



## Litigation e-Newsletter



### The Perfect Storm

In **Visa Check/MasterMoney Antitrust Litigation, 96-CV-5238** we deployed enough trial technology storage (1 terabyte) to house over 10,000 trial exhibits and hundreds of hours of video depositions.

This case represented six years worth of work for plaintiffs' lead counsel Lloyd Constantine of Constantine & Partners. There were nearly three million pages of documents

produced during discovery which the firm had imaged and coded early on in keeping with the firm's reputation as a progressive user of technology to manage every litigation matter it handles. This image-based system became the most critical piece of the trial preparation process and was the basis for the trial notebook. There were over 350 depositions taken, most of which were videotaped and ultimately converted to digital MPEG files with synchronized text for presentation at trial. As the parties approached the trial date, they exchanged exhibit lists, and exhibits in hard copy and a CD, consisting of more than 15,000 trial exhibits comprising approximately 250,000 pages. The jury would have to interpret the business practices of credit card companies, banks and the interchange fees charged to cover the costs of debit/credit card use. How did plaintiffs' counsel weather this storm of information overload and develop a trial-ready plan resulting in a settlement?



### Controlling the Technology



Technology played a major role in the management of this case. Back in 1994, preparations were

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made to have all evidentiary materials scanned, coded and loaded into a searchable database. This provided the platform for data analysis, objective and subjective searching and the organization of potential exhibits. This expedited the team's ability to tie case facts directly to their presentation strategy and duplicate documents quickly and easily for internal and external distribution during discovery. This database later became the warehouse of synchronized, digitized copies of depositions linked to relevant documents.

Plaintiffs' counsel had long ago decided to maintain control of the technology due to its integral role in the presentation of their case. The defendants were unified and equally adamant about maintaining control. This impasse ultimately led to an informal hearing before the judge's clerk who heard arguments from both sides and their experts. During the hearing, a compromise was made but the plaintiffs' counsel walked away with control of the majority of the technology. They relied on [miniDEPS](#), DOAR's portable storage device which includes snap server storage, network switches, video and audio switcher/mixer, VGA distribution amplifiers, judge override switch, and annotation monitor controls for total command of all courtroom technology. A relatively new technology, wireless communications in the courtroom, was also incorporated into the trial set-up.



## Feedback

### Contact

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## Graphics

Technology was also behind the evidence preparation as



hundreds of trial graphics were created to help convey the more complex issues to the jury. There were animated charts and graphs that explained the drastic rate increases in the debit interchange

fee over various periods of time. In order to guarantee the suitability of the graphics for laypersons on the jury, the graphics were tested in front of 3 panels of mock jurors within DOAR's Digital Court Facility. The entire trial team moved into the [Digital Court Facility](#) for ten days in order to replicate an actual trial experience for mock jurors and class members including Wal-Mart Stores Inc., Sears Roebuck & Co. and others.

Analysis of the jury research results pinpointed the most influential graphics and it was this set that was prepared for use at trial. While the case ultimately did not get in front of a jury, and neither the presentation strategies nor the trial technology were put to the test, the matter is a perfect case study on the advantages of being "trial ready" regardless of the size and scope of the case.

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