

TECHNOLOGY

Justice Granger champions litigation technology

By John Jaffey
Toronto

Ontario Superior Court Justice Thomas Granger is in the middle of a trial he thinks might last until late next year. He has already admitted 35,000 pages of evidence over 119 days. "If counsel would have been required to make five copies of each document," he said, "the copying costs alone would be about \$50,000." But, in fact, the cost was nothing, because the trial is taking place in a paperless courtroom.

"Counsel can retrieve a page in less than five seconds," said the tech-savvy judge. "If we were using hard copy exhibits, opposing counsel, the witness and I would have to locate the correct binder, the correct tab and the correct page. Then counsel would say 'about a third of the way down the page,' and we would all spend more time

searching. But in our courtroom, counsel simply highlights what he wants us to see on our monitor. In a large-document case, the searching time alone justifies using an electronic system."

Justice Granger is a champion of computers in the courtroom. Speaking last week at a tradeshow called Litigation Technology Showcase, he explained that during his 25 years as a civil litigator, he was always thinking about how to make the evidence understandable and memorable for the judge. The conclusion he reached is still valid today: "Unless the evidence is organized within the theory of your case, it will not be memorable. And, if it's not, you have little chance of success [because] all

judges have difficulty understanding technical evidence the first time."

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the benefits of litigation support software called Summation, Justice Granger said, "If a judge uses Summation on his laptop, he'll be able to organize the evidence and it becomes memorable."

Though Justice Granger's bailiwick is the Southwest Region, Associate Chief Justice Douglas Cunningham asked him

if he would be willing to conduct a four-to-six month, paperless trial in Ottawa. He agreed and, nine months later, he is still shuttling back and forth on weekends.

"I knew there would come a day when I would have to write a decision," he said. To facilitate that, he has all his notes and all the exhibits on his laptop. "I was convinced that the use of an electronic document program is a far more efficient way of handling evidence than paper.

"Before computers, I had to take exhibits home with me. Can you imagine carting 2,000 documents on the plane every weekend?"

He bemoans the failure of the provincial government to move to electronic courtrooms. Its 1998 initiative to update the justice system and to achieve a paperless courtroom collapsed in 2003 when it refused to create a web-based system. And, today, Ontario blames budgetary restraints as the reason its courts continue to use hardcopy

exhibits. Yet Justice Granger's electronic courtroom cost less than \$1,500 to set up. He adds that it's portable and can be dismantled in 40 minutes.

He had some advice for lawyers seeking the benefits of computerized trials. First, you must seek permission of the trial judge early on. "Don't announce at the beginning of the trial that you want to use electronic documents." He said counsel should attend the pre-trial in person rather than sending a junior. At that stage it would be beneficial to conduct a demonstration for the judge to illustrate how documents, pictures and even videotaped evidence will be displayed on a monitor. Explain that these documents were, for the most part, prepared electronically, are backed up and cannot be lost.

Secondly, have some charts and figures with you to show how much money this method will save litigants and how much time it will save the court.

Thirdly, if opposing counsel objects to receiving electronic documents in pre-trial disclosure, present him or her with instructions for how to print the electronic documents.