

## LITIGATION SUPPORT

# Hiring Trial Consultants

How to be sure the relationship works.

By Ted Brooks

**I**NCREASINGLY, law firms turn to litigation consultants to help them develop sophisticated courtroom presentations. Here are 12 tips to make that relationship a true “win-win:”

**1. Choose and re-tain your trial consultant as early as possible.** There are many resources available to help you locate a good consultant, including web searches, referrals, litigation support groups and directories. Good consultants are busy consultants, so you hire them early. If you do a lot of trial work, you might consider retaining a consultant on an ongoing basis.

---

Consultant **Ted Brooks** is president of San Francisco-based Litigation-Tech. E-mail: [tbrooks@litigationtech.com](mailto:tbrooks@litigationtech.com).



**2. Check for conflicts.** As with law firms, trial consultants generally only work on one side of a case, although there are circumstances where they serve as a “neutral” for both parties. Clarify this before you sign the contract. Also, run a conflicts check to protect your existing client relationships.

**3. Get an estimate, with options.** To avoid unhappy

surprises, discuss in detail the expected litigation workload, and request a written estimate of what you can expect to spend on trial support. Most trial consulting services are billed hourly. Rates typically start at \$150 to \$200, but can go higher, depending on the case and consultant. It’s not uncommon for a one-month, full-service trial to generate a consulting tab in excess of \$50,000. Not all cases warrant

those expenditures, so be candid with your consultant, and discuss alternatives.

**4. Try to identify specifically what you need and will expect your consultant to provide.** Although your consultant should be able to assist you in defining these goals, the more information you can provide up front, the better your chances of success. Unclear communication and assumptions are a proven recipe for disaster.

**5. Make sure all interested parties are on the same page.** A consultant, working with staff, may head down one path, only to find that the lead attorney has another plan – and was not aware of what was going on. Try to get all communications onto a “paper (or e-mail) trail,” and include anyone who should be in the loop. Many potential issues can be identified before they become problems. Try to avoid giving too much information over the telephone, as this makes it impossible to verify and track the communication.

**6. Research your consultant.** Thoroughly check out his or her website, “Google” them, ask for referrals and references — and actually check them! Listen carefully to those who have

worked with the consultant — do you sense any hesitancy or reservations?

Identify the primary business focus of your consultant. (This is generally apparent by reviewing the website.) If you are looking for a trial consultant, don’t contact a videographer or scanning vendor, and vice versa (unless for a recommendation). Don’t be your consultant’s first “real trial” experience.

**7. Make sure you know who will actually be working on your matter – don’t just buy into a smooth sales pitch.** Meet the trial team face to face. Get, in writing, the name of the team leader and the consultancy’s commitment that the team will remain assigned to you for the duration of the litigation.

**8. Don’t change horses mid-stream.** Be sure your consultant is absolutely fluent in all the litigation support software you are already using. This includes Concordance (Dataflight Software Inc.); Summation (Summation Legal Technologies Inc.); TrialDirector (inData Corp.); Sanction II (Verdit Systems); etc. Do not assume that every consultant knows every software application. Many can work with several, but others may not. Do not duplicate

work product simply because your consultant does not use your software.

**9. Avoid proprietary systems.** Should there come a time when you are no longer in love with your consultant, you may want to get out of the marriage. If they are using their own software systems, it may be difficult for someone else to take over the database.

**10. Listen to your consultant’s opinion.** You are paying good money to have a consultant on your team. Realizing that trial work is what they do most of the time, ask questions, get advice, and check in with them often.

**11. Debrief! Once it’s over, review the trial.** Evaluate what worked, and what didn’t. This is a good time to ask your consultant their opinion on what might be done differently. It is also a good time to decide whether your consultant is the right fit for your trial team in future matters.

**12. Pay the bill promptly.** Getting paid quickly and painlessly will encourage a good consultant to sign up for your next project. Don’t make the consultant send you numerous bills. **LITN**