

Behind the Scenes: The Litigators' Support Team

By Joshua Hill, Key Account Manager

The definition of litigation support is expanding. How you source this team can make all the difference for your case.

It is not unusual for attorneys I meet to ask me what I do for a living (to be honest, I want them to). My answer is one they are not generally used to hearing, particularly from non-lawyers like me.

"I do everything you can think of, and some things you can't, to help litigators win in court and in adversarial negotiations," I tell them. It is amazing how often that answer starts the ball rolling on a matter that benefits both their client and my company.

What do I mean? As a litigation support firm, finding, identifying, and culling expert witnesses is a key service and the original heart of what IMS Legal Strategies does. But increasingly, litigation success is bolstered by other techniques: staging mock trials, conducting juror research and screening, polling the public, and planning and developing photographic, graphic, or video demonstrations that support a client's case. That is what IMS is here for. Peek inside some of our recent projects below.

Expert Solutions for Insurance and IP Matters

Recently, IMS had calls from two Am Law attorneys looking for multiple expert witnesses for their cases.

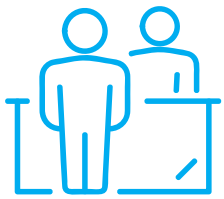
One client, representing an insurance company, was seeking experts who manage underwriters and agents in the business insurance industry for a breach-of-contract case. I was able to tell them that our team has more than 30 years of involvement with the insurance industry; many, if not most, of our biggest cases have had an insurance element.

The other call was about an intellectual property matter in which the client wanted assistance evaluating a patent it alleged another party had infringed. They wanted to know how they could prove the damages argument and estimate the patent's value. Like many patent cases lately, this covered a business process or idea, so the dollar value was hard to assess. We found subject matter experts for the patented process, as well as valuation experts experienced in determining what a business idea is worth.

We are currently assembling experts who can help make the case for both clients. Frequently, once depositions are on the record, a case is effectively over. The opposing side sometimes gives up, or more often, settles for a modest or even trivial amount to end the litigation.

Beyond the Experts: The "Pretend" Jury

Another service in growing demand is organizing and staging mock trials so clients can evaluate the strength of their case and, perhaps even more important, test how various themes will work for them in court. There are always at least three ways a litigator can advance a case, and clients benefit from seeing how each approach plays out in front of real people: the "civilians" we assemble as our mock jury pools.



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The Right Support at the Right Stage

Whether the challenge is evaluating juror reactions, simplifying technical concepts, and/or coordinating specialized expertise, litigation teams benefit from a coordinated approach.

Routine Walk Leads to Serious Claim

One current case sounds simple, but it may not prove to be. In a large city, a pedestrian was walking on the street when a tree branch fell on him, injuring him. He is claiming extensive brain damage, as well as injury to his eye.

Our law firm client represents the city and wanted to try out a few different themes about why the city was either blameless or minimally responsible. In front of a jury, there is always a risk that the city will be perceived as Goliath and the pedestrian as David. The jury might instinctively side with the "little guy," regardless of actual fault.

Obviously, there are medical, municipal, and even arboreal elements here. My job is to blend the experts and their testimony into a credible whole that can help our client clear the city and its officials.

Deep Water, Shallow Comprehension

In another case, the dispute is over spillage from a deep-ocean oil well. For our client, the priority was making sure the jury understood the process: how exactly does a deepwater drill extract oil from beneath the sea floor? Even many people who have read about the notorious Deepwater Horizon case may not understand the complex mechanics.

We thought we could better explain the science with the right graphics, good labeling, and an expert to walk the jury through the story. We went in search of the right storyteller (in the best sense of the word) to clarify the technical details underlying the legal dispute.

High-Stakes Dispute Between Home Teams

Finally, a case that is now behind us blended a law firm client's interest with a passion of my own. A lifelong sports fan, I was thrilled to get pulled into the legal side of a sports story, all under "cover" of work.

Two sports teams in the same US city (let's call it Metropolis) were fighting a breach of contract case. My job? Help one of the litigants, the Groundhogs, build their case against the Bandits (as you might guess, these are not the teams' real names). The Groundhogs were aching for an opportunity to move to a new city (Gotham City, of course) and accused the Bandits of breaching the existing contract for the arena the two teams shared. A win would allow the Groundhogs a trouble-free, cost-free move to their new home.

Stepping Up to the Plate

That is where IMS came in. The Groundhogs' law firm needed a range of expertise to build and sustain a case that could be worth more than half a billion dollars to the winning side.

First, we needed a sports business expert to assess whether the Bandits' behavior while the two teams shared the arena violated not only this contract but also industry standards. The client's ideal expert was a sports executive with a law degree who had been through at least three contentious situations like this one and could speak to industry practice with authority.

Second, because the particulars of the Groundhog-Bandit contract were complicated, our client needed a graphic display of who agreed to do what, and when. They agreed that a visual timeline of the contract terms would best illustrate the sequence of events, so the jury could see and readily understand how, when, and perhaps why the Bandits breached the contract. IMS's own artists worked on that deliverable and produced a clear, color-coded timeline.

Finally, the client needed an experienced jury consultant to help identify prospective jurors with hidden or open agendas, perhaps even rooting interests, that might thwart the Groundhogs' case. It is not always obvious when a juror holds a prejudice that might hurt the team; it is the jury consultant's job to help ferret that out.

Pulling the Roster Together

My role was to locate, hire, coordinate, and orchestrate all the elements of the client's litigation support team. Some of the experts were well-known to IMS from past cases, but I had to identify new ones, recruit them, and sign them on to the Groundhog team. All the while, we had to remember that the sports business world is a small one. The opposing side might be out seeking expert help, perhaps even interviewing the very same expert candidates.

In our experience, the best expert witness must be prepared for all contingencies. A strong deposition may "break" the other side's case and move the matter toward a favorable settlement. But the expert must also be ready for trial and will almost certainly face cross-examination from equally well-prepared opposing counsel.

Coordinated Support for Every Stage of Litigation

Working with our clients on all these cases, I have seen for myself how a good behind-the-scenes team can make all the difference. A winning day for our law firm clients is what we are after, and that sentiment is shared across IMS. From expert witness search to mock trials and jury selection to trial graphics, we help litigation teams build and present their strongest cases. Contact us to discuss how we can help with your next matter.

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