



Technology >>>>>> in the Courtroom

BY REBECCA A. ASKEW

In the past, it was difficult to imagine the words “court” and “leader” used in the same sentence when discussing technology innovations. However, in many legal circles, courts are leading the way with new and groundbreaking technological advances.

Facing fiscal constraints, burgeoning caseloads and increased security concerns, courts have had to turn to technological advancements in order to work smarter and more efficiently. This article discusses some of these advancements, how they are used and how official court reporters can and are assisting in these changes.

Why the Need for Advances in Technology for the Courts?

This question can be answered quickly: It is estimated that up to 50 percent of the costs of operating a court is attributed to the costs of manipulating paper!¹

As state and federal court systems sanction technology committees and task forces to study, create and institute new technologies for their courtrooms, they are generally charged with goals that the new technologies should assist in meeting. Although each organization has agenda items specific to their particular court system, most of them are tasked with similar goals, which often include:

1. To reduce the expense of litigation through simplification and standardization of procedures;
2. To broaden the access to the courts for litigants, interested parties and the public;

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3. To use technology to enable the courts to collect, process, analyze and share information; and

4. To ensure that justice is administered in a timely and efficient manner.²

Each new technology discussed in this article has been developed specifically with these goals in mind, thus enabling the court to work smarter, faster and ultimately more cost-efficiently. What does the court reporter need to know about these technologies as he or she heads down the road to the “paperless courthouse”?

Realtime Technologies

Marie Runyon, chief examiner for both NCRA's CRR and USCRA's FCRR exams, remembers when she first started grading realtime tests (in 1995) and the only reporters participating were “the overachievers and the perfectionists.” This year, dozens will take these exams. Runyon, a federal official reporter from the Western District of Louisiana, witnessed the slow adoption of realtime in the courts. Runyon found that a judge would attend a seminar where the idea of realtime was introduced and then return to the court and say, “I want that, too!” Runyon sees new realtime reporters initially writing realtime only to their judge but, as confidence grows, expanding to the clerks and other court personnel and finally to the litigants in the case. “The use of realtime in the courtroom now has become one way for court reporters to ensure job security,” Runyon adds.

Courts have recognized the need and importance of the skill and have begun to motivate reporters financially to obtain the certifications necessary to write realtime. In federal courts, for example, the Judicial Conference has approved a 10 percent salary increase for federal official court reporters who have been certified to provide realtime services to judges, attorneys and participants in court proceedings. As the Administrative Office of the U.S. Courts announced, “This action reflects the value to the court of instantaneous access to the verbatim record in the courtroom. Realtime provides the court and parties with the ability to scroll forward and backward, search the record for key words or phrases and mark portions of the text using viewer/annotation software.”³

The federal courts are not alone — state courts through-

out the country are approving pay increases for court reporters that provide this value-added technology to the courtroom.

But realtime technology doesn't end there. Communication Access Realtime Translation (CART) in the courtroom assists in meeting the communication needs of parties, witnesses or others who are deaf or hard of hearing. Although traditional realtime is being utilized in most courts to meet this demand, officials are beginning to analyze CART as an option in the courtroom. The difference between the two is distinct. While the official court reporter is making the verbatim official record of the proceedings, the CART provider/interpreter "assumes an interpretive rather than an official role. Using the instant steno-to-English translation and screen-transmission capabilities of realtime technology, the CART provider/interpreter captures not only the words, but also the spirit of the proceedings and environmental sounds."⁴ This provides those receiving the CART with a more realistic picture of the total court experience, complete with indications of the tone of the proceeding (laughter, applause) and off-the-record statements. The Americans with Disabilities Act specifically recognizes CART as an approved assistive technology under the Act, building confidence that its use in the courtroom will continue to grow.

E-Filing

E-filing, or electronic filing, is the formation of a court document using a word processor or scanner and the transmission of that document to a particular court system for filing. This is usually accomplished over a secure Internet connection. That document then resides with the court system electronically, in the court's electronic case management system for immediate retrieval and display. The document is verified and authenticated at the time of filing, using either an electronic signature or the filer's user name and password.

E-filing projects have sprouted up throughout the state court systems, with some type of implementation or pilot project occurring in almost

all of the 50 states. Colorado is currently the only state with statewide implementation.⁵

In theory, e-filing seems like a simple solution for the elimination of paperbound systems. However, numerous platforms from multiple private vendors have made implementation in state courts difficult. Courts have implemented an electronic case management system for storing their documents, only to find that it was incompatible with many of the possible e-filing alternatives.

This problem has been minimized, in part by vendors creating their e-filing and case management systems in XML, or Extensible Markup Language. By tagging shared information such as case name, number or judge involved, the information can easily pass between products regardless of the vendor who developed it. This provides the seamless integration necessary.⁶

In federal court, the Administrative Office of the U.S. Courts has created the electronic case management and e-filing system internally, thereby eliminating the compatibility issue. This combined system is called CM/ECF, or Case Management/Electronic Case Files. Initiated in 1996, the federal judiciary is now well underway with its nationwide implementation. CM/ECF replaces the AO's previous electronic docketing and case management systems and has the capability to store case file documents in electronic format. Courts may also accept Internet filings using the capabilities of CM/ECF.

CM/ECF systems are in use in 10 of the 94 district courts, 38 bankruptcy courts, and the Court of International Trade. Most of these courts are accepting electronic filings. With more than 19,000 attorneys and litigants using CM/ECF, over three million cases with more than 14 million documents total have been filed. Under current plans, the number of CM/ECF courts will increase steadily each month into 2005, the date targeted for completion of the rollout. Each court goes through an implementation process that takes about 10 months, and each month four to five additional courts complete the process.⁷

Where Do Court Reporters Fit in With E-Filing?

When discussing e-filing and electronic storage of the court's documents, naturally the conversation turns to the age-old question: How do court transcripts (and therefore court reporters) fit into the e-filing world?

Official court reporters create, maintain and distribute the accurate record of all courtroom proceedings. A unique courthouse employee, official court reporters generally receive some kind of minimal salary but also receive income for the sale of their transcripts. In return, they are required to provide most of the equipment necessary for them to fulfill their job responsibilities (stenotype machine, computers, telephone, etc.). This income makes up a significant share of the court reporter's income — in federal court, for example, 27 percent of the court reporter's income is represented by transcript copy sales.⁸ The question arises that if transcripts are placed on e-filing systems, how are court reporters to be compensated for transcript sales? Funds from accessing documents on e-filing systems normally revert to the court and are often free or pennies per page to download.

Courts and court reporters are working together to develop solutions to this dilemma. In some court systems, court reporters forgo transcript compensation in lieu of higher salaries. In others, transcripts are excluded from e-filing systems. RealLegal, the creator of E-Transcript and Binder, has introduced a Web-based system for storing transcripts. This system, called Exemplaris, can seamlessly integrate with e-filing systems, yet allow court reporters to maintain their traditional revenue stream from transcript copy sales. Those downloading transcripts from Exemplaris receive them in virus-protected, digitally signed E-Transcript format — a significant improvement to the PDF format used by all e-filing systems. Judges, law clerks and court personnel receive free access to the stored transcripts, and all others can purchase needed transcripts using a credit card. The court reporter is then forwarded their traditional page rate, minus a three percent credit card processing fee.

Exemplaris also has the capability to store the court reporter's stenographic note files, eliminating the need for archiving.⁹

In Massachusetts, the federal court has begun a pilot project where court reporters upload their transcripts into Exemplaris instead of CM/ECF. Donald E. Womack, RMR, a federal official court reporter with the court in Massachusetts and an Exemplaris user, has found that "my judge appreciates the convenience of having his transcripts always available to him, for assistance in decision-making. He can access it immediately after I upload it, in a format tailored especially to transcripts. It only takes one time searching or downloading a 200-page transcript in PDF to realize the advantages of Exemplaris over traditional e-filing systems. It's another technological advancement that I can provide the court."

Court Reporters as Information Managers — Leading Instead of Following

Official court reporters are finding that knowing the technology available to them in the courtroom and mastering those different technologies makes

them an indispensable court employee. Setting up videoconferencing, trial and exhibit presentation software, providing Internet access in the courtroom — all of these skills allow the court to run more smoothly and efficiently and assure the court reporter a continued, valued place on the court technology team.

But it doesn't stop there. As information managers, court reporters provide their transcripts to attorneys, researchers, law clerks and court staff in ways that make their tasks easier: with condensed printing, indexing or in excerpts. As many official court reporters agree, they serve as the gateway for litigators to acquire helpful and meaningful information about how judges conduct trials in any jurisdiction, from jury selection to the method in which the judge instructs the jury at the end of the trial. Today's modern court reporter is the "long-range historian" of what occurs in the courtroom, assisting in the timely and efficient administration of justice.

Advancements in the courtroom will continue to move ahead, as CART, e-filing and stenographic note and transcript repository technologies evolve

and advance. Keeping an eye on the changes, educating yourself to them and being prepared for them will keep the official court reporter ahead of the pack — a technology leader to be followed, instead of being left behind. ■

Resources:

1. *A Guidebook for Electronic Court Filing*, National Center for State Courts, <http://www.ncsc.dni.us/NCSC/TIS/TIS99/electr99/Guidebook/PDF/efiling.pdf>.
2. See, for example, the state of California's Reporting of the Record Task Force guidelines, <http://www.courtinfo.ca.gov/courtadmin/jc/tflists/reprecord.htm>.
3. Memorandum to court officials, Administrative Office of the United States Courts, September 16, 2002, page 8.
4. *Communication Access Realtime Translation (CART) in the Courtroom: Model Guidelines*, a joint project by the American Judges Foundation and the National Court Reporters Foundation, <http://www.NCRAonline.org/foundation/research/CARTguidelines.shtml>.
5. For state-by-state information regarding e-filing in state courts, see WendyTech's electronic filing site, <http://www.wendytech.com/efilingprojects.htm>.
6. XML information specific to the courts can be found on the site <http://www.legalxml.org/>.
7. The Administrative Office of the U.S. Courts maintains a Web site about CM/ECF. Find it at <http://www.uscourts.gov/cmecf/cmecf.html>.
8. For facts and figures regarding federal official salaries, etc., see the United States Court Reporters Association Web site, www.uscra.org.
9. For more information on Exemplaris, visit the Exemplaris Web site, www.exemplaris.com, or the RealLegal Web site, <http://www.reallegal.com>.

Links for Court Reporters Interested in Technology

National Center for State Courts: Provides up-to-date information about security/technology changes in both state and federal courts (www.ncsconline.org).

Administrative Office of the U.S. Courts CM/ECF Web site: Includes press releases, additional information about progress with CM/ECF (www.uscourts.gov/cmecf/cmecf_court.html).

Courtroom 21: Provides a court technology demonstration and education project sponsored by the National Center for State Courts and the College of William and Mary. Visit this site for direct links to most court technology vendors (www.courtroom21.net).

NCRA: Provides current information regarding technology for court reporters (www.NCRAonline.org).

American Bar Association's Legal Technology Resource Center: Provides attorneys and other users information on technology available to the legal industry (www.abanet.org/tech/ltrc/home.html).

E-Filing Update: Provides updates regarding e-filing projects around the country. This Web site was created by legal professional Wendy Leibowitz (www.wendytech.com/efilingprojects.htm).

E-Filing Newsletter: Provides coverage of current developments, emerging techniques and new applications for the electronic filing of (and access to) official documents (www.glasserlegalworks.com).