

The Future Isn't What It Used to Be in Federal Court: Technology, Jurors Play Larger Role

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In a couple weeks, I begin a month-long jury trial in the federal court here in Chicago (the United States District Court for the Northern District of Illinois). In many ways, the federal courts are monuments to traditional ways, complete with a long list of active judges well into their senior years. This is particularly true in Chicago. We've also had our share of notable trials in this courthouse, such as those involving Abby Hoffman and the Chicago Seven, Governors Ryan and Blagojevich, and a string of fellows with crooked noses and odd nicknames (e.g., "the Big Tuna") I've tried roughly a dozen cases in this courthouse, too. Still, here I am on the eve of trial working through how the introduction of several modern innovations into trial practice will play out.

Most likely you've seen articles and blog posts about some of the modernizations courts are adopting. The judges in Chicago have been an active source of this content. However, until I arrived for our pre-trial instructions, I had little notion of the many modifications currently employed by our judge. Let's start with technology. There are screens everywhere, including enough LCD screens in the jury box for every two jurors to share a screen. As we present our materials (digitally, of course), the attorneys and judge can toggle the settings to show the document to the witness, to the judge, to the jury, or any combination of these parties in any order. We can also highlight, circle, and enlarge anything we might display.

While these may seem like the federal courts just catching up with the technology the rest of America's industries have enjoyed for years, there are also new additions to the activities within trial that can be surprising to a seasoned trial attorney. The jurors are now invited to participate in the trial. After each witness has concluded, the judge will solicit questions from the jury. Our jury should be fairly well prepared for this task because, unlike traditional practice where the jury doesn't have any idea what the law says or what the instructions will provide until the end of the case, the instructions will be given to the jury before they even hear opening statements. Finally, each side will be granted ten minutes to use during each week of trial to make comments in between witnesses, allowing attorneys the ability to create meaning and context of the

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facts for jurors all along the way.

For now, I can only join you in contemplating how these innovations will impact current and future cases. Next time around, however, our initial planning may be altered to accommodate the way evidence will be presented.

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