

2017 Convention
**Champions
for Justice**

20. iPad from the Office through Trial

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As a self-described tech addict and small firm practitioner, I've made a commitment to technology – developing a paperless, mobile and efficient law office. From my iPad, to apps that manage cases and support outstanding courtroom presentations, to cloud computing that helps manage all the intricate pieces of cases and a law office, the possibilities are endless.

When I started my first law firm job as a runner for a small Louisville, Ky., firm, at least 10 large filing cabinets lined the walls of a small room – containing years of case law, statutes, professional journals, and anything else that would help a lawyer navigate cases. However, those same filing cabinets also were a nightmare: They took up a lot of space. If something was misfiled, it was lost forever. And they certainly weren't user friendly. Enter Evernote.

Evernote

And then, there's Evernote, a cloud computing app that lets you organize almost any type of document, audio, or visual file, that is now my electronic filing cabinet. I use it to maintain not only legal research and form files but also medical and scientific files, an expert witness database, opposition research, and even travel documents. It is probably the most useful program I have ever tried.

Multiple platforms. Because Evernote's databases are synced to the cloud, users can access their files from several devices. Evernote has desktop applications for both PC and Mac, and it has apps for the iPhone, iPad, and Droid platforms.

Numerous ways to input data. There are numerous ways to transfer information into Evernote, which accepts PDFs, Microsoft Word files, video and audio clips, and various image formats. You can drag and drop existing files into the program, or you can create a text, video, or audio file and save it as a "note" directly in the app. You also can send email to your Evernote database to create a new note, which is particularly useful for bookmarking important information for the future. For instance, if you see a list server message that you want to save in your legal research file, you can forward that email straight to your Evernote database for future review. To save helpful Web pages, right click and choose the "Send to Evernote" option.

Easy organization. You can develop and maintain multiple customizable notebooks—for example, one with expert witnesses, one for legal research, and another for medical or scientific research. You also can "tag" notes, which allows quick access to notes on a particular subject. For instance, if you're researching a premises liability case, you can save and tag all the relevant cases or statutes that you find with that particular case name.

You also can tag each saved note with one or more descriptions such as "premises liability," "slip and fall," or "open and obvious"—and find them easily for future cases. To search through your Evernote notebooks, ask the app to "call up" all notes that are tagged with a particular case name or phrase. Searching for a particular phrase or calling up notes in multiple notebooks with multiple tags is easy: Each note that is added to Evernote is made searchable with optical character recognition.

Easy sharing. You can share notebooks with others, post specific notes to social media, or email notes directly from Evernote. A firm, for example, can use Evernote to maintain a group-wide legal research notebook. Or, if co-counsel would like to see your research on a particular issue, you can call up all notes tagged with that issue and email them to that attorney.

In some depositions, I take notes by typing them directly into Evernote, however, I typically don't like the distraction of someone typing in a deposition. For this reason, I often use Noteshelf. That being said, sometimes Evernote is the best tool for the job. I also use Evernote to maintain a database of expert witnesses - including their CVs, rate sheets, and list cases in which they have been involved. I also use it as a legal research file, medicine and science file, a means to keep track of travel documents like confirmations and itineraries, and for researching individual cases.

Because Evernote's databases are synced to the Cloud, users have the ability to access files from all their devices. Evernote has desktop applications for both PC, and Mac, as well as apps for the iPhone, iPad, and Droid platforms. While I haven't personally used it, I'm told that Microsoft's OneNote is a very similar, and efficient program.

iPad and Cloud Technology for Depositions

General Colin Powell once said, "There are no secrets to success. It is the result of preparation, hard work, and learning from failure." It is appropriate to quote General Powell here because preparing for an important deposition in an important case is like preparing to battle. Before "D-Day" (Deposition Day), attorneys spend countless hours of preparation. We review every document in the case file, do legal research, talk to experts, create an outline, and gather documents. The day before the battle, just like a soldier getting ready for deployment, we pack our bags with everything we could possibly need while away from the office.

If you're on the cutting edge of legal technology, your rucksack for most depositions probably includes only three things, an iPad, a video camera and exhibits to admit. The iPad has replaced a whole host of boxes, binders and papers that used to be lugged into each deposition. It has done so in my office because the iPad meets my three basic rules for technology in a law practice: it is easy, makes things faster, and most of all – it's reliable.

Taking your case file with you

While iPads take advantage of the Cloud and the ability to access documents from anywhere with an internet connection, prior to leaving for a deposition it is important to download any document you might need directly onto the iPad. This ensures that you will have quick access to documents, without relying on the speed or reliability of an internet connection. There are several apps that allow you to access any number of Cloud-based storage sites or even your own office server, to save documents on your iPad. My tool of choice in this regard is iAnnotate, a robust PDF annotator.

iAnnotate allows its users to mark-up PDF files with a host of tools like pens, highlighters, stamps, and text. It is my go-to app for making notes on medical records and discovery. To save documents directly to an iPad using iAnnotate, the user simply links to: a cloud-based storage service like, DropBox, Google Drive, or Microsoft's One Drive, - or in some cases - directly to the office server. Once the username and password are saved, a user can see all the files in their Cloud-based folders, and select which ones are downloaded onto the iPad. If a document is changed with the editing tools, the file will automatically sync back to the Cloud once it is closed.

Prior to leaving for a deposition, hearing, or trial, I simply open the iAnnotate app, select the appropriate case file, and download it in its entirety. In the Document Viewing window in iAnnotate, the user can have several tabs open at once, making it easy to move from one document to another. Before starting a deposition, I will open the most relevant documents, like: my outline, answers to interrogatories, pleadings, or other evidence. Having these tabs open in advance saves time because I'm not searching for each document. Another trick is to simply copy the electronic documents into a separate folder for that particular witness's deposition. In my electronic files, I typically have the following folder location: DropBox/Open Cases/Smith, John/Witnesses/Dr. Jones/Deposition Exhibits. Because it's so easy to copy electronic files, it is beneficial to create as many copies as you need to make them easily accessible.

Documents and GoodReader are two additional apps that easily allow a user to download documents to the iPad. Both apps have similar functionality and allow users to link to the major Cloud storage services, and even some office servers. In addition, they allow the user to move, rename, and copy files on the iPad. Rather than using these, I prefer to stick with iAnnotate, as there is no sense in using multiple apps, if one will do the job.

Creating deposition outlines

I was fortunate to co-counsel a nursing home case last year with my good friend, Mark Kosieradzki. Mark came down to Kentucky for some key depositions, bringing along a very useful deposition notebook. The notebook contained all relevant documents, which were tabbed, marked with pens and highlighters, and had sticky notes all over the place. I loved it so much that I found a way to duplicate it electronically. So now, as part of my preparation for a deposition, I create a deposition notebook that contains my outline, exhibits, hot documents, and basic research on a desktop or laptop, using either Adobe Acrobat Professional or a less expensive version, PDFPenPro 6. To compile the depo notebook, I create a new PDF called "Depo Notebook of Jane Smith", and drag files from other PDFs, like medical records or discovery, into the notebook. This allows me to have a single PDF with the documents organized in the order I need them and the relevant portions of the document annotated, using pen tools and highlighters. As I go through the questioning in my deposition, I simply progress through the PDF, rarely switching between files.

Get rid of the legal pad

When taking notes in a deposition, I primarily use two apps. My traditional favorite has been Noteshelf, a robust note-taking app that makes writing with a stylus on an iPad feel very similar to writing on a piece of paper. Noteshelf users can create notebooks using a number of different covers and paper types, and use dozens of pens, highlighters, and other tools. The tools are conveniently located, and I can easily change pen colors as I write. Thus, after the deposition, I'm able to quickly see action items in red, case planning notes in blue, and important points in green.

Notebooks can be grouped into multiple notebooks per case, so I will have one for each witness. After completing a notebook I typically export it into DropBox or Evernote, using the built-in conduit, which allows linking to various Cloud-based providers. Once in DropBox, my notes are available for anyone on my team to view.

Reviewing depositions

For reviewing transcripts and creating depo summaries, TranscriptPad is an excellent app. Once you create a new case file, depositions and exhibits can be added from Dropbox. The app's functionality only works with ASCII or .txt files, not PDFs. However, you can add PDF files as exhibits to a deposition. Once a transcript is loaded, the user can select line numbers in the transcript to activate a menu, which allows the creation of issue codes, highlighting, and flagging text. The user can word-search within a single transcript, or all transcripts, in a particular case and the app will give hyperlinks to the relevant text.

The app will then allow you to create comprehensive reports. The user can devise a report containing text associated with a particular issue code from all depositions in the case or just a single deposition, export only text highlighted in a particular color or even an entire deposition with all of the user's marks and notations. For collaboration, the user can send an entire case file to another TranscriptPad user, who can review and create their own marks and notations before sending it back to the original user.

Showing exhibits

AirSketch is a great app for use in depositions or at trial. First, it can act as an electronic whiteboard, allowing an attorney or witness to write directly on the iPad, which can then be mirrored to a TV or projector. The whiteboard may be saved in the app, or a camera roll on the iPad. AirSketch also allows users to load photographs into the app from an iPad photo roll, and mark them with colored pens and highlighters. This is a useful tool if you'd like a witness to annotate photographs of an accident scene or medical image. The annotated photos can then be emailed from the app as a PDF or image file.

Sometimes it's easier to use the same program to display images in a deposition being used in trial. If you have used Trial Director or Sanction, and like them, you will love TrialPad and ExhibitView, as they're easier to use in trial presentation apps. Unless you're a power user, like a trial consultant, both of these iPad evidence presentation apps will do 90% of what Sanction and Trial Director will do, at a fraction of the price. Both cost \$89 in the app store, and allow the user to display images of photographs, documents, and video to TV or projector. Exhibits can then be highlighted, annotated with pen tools, or magnified. With an Apple TV, this may all be done wirelessly.

For those depositions where I will be using a variety of documents, and collaborating with a witness, it is often more efficient to display documents on a screen for everyone in the room to see. For depositions taken in my office, I simply connect the Apple TV to a regular TV, using the HDMI cable. I can then display images for the witness and opposing counsel, and mark and make notations on them as necessary. If the document has been marked, and needs to be attached to the deposition as an exhibit, I simply email the document to the court reporter.

Other iPad tips and tricks for depositions

If you've ever passed notes during a deposition to remind another attorney to ask a follow up question, try using iMessage on an iPad. With iMessage you can chat with multiple attorneys in the deposition, making sure the questioning attorney doesn't miss anything. You can also have someone back at the office, on the same text string, to research information, or an expert on the string to answer questions.

If you're one who prefers using multiple apps while taking a deposition, don't forget about the four-finger swipe. Rather than switching from app to app by pressing the home button twice, and pulling up the last used apps, you can swipe to the right with four fingers and quickly move from one app to another.

I'm often asked, "What happens when you lose your iPad?" The answer is simple. I regularly backup my iPad to iCloud to make sure everything is saved somewhere. I also have a second iPad with the same size hard drive, where I save a copy of the backup, in the event the first one goes down. Although it all may sound tedious and time consuming, it actually just becomes a very routine habit.

Other Technology Tools to Consider

Here are a few other great ideas for your law practice.

- Beats Pill 2.0 by Dr. Dre - portable stereo speaker - Best Buy - \$179.99

I frequently give presentations to small crowds. Whether it is a seminar of 20 people or less, a mediation presentation or even a courtroom presentation, I always need speakers to deliver audio. In the past I would drag a set of desktop speakers into the Courtroom

that had to be plugged in and were burdened with wires; now I bring the small, compact, Beats Pill. The Beats Pill by Dr. Dre is one of the highest quality Bluetooth-enabled portable speakers I've found. They have incredible sound quality, can fill rooms with sound and have a seven-hour rechargeable battery. This is a great speaker for presentations.

- ScanSnap IX500 Scanner-MacMall-\$439.99

I recently had a law firm object to my Notice of Election for Electronic Service under the new CR 5.02(2). One of the reasons they gave for asking to be relieved of the requirement to conduct service via email is that they weren't setup for electronic service. Aside from the fact that federal courts have been requiring electronic service for more than 15 years, that law firm's problems could have easily been solved with this piece of technology. These scanners are fast and deliver very high quality. I have now bought one for almost every member of my staff to have right at their desk.

- Arc Touch Mouse Surface Edition-www.microsoftstore.com-\$69.99

I know. Mice are so 1980-ish, but the new Arc Touch Mouse that Microsoft pitches for its Surface tablets is really the coolest mouse I've seen in a while. With native Bluetooth 4.0 integration, this mouse does not need a USB stick to connect to your tablet or laptop. Plus, the Arc's unique flexible shape fits the curvature of your hand perfectly. You can flatten the mouse for easy storage when not in use, which is great for traveling. At \$69.99, it's a bit pricey for a mouse but worth it.

- Logitech Ultra-thin Keyboard Cover-www.logitech.com-\$99.00

This \$99 Bluetooth keyboard doubles as a cover for your iPad (available for all models from iPad2 to iPad Air). The keyboard gives you enough room to type without feeling cramped but does not add much bulk that you have to carry. The magnetic clips on the keyboard securely hold on to your iPad when used as a cover. The ridge in the keyboard/cover provide a stand to sit your iPad in when using the keyboard to type. It's a great design and a fantastic complement to any iPad.

- Belkin Bluetooth Music Receiver

To relax a little after a hard fought day in the courtroom, I recommend the Belkin Bluetooth Music Receiver available at www.belkin.com. All you need is this \$39 receiver to stream audio from your portable device to your home theater speakers. To use, you plug in the Belkin receiver to an audio input on your stereo system and then pair

it wirelessly with an iPad, iPhone, Android, or other mobile device. You can then enjoy Pandora, iTunes, or other digital music in big stereo sound.

Top 10 iPad Apps

I think every lawyer has attended a CLE or two where back-to-back speakers have expressed two very different opinions on the same issue. Sometimes a single speaker will even adopt two different opinions between the beginning of the hour and the end. Things are no different when it comes to technology and using an iPad in your law practice. There are a wide variety of opinions on what apps are best for trial presentation, reviewing deposition transcripts, taking notes, and just about anything else. I can't say that I've seen every iPad app that is available, since my bank account will only allow me to buy so many new toys, but I've seen a lot and these are my favorites. This is not to say there aren't other great ones that have very similar functions, but in my experience, this list of apps represents the most popular and well-developed apps available to the iPad carrying attorney. Some of these have been discussed further above.

- **iAnnotate – PDF Editor**

This has been my most used app since I bought my first iPad four years ago and is a must-have for attorneys trying to maintain a paperless office. When documents come into my office they are scanned, OCR'd, and loaded into case specific electronic folders in DropBox. Then, when it is time to for me review medical records, discovery responses or other documents, iAnnotate allows me to download PDF's from DropBox, review and markup the documents, and then sync edited files back to DropBox so that all of my files are up-to-date. iAnnotate has a multitude of colored highlighters, pens, stamps and other tools to accomplish the task. The app is similar to Adobe Acrobat Professional's functionality and works either independently, or in conjunction with the desktop version of Adobe Pro.

- **TranscriptPad – Deposition Transcript Summaries**

iAnnotate was once my go-to app for reviewing deposition transcripts and still can serve that function quite nicely. But now, a more specialized program, TranscriptPad, is my choice for highlighting, underlining and note taking on transcripts. TranscriptPad works much like Summation does on a PC. Transcripts can be downloaded from DropBox, from iTunes, or opened from email and categorized within the app by case file. Then, by simply selecting line numbers, a dialog box will pop up giving you options like highlighting in different colors, underlining, or flagging key text. If a user flags a selection, they will be able to associate customized notes with that section of the transcript.

My favorite function of TranscriptPad is its ability to create issue codes. Once you select text and the dialog box is opened, the app will give you the opportunity to create a particular issue code, say "damages." Other lines from the deposition can then be associated with that same issue. Later, you can search for all selections associated with

that issue, either within a single deposition or within all of the depositions in a particular case. TranscriptPad will also allow you to generate a report containing all of those selections.

Finally, users can also search for key terms, either within a particular deposition or those transcripts for an entire case. Users can also email specific selections directly from a transcript or print the entire transcript with or without annotations.

- PDF Expert – PDF Editor

So far, PDF Expert is the only app I've found that will allow a user to fill in PDF forms. You will want to download this app if you utilize fillable PDF forms issued by the court system in your jurisdiction.

- Microsoft Office Suite – Word Processing

You can now get Microsoft Word, Excel and Powerpoint for your iPad. They are space hogs and take a lot of memory, but if you're a Microsoft Office, you'll want these apps. With the advent of the new iPad Pro and the functionality of the Microsoft Office Suite, I now leave my laptop at home on many trips.

- Noteshelf

Since I run a paperless office, I also use the iPad for note taking. Noteshelf is my go-to app for making handwritten notes in client meetings, hearings, depositions etc. One of the key features that make Noteshelf attractive is the ability to directly upload a document to DropBox or Evernote, another program I use frequently.

There are more note taking apps available than I can count and many are very good, including Notability which allows you to record audio of a meeting while taking notes. Other popular note taking apps include, Penultimate, Note Taker HD and NotesPlus.

- AirSketch

This is a great app for use in depositions or at trial. First, it can act as an electronic whiteboard allowing an attorney or witness to write directly on the iPad, which can then be mirrored to a TV or projector. AirSketch will also allow you to load photographs into the app from your iPad photo roll and mark them up with colored pens or highlighters. This is a useful tool if you want to have a witness annotate photographs of accident scenes or medical images. The annotated photos can then be emailed from the app as a PDF or image file.

- ExhibitView or TrialPad

If you have used Trial Director or Sanction and like them, you will love these much easier to use trial presentation apps. I have found that both will do 90% of what Sanction and Trial Director will do at a fraction of the price. Both will allow you to display images of photographs, documents or video to TV or projector as well as highlight, annotate or magnified exhibits on the fly. With an Apple TV all of this can be done wirelessly. One thing they don't do yet is to synch video with the transcripts. You'll need to use Trial Director for that or InData's iPad app, DepoView.

- KeyNote

Ever since converting to the Mac from the Windows based PCs, I have also converted from PowerPoint to KeyNote. I have found that it is easier to use and it has more features. However, the iPad Keynote app is missing some of the features of the full-version including many of the fonts and slide transitions.

- Evernote

While I've already discussed Evernote earlier, it bears repeating here. Evernote isn't solely an iPad app, in many of the seminars I teach I let people know that it is probably the most useful program I have. Evernote allows users to save and organize just about any kind of electronic file including those saved in Word, PDF or audio files. Each note can then be "tagged" with key terms to allow for quick retrieval and sorted into user created directories.

I use Evernote to maintain a database of expert witnesses, including their CV's, rate sheets, and list cases in which they have been involved. I also use it as a legal research file, a medicine and science file, to keep track of travel documents, such as confirmations and itineraries, and for research on individual cases.

Because Evernote's databases are synced to the Cloud users are able to access files from all of their devices. Evernote has desktop applications for both PC and Mac as well as apps for the iPhone, iPad, and Droid platforms.

- Essential Anatomy 5

I love high quality, customized, medical illustrations as demonstrative evidence. However, some cases simply don't justify the cost. For depositions and trials of smaller cases I like using the Essential Anatomy app. This gives me a low cost, but high quality and engaging demonstrative. Doctors love to use this app when describing medical

procedures and conditions. There are a whole host of apps from 3D4Medical, the company that created Essential Anatomy. It is well worth the cost of downloading all of them.

Technology in the Courtroom

My philosophy on technology in a law office is simple; technology is great as long as it is easy to use and makes things faster, more convenient and more reliable. This is especially true when it comes to deploying technology in the courtroom. All too often, attorneys purchase new gadgets that only end up collecting dust because they are too difficult to use and too time-consuming to learn. Staff and the attorneys themselves end up resenting the new technology and refusing to use it. To prevent that frustration, here are a few tips and best practices that will make your implementation of technology in the courtroom more successful.

1. Practice makes perfect

As I travel the country helping attorneys learn and adopt new technologies, it is not unusual to hear horror stories about those who have tried something new for a trial only to have it cause frustration and embarrassment. In almost every case, the attorney was using something new for the first time and didn't bother to practice using their new tools. Whether you are using an iPad to wirelessly present evidence to the jury, or working with a professional trial consultant, it is important to do multiple dry runs with the technology. Not only will it be far less likely that you will have tech issues during your presentation, practicing while using the actual evidence you are presenting at trial will help you refine your presentation.

2. Have a Plan B

No matter how much you prepare, things will go wrong. However, if you have prepared correctly, you will be able to bounce back quickly. My tool of choice when walking into a courtroom is an iPad packed with evidence and the app, TrialPad. Because I typically take a large number of video clips I prefer an iPad with the maximum 128 gig storage. Before trial, after I finish setting up my iPad exactly the way I want it, I then backup the iPad to iCloud then restore that backup on another iPad. This gives me two iPads that look the same and contain exactly the same information. If one iPad goes down during trial, I can just whip out the second one and not miss a beat.

3. Know your courtroom (and judge)

Every courtroom has its peculiarities. Proper preparation entails going into the courtroom to see exactly what equipment you will need, where it will sit and whether the

judge will allow you to use it. I've found that many courts have some equipment already available, but it is oftentimes outdated or broken. I recently attempted to use the presentation technology available in a federal district courtroom only to find that it was not usable. Because I went to the court a week early I discovered the issue and was able to take my own equipment for the hearing.

You might also consider making a point of addressing technology in your Pre-Trial Conference. It has been pointed out to me (Thanks Jim Dady), that Rule 16(f) gives the court discretion to address "such other matters as may aid in the disposition of the action." This most certainly could include the use of technology at trial.

4. Password Protection

Success at trial starts in the office. If all of the electronic data you've gathered for trial disappears the day before you start, your presentation is doomed to failure. One of the easiest ways to defeat security risks is to use the right passwords. It is no longer acceptable to use the name of your eldest child for every password on the Internet. Proper passwords are a random combination of capital and lower case letters, numbers and symbols. Passwords should be 12 to 14 characters long at least and you should use a different password for every website.

Because it is impossible to remember these complicated passwords, you can get help with an app like 1Password. This program enables you to use strong, unique passwords by synching them to all of your devices. All you need to do is remember one strong password to get into the program and you can then easily access your passwords as you browse the Internet. If you don't want to use a separate program, you can accomplish the same thing by using the keychain function in Apple Safari. Both 1Password and Keychain will automatically create complicated passwords and make it easy to retrieve them when needed.

5. Take advantage of the cloud

I run into so many lawyers who fail to take advantage of cloud-based services and instead have all of their data residing on servers in their offices. Using the cloud to store data allows attorneys a cost-effective way of synchronizing data across multiple devices. For instance, enabling iCloud's Photostream allows you to take high quality photographs on your iPhone which automatically synch with your Mac or iPad. From there, you can easily save photographs to presentations like PowerPoint or Keynote.

6. Take your research files with you

Enter Evernote, again.

Evernote to maintain a database of expert witnesses, general legal research and forms as well as keep track of travel documents and research on individual cases. It is also a substitute for taking five trial handbooks with you to court.

Most people think using Evernote takes a little getting used to, however, once you get familiar with the program you realize that it can be used in any number of ways. It is also very economical, only costing \$5 a month or \$45 a year for a monthly upload allowance of one gigabyte and seemingly infinite storage beyond that.

7. Download your entire file to your iPad or laptop

Most attorneys want to have the entire case file with them at trial. But rather than taking boxes and boxes of documents to court that you will never touch, try going paperless. If you have scanned your entire file during the course of litigation, it is very easy to download the file to your iPad or laptop before leaving for the courtroom by using apps such as GoodReader or iAnnotate in conjunction with a cloud based storage software like DropBox or CasePacer. Both of these are cloud based Software-as-a-Service (SaaS) that link with multiple iPad pads and give you the ability to download files.

8. Use your iPad to create exhibits

The iPad has become an indispensable tool in my law firm and in many others. One of the greatest advantages of the iPad is the money its saves and that includes relieving yourself from the burden of expensive medical illustrations. 3D4Medical's Essential Anatomy Series is a great tool for inexpensively creating generic medical illustrations for use in both depositions and trial.

For more tips and tricks on using tech in your practice, follow me on Twitter at @tadthomaslaw.com or @thomaslegaltech.

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