

Trying It Smarter, Faster, and CHEAPER!

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I. It's Not the Old Days Anymore

In February of this year, my father and I tried another simple car wreck, and had to come up with even simpler ways to try it. I am certain that many of you have experienced what I have encountered which is that sometimes you have to take the small car wreck case to trial. You know the case with a minimal policy, and had a minor impact with soft tissue damages. So you're left with a choice, try the case or take a terrible offer, because you're reading this paper, I'm assuming you're going to try the case, well done. Now the fun party begins, how do you tell your client's story without breaking the bank on case costs and expenses? Hopefully this paper will give you some ideas on how to find sources and resources of potential demonstratives and exhibits that are useful and most importantly cost effective.

II. I Love Google

It's simple, when you need to order late night Chinese food while you're preparing for trial, go to Google; when you need a quick and inexpensive demonstrative/exhibit, go to Google. Quick note, every jurisdiction is different, many judges are different, so I assume that you can prove up whatever you found to get it admitted into evidence or that your judge has granted your use of the demonstrative. As you begin the demonstrative search process, look at your Rules of Evidence to begin forming your arguments as to why whatever you downloaded/printed should be admitted or why the demonstrative should be published to the jury.

As I meet with a new car wreck client, and way before I ever take the defendant's deposition, I "Google" the location of the accident and discuss with the client the "Google Map" location and ask my client the following questions: (1) are you familiar with the area; (2) how they are familiar with the area; (3) if they recognize the area from Google Map; and (4) if the Google Map scene is a "fair, accurate, true, and correct" depiction of

the scene at the relevant time of the accident. If it's the same then you're ready to use the same image when you're crossing the defendant. If your client says the image is not the same as it was at the relevant time of the accident, then you have to find out what is different and what is the same?

When you're ready to depose the defendant, print out the map (in color) or download the image to a tablet device, or laptop as an .html link so you can interact with it on your laptop during the deposition. As a practice tip, if there is a street view available for the particular street scene I try to use the street scene view as that gives you a first person view point of what the defendant/plaintiff would have scene at the time of the accident. This is especially helpful if the defendant says they couldn't see your client!

III. Sometimes You Have to Get Creative

Sometimes you have to work faster and smarter because you need more than just a Google Map to obtain the necessary compensation for your client. I have found that when you need an animation, a great source is of course our AAJ vendors, but if the cost is too high for a small car wreck, the next best resource for a basic but very helpful demonstrative, is the treating physician. Many of our treating physicians have websites, and in their website look for videos explaining the procedure that was done on your client, or that they propose should be done on your client, and if your expert doesn't have a video look to the defendant's experts and see if they have videos, most do. The videos are usually very instructional and informative since they are used to educate potential patients, so why not use them to educate potential jurors.

IV. There is an App for That

The Ipad is a great tool that can be used for more than just watching movies or getting your small children to stay quiet. The TrialPad app and

3D4Medical – Orthopedic Patient Education app are my two favorites to put it all together.

TrialPad is an easy and effective way to present your trial. It's a great app to present your smaller and simpler car wreck cases. It's also great for depositions (remember that Google Map) because you can annotate pictures, digitally mark them as exhibits, and if you have a wireless printer, print them wirelessly and attach them to the deposition.

The medical app, created by 3D4Medical, is a medical teaching app, which has great digital models that many treating physician currently use in their private practices to explain injuries to their patients. If you can use the app in your expert's deposition then that is a powerful demonstrative to show the jury what happened to your client, just remember to disclose the app prior to their deposition so you can avoid early on any issues with these demonstratives. This app is easy to learn and use, and effective when paired with your doctor during their deposition.

V. Final Thoughts

1.) Get creative on your demonstratives, in this age of technology, your imagination is the only thing preventing you from a new demonstrative. Seriously try Googling what you would like to show, it's out there.

2.) Look for demonstratives that your jury can relate to, just think, if you have any teenagers in your house that drive, in two short years they could be on your jury, what kind of world have they experienced everyday of their lives? You need demonstratives that they can relate to and experience.

3.) Work with opposing counsel to pre-mark and pre-admit your key evidence and demonstratives. If you can do this, then you can use the evidence whenever you want.

4.) Figure out a budget early on, and decide where you must spend a little more to get a great demonstrative and where you have to rely on your imagination.

5.) Keep your exhibits/demonstratives simple, they are the easiest to understand.