

# **TRYING CASES: UNDERSTANDING THE MINDSET AND TRIAL PLATFORM NEEDED TO WIN**

By:

Patrick J. Higgins, Esq.  
Law Offices of Patrick J. Higgins, PLLC  
21 Everett Road Ext. Suite A-4  
Albany, NY 12205  
(518) 489-1098

## I.

### DEVELOPING THE PROPER TRIAL MINDSET

#### a. Skill number 1 – Accurately perceiving the reality of the courtroom and how you fit into that reality

1. Your creditability with the Jury and the Court is the most important asset you have.
2. It is not about you. The jury isn't really interested in you. They have a job to do, and they are listening to the judge to find out how to do that job. The Judge certainly is not focusing on you. You are a single player in a multi-actor process. It is about the jury determining an issue between the two parties.
3. Leave your ego at home. It will only hurt you at trial. This is not a trial of or about you. Just do your job, do it well and focus on that. Think of yourself as a plumber with a suit. Get out of the way. Not a referendum on your worth, skill, or identity. It is not your case, it is your client's case.
4. Do not try to act like you know more than you do. It is okay that this is your first trial. Juries like that.
5. Law School has changed you. You now comfortably talk about proximate cause and *res ipsa loquitur*. That is not normal. The jurors are humans. They have not been changed. They are normal. You need to relate to them like a human being.
6. We live in a media-saturated, instant response culture where most information is communicated visually. Present evidence as much as possible in a format in which jurors are accustomed to receiving it.
7. Don't waste jurors' time. They have real lives that they need to get back to. Not having exhibits ready, fumbling around for papers, having gaps in proof will not sit well with the jury, (or the Court).
8. The hand-off between the various IAS, pre-trial, and trial assignment parts is unpredictable and variable in certain counties. You work on a case for four years and know everything about it. The trial judge is assigned to the case immediately before jury selection (or after) and may not know a thing about it. The system is like an airport baggage conveyor belt. Individual items can be bruised or damaged. Be ready for a less than smooth transition.

## **b. Skill number 2 – Accepting, and Planning for, the Unexpected**

Things happen:

The judge incorrectly excludes your key witness or a piece of evidence.

The weather is bad on jury selection day. The jurors are late. You don't start picking a jury until 1:00 pm. That is a problem since you scheduled your first witness for 3:00 pm. To make matters worse, your witness walks in and sits down with jury panel waiting to be called to the box, and starts talking to them. He explains the whole case. Then he waves to you. Opposing counsel is halfway to chambers.

The opposing attorney has a sudden "emergency" with his expert and needs to call him as the first witness in the case. The judge grants this request over your vehement objection.

The subpoenaed records that you need to use with your first witness never arrived, or were lost in the courthouse. Opposing counsel regrettably cannot stipulate to the records. The clerk's office is properly apologetic. The Judge doesn't want to keep the jury waiting.

The court is unable to hear your motions *in limine* to exclude really bad things about your client before jury selection. So, the jury hears about them in jury selection. Then the court grants your motion. Of course they can be fair.

The Court announces that it has other matters to attend to for one of the five trial days on your case and therefore court will not be in session then. Your expert is flying in on that day after receiving non-refundable gold bullion and has stressed that he can never re-appear for any reason and will not be videotaped as it would be beneath his considerable skills and talent.

Opposing counsel advises you on the evening before the trial that he has been provided with a key piece of evidence that his client just discovered and that he is therefore going to use it at trial. He is also calling a second, previously undisclosed expert based on this evidence. He will try to get you that expert response by the start of jury selection, but he can't promise it.

Your client is on the stand. She only needs to say one thing that you really need. You have gone over this many times with her. There is no dispute. You get to that part. She says just the opposite – and smiles at you, evidently thinking she nailed it. The jury looks at you. You think about what you learned in law school about aggravated assault based on temporary insanity.

The expensive video presentation equipment that you brought to trial to show the jury demonstrative exhibits does not work. The Judge doesn't like all of this new technology cluttering up his court room. In front of the jury, he orders you to take it down and do it the way all the other attorneys do. Opposing counsel graciously offers to help you. All of your demonstrative evidence is on disc.

During the closing, you use an easel supplied by the court staff. One of the legs has a worn-out clamp, causing the easel leg to retract, collapse the easel, and dump your exhibit to the floor. Now the jury is really paying attention.

What do you do?

## **SUGGESTIONS**

- a. You may not control events, but you can control your response to them. Have a Plan A, as well as, Plan B and Plan C. If unplanned event A happens you will do B. If unplanned event C happens you will do D. Things are going to happen that are unexpected, things will not work, surprises good and bad are coming. Recognize that this is part of the process and that you can only prepare so much. You must accept what comes and show patience, resilience, resolve, and tenacity as required in response.
- b. As to what you can control, prepare as much as you can before the trial.
  1. See trial platform section below. Among other things, pre-mark and exchange exhibits, seek trial stipulations, educate the court with trial briefs on key evidentiary issues subject to tactical considerations, check subpoenas, and test and retest your presentation equipment.
- c. To see more clearly from the jury's viewpoint, try to get on a jury, and watch a jury selection on a case where you have no interest or knowledge. Study of trials, trial preparation, and juries.
- d. To anticipate the Court and her court room style, review her court rules, call her clerk (if possible), talk to other attorneys who have tried cases before her, review her published trial decisions, watch a trial where she presides.

### **c. Skill number 2 – Managing your emotions**

1. Controlling your emotions is a key component for courtroom work.
  - a. Keep a calm demeanor in front of the jury. If you look like you took a hit, they will believe that you did.
  - b. Recognize and manage your fears.

Fear at trial is a fact of life that you must address. This may never change. The cause of fear may be that you have never done this before. You may feel insecure, that you are going to look bad in front of the client, *i.e.* not competent. This is difficult for lawyers. Incompetence is not high on the strength finder profile. A second cause of fear can be loss of control. Attorneys often try hard at trial to control situations because of this fear. This tendency must be identified and resolved because the lawyer cannot control everything that happens at trial. It is a futile effort, and to not recognize this will only allow that fear to expand.

2. Resilience – the ability to stay on task and maintain focus– persevere and persist over an extended time.
3. Character traits such as determination, courage, boldness and integrity.
4. Difference between being beaten and losing a case. You can't become proficient at trying cases without doing it, and that entails trying and failing as you build your skills. This will entail disappointment, frustration and a slow learning curve, but persist and you will improve. There is no easy way.

### **SUGGESTIONS**

1. Self-Assess. How do you react when you are angry, frustrated, under pressure, anxious, and fatigued? How would you present to a stranger, *i.e.* member of the jury in such states? Ask your trusted advisors. Then self-correct as needed to control your behavior when you are in those states. Determine what you can do leading up to the trial to minimize these emotional states.
2. As to Fear:
  - a. Acknowledge your fear, state it, and then act to lessen it.
    1. Prepare, prepare, prepare. Hit the library, get alternate routes of evidence down for each piece of testimony or exhibit. Do as much as you can before the trial. See below.
    2. Watch parts of a trial that you know nothing about. Yes, this means that you will have to work the weekend to keep up with your other cases, but do you want to be ready or have the weekend off? Watch the attorneys. Who would you listen to? Why? Who do you like or dislike? Why? Who seems more competent. Why? Note the pace of the case and how some things move slower than you expected, and others move much quicker. Take copious notes.
    3. Accept that it is the nature of the work that you will be afraid and accept it.

3. Get your personal house in order before you start the trial. You shouldn't be handling major personal events during trial, or having your weekends booked. Trial is a single focus event, and you may need the weekends and nights.

## II

### **BUILDING THE TRIAL PLATFORM FOR YOUR CASE**

#### **a. Skill number 1 -- Constructing the trial platform**

A trial platform (1) recognizes the need to master the basic processes of trial, and (2) assures that the trial attorney reaches the day certain ready for trial.

##### **1. Identify and Master the Basic Trial Processes**

There are basic, recurring processes in the trial of a case that you must understand and master before you try the case.

These include pre-marking exhibits, moving exhibits into evidence, jury selection mechanics, making offers of proof, protecting the record, objecting and raising legal arguments to evidence or attorney comment, motions at the close of proof, impeaching a witness with a sworn statement or deposition transcript, laying a foundation for a witness or exhibit, reading in depositions, and preparing videotaped testimony for rulings and viewing by the jury, among others.

If you do not get competent in these processes before trial, you are at a serious disadvantage. In a sense, you have prepared to get to the day certain, but not try the case.

Experienced attorneys have learned the basic trial processes and thus can focus on case specific preparation. New trial attorneys carry a heavier burden into their first trials because they have to learn the underlying trial processes and also prepare for trial.

##### **1. Develop and Execute the Trial Platform Schedule**

There are two important things to understand – what do you and your staff need to complete to successfully try the case (*i.e.* the trial platform) and how is that going to be done?

First, here are the elements of a trial platform:

1. A written final theory of the case including the bad facts. The bad facts usually come out. Sorry. Get over it. You have to own them, and work them into your case as a strength not

a weakness. No one said it was going to be easy. The theory of the case has to include and explain all facts and claims, the bad and the good.

2. A final witness outline for each witness with a listing of the exhibits that each witness is expected to admit into evidence.
3. The trial exhibit list.
4. The trial preparation schedule (Ex A).
5. The trial schedule (Ex. B).
6. The verdict sheet and jury charges.
7. Marked Pleadings and Contentions for the Court
8. Motions *in limine*.
9. Your written plan for meeting your *prima facie* burden of proof linking your witnesses and exhibits with each element of the causes of action at issue.
10. A demonstrative evidence plan. What demonstrative evidence do you need, and how are you going to admit and present it at trial? How and when are you going to show it to the Court and opposing counsel before you attempt to admit it into evidence? Who is testing and transporting the presentation equipment so that it gets to the courtroom and it works when it gets there? Have you received the Court's approval to set up the equipment?
11. Videotaped deposition transcripts marked and submitted for ruling and videographers retained to cut and play video.
12. Stenographic depositions marked up for read-ins and copies submitted for ruling and extra copies made for court and witnesses at trial.
13. Disclosures updated, including expert and witness disclosures.
14. Confirmed witness and expert trial date appearances, with relevant documents provided to each. Travel and lodging confirmed.
15. Trial briefs served.
16. Subpoenas served and service confirmed. Member of the trial team designated to review subpoena responses at Supreme Court clerk's office to ensure that they have all arrived in proper form and with proper certifications.

## **Skill 2 – Set up a mechanism to confirm and correct course as needed and assign the work**

As trial approaches, time compresses. You should carve out as much time as possible in the weeks before trial for unexpected events, final trial preparation, and motions and other filings from your opponent. Attorneys often stumble at trial because they were still working on trial platform tasks up to and including the first day of trial. This is not an optimal situation.

To prevent a time and work overload, develop early on a working plan to complete the necessary trial platform tasks. Exhibit “A” shows a schedule for a civil personal injury trial. Of course, every case will differ, as will the schedule and what needs to be done. The point is to establish your schedule and then stick to it. You also need to delegate tasks and then follow up on them to stay on schedule.

The trial preparation process will repeat itself throughout your career. It will greatly assist you at the start of that career to develop a workable trial preparation system that you can use on every case. The alternative is to reinvent the process for every trial, an inefficient and stress producing practice.

### **III**

## **PREPARING THE CLIENT FOR TRIAL – WHOSE TRIAL IS IT ANYWAY?**

### **a. Skill Number 1 – Understand the client’s needs when preparing him for trial**

Lawyers spend much time preparing a client for the lawyer’s trial. They often do not prepare the client for the client’s trial. We discuss here five steps to prepare the client for her trial.

Trial lawyers are highly specialized professionals, in a highly specialized field. If you are one of them, you know the court system and the trial process in a way different than any layperson client. You speak and think in a different language, most of it in legal shorthand. This high level of training and experience can sabotage your attempts to understand and communicate with your client – and get her ready for trial.

Clients often don’t know what you are talking about when you talk to them like the specialized legal professional that you are. So, they dutifully nod their head in agreement and smile, because they don’t want to offend you. But they do not understand. And they will go home and tell their spouse that they listened to you for an hour, and that nothing made sense.<sup>1</sup> Now they are really scared to go to trial.

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<sup>1</sup> As a threshold matter, effective trial preparation of witnesses assumes that you have an intact bond with the client on which to build before trial, and stand on at trial. Without such a bond, it will be difficult to present the case, and more difficult to win it. Ensure that a strong bond exists with the client well before trial, and keep that bond strong during trial.

Your trial preparation session missed the mark because the person who needed the preparation – the client – learned nothing. Therefore, consider the following sequence to prepare the client for her trial. Then you can progress to the specific case facts, the standard rules, (don't volunteer information, etc.) the sequence and subjects of the client's direct examination, and expected cross examination.

### **Step 1 – identifying and addressing the client's fears**

Like juries, clients may possess an internal story about what the trial is going to be about. And that story may scare them. The average person's two biggest fears are meeting strangers and talking in public. That describes a trial pretty well. The fear of the unknown is also very strong. So, identifying and later addressing the client's fears is a critical part of client centered trial preparation. We suggest the following:

- Suggestion # 1 -- Ask the client what comes to mind when she thinks of appearing at trial. What pictures are in the client's mind? What does she think the trial will be like? Don't use the word fears. Let the client direct the conversation. Do not rush in and reassure the client as soon as she indicates a concern. You want to identify the fears, and address them in a later session. Common fears include:
  - "I am going to forget dates and times"
  - "I don't remember things that well"
  - "I am going to make a fool of myself"
  - "I get nervous and I shut down when I am in front of people"
  - "I am scared of the other attorney and what she is going to do to me"
  - "The other attorney is going to trick me"
  - "I am not good at talking in front of people"
  - "I don't know how to answer questions the right way"
  - "I don't know what to wear"
  - "The jury won't like me, and the judge will be mean"
  - "I worry about who is going to watch my kids during the trial"
  - "I can't afford to take off two weeks of work"
  - "I am worried that they are going to bring up [fill in item from past]"
  - "I am on [fill in the blank] medication and that makes it hard to remember things, and/or concentrate "
  - "I am worried that they are going to ask me about [fill in the blank] and I don't want to talk about that, and that is very upsetting to me"
  - "They are going to blame me and attack me for what happened to [fill in the

blank]”

- Suggestion # 2 – The worry sheet. Have the client write down her fears – all of them – and send it to you. Many clients find it easier to do that rather than discuss fears with you.
- Suggestion # 3 – Use your trial team. Maybe the paralegal or secretary or young associate are more empathic, or more connected to the client initially. They can listen to the client’s concerns, and discuss them with you.
- Suggestion # 4 – Once the client identifies her fears, address them in a separate session. For example, if the client is worried about remembering specific dates and times, tell her that she doesn’t have to remember this as you can establish that through other witnesses, and that she just has to remember topics A through C. Also, show her the documents with dates and times on them that are expected to be in evidence, and indicate that she can refer to the documents if necessary. Finally, explain that if she doesn’t remember specific dates and times, she can say that.

## **Step 2 – Answering the “where do I sit?” questions – addressing the knowledge gap**

Apart from their fears, many clients know little or nothing about a supreme court trial. Others presume knowledge because they appeared in traffic court for two hours. The client is your primary trial exhibit, 8 hours a day, for each day of trial. What she doesn’t know can hurt both of you. Here are questions you may hear:

- “Do I have to be at court on the first day?”
- “Is it ok to [smoke, eat, chew gum, brush my hair, put on makeup, text, read, use laptop, cell phone, draw, and bring drinks] in the courtroom?”
- “Can I get up and walk around the courtroom if I get restless?”
- “My [friends, girlfriend, family, co-workers, probation officer] want to come with me to trial. Is that ok?”
- “I am meeting with [witness, co-plaintiff] next week to make sure we remember the same things before we go to trial. Do you want to come?”
- “Can I wear my [work clothes, jeans, sneakers, loafers, halter tops, sunglasses etc.] to court?”
- “Can I talk to the jurors?”
- “Will this take more time than my deposition?”
- “Will you be with me at trial?”

- “Do I get paid a daily amount for coming to trial?”
- “Do I have to come back after I testify?”
- “Can I come to court after [work, school, putting the kids on the bus, doctor’s appointments, etc.]?”
- “When do I stand up?”
- “Do I look at the jurors? How often?”
- “How do I get to court and back, where do I eat lunch, and where do I park?”
- “What do I do if the judge talks to me?”

These are a few of the questions that you should answer at the earliest opportunity so that you can proceed to step 3.

### **Step 3 – Educating the client on the trial process and how the client fits into that process**

- Overview in layman’s terms the trial process for the client. Jury selection, objections, order of proof, openings, witness direct and cross examination, side bars, use of exhibits, charge conference, closings, pre and post-closing charge, the deliberation process, the verdict sheet, and the client’s role during each part of the trial. Focus on how each part of the trial will impact the client and be perceived by the client.
- The five miles out talk – the client is on display for jurors within a five-mile radius from the courthouse. At the courthouse, the client is a walking, talking trial exhibit. This includes breaks, in the bathroom, at lunch, making phone calls, in the halls, in the elevators, and waiting in line at the metal detectors. Tell the client no talking please, except about the weather. If possible, assign a paralegal, intern, or secretary with appropriate skills to stay with the client.
- Explain that the client cannot talk to jurors even if the jurors say something to her, and must report such contact.
- How and when to stand, walk, sit, talk, place hands and arms, look at the jurors, react to testimony, opposing attorneys’ arguments, openings and closing, and court rulings.
- The client dress and appearance conversation. Please do not take the client’s word for it when she tells you that she will dress and present appropriately for trial. See it yourself before the trial.

- The general concepts of direct and cross examination. How to get sworn in, styles of cross examination, redirect, what to do when an objection is made, interacting with the court, the time to leave the witness chair, what to do if the court asks a question.
- Explain that you will ignore the client's look to you for help if she runs into trouble when cross-examined. You will be studying your legal pad and will not make eye contact.
- Suggestion – visit the courtroom with the client 5 to 10 days before trial.

#### **Step 4 – Discussing the legal concepts that may impact the client**

- The importance of the deposition and its use in the courtroom. “Were you asked these questions, and did you give these answers.....”
- Some clients do not understand that hiding negative information from you is a bad thing. They feel that it has nothing to do with the case, so there is no reason to complicate things by bringing it up. They may believe that they are doing you a favor. Explain why this is not doing you a favor and why it harms the case.
- Clients often don't understand how much information is available to opposing counsel through social media and search engines.
- The client is expected to talk to her attorney. If asked whether she met with her attorney, the answer is “yes, of course.”
- How documents are used at trial, and how to answer questions such as “is this a document from ABC Corp. sent to you on X date?”
- The importance of the client reviewing with you trial exhibits and other documents relevant to her trial testimony, including:
  - Deposition transcripts
  - Pleadings
  - Bill of particulars, Interrogatories
  - Written statements
  - Discovery materials
  - Documents written or received by the client

- Documents on which the client may be cross-examined or questioned on
- Refreshing recollection versus agreeing that the document says what it says.
- The concept of foundation, and only testifying on personal knowledge, not assumptions, or what the client believes either did or most likely happened.

### **Step 5 –Finding out what is important to the client**

- Listen to the client’s story of the case the first time out. What does he focus on, and what is most vivid in his mind? It may have nothing to do with the issues to be tried. It is also what is most likely to come out on the stand under pressure if everything goes blank. Find out what you are working with up front. It is sometimes hard for a client to change the internal “tape” playing in his head.
- Possible questions include, “when you think back on what happened to [insert facts] in this case, what sticks out most in your mind?” or “what is most clear, or vivid?” or “what is the most important thing about this case to you,” or “when you think about this case, what is the first thing that comes to mind?”
- Explain how the client and her expected testimony fits into the trial process that you described. If there is a part of the client’s testimony that you will not cover on direct examination, explain why this is so, and how to handle that issue if it comes up cross-examination.

Keep the viewpoint from the client’s eyes, and describe the trial based on what the client will experience and perceive. Prepare the client for her trial, not yours.

## **CONCLUSION**

Trying cases is a learned skill and art that some attorneys take to, and others develop. It does not matter. The trial bar needs hardworking, well-disciplined, and ethical attorneys to advance the legal system and protect the right of trial by jury. Good luck.

**EXHIBIT A**

**SUGGESTED TRIAL PLATFORM AND TRIAL PREPARATION SCHEDULE  
(PERSONAL INJURY)**

<b>TASK</b>	<b>ASSIGNED TEAM MEMBER</b>	<b>DATE TO BE COMPLETED BEFORE TRIAL</b>	<b>DATE COMPLETED</b>	<b>FOLLOW-UP REQUIRED</b>
When trial date set, letters out to experts and witnesses advising of trial date and requesting that they confirm their availability		120 days		
Preparation of a settlement demand		120 days		
Meeting with clients and explaining the settlement demand and getting authority		120 days		
Preparation of letter to clients explaining chances of success and damages and risk benefit and confirming settlement authority (see above)		120 days		
Charting elements of causes of action and what evidence will support each element of the cause of action based on review of PJI		120 days		
Developing a theory of the case		120 days or before		

Meeting with clients and preparing them for trial		Ongoing- starting with small steps at 120 days		
Update medical, wage, economic damage records as needed		120 days 60 days 30 days		
Update lien or reimbursement information and get final lien amount, if necessary, and engage lien/reimbursement stakeholders		120 days and ongoing		
Send EBTs to witnesses and parties to review		120 days		
Get out of state records certified		120 days		
Secure certified copies of state regulations or death certificate, or official findings from state agency such as OPMC or DOH.		120 days		
Check that opposing parties EBTS have been signed or CPLR 3116(a) letters have been served		120 days		
Confirm experts' testimony date and time by letter and make the necessary travel and lodging arrangements		120 days before trial		

Contact clients for update since last contact, such as going back to work, moving, divorce, further medical treatment, operations, bankruptcy, death, scheduled loss of use in workers compensation, client getting SSD, or Medicaid or Medicare		120 days and ongoing up to, and through trial		
Supplement bill of particulars, if necessary, and discovery responses, as necessary		120 days 60 days 45 days		
Confirm that imaging is available in admissible form ( <i>see</i> CPLR 4532-a) and copies are available for demonstrative art		120 days		
Interviewing and meeting with non-party witnesses		100 days		
Secure CPLR 4532-a affidavits if necessary		100 days		
Phone call to experts (1) updating them on the status of the case, (2) do they need further information or documents to finalize opinions for trial, (3) fee estimates and current billing, (4) change in the expert's status expected by trial date, (5) recap of expert's opinions to confirm no change, (6) discussion of expert's file		100 days		
Determining the identity if needed, and investigating the background, qualifications, history, status, prior testimony and other matters of the opposing party's expert		100 days and ongoing		

Independent review of your expert's qualifications, recent testimony, malpractice cases, writings		Ongoing		
Sending additional materials out to experts as needed based on phone call		90 days		
Determining what evidentiary issues are likely to present at trial		90 days		
Create a witness list		90 days		
Designating sections of depositions (videotaped and stenographic) for trial and submit for ruling		90 days		
Summarize depositions		90 days		
Review opponent's expert responses and determine whether motion to exclude or preclude is necessary		90 days		
Focus group		90 days		
Placing an alleged medical lien holder on notice and demanding that they present medical proof to support their lien at trial (if applicable)		90 days		
Determining the jury that you want and preparing a jury selection outline		60 days		
Creating a trial schedule (determining the order of proof)		60 days		

Preparing motions <i>in limine</i>		60 days		
Preparation of demonstrative art		60 days		
Demonstrative art sent to the experts for review and further work until they can lay the necessary foundation for it at trial		60 days		
Seek ruling on out of state medical records and physicians		60 days		
Review CPLR 3122-a documents received and determine witnesses and documents to subpoena		60 days		
Determine to ask for early conference with Part I judge and/or early assignment to trial court		60 days		
Submitting video discs for rulings as per court rule		60 days		
Service of demonstrative art on opposing counsel and court		45 days		
Charting route of admission and backup route of admission for evidence to be offered		45 days		
Determine whether judicial notice is necessary and if so follow requirements of CPLR 4511		45 days		

Prepare and serve subpoenas		45 days		
Consult with court clerk or personnel as to what type of video or presentation equipment is available for trial if room or judge is known		45 days		
Prepare and serve a trial exhibit list		30 days		
Redaction of exhibits		30 days		
Prepare and serve pre-marked, redacted trial exhibits on disc		30 days		
Opposing defense motions <i>in limine</i>		When served		
Identify objections to your client's deposition testimony and submit for a ruling		30 days		
Prepare and serve trial briefs		30 days		
Prepare and serve jury verdict sheet and proposed charges		30 days		
Preparing witness outlines for plaintiff's witnesses		30 days		
Preparing cross-examination outlines for defense witnesses		30 days		
Prepare and serve contentions to the court		30 days		

Prepare the opening		20 days		
Video discs cut and edited after court rules on objections		10 days or during trial		
Testing of presentation equipment		10 days before trial		
Preparation of file for court room		10 days		
Taking client to the courtroom to ease fear of unknown and anxiety		5-10 days		
Appear in court with opposing counsel to pre-mark exhibits with court reporter		1 day before		
Transport of file to the Court room		1 day before trial or day of trial		
Continued meetings with clients and ongoing communication with experts		Ongoing up to, and including trial		
Review of the weakest points of the case and develop strategy for overcoming them and making them strengths of the case		Ongoing		
Managing scheduling issues		Ongoing up to, and including trial		

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