CLE SEMINAR

Closing Arguments - Lessons from the Astarita Trial

Hosted at:

Federal Public Defender's Office

Speaker:

Attorney David Angeli

Portland, Oregon
Live on September 26, 2018
12:00pm to 1:00pm

Eugene, Oregon
Via video conference on September 26, 2018
12:00pm to 1:00pm

Medford, Oregon
Via video conference on September 26, 2018
12:00pm to 1:00pm

CHALLENGES TO TRIAL COUNSEL IN THE MODERN WORLD: USING TECHNOLOGY TO PRESENT A WINNING CASE

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Like it or not, we live in a society where people frequently spend more time looking at screens—televisions, computer monitors, iPhones—than they spend interacting with other human beings. They expect difficult concepts to be explained visually as well as verbally. And they're not patient—they want concepts to be presented concisely and efficiently. All of those traits present difficult challenges for trial lawyers looking for ways to connect with juries. And the challenges are compounded by the ever-increasing volume of information with which counsel must contend. With the proliferation of e-mail and other electronic evidence, lawyers are frequently faced with the nightmare of reviewing and organizing hundreds of thousands (if not millions) of pages of discovery.

Fortunately, a number of tools are available to help counsel deal with the discovery avalanche, to separate the proverbial wheat from the chaff, and to present even a complex case to a jury in a clear and compelling way. This paper discusses just a few of those tools.

I. PRE-TRIAL: ORGANIZING THE INFORMATION

In a case involving voluminous discovery, the first challenge lies in locating relevant information and separating it from the background noise. In many cases, it is either infeasible or grossly inefficient for counsel to attempt to "go through the boxes" to separate out the relevant material—a million pages of documents will fill approximately 400-500 boxes. Database software (for example, Concordance® and Relativity®) allows counsel to load all of the case documents (electronic and "hard copy" alike) into a single file, which can be searched using names, keywords, dates, and other criteria. By running targeted searches across the database, counsel can locate the vast majority of relevant material quickly and relatively inexpensively.

After the relevant material is identified, it is necessary to organize that material in a way that will be useful for trial preparation. Discovery management software (e.g., CaseMap®) allows the user to interface with the database software and create links to the documents that were identified as relevant. Counsel can then use the discovery management software to organize and sort the materials according to a number of criteria. For example, counsel can create a list of issues in the case, and "tell" the software to display every document relating to that issue. The search can be further refined by adding additional criteria, e.g., documents relating to a particular issue that also mention a specific witness's name. The software can sort the documents chronologically (or by other criteria) and instantly create timelines corresponding to the particular search criteria. All of those features make it easy for counsel to create electronic or hard copy issue and witness binders in preparation for trial, and to identify the documents that actually will be used as trial exhibits.

II. THE BENEFITS OF TECHNOLOGY IN A JURY PRESENTATION

Of course, locating, segregating, and organizing the key information is only half the challenge. None of that matters unless that information can be presented to the jury in a clear and convincing manner. Technology can help there as well.

It should be noted at the outset that technology is no silver bullet. Thorough preparation, a well thought-out strategy, and compelling advocacy remain the key ingredients of an effective trial presentation. Nevertheless, when used properly, courtroom technology can make the difference between an "effective" presentation and a great one.

The lawyer who uses a well-orchestrated electronic presentation ensures that jurors literally "see" the evidence just as counsel does. Even the most gifted oral advocate leaves jurors with mental images of the case that vary widely depending on the jurors' individual experiences, education, etc. By combining an effective visual presentation with his or her oral presentation, counsel can more effectively dictate the content of the images that will be left in *all* of the jurors' minds. As a result, according to the Federal Judicial Center's study of the issue, "jurors who have seen electronic displays work better as a group because they all experienced the trial 'together' and are more likely to have a common understanding of the evidence."[1]

Psychological research confirms that "bimodal" forms of communication (*i.e.*, those that include both an auditory and a visual component) are far superior to mere oral presentations in terms of maximizing the likelihood that the audience will retain the information presented.[2] That is particularly true in complex trials involving numerous fact and expert witnesses, hundreds of exhibits and complex subject matters. Technology allows counsel to electronically store and instantly search and organize the entire universe of evidence in a case. Documents, photographs, videos, and other evidence may be displayed instantly on large screens or flat-panel monitors, with key portions annotated, enlarged, or highlighted. Animated graphics allow jurors to visualize complicated concepts that are difficult or impossible to explain verbally including, for example, the specifics of various financial transactions, the operation of complex technology (like a telecommunications network), and the unfolding of temporal events.

Using an electronic presentation with a variety of media also helps to break the monotony of a long trial that involves less-than-compelling issues. By presenting graphics as an integrated part of a witness's testimony or of counsel's argument, the lawyer maximizes the chances that jurors will remain attentive and participate actively in the learning process.

There are a number of different tools available to counsel for purposes of graphical presentations. Trial presentation software (e.g., Sanction® and TrialDirector®) provide the

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[1] Effective Use of Courtroom Technology: A Judge's Guide to Pretrial and Trial at 52 (Federal Judicial Center 2001) (referred to hereafter as "Judge's Guide.").

[2] *See, e.g.*, Jeffrey M. Zacks & Barbara Tversky, *Structuring Information Interfaces for Procedural Learning*, 9 J. Experimental Psychology 88-100 (2003); Richard E. Meyer, *Multimedia Learning* (2001); Allan Paivio, *Mental Representations: A Dual Coding Approach* (1986).

ability to access documents, videos and other materials instantly during witness examinations, and to enlarge, highlight, and annotate key portions of those materials for emphasis. Microsoft PowerPoint® software can be used during opening statements and closing arguments to create slideshows with video clips, animations, and other features to explain difficult concepts and convey key themes. Programs like Flash® and Director® allow counsel to create interactive timelines and to walk jurors through the key events step-by-step, with links to key documents and other evidence.

Although the benefits of these types of technology may be widely accepted in theory, there remains a certain mystique attached to such technology. Many trial lawyers fear the possibility of looking too "slick" in front of the jury. Perhaps that is why, according to a 2004 survey conducted by the ABA's Legal Technology Resource Center, only 1 in 4 litigators uses litigation support software regularly.[3]

Study after study has demonstrated that those misgivings are misplaced, and that jurors actually *appreciate* it when counsel effectively incorporates technology into his or her trial presentation. The Federal Judicial Center concluded recently that "[j]urors become more involved in the proceedings when they can see the exhibits clearly and follow the lawyers' presentations more easily. . . . Jurors also appreciate the generally faster pace of trials using technology. They become impatient when lawyers spend time digging through piles of paper looking for exhibits."[4] Reinforcing that view, the trial consulting and research firm DecisionQuest recently conducted a survey asking respondents to consider a case where one side used computer technology to present its case and the other side did not. Thirty-eight percent of respondents said that they "would feel more positively" toward the side that used technology, 62 percent said that it would make no difference either way, and *no* respondents said that they would feel more positive toward the side that did not use technology.

In today's world of computers, flat-screen televisions, cell phones, handheld organizers, and other devices, "[j]urors who come into a technology-equipped courtroom are usually comfortable with the surroundings and do not find the environment unusual at all."[5] Many jurors have also seen courtroom technology used in highly publicized trials.[6] For these reasons, "the equipment for visual displays makes it appear to jurors that what is about to go on in the courtroom will be informative and easy to understand."[7]

In short, jurors expect and appreciate it when trial lawyers incorporate technology into their trial presentations. Counsel who refuse to do so will find themselves at a competitive

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[3] *See* Anatomy of Trial Technology (ABA Legal Technology Resource Center 2004), *available at* http://www.abanet.org/tech/ltrc/publications/trialtech.html.

[4] Judge's Guide, *supra* note 1, at 52.

[5] *Id.* at 51.

[6] *Id.* at 51-52.

[7] *Id.* at 51.

disadvantage as technology becomes more and more of a fixture in our courtrooms.

III. USE AND ADMISSIBILITY OF ELECTRONIC DEMONSTRATIVES

A. Admissibility

As one might expect, the law governing the admissibility of electronic demonstratives has not developed as quickly as the technology itself. Although courts remain cautious about the reliability and potential prejudicial effect of electronic demonstratives, they are increasingly recognizing the value of such demonstratives in summarizing voluminous data, clarifying difficult concepts, and simplifying technical information.

The Federal Rules of Evidence contain no special rules governing the admissibility of electronic demonstratives. Consequently, their admissibility depends on the application of the same rules that apply to traditional "static board" demonstratives. Such evidence may be admissible either under Rule 1006 (summary of voluminous evidence)[8] or 611(a) (which grants the trial court authority to ensure an effective and efficient trial presentation).[9]

On its face, Rule 1006 requires that, with respect to summaries of voluminous evidence, much of the work must be done before trial. Opposing counsel must be provided with all of the underlying data far enough in advance of trial to ensure that he our she can determine whether or not the summary is accurate. Pre-trial stipulations relating to Rule 1006 exhibits may be advisable, so that counsel may avoid the lengthy process of calling witnesses to authenticate the exhibits and walk through the sometimes laborious process of how the exhibit was put together.

With respect to authentication, the process may differ somewhat depending on whether the exhibits were prepared by experts, on the one hand, or counsel and their agents, on the other. When an exhibit was prepared by an expert, the process is fairly straightforward, since the expert can explain how the exhibit was created and is subject to cross-examination. When exhibits are

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[8] Rule 1006 states:

> The contents of voluminous writings, recordings, or photographs which cannot conveniently be examined in court may be presented in the form of a chart, summary, or calculation. The originals, or duplicates, shall be made available for examination or copying, or both, by other parties at reasonable time and place. The court may order that they be produced in court.

[9] Rule 611(a) states:

> The court shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to (1) make the interrogation and presentation effective for the ascertainment of the truth, (2) avoid needless consumption of time, and (3) protect witnesses from harassment or undue embarrassment.

created by multiple individuals, "courts . . . allow supervisory personnel to attest to the authenticity and accuracy of charts, summaries, or calculations."[10] Electronic exhibits prepared by *counsel*, on the other hand, may not be admissible at all (although they may be used as demonstratives).[11]

B. Restrictions on Use of Electronic Demonstratives

Courts typically permit counsel to use PowerPoint presentations as part of their arguments, so long as they are not overly inflammatory and are accompanied by appropriate limiting instructions.[12] In contrast, courts recognize that computer *animations* may leave lasting impressions in jurors' minds, and approach the use of such animations with heightened caution.[13] For all of these reasons, it is oftentimes advisable to deal with those issues prior to trial, rather than running the risk of being interrupted during opening statement or closing argument and being forced to retool the presentation on the fly.

IV. PRACTICE POINTERS

There are a number of critical considerations to keep in mind when deciding how best to incorporate technology into a courtroom presentation:

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[10] *Weinstein's Federal Evidence* § 1006.05[3]; *see also United States v. Bray*, 139 F.3d 1104, 1110 (6th Cir. 1998).

[11] *See, e.g., United States v. Grajales-Montoya*, 117 F.3d 356, 361 (8th Cir. 1997) (holding that Rule 1006 "appears to contemplate . . . that a summary . . . will have been prepared by a witness available for cross-examination, not by the lawyers trying the case. . . . [W]e believe that . . . a summary [prepared by counsel] is a written argument.").

[12] *See, e.g., United States v. Burns*, 298 F.3d 523 (6th Cir. 2002) (holding that potential prejudice associated with government's use of PowerPoint that included photographs of large amounts of crack cocaine and fistfuls of cash, among other images, was cured by appropriate limiting instructions); *State v. Robinson*, 110 Wash. App. 1040 (2002) (during closing argument in arson case, government should not have been permitted to use PowerPoint showing images of flaming curtains next to text listing the elements of the offense); *Milson v. State*, 832 So.2d 897 (Fla. Dist. Ct. App. 2002) (trial court properly allowed prosecutor, during closing argument, to use PowerPoint slide illustrating the verdict form).

[13] *See, e.g., Clark v. Cantrell*, 529 S.E.2d 528, 536 (S.C. 2000) (affirming trial court's exclusion of computer animation and suggesting that, at the very least, proponent of animation should offer opposing counsel ample time before trial to review the animation); *State v. Farner*, 66 S.W.3d 188 (Tenn. 2001) (holding that trial court abused its discretion in admitting government's animation of auto accident, finding that "its probative value was substantially outweighed by the danger of unfair prejudice.").

1) **Plan Early.**

   - Particularly in a complex case, the seeds of a compelling courtroom presentation are sown long before trial. When it comes to electronic databases, the quality of the output is only as good as the quality of the input. All the bells and whistles in the world cannot make up for poor coding and organization of documents, audio and video materials and other forms of media during the discovery phase. Database and discovery management software offer a robust set of organizational and search tools that allow counsel to store, sort, and instantly access documents, photographs, video clips, and other media during trial.

2) **Choose the Right Technology and Account for Murphy's Law.**

   - Counsel should choose courtroom presentation software that is (1) compatible with the discovery management software discussed above, (2) simple to use in the "heat of battle," and (3) enabled with the basic features that counsel will need to make a compelling presentation (*e.g.*, the ability to enlarge and highlight key passages of documents, to project "side-by-side" comparisons of various pieces of evidence, to play back video synchronized with the accompanying transcript, etc.). Sanction trial presentation software by Verdict Systems satisfies all of those criteria and is very useful during witness examinations. With Sanction, counsel has every piece of evidence in the case available at his or her fingertips. Documents can be displayed with key passages expanded and highlighted as witnesses refer to those passages and videotape segments can be accessed "on the fly" to impeach witnesses. For more "scripted" presentations (*e.g.*, opening statements and closing arguments), Microsoft PowerPoint allows users to create slide shows containing graphics, animations, video clips, and other multimedia content.

   - In terms of hardware, counsel should ensure that (1) projectors have a lumens or brightness of at least 2000; (2) laptops (and/or external drives) have enough memory to store all of the key evidence and access it instantly; and (3) a portable audio system is available, as many courtroom audio systems are lacking.

   - Anticipating the impact of Murphy's Law, counsel should also have available a "non-tech" alternative to his or her presentation (*e.g.* "anchor boards" of PowerPoint slides, etc.).

3) **Work Through Evidentiary Issues Before Trial**

   - As discussed above, the risk of interruptions and adverse evidentiary rulings can be diminished substantially if authenticity and other evidentiary issues relating to electronic presentations are dealt with among counsel prior to trial.

4) **Understand the Limitations of Technology.**

   - Standing alone, a flashy presentation is unlikely to carry the day. Communicating a message effectively requires a careful review of the evidence, an understanding of the opponent's case, the development of understandable case themes, and a great deal of thought as to how those themes can best be communicated to the jury. Only then should counsel begin to prepare a presentation that conveys those themes as simply and effectively as possible.

- There is no substitute for the lawyer's ability to connect with jurors by looking into their eyes and conveying an absolute belief in the client's position. During key moments in the argument (*e.g.*, when the jury is being asked to conclude that the government's star witness is a liar), the jurors' attention should be focused on the lawyer, not on the screen.

5) Reveal the Information in an Orderly and Effective Way.

- Facts should be revealed on the screen slowly and systematically. With this type of presentation, jurors anticipate the revelation of additional facts with increased interest and curiosity. This technique also allows the lawyer to maintain the jury's attention because there is congruency between what is being presented visually and orally.[14]
- Including too much information on a chart or slide can be counter-productive. Accordingly, charts and slides should be clear and contain only the information that will be necessary to assist jurors in recalling key information during deliberations.

6) Get the Most Out of the Technology.

- Electronic presentations should not be viewed simply as surrogates for blow-up boards. Asking the jury to view a full-page document—whether in hard copy or as an image on a screen—is not conducive to learning. The more effective technique is to enlarge and highlight the key text in the document, while dimming or minimizing the background, so the jury focuses on and remembers the key information from the document.
- Use a variety of tools—including sound, animation, video and other special effects—to hold the jury's interest.
- Today's technology offers counsel limitless options for creativity in presentations. For example, Sanction trial presentation software allows for "split screen" presentations that allow one type of media (*e.g.*, videotaped testimony) to be displayed on one side of a screen and a document (*e.g.*, the document that is the subject of the witness's testimony) to be displayed on the other side.

7) Use Technology to Most Effectively Complement Your Own Style.

- Ultimately, technology is just one more weapon in the trial lawyer's arsenal. As such, the best use of technology will vary from lawyer to lawyer, based on the lawyer's individual style and skill-set. Everything about the technical presentation—from content to where the equipment is situated in the courtroom—should be tailored to the lawyer's individual style.

V. CONCLUSION

Although technology is not a silver bullet, it can go a long way toward assisting lawyers

[14] *See* Roxana Moreno & Richard E. Meyer, *Verbal Redundancy in Multimedia Learning: When Reading Helps Listening*, 94 J. of Educational Psychology 156-63 (2002).

in preparing and presenting cases, regardless of their relative complexity. The powers of courtroom technology can be fully harnessed only by lawyers who recognize the advantages, as well as the limitations and risks, involved in choosing and using that technology.

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EDUCATION

J.D., *magna cum laude*, Georgetown University Law Center, 1997

Order of the Coif

The American Criminal Law Review

White Collar Crime Senior Project Editor

B.S., *summa cum laude*, Boston University, 1989

ADMISSIONS

State bars of Oregon, Washington, Maryland, District of Columbia

U.S. District Court for the District of Oregon

U.S. District Court for the Western District of Washington

U.S. District Court for the District of Maryland

U.S. District Court for the Southern District of Texas

LAW PRACTICE

David Angeli represents individuals and corporations in complex criminal, regulatory, and civil matters. He has tried a number of high-profile cases around the country, for which he has received national recognition. Mr. Angeli is ranked in "Band 1" by Chambers & Partners, whose 2018 publication describes him as follows: "David Angeli continues to enhance his already formidable reputation as a distinguished civil, criminal and commercial litigator. One source enthuses that 'he is the best white-collar crime lawyer on the West Coast of the US, and is wickedly smart.'" Mr. Angeli has repeatedly been named as one of the Best Lawyers in America in the categories of "Bet-the-Company" Litigation, White-Collar Criminal Defense, and Commercial Litigation, and holds the distinction of being the only lawyer in the State of Oregon to be included in all three of those categories. Similarly, the Angeli Law Group is regularly recognized by U.S. News and World Report as a Tier 1 "Best Law Firm" in the areas of White-Collar Criminal Defense and General Commercial Litigation. Mr. Angeli was named Best Lawyers' White-Collar Criminal Defense "Lawyer of the Year" for Portland in 2016 and 2018. His peers have repeatedly selected him as one of the top 50 Oregon "Super Lawyers" and he is rated AV Preeminent by Martindale Hubbell, having received a peer review rating of 5.0 out of 5.0.

PRIOR EXPERIENCE

A former U.S. Navy officer and pilot who served in the first Gulf War, Mr. Angeli served as a law clerk to Judge Thomas Penfield Jackson on the U.S. District Court for the District of Columbia. Mr. Angeli was Judge Jackson's primary law clerk in the seminal antitrust case, *United States v. Microsoft Corporation*. Thereafter, he practiced at Williams & Connolly LLP in Washington, DC, before joining Stoel Rives LLP in Portland, Oregon, where he was a partner in the firm's litigation group. Mr. Angeli has served as a Vice Chair of the National Association of Criminal Defense Lawyers' White-Collar Crime Committee and as an Adjunct Professor of Law at the Lewis & Clark Law School, where he teaches a Federal White-Collar Crime Seminar.

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REPRESENTATIVE MATTERS

- Represented a former Enron executive in criminal and civil litigation alleging conspiracy, securities fraud, wire fraud, insider trading, and money laundering. After a three-month federal criminal trial in Houston, the client was not convicted on any of the 27 counts with which he was charged.
- Obtained an acquittal on all counts after a three-week federal jury trial in which the government alleged that a member of the FBI's Hostage Rescue Team obstructed justice in connection with the shooting of one of the leaders of the armed takeover of the Malheur Wildlife Refuge in eastern Oregon.
- Represented a major financial institution suing another financial institution in a Delaware case arising out of the sale of a consumer credit card company. Won summary judgment in an amount in excess of $90 million and a verdict at trial for an additional amount exceeding $25 million.
- Obtained a complete defense verdict on behalf of a large manufacturer after a multi-week federal jury trial involving multiple plaintiffs alleging age discrimination.
- Represented the former Chief Information Officer of the Oregon Health Authority in connection with numerous investigations and litigation involving Oregon's technical implementation of the Affordable Care Act. The client was exonerated of any wrongdoing and we obtained a $1.3 million settlement on her behalf from the State of Oregon relating to the circumstances surrounding her termination.
- Represented a client accused of engaging in a $200 million tax fraud scheme, in a case described by the U.S. Department of Justice as "by far the largest criminal tax case in the history of Oregon." After five years of investigation and litigation, including a contested sentencing hearing in which the government sought a substantial prison sentence, we secured a sentence of probation without any prison time, fine, or restitution requirement imposed on the client.
- Obtained an extremely favorable settlement for a large manufacturing company who brought a federal lawsuit alleging that a group of suppliers engaged in a multi-million-dollar price-fixing conspiracy.
- Represented an individual indicted in Tennessee on federal charges stemming from the alleged payment of kickbacks in connection with a federal Medicaid program. Days before trial, all charges were dismissed.
- Represented numerous corporations and individuals in connection with investigations into, and prosecutions of, alleged federal and state environmental violations. For example, we represented an individual and his company in one of the flagship felony prosecutions in the Oregon Attorney General's aggressive regime of environmental criminal enforcement. After extensive litigation, including a five-day evidentiary hearing over the admissibility of the State's scientific evidence, the

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State eventually dropped all 36 felony charges in exchange for a misdemeanor plea involving no jail time.

- Represented a major national health care provider in a federal criminal investigation into Medicare billing practices. After months of investigation and negotiation, the Justice Department ultimately declined prosecution.

- Represented the founder of a charity in connection with allegations of sending millions of dollars to Iran in violation of OFAC regulations. At a lengthy contested sentencing hearing, the government argued strenuously for a 30-month term of imprisonment. As the *Oregonian* reported in a lead editorial the next day, we prevailed, and the client did not spend even a day in prison.

- Represented numerous companies, primarily in the defense and healthcare industries, in connection with civil and criminal False Claims Act investigations and litigation.

- Represented a senior official at the Oregon Department of Energy in connection with an aggressive investigation into allegations of favoritism in awarding a government contract. We vigorously contested the allegations, ultimately leading to the Oregon Department of Justice dropping the investigation altogether and to the resignation of the Chief of the Department's Criminal Division based on the Department's missteps during the investigation. In the face of our threats to sue in light of those missteps, the State agreed to reimburse our client for the attorneys' fees she incurred during the investigation, and to compensate her for the turmoil that she endured.

- Represented a multinational aerospace company in federal litigation alleging that a senior engineer stole sensitive trade secrets and other materials upon his departure to work for a competing company. Obtained a permanent injunction barring the use of the client's trade secrets and other confidential materials.

- Represented a prominent individual in a claim alleging that the State of Oregon maliciously prosecuted him; after aggressive discovery and motions practice, the State agreed to pay the client a substantial amount to settle the matter.

- Obtained a permanent injunction in the U.S. District Court for the District of Oregon in a theft of trade secrets case involving a former regional sales representative of a major medical device manufacturer.

- Represented an international lending organization in connection with its investigations of suspected fraud and corruption relating to the execution of various projects worldwide.

- Led numerous internal corporate investigations into allegations of health care fraud, Customs violations, environmental crimes, and financial improprieties.

- Represented a national media organization under criminal investigation in Colorado for allegedly illegal news-gathering practices. The investigation was ultimately terminated after we presented exculpatory evidence and legal arguments.
- Obtained a multi-million-dollar settlement for landowners in eastern Oregon resulting from unfair debt collection practices.

SIGNIFICANT SPEAKING ENGAGEMENTS

- "Advocating for Justice: Getting Below the White Collar Sentencing Guidelines," panelist, Natl. Ass'n of Crim. Defense Lawyers White Collar Crime Conference (Santa Monica, June 2017)
- "SEC Enforcement Update & Hot Topics," panelist, Northwest Securities Institute (Portland, May 2017)
- "The Year in Civil Rights," Oregon State Bar Civil Rights Section annual meeting (Portland, October 2016)
- "Criminal Conspiracy," panel moderator, Natl. Ass'n of Crim. Defense Lawyers conference (New York, May 2015)
- "Corporate Internal Investigations: Practice, Procedures, and Pitfalls," panelist, Northwest Securities Institute (Portland, April 2015)
- "Significant Developments in the Western Region," panelist, American Bar Ass'n National Institute on White Collar Crime (New Orleans, January 2015)
- "'Zealous' or 'Excessive'—Can a Lawyer's Good Intentions Go Too Far?" panelist, Oregon Law Institute 25th Annual Ethics CLE (Nov. 2012)
- "Litigating Section 1983 Civil Rights Cases: Current Issues & Trends," panelist, Federal Bar Association (Oregon Chapter) (Oct. 2012)
- "Now Who is Playing Games? Fraud in Debtor-Creditor Relations," panelist, Oregon State Bar Debtor-Credit Section Annual CLE (Oct. 2012)
- "What to Do When the FBI Knocks on Your Door: Employer and Employee Rights and Responsibilities," panelist, Federal Bar Association (Oregon Chapter) (Sep. 2011)
- "Joint Defense, Common Interest and Settlement Privileges: Navigating Confidentiality Obligations to Third Parties," Multnomah Bar Association (June 2011)
- "The Importance of Vigilance in Preventing and Addressing Prosecutorial Misconduct," Lewis & Clark Law School (April 2011)
- "Keeping the Case on Track in Parallel Proceedings," Multnomah Bar Association (Nov. 2010)

- "Look Before You Leap: Considerations When Determining the Necessity, Scope, and Protocol of an Internal Investigation," panelist, Oregon State Bar Business Litigation Section CLE (November 2010)
- "Keeping the Case on Track in Parallel Proceedings," Multnomah Bar Association CLE (November 2010)
- "Ethics in the Ether: Social Networking and Other 'High Tech' Professional Responsibility Issues," panelist, "Oregon Law Institute CLE (November 2010")
- "Time to Amend the Federal Rules to Provide Broader Discovery Rights for Criminal Defendants?," Owen M. Panner Inn of Court (March 2010)
- "The Fourth Amendment Exclusionary Rule: State & Federal Perspectives," panelist, Oregon State Bar Constitutional Law CLE (Dec. 2009)
- "Challenges to Trial Counsel in the Modern World: Using Technology to Present a Winning Case," Natl. Ass'n of Crim. Defense Lawyers Fall Meeting (Nov. 2009)
- "Environmental Crimes: The First 30 Days After Indictment," The Seminar Group CLE on Environmental Crimes & Penalties (July 2009)
- "From Bad to Worse: When a Civil Case Takes a Criminal Turn," Oregon Association of Defense Counsel Annual Convention (June 2009)
- "White Collar Crime: What Every Transactional Lawyer and Civil Litigator Needs to Know in the Post-Enron Era," Multnomah Bar Association (December 2007)
- "Special Issues Relating to Cross-Examination of Experts in Criminal Cases," Oregon Law Institute (November 2007)
- "Defending an Innocent Client in the Enron Criminal Cauldron," Oregon State Bar Litigation Institute and Retreat (March 2007)
- "Recent Developments in White Collar Criminal Enforcement," Absolute Criminal Litigators Conference (Las Vegas, March 2007)
- "Best Practices for Early in the White Collar Criminal Investigation," panel moderator, the National Association of Criminal Defense Lawyers (Philadelphia, May 2006)
- "Securities Fraud," panelist, American Bar Association National Institute on White Collar Crime (San Francisco, March 2006)
- "Using Technology Persuasively in Jury Arguments and Court Hearings," speaker, Oregon Law Institute/Federal Bar Ass'n Advanced Federal Practice & Procedure seminar (Portland, February 2006)

- "Lessons from Enron," panelist, Oregon Law Institute Business Law Seminar (Portland, February 2006)

PUBLICATIONS

- "The Impact of Social Networking in Criminal Cases" (Oregon Law Institute CLE on "Ethics in the Ether," November 2010)
- "The Plain View Doctrine And Computer Searches—Balancing Law Enforcement's Investigatory Needs With Privacy Rights in the DigitaL Age" (National Association of Criminal Defense Lawyers' "Champion" Magazine, August, 2010)
- "Responding to Oregon's Threat of Aggressive Environmental Criminal Enforcement—An Analysis of Oregon's Environmental Crimes Act" (The Seminar Group CLE on Environmental Crimes & Penalties, July 2009)
- "The U.S. Department of Justice's 'Revised' Principles of Federal Prosecution of Business Organizations: Real Change or Just More of the Same?" (Federal Bar Association Newsletter, Spring 2007)
- "The Oregon Legislature's Constitutional Obligation to Provide an Adequate System of Public Education: Moving from Bold Rhetoric to Effective Action," 42 Willamette Law Review 489 (Summer 2006)
- "Reexamining 'Loss' and 'Gain' in the Wake of Dura Pharmaceuticals v. Broudo--New Ammunition for Securities Fraud Defendants in the Continuing Guidelines War" (with Per Ramfjord) (NACDL "Champion" magazine, May 2006)
- "The Benefits and Limitations of Courtroom Technology in Presenting the Complex Case" (Oregon State Bar Litigation Journal, Summer 2006)
- "A 'Second Look' at Crack Cocaine Sentencing Policies: One More Try for Federal Equal Protection," 34 American Criminal Law Review 1211 (1997)
- "Federal Criminal Conflict of Interest, Project, Eleventh Survey of White Collar Crime," American Criminal Law Review (coauthor) (1996)