome, irrelevant, beyond question limit
- Used against your client at trial
- Keep answers short and simple – only answer the question that is asked – but don't be too evasive
- Response deadline, typically 30 days
- Continuing duty to supplement responses
- Signed under penalties of perjury
- If object, no duty to respond until judge rules on objections but an response and still present objection as well

Discovery

Document Production an Inspection Requests

- No production of documents if have a legal objection
- Produce all documents if no objection
- Produce documents, in part, and others withhold if legal objection(s) for some and/or the inability to comply
- No production of any documents based on inability to comply

Common Mistakes:

- Only giving partial incomplete objection – no proper citations, authority
- Depending on jurisdiction – missing mandatory language per rules
- Waiting to the last minute to respond
- Relying solely on your client to provide documents
- Over production of documents because didn't want to review or redact – laziness
- Unorganized documents
- Missing ESI – online requests or other relevant requests
- Preservation errors

Discovery

Requests for Admissions

- Respond to each as Admit – or – deny
- If fail to respond within the allotted time frame, deemed admitted
- Used against your client at trial
- In drafting – single simple statements for each request listed; don't overcomplicate a request.
- Only answer the statement presented

Discovery

Deposition Requests/Notices

- Use court forms if available
- Make sure serve properly under the rules
- If want the deponent to bring records, couple with a Subpoena *Duces Tecum*
- Send to correct person and address
- Give requested notice under the Rules

Discovery Checklists and Forms: Responses

Discovery Response and Document Production Mistakes to Avoid

<u>Improper Use of Objections</u>:

- **General Objection to all requests and discovery**
  - **Useless but defense attorneys love this objection**

- **Vague, Ambiguous, Argumentative, Overbroad, Unduly Burdensome, Not Reasonably Calculated to Lead to the Discovery the Admissible Evidence**
  - Use sparingly, boilerplate, disfavored by Judges

- **Calls for Legal Conclusion**
  - Use sparingly
  - An interrogatory is not objectionable merely because it asks for an opinion or contention that relates to fact or the application of law to fact, but the court may order that the interrogatory need not be answered until designated discovery is complete, or until a pretrial conference or some other time." Fed. R. Civ. P. 33(a)(2).

- **Conjecture/Speculative**
  - Okay for Plaintiff – not plaintiff's job to guess what could happen in alternative universe

Discovery Response and Document Production Mistakes to Avoid

<u>Improper Use of Objections</u>:

- **Broad, uncertain, unintelligible**
  - Valid if true, don't overuse
- **Calls for Privileged Information**
  - Attorney-Client Privilege
  - Work Product Doctrine; Attorney Work Product in Anticipation of Litigation
- **Costly/Burdensome**
  - Copying costs, photos, voluminous docs, e-discovery, storage issues
  - Suggest alternative – review at storage location, split costs, requesting side absorb the cost – Fed. R. 26(g)
- **Equally Available Information**
  - Valid if true
- **Compound, Conjunctive, or Disjunctive Question**
  - Alerts opposing counsel that using compound questions to make end run around question limit

Discovery Response and Document Production Mistakes to Avoid

<u>Improper Use of Objections</u>:

- **Self-incrimination – 5th Amendment**
  - Valid
- **Harassing, Oppressing, Embarrassing and Annoying Requests**
  - In whole, or in part
  - Irrelevant
- **Seeks Information Not in Possession, Custody, or Control – No Personal Knowledge**
  - Valid
- **Cause Undue Hardship**
  - Increase cost of litigation
- **Exceeds Number of Allowable Interrogatories/Requests etc.**
  - Valid, cite the rule in the objection

Discovery Response and Document Production Mistakes to Avoid

Watch Out for Local Objections/Jurisdiction Specific Objections

If you are a plaintiff's lawyer in Maryland, you must know this rule. If the defendant has surveillance films or Facebook posts of your client and wants to use them as evidence, they must be disclosed AFTER the plaintiff's deposition. So asking a question that covers this will not protect your client from getting blindsided with this impeachment evidence at a deposition.

Shenk v. Berger, 1991, 587 A.2d 551, 86 Md. App. 498 (1991).

Discovery Response and Document Production Mistakes to Avoid

Answer Subpoenas, Dos and Don'ts:

Recipient **MAY**:

- Comply with the subpoena and provide the requested testimony and/or documents.
- Serve written objections to a document subpoena.
- Move to quash or modify the subpoena.
- Move for a protective order.
- Contact the party who served the subpoena in an attempt to informally resolve the issue.
- Contact an adverse party to the litigation who did not serve the subpoena in an attempt to have that party exercise its rights against the party who issued it.

Discovery Response and Document Production Mistakes to Avoid

Steps to Responding to Subpoenas, Compliance:

(1) Decide potential objections

(2) Present the objections

(3) Compliance

Discovery Response and Document Production Mistakes to Avoid

Discovery Deficiencies:

- Memorialize all in a "discovery deficiency memo" – organized
- Use the memo as backbone for motion to compel
- Go through the opposing party responses one-by-one

CONFIDENTIAL INTERNAL MEMORANDUM

To: Attorney
From: Paralegal
Date: November 11, 2018

Subject: Picard v. Picard – Discovery Deficiencies Memo

Deficiencies with Respect to Answers to Interrogatories

- Interrogatory No. 9. For this request for a list of all marital property, including type of property, basis for claim that it is marital, cost of acquisition, and present value, Wife failed to provide an itemized list of furniture, furnishings, art, and appliances in the marital residence and the present value of each item. Husband no longer resides in the marital residence and therefore is unable to compile this list.
- Interrogatory No. 10. For this request for information regarding business interests, including nature of interest, percentage of interest, and estimated value of interest, Wife failed to provide her estimated value of her medical practice and the percentage of her interest.

Deficiencies with Respect to Requests for Production of Documents

- Document Request No. 2. For this request for documents reflecting the income, expenses, assets, or liabilities for any business interest, Wife failed to produce partnership income tax returns, balance sheets, profit and loss statements, income statements, or other documents reflecting the income, expenses, assets, or liabilities of her medical practice.

Discovery Response and Document Production Mistakes to Avoid

Review, Redaction, and Production Oversights

Applying effective redactions is a two-step process:

- Accurately identifying the information to be redacted in documents to be provided/ released; and
- Applying the redactions to ensure recipients are not able to retrieve the redaction information, be it by simple means or using more sophisticated tools.

Discovery Response and Document Production Mistakes to Avoid

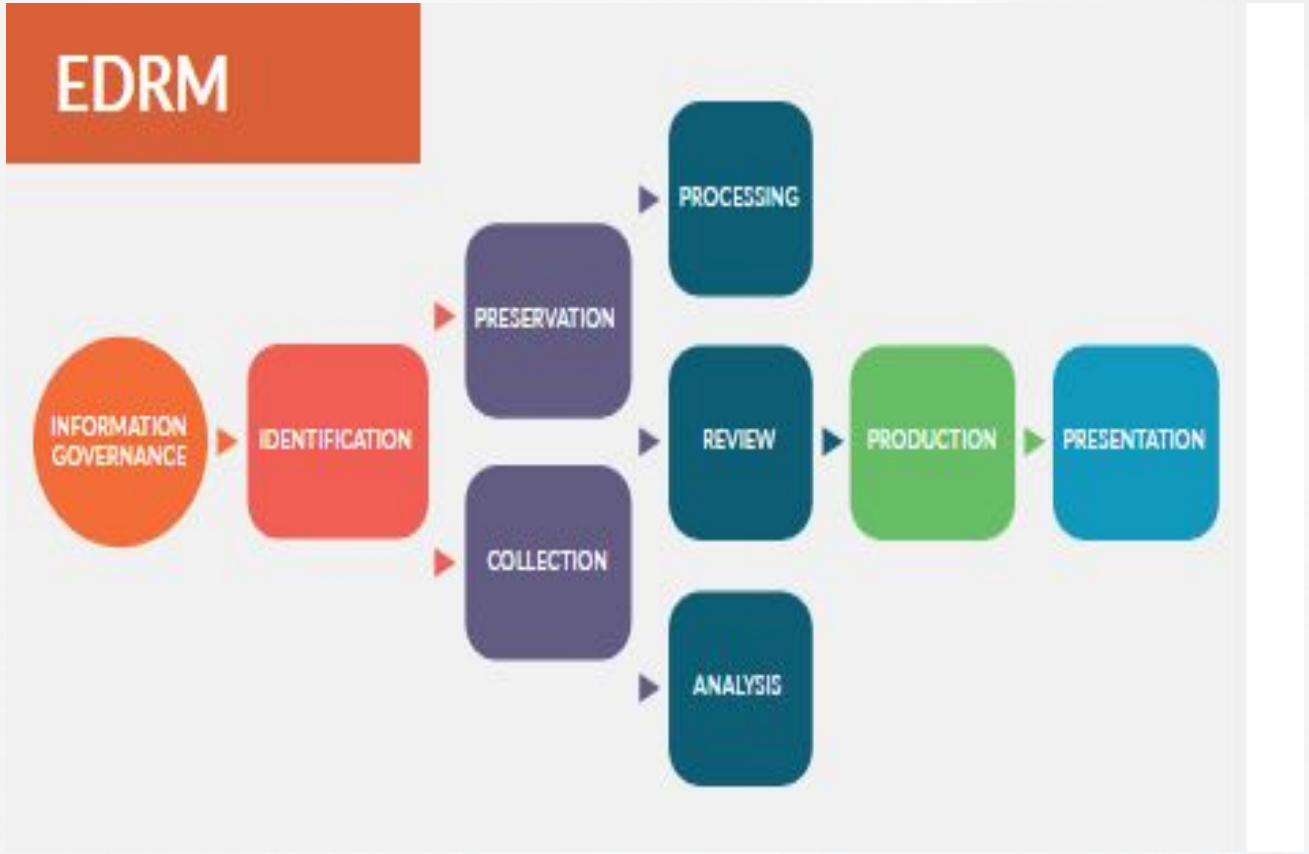
Top Mistakes Overall in Producing Documents In Discovery

1. Ineffective Redaction
2. Extra/Orphaned Files
3. Not Producing Enough or Too Little
4. Failure to Communicate
5. Not Organized
6. Missing Files – Not Obtaining In Time for Production
7. Document Certifications
8. Not objecting or producing documents already objected to
9. Not reviewing production before it goes out
10. Procrastinating

Electronic Discovery Pitfalls



Electronic Discovery Reference Model (EDRM)



Electronic Discovery Reference Model (EDRM)

Quick Summary of EDRM Stages:

(1) **Information Governance (IG):** policies, procedures, processes, and controls implements to manage electronic information in a company. E-discovery is part of the IG and how things are organized, stored, saved, and ultimately produced.

*** Sidebar: **What stuff is easily overlooked?**

(2) **Identification**: litigation foreseeable, parties have a legal duty to preserve relevant ESI. Determining what is relevant falls into this stage. Discovery teams use variety of methods, e.g. review of case facts, interview key players, assess data environment

(3) **Preservation**: protect the information from "spoliation" – legal term for any destruction or alteration of evidence. Most common method is a legal hold, which is a formal communication sent from the legal team to the relevant data owners/custodians instructing them to not delete certain ESI.

*** Sidebar: **What are some common preservation mistakes?**

Quick Summary of EDRM Stages (cont.):

(4) **Collection**: gather and centralize documents and data. Collection methods and technologies vary. Ensure all contents and metadata (date created, filed size, etc) are not altered as result of collection process.

*** Sidebar: **What are some oversights on collection and requests?**

(5) **Processing**: Preparing collected ESI for attorney analysis and review. Typically but use of specialized software, processing might entail extracting files from folders, deleting meaningless system data, or converting certain file formats in preparation for attorney review.

(6) **Review**: Most expensive stage. Evaluate ESI for relevance and attorney/client privilege. Organizations typically outsource review to law firms. Technologies allow in-house legal teams to use artificial intelligence tools to distinguish between relevant, non-relevant, and privileged documents. Time savers and money savers

*** Sidebar: **What are some review and production pitfalls?**

(7) **Analysis**: evaluation of the ESI for content and context, including key patterns, topics, people and discussion. This really happens throughout the whole process though.

(8) **Production**: involves electronic evidence is displayed as evidence at hearings, depositions, and trials.

Checklists for Hearings and Depositions: Scheduling, Preparation, What to Do After



Preparation

- Think Ahead
- Know what is needed for the hearing/meeting
- Prepare and work with attorney in advance

Scheduling

Managing Calendars:

- Electronic Email and Court Notices – Check Your Email EVERY morning and throughout the day. 5-6 times daily. Habit.
- When deadline confirmed, put it on the calendar IMMEDIATELY
- Discuss any calendar conflict with the Attorney in case a Motion for Extension of Time is necessary
- Schedule a time at the beginning and end of your week to review assignments, deadlines, and Statute of Limitations
- Calendar items by Case name and/or Civil File Action Number to Keep organized. – plus description of assignment
- Calendar Statute of Limitations when get the initial case

Scheduling – Common Errors

- Not Reading the Rules
(State, Federal, Local, Judges Preferences)



- Not knowing to how to count days – or calendar properly

- Not following the local procedures and Judge's preferences

Scheduling – Fed. Rule 6 – Examples

RULE 6. TIME: Section (a) Computation

In computing any period of time prescribed or allowed by these rules, by the local rules of any district court, by order of court, or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included.

The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, or, when the act to be done is the filing of a paper in court, a day on which weather or other conditions have made the office of the clerk of the district court inaccessible, in which event the period runs until the end of the next day which is not one of the aforementioned days.

When the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

Scheduling – Fed. Rule 6 – Examples

RULE 6. TIME

Section (e) Additional Time after Service under Rule 5(b)(2)(B), (C), or (D). "Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon the party and the notice or paper is served upon the party under Rule 5(b)(2)(B), (C), or (D), - - - **3 days shall be added to the prescribed period**."

Scheduling – Fed. Rule 6 – Examples

RULE 6. TIME.

Section (b) Enlargement. "When...act is required or allowed to be done at or within a specified time, the court for cause shown may at any time *in its discretion*:

(1) with or without motion or notice order the period enlarged if request therefore is made before the expiration of the period originally prescribed or as extended by a previous order, or

(2) upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect; but it may not extend the time for taking any action under Rules 50(b) and (c)(2), 52(b), 59(b), (d) and (e), and 60(b), except to the extent and under the conditions stated in them."

Scheduling – Fed. Rule 6 – Examples

Legal Holiday List:

- New Year's Day – January 1
- Martin Luther King, Jr. – 3rd Monday in January
- Washington's Birthday – 3rd Monday in February
- Memorial Day – Last Monday in May
- Juneteenth – June 17th
- Independence Day – July 4
- Labor Day – 1st Monday in September
- Columbus Day – 2nd Monday in October
- Veteran's Day – November 11
- Thanksgiving Day – 4th Thursday in November
- Christmas Day – December 25



What to do After

- Calendar new dates
- Tickle follow-ups
- Put stuff back in binders
- Meet with attorneys for plan of action

Trial Preparation Checklists

Effectively Working With The Litigation Team

Litigation

- Paralegals assist during a trial
- Paralegals work as part of the team
- Paralegals gather, assemble, and organize evidence and facts
- Paralegals are the master/keepers of the facts and evidence
- Paralegals are the key person (the “glue”) that keeps the attorney working efficiently and productively

Effectively Working With The Litigation Team

Common Mistakes (Paralegals)

- Failure to plan and start early. Trial preparation begins as the initial consultation with the client
- Failure to schedule properly – calendar deadlines, etc.
- Failure to gather and organize evidence, witnesses, and items
- Failure to coordinate with the Litigation Team
- Failure to follow court orders
- Failure to know the court rules and procedures
- Failure to meet deadlines
- Failure to communicate



Trial Exhibit Preparation

Types of Exhibits:

Physical Evidence

- E.g. client items, weapon, clothes, medical records, papers, etc.
- Keep the items protected/preserved
- Maintain chain of custody if applicable

Demonstrative Evidence

- E.g. mock-ups, models, exemplars, animations, videos, electronic animations, flip charts, and items that may be needed by an expert to explain or demonstrate a point or opinion
- Something that will assist the jury in making a determination – adds value.

Physical Evidence: Paper Exhibits

- Identify and gather early
- Place in numbered folder or electronic file by Exhibit number
- Place on draft Final Exhibit List
  - Include objections that may arise
- Review Exhibits frequently – add/subtract
- Add Exhibit and page numbers at the bottom of each Exhibit
- Coordinate filing with court
- Create Exhibit Notebook and Index
- Add copies of opposing party's exhibits to exhibit notebook with objections

Working With Medical Records

- Obtain consent/authorization to obtain medical records from client at initial consultation – DO NOT TRUST WHAT THE CLIENT GIVES YOU.
  - Get full list of providers from the client
  - Order medical records immediately when opening the file
  - Read all medical records – particularly ER records for referrals and diagnostics
  - Document initial diagnosis – find items to note for the attorney
  - Create medical records summary sheet (e.g. date, time, provider, treatment, diagnosis . . . Timeline) – AND a Medical Expense Itemization

Working With Medical Records

- Follow up with the client every 30/60/90 days for medical updates (e.g. providers, etc.)
- Order diagnostic and check billings
- Order bills separately – they usually have to be requested separately and sometimes through billing office
- Check for any future events (e.g. surgery, minors re: growth plates)
- Learn medical terminology or have a medical dictionary
- Collect doctors that would be best to depose or interview
- Think like the opposing counsel when gathering medical records
- Have the records certified UPFRONT – DO NOT WAIT



Demonstrative Exhibits

Educate the Trier of Fact (e.g. clarify and persuade)

To support testimony and build the “story”

To clarify expert testimony

- Meet admissibility requirements at trial, animations and day-in-the-life videos may be presented in brief segments in tandem with an expert’s testimony or voice-over if parties cannot agree to use them as demonstrative Exhibits.
- To communicate unfamiliar, complex and voluminous information to an audience that typically lacks the background easily to understand it.
- As complexity of information increases, jury interest and comprehension decreases.
- Visually oriented world = success in presentation

Effectiveness of Demonstrative Evidence

Active Learning

- Learn by reading, listening, and experiences
- Combination is best method



Challenges with Visuals

- Accuracy
- Opponent turn visual aid against you
- Make sure clear message, no misinterpretation
- Make sure not used by trier of fact to draw unintended conclusions
- Clear and blunt

Types of Demonstrative Evidence: Visual Aids

Flip Charts:

- Created Prior to Trial
  - Often Blow-Ups of smaller Exhibits or demonstrative evidence
  - Small versions for cost-effectiveness
  - Easel or other devise to display in courtroom
  - Coordinate regarding disclosure requirements for use (timing)

- Created in Courtroom
  - Usually on flip chart provided in court or brought in by Counsel
  - Have markers in several colors
  - Number and date pages (on back at end of the day)
  - Take digital pictures (at the end of day) and place in Exhibit book or attorney trial notebook
  - Usually created by attorney or expert during witness testimony
  - If admitted to evidence, coordinate with court clerk to get marked

Types of Demonstrative Evidence: Visual Aids

Mounted Enlargements:

- Can be in color or black/white
- Determine how Exhibit will be used and have supplies available (e.g. Markers, Mylar, etc.)
- Make sure there is equipment to display Exhibit to the jury
- Make sure smaller copies are available for making by clerk
- Take digital pictures if Exhibits are altered during trial

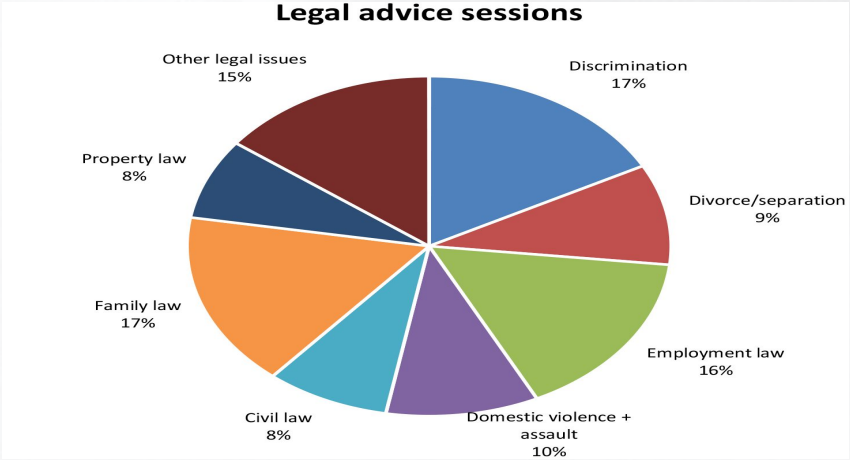
Videos/Video Animation:

- Have equipment (large enough) to show to jury. (e.g. TV on rolling stand and roll down sidewalk to courtroom).
- Can show sequence of events
- Recreate event
- Contrast alternative view of events
- Makes the event feel "real" to the jurors – "day in the life"
- Prepare early and coordinate disclosure of use

Types of Demonstrative Evidence: Visual Aids

Timelines:

- Clear, simple, and large timeline of events
- Jurors see the chronology
- Helps track dates/events – sequence
- Ensure accurate and not misleading



Charts:

- Complexity, readability, clarity
- Font size important
- Videos still might be easier
- Scale is important on some images and evidence

Demonstrations:

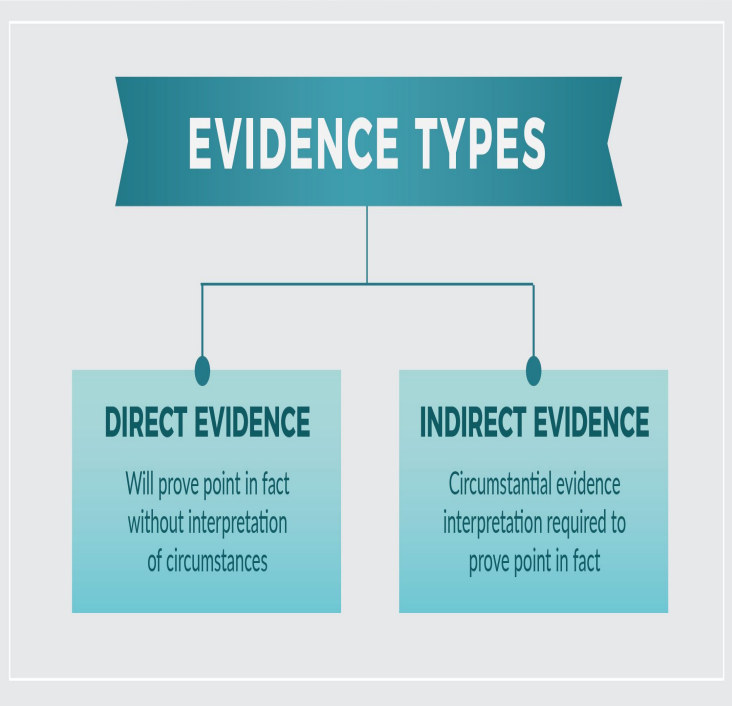
- Can be spontaneous or planned out depending on the case.

Mistakes with Visual Aids

- Putting too much information
- Ineffective integration
- Distract from presentation/flow of trial
- Confusing visuals
- Picking the wrong direction or technology direction
(high-tech? low-tech? paper? electronic? charts? graphs?)
- Failure to adhere to court rules (e.g. Rules 401, 403, 611(a) and/or 1006)

Picking Exhibits: Evidence

- Help attorneys select exhibits as soon as possible – preparation
- Foundation for Exhibits – prepared/set-out
- Save Copies of each Exhibit as identified in preparations
- Assist in preparation in demonstrative evidence (start early)
- Timing of disclosure to other side
- Exhibits by witness testimony (match them up)
- Final Exhibit List Preparation
- Work with court to determine technology in the courtroom



Organizing the Trial Notebook

- Keep binders of a same or similar nature together (e.g. discovery responses, depo transcripts, expert reports, etc.) – separate notebooks for specific purposes!

- All files and documents should be readable and, in addition to having hardcopies, also have a laptop, thumb drive or portable hard drive back-up

- Prepare Trial Notebooks containing key pleadings and pre-trial motions and documents for each member of the trial team – as well as a courtesy copy for the court – label binders and spines with each person's name
  - Manageable size
  - Cross-indexing
  - Chronological to Conduct of Trial
  - Topical
  - Coding and Management
  - Formatting important of content – charts, etc. – PDF or WORD?

Organizing the Trial Notebook

- Keep loose copies of all exhibits to provide to the Court, Witnesses and/or publish to the Jury
- Maintain exhibit log to track exhibits that have been offered/admitted to the Jury
- Anticipate the documents that will be needed for each day at trial and position them accordingly
- Take all trial documents to courthouse each day to avoid having to go back to car/office

Client and Witness Preparation

- Preparation should be done in person – fine line on coaching and preparing a witness.
- Name of witnesses intended to be called at trial
- Anticipated length of Direct, Cross- and Re-Direct Examination
- Exhibits to be used with each witness
- Whether witness will be called live or through deposition
- Contact information for witness
- Estimated date and time of testimony
- Make a witness summary chart!



Courtroom Presentations

- Visit the courtroom prior to trial start date
- Make a list of what is needed for the trial
- Check with court staff re: equipment and ability to bring items to the courtroom
- Plan for space needed and storage
- Out of town cases may require more careful planning
- Set up courtroom prior to first day of trial – if possible – coordinate with court staff
- Leave as many things as possible in courtroom to reduce amount of trial items transported
- Assign jobs/tasks – point people on items
- Have someone ready at office at all times

Checklist of Items to Take for Trial

EVERY CASE IS DIFFERENT

TRIAL NOTEBOOK
WITNESS/EXHIBIT LIST
EXHIBITS
RECORDS
NOTEBOOKS
PENS/PENCILS
DEMONSTRATIVE EVIDENCE
VISUAL AIDS
PRINTER
COMPUTER

Main Reminders

- Make sure attorney appears efficient and well prepared – anticipate needs
- Be prepared with supplies – trial "first-aid" kit
- Work with opposing counsel, court staff, and Judge
  - Coordination of witnesses/exhibits
  - Coordination of schedules, motions, filings, admissions of evidence, presentations
  - Follow court instructions
  - Polite and helpful attitude
  - Do not speak in court sessions unless addressed by the Judge – assist attorney only unless instructed
- Make sure attorney table is clean and organized
- Maintain composure at all times (eg. when searching for docs, etc.)
- Methodical searching gives attorney time to gain composure too
- Keep extra copies of all "hot" documents

Questions?