

VIRTUAL DEPOSITIONS AND CONQUERING THE CHALLENGES OF REMOTE EXHIBIT SHARING

Having the right exhibit sharing tools will put you on the path to the most efficient and secure virtual deposition. Add to that a few best practices for using those tools and you'll get the most out of your chosen solution.

BY MICHAEL MURRAY, VERITEXT LEGAL SOLUTIONS

By now we're all very familiar with just how rapidly and drastically the world changed a year ago as businesses around the globe shut down in response to the pandemic. Lawyers, just like everyone else, suddenly had to figure out how to continue handling matters and serving clients remotely. This was no small feat for an industry that still relies heavily on face-to-face contact in many instances.

For litigators, one of the biggest hurdles was figuring out how to navigate the deposition process in a world where no one could be in the same room together. Every aspect of depositions had to be reconsidered, and one of the most significant challenges was figuring out how to share exhibits in a way that was both secure and



protected case strategy. According to Veritext Legal Solutions, over the last year proceedings included 10 to 15 exhibits and as many as 150 exhibit pages on average.

Thankfully, advances in exhibit sharing technology have made virtual depositions not only possible, but as efficient and effective as in-person depositions. By relying on

quality exhibit sharing tools and following best practices, virtual depositions can be as seamless as the in-person depositions you're used to.

The Goal: To Replicate the In-Person Process as Much as Possible

The main goal with remote depositions is to mirror the in-person deposition process as closely as you can. Think

of how you manage exhibits in your traditional deposition: Every person in the room gets their own copy to review at their own pace, not beholden to a screen share that only shows one page at a time, and you can keep your exhibits private until you're ready to share them.

While no technology will ever be exactly the same as passing a piece of paper across the table, consider the in-person exhibit sharing scenario and determine which aspects of it matter most to you. Is it giving everyone their own copy? Or is it the ability to protect your strategy until you need to introduce exhibits? Every attorney has a unique approach to depositions, and it's important to seek out the exhibit sharing tool that works best with the way you work and most closely replicates the features of a traditional deposition that you value most.

Not all exhibit sharing tools are created equal. Before you commit to one, be sure to explore all its features and make sure you understand how it works in terms of things like having to share exhibits in advance, what late-arriving attendees can see, and whether you can stamp exhibits as they're introduced. If you're inclined to use

commercially available video conferencing tools for your depositions, keep in mind that, while incredibly useful in their own ways, these technologies were not designed for use in legal matters and therefore might not give you all of the features you want or need for something as important as a deposition.

Best Practices for Remote Exhibit Sharing

Having the right exhibit sharing tools will put you on the path to the most efficient and secure virtual deposition. Add to that a few best practices for using those tools and you'll get the most out of your chosen solution. Here are a few things to keep in mind before you head into your next remote deposition:

- Treat a virtual deposition the same way you would an in-person deposition in every respect, from your preparation through your appearance and conduct at the proceeding. Don't buy into the illusion that virtual proceedings are any less formal.
- Familiarize yourself with the relevant rules governing exhibits at your deposition—just because you're not appearing in person doesn't mean they no longer apply.

- Have all your potential exhibits compiled and ready to be marked before the deposition begins.

- Test all the systems you'll be using ahead of time to make sure there are no technical issues—this includes your deposition platform, your exhibit sharing tools and any viewing and annotation tools you plan to use.

- Make sure the person who will be loading and introducing the exhibits is comfortable with how the system works before your deposition starts.

- All participants involved, including the witness, should become familiar with the tools prior to the actual deposition. As they say, practice makes perfect.

- In addition to your exhibit sharing tools, test your own equipment. You need to make sure you're fully charged, have a solid internet connection, and are positioned correctly on camera to interact with witnesses and exhibits.

- Work from a quiet place with minimal noise and distractions, and mute yourself if you're not an active participant at the moment.

- Most importantly, ensure you are working with a

deposition services company that has expertise managing the logistics and providing the technology for remote proceedings.

Virtual depositions are no longer a Band-Aid for surviving the pandemic—in many ways, they offer more flexibility and efficiency than in-person proceedings. With the right exhibit sharing tools, remote depositions will be an important tool in every litigator's arsenal well into the future.

New Capabilities for Modern Formats

As technology has evolved and infiltrated all aspects of our lives, more file types have become standard in litigation, with new native file types being regularly introduced. What previously was handled by passing a flash drive around the table so that each participant might view the file can now be done with a couple of clicks with today's exhibit sharing tools in a remote environment. Whether you're dealing with Excel documents, CAD files, MRI images or other native files, you can introduce them through these tools and seamlessly distribute them to all participants.

Exhibit sharing tools allow for a dynamic way to introduce native documents without a lot of advanced technology or elaborate setups. While this technology has been around for a while, many lawyers weren't previously taking advantage of it. Being forced into remote depositions because of the pandemic has opened many minds to solutions that they once resisted because they're realizing that they actually make things much easier.

Don't Forget About Security

After a year of working remotely, we're all probably much more comfortable using a wide range of solutions we never previously used. This increased comfort level can create a false sense of security. The reality, though, is that security is still one of the biggest concerns in any business activity conducted remotely, and something as important as a deposition is certainly no exception.

Email and consumer file sharing products have been convenient and, indeed, indispensable, for communicating, but chances are your firm already has restrictions

in place regarding what they can be used for—namely, not for transferring confidential or sensitive documents. If a tool offers a questionable level of security for day-to-day business, you should certainly think twice about using it for sharing deposition exhibits.

For any tool you're considering using for your virtual deposition, you need to understand the security features it offers for file transfers and make sure it's properly set up to take advantage of all those features before sharing exhibits. Depositions and other legal proceedings require a reliably secure means of transferring documents. Using tools not designed for this purpose can create potential security issues and open the door to an unacceptable level of risk.

Michael Murray is the director of client solutions for Veritext Legal Solutions. Murray stays on top of litigation technology trends and travels throughout the nation speaking and providing informative and entertaining, CLE's, educational instruction and product demonstrations to legal professionals.