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Sipping From the Fire Hose - Techniques for Surviving and Winning Complex Litigation

LEXIS NEXIS CASEMAP FREE WEBINAR – DECEMBER 8, 2006, 11:00 A.M. PST

PRESENTER – MICHAEL F. KELLEHER

In complex litigation, you often have too much information coming in too quickly, you want to keep attorneys' fees at a minimum to keep your client happy and you know any system that is too complicated will be ignored and abandoned. Mr. Kelleher will share his techniques for managing complex litigation.

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OUTLINE OF PRESENTATION

- I. The problems
 - A. Too much information coming in too quickly
 - B. Want to keep attorneys' fees at a minimum to keep your client happy
 - C. Any system that is too complicated will be ignored and abandoned
 1. Abraham Lincoln quote: "If I had eight hours to chop down a tree, I'd spend six hours sharpening my ax"
- II. Goals
 - A. You need to get information in your system very quickly so that you can find it and analyze it later.
 - B. Need to rapidly understand and come up to speed on a new matter
 - C. Want to preserve your initial work product so you can build on it later

- D. Need a system that can expand as the case staff expands
- E. Want to allow your team to find information themselves quickly
- F. Keep case information electronic and centralized
- G. Make your information accessible on the road to traveling attorneys, ideally without the need for an Internet connection
- H. Generate status reports easily
- I. Have time for something else in your life other than your case

III. Tools

- A. Relational database (e.g., CaseMap) for tracking fact chronology, persons, documents, issues, etc.
- B. Central electronic storage area for key documents and pleadings with predictable, searchable names (e.g. "2006-10-11 Kelleher to Smith re CaseMap Webinar Outline")
 - 1. Can be stored in Windows Explorer or in document management system such as iManage
- C. Linking from the database to the key documents as necessary
- D. Scan key collections of documents together where appropriate

IV. Examples

- A. 550 page multi-year client file in patent infringement defense case was scanned as one document, linked to CaseMap, used to create an initial chronology, issue list, and witness list for first client meeting a week later
- B. Five box paper document production scanned and reviewed for deposition 2 weeks later with electronic copies of documents available at deposition
 - 1. Documents scanned as PDFs using bates numbers as file names
 - 2. Documents imported into CaseMap as objects with bates numbers as names
 - 3. Paper documents were reviewed (for speed of review), and chronology entries incorporating any bates number were automatically linked to the fact

4. Any document that was important but had not been prepared for use as an exhibit could be called up at the deposition for review, and if necessary, printing for an exhibit.
- C. Coming up to speed in inheriting a large unfair competition case from prior counsel
1. Two thick exhibit binders from prior version of complaint were scanned into searchable PDFs for rapid search ability for key documents
 2. Excel chronology of newspaper clippings was imported into CaseMap and used as the start of the fact chronology.
- D. Negotiations with 17 settling parties tracked in CaseMap - conversations or letters or emails from attorneys entered into CaseMap's chronology, then a single status field for each was used to generate a report for the client from the organizations tab.



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Michael Kelleher is a litigation partner of Folger Levin & Kahn LLP, and head of its intellectual property group. Mr. Kelleher is a graduate of the University of California at Berkeley, Boalt Hall School of Law (J.D., 1992, Order of the Coif) and the University of Utah (B.A. in Chemistry, 1984, magna cum laude). After law school, he served as a law clerk to Judge Harold Fong, United States District Court for the District of Hawaii. Mr. Kelleher is a member of the California Bar, and is admitted to practice before the United States Patent and Trademark Office. Before law school, Mr. Kelleher served in the United States Navy as a division officer on board the USS Grayling (SSN 646), including service as Reactor Controls Officer, Communications Officer, and Damage Control Officer.

Mr. Kelleher's practice involves intellectual property litigation and counseling, complex commercial litigation, and electronic discovery. Examples of recent significant matters include representation of CardioNet, a heart monitoring company, in the successful defense of patent infringement claims in the Western District of Pennsylvania, and the representation of PeopleSoft in unfair competition litigation against Oracle arising from the prelude to Oracle's take-over of PeopleSoft.

Mr. Kelleher writes about intellectual property law developments in the blog, IP Law Observer, at www.iplawobserver.com. Mr. Kelleher also teaches seminars about complex litigation management, e-discovery, and intellectual property law. Mr. Kelleher is a member of the American Intellectual Property Law Association and the San Francisco Intellectual Property Law Association.

Mr. Kelleher and his wife, Joci, live in Oakland, California, with their two daughters. In his leisure time, he likes to run, bike and kayak.