

E-BRIEFS AND TRIAL PRESENTATION SERVICES

A WINNING COMBINATION

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FOR DIGITAL LEGAL SUPPORT

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1 Introduction

Hyperlinked E-briefs and Trial Support Services

Today, there is enormous emphasis placed on the development and evolution of eDiscovery technology. Add in, the constantly accelerating volumes of Electronically Stored Information (ESI), the associated changes to the Federal Rules of Civil Procedure (FRCP) and the ensuing legal market's obsession with eDiscovery and you have created two critical segments of litigation support services. Despite the increased use of hyperlinked e-Briefs and Trial Support Services over the past several years, they still remain underestimated and under-valued in today's marketplace.

Here I will discuss the impact hyperlinked e-Briefs and Trial Support Services make on how a case is presented and the message delivered. These two services, especially when used in conjunction, can ultimately be the keys to producing a strong argument and a successful result in a case. **ParaDocs, Inc.** offers industry leadership and cost effective support in both these types of litigation support services.

2 Electronic Briefs (e-Briefs)

Several factors have contributed to the increased use of filing **hyperlinked electronic documents** with the courts.

First, law firms and practitioners are increasingly embracing technology in every phase of litigation. The advent of eDiscovery technology launched a digital revolution in the legal industry, and there is no doubt that as the future of this sector unfolds, technology's roll throughout the legal field will most definitely expand.

Second, is the desire to increase the amount of data made available to a judge. This tactical advantage became incredibly valuable as it allowed the judge to view evidence he/she would not otherwise be able to view prior to being admitted into evidence at trial, with the ease of clicking a link.

2.1 What is an e-Brief?

E-Briefs are a highly effective form of electronic motion practice. A traditional brief contains a legal argument, plus citation references to source material, such as cases and statutes. E-Briefs add hyperlinks of the citations to bring the reader directly to the source material. A hyperlink navigates the reader from one section to another, one page to another page or to a completely different domain.

In other words, you click on a particular word or phrase (in this instance a citation in a brief) and it automatically takes you to an electronic document (typically a PDF) where you can view and read the material being cited. Much in the same way as an internet website works, a brief is basically transformed into a website where the author allows the reader to click on a citation to a webpage to retrieve the cited information.

2.2 What Types of Briefs are Suitable for e-Briefs?

Hyperlinked briefs are most frequently used in three situations:

- (1) Appellate briefs,
- (2) Complicated trial briefs, such as motions for summary judgment,
- (3) And, when the brief being filed has citations to source material which cannot be presented in a non-technical form, such as video or audio clips and demonstrative or graphic exhibits.

Hyperlinked briefs are most common in appellate practice, and generally are the easiest briefs to digitize. The record already has been set, and the issues narrowed down. Federal courts have been at the forefront of the e-filing trend, and the Court of Appeals for the Federal Circuit reportedly was the **first court** to accept a hyperlinked brief.

Not surprisingly, this same court also has the most specific **rules** governing hyperlinked briefs. However, with increasing occurrence, other courts, especially State Courts, are becoming more open to receiving e-Briefs, as

are arbitrators, because of the ease with which large volumes of supporting documents can be presented and accessed.

At the trial level, hyperlinked briefs are very useful for complicated motions, such as motions for summary judgment, motions to dismiss, pre-trial briefs and post-trial briefs. Hyperlinks are perfect for helping the judge or arbitrator navigate through a large factual record or legal argument.

E-Briefs can contain much more than just legal citations. Hyperlinks can navigate to videos of recorded deposition testimony, Power Point slides or other forms of interactive demonstratives, audio files, web pages, and many more forms of digital data. This technology isn't limited to legal filings. It can also be applied to academic and financial research, public policy, government memorandum, corporate documents, medical reports or any form of statement laden with data and source material.

Aside from case law or relevant evidentiary documents, the most often used hyperlinks are video and/or audio files. With ordinary paper briefs, the only way to get video or audio tapes before the court is to file the VHS or audio cassettes, and then hope the judge (1) tracks down a television and video player or a cassette player, (2) is willing to search for the section that you are citing, and (3) manages to find it.

With an electronic brief, accessing the video or audio clip instantly is as easy as clicking on a citation.

2.3 Why Use an e-Brief?

The most compelling reasons for the practitioner to use an e-Brief is the tactical advantage and educational value that comes with it. The increased functionality, and ability to present a judge or arbitrator with evidence beyond what is written on paper, presents the practitioner with considerable strategic advantages from the very outset of a case as to how evidence should be collected and presented, which is a consideration often overlooked by practitioners.

In the new age of “Electronic Discovery,” to be able to continue in the digital realm from the beginning of a case to the end offers many advantages, not to mention considerable cost savings to both the law firms and their clients.

For example, in a pretrial motion in limine, where the argument is being made to exclude the deposition testimony and testimony at trial of an expert witness, the author uses several hyperlinks which will allow the trial judge to view video tape testimony of the expert. Specifically the video clips let the judge preview the expert’s testimony, even if the judge does not rule in the author’s favor. The goal is that the actual witnessing of the expert, and how misleading and untruthful he may seem, leaves a lasting impression on the judge that will weigh heavily in the practitioner’s favor at trial.

In a case on a tight schedule, with trial looming, lawyers tend to avoid new technology in favor of basic trial preparation. Tight deadlines, however, are the perfect time to use a **ParaDocs, Inc.** e-Brief. If the court is running short of time to consider all of your motions, it is very tempting for the judge to just send everything to the jury. A hyperlinked brief, by providing a clear and time-saving map of the case, can increase your chances of producing a winning argument.

Another advantage of a **ParaDocs, Inc.** e-Brief is the absence of the need for the user/recipient to download or install any software programs beyond those already available to him/her. In fact all that is required to create, open and use an e-Brief, such as adobe, can already be found on most, if not all Window based PCs as part of the Microsoft Suite.

In addition, with the ever increasing popularity of their use in the legal practice, the technology also exists to utilize e-Briefs on tablet PCs, as well as the Apple based I-Pad. Both allow for even greater convenience and ease of use to the user.

2.4 Market/Potential for Rapid Growth and Demand

It is clear that there is a large and steadily growing demand for this product. Judges and clerks are not only increasingly open to receiving e-Brief submissions, many are actually requesting or instructing parties to produce their submissions in this manner. Cutting-edge technology is useless if the judge never turns on his or her computer. Fortunately, judicial clerks, particularly recent law school graduates, greatly appreciate hyperlinked briefs. All federal districts courts, therefore, are good venues for electronic briefs. State trial courts vary more widely.

Briefs with hyperlinks are clearly more versatile and useful, but are also more expensive than simple hard copy PDF electronic versions.

There is no doubt that most judges prefer hyperlinked briefs. Although e-Briefs have yet to obtain as much prevalence as other technical advances, such as electronic filing, the use and frequency with which they are being requested by judges is increasing by leaps and bounds, especially in the appellate and trial level practices. Electronic briefs with hyperlinks are an exciting way to focus the judge's attention on a brief's arguments and supporting facts. They can be cost-effective and will always get more attention than an ordinary pleading.

For the practitioner, a well-done e-Brief can be the next best thing to sitting in the judge's office and writing the opinion on his/her own brief. The question is: when are the hyperlinks worth the extra trouble and expense?

With a well thought out model and a very competitive pricing structure, **ParaDocs, Inc.** is an industry leader in the production and filing of **hyperlinked electronic documents**, and is at the forefront of technical advances in the legal industry.

3 Trial Support Services

Presenting a case effectively in court is a litigator's ultimate goal. This is true whether you are in front of a jury, solely in the presence of a judge or before a panel of arbitrators. In today's courtroom, an average jury will most often be made up of a majority of people who are visual learners. They tend to want, at a deep psychological level, information presented to them visually. The majority of the public is quite comfortable getting their information via a "talking head" or through a demonstrative exhibit. At the very least, they would expect to view a PowerPoint when being told a story or be presented with facts to consider.

Therefore, and trending upward, trials on every level are being presented with the support of technology. Technology-based evidence presentations are substantially faster than traditional methods and many agree that they do a better job of presenting information. Technology permits courtroom options not otherwise possible. Just as in the scenario of e-Discovery and e-Briefs, the advent of digital evidence allows for the presentation of this evidence in the court room.

In building the model of an elite trial support provider, **ParaDocs, Inc.** has several components that are required to provide a broad range of necessary services.

3.1 Court Room Presentation

Today's litigator finds a different courtroom from that which existed ten or fifteen years ago. In a courtroom, a professionally produced legal presentation has become a very powerful tool for persuasion. Software packages such as Trial Director and Sanction are only a few of the many technological tools products available. Although several of the larger law firms have trained "in-house" staffs to use these programs most still utilize the services of trial presentation vendors.

At **ParaDocs, Inc.** our experienced staff of Trial Technicians are trained and certified in the various software packages. More often than not, they expect and are required to work long hours each day, alongside the law firm's trial team. They assist with the various aspects required for trial preparation, prior to its commencement and during the actual trial. In addition, our Technicians also have the skill and ability to create PowerPoint slides for use during opening and/or closing arguments or as demonstrative exhibits.

In addition **ParaDocs, Inc.** offers a wide range of Trial Support Services to complement Courtroom Presentation Services including:

- Video Conversion
- Video-Transcript Synching
- Trial Graphics
- 3D Animations
- Accident Recreation
- Exhibit Boards
- Medical Illustrations
- Time lines
- Graphs
- Flow Charts

3.2 Court Room Equipment and Rental

The courtroom configuration for digital presentation rests mostly on the will of the trial attorney. However, even the very basic set-up can be a considerable cost. The equipment list includes multimedia laptops, LCD projectors, projection display screens, HD monitors of various sizes, Smart Boards, symposium (think John Madden during a NFL telecast), document cameras (ELMO), and audio systems. In addition, the installation of switches and wiring which can be a huge and costly undertaking. Buzzwords such as e-courtrooms, wired courtrooms, and built-in technology are also starting to be heard nationwide.

Every Federal courthouse now has at least one tech-ready courtroom, and many state courts are following suit. Increasingly, court administrators are looking to trial support vendors to consult on, or actually participate in the wiring of courtrooms. In addition to wiring courtrooms, many practitioners are now utilizing vendors to equip their trial war rooms, either within their own offices or in out-of-town locales.

3.3 Trial Concierge: War Room and Off-Site Trial Support Services

The **ParaDocs, Inc.** Trial Concierge will provide everything and anything required to allow your litigation team to work on a case. The Concierge is a technically capable project manager who will provide the following services:

- **War Room Setup:** All the equipment, supplies, additional labor and specialized skill providers, conference room, in short, everything! The Concierge will provide turn-key war rooms that have all the technology you need to prepare for trial.
- **Demonstrative Creation:** Regardless of the type of demonstrative needed, the Concierge will manage the process to get your demonstratives created.
- **Accommodations:** For the legal team, support staff, expert witnesses and clients, the Concierge will handle travel and all accommodations on site.
- **Single Point of Contact:** When using **ParaDocs, Inc.'s** Trial Services, the Concierge is a single point of contact for all assignments and document processing. The Concierge will distribute work assignments, update calendars to-do lists and Microsoft Project milestones for all team members.

4 Conclusion

The combination of an e-Brief provider and a trial presentation support service goes hand-in-hand. It allows for the river of digital information to continually flow. It is a complete and efficient transition from one phase of the litigation to the other, making it totally and utterly seamless. The possession of a client's digital repository of files (documents, transcripts, video/audio, etc.), which will eventually all be included on the trial exhibit list, allows for not only early consideration when the trial team is deciding on a trial support vendor, but it also allows for efficiency processes – both in terms of logistical effectiveness and cost efficiency. *It is a complete and winning combination.*

5 About ParaDocs, Inc.

ParaDocs is the fastest and most cost effective e-brief provider in the country.

We can turnaround a 250 page brief in less than 18 hours. Our trial presentation team has been instrumental in helping our clients win cases - big cases. This year alone we have been involved in cases valued at over \$5 billion. Our deposition legal experts have reviewed and summarized over 3000 transcripts.

ParaDocs provides a full scope of digital legal support services to expedite your case preparation, maintenance and presentation. Our services include e-brief hyperlinking, trial presentation consulting, deposition summarizing, and paralegal training.

Our experts will work with you and your team on all of your digital legal support needs.

Please visit us at www.paradocsonline.com or call us at (212)268-5695.

6 About Joseph Russo

Joseph “Joe” Russo brings over 25 years of litigation practice and law firm management experience to ParaDocs, Inc. Most recently, for three years, he was Manager of Paralegals for the New York office of Mayer Brown LLP.

Prior to that, Joe spent 25 years at Proskauer Rose LLP. As a Litigation Paralegal and Senior Case Manager, Joe participated and assisted on trials and arbitrations in venues across the country, and in Europe. As a Litigation Paralegal Manager he managed, coordinated and trained a staff of 40, and he ushered his Paralegal staff into the age of E-Discovery and Litigation Technology.

Joe is a Graduate of the Paralegal Certification Program at Baruch College. He is a Certified Trial Director Trainer, and has several E-Discovery Certifications.

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"...filings with the court that contain hyperlinks to exhibits and other information are a great benefit."

Judge Matthew Kennelly

U.S. District Court, Northern District of Illinois

"The future of electronic filing and service is bright. Paper communication is archaic."

Judge JM

District Court, Texas