



ELLIS & WINTERS LLP

Effective Use of Courtroom Technology in the Eastern District of North Carolina

Kelly Margolis Dagger

Courtroom technology

Courtroom technology including videoconferencing and electronic evidence presentation.

We will focus on the electronic evidence presentation system. First, what is it?



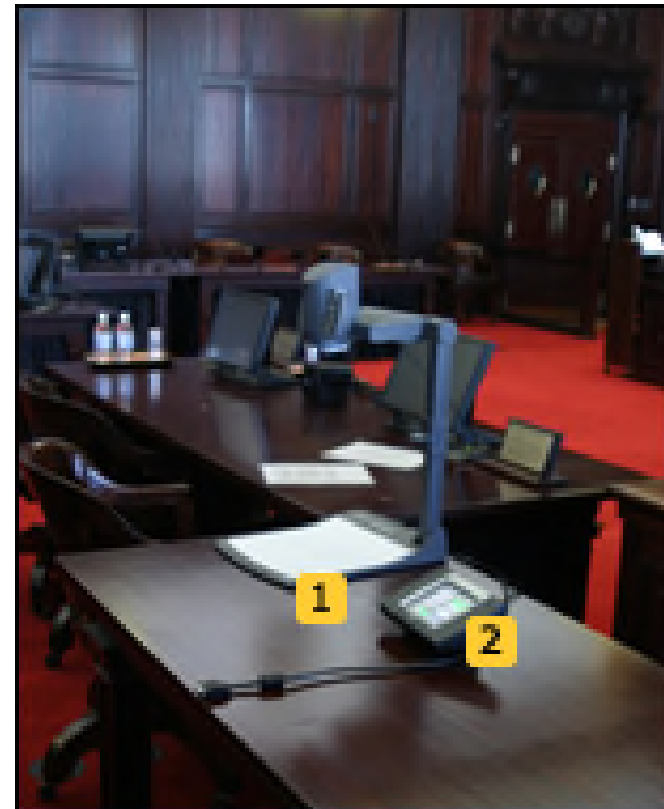
1. document camera
2. evidence control panel
3. ELO Touchscreen



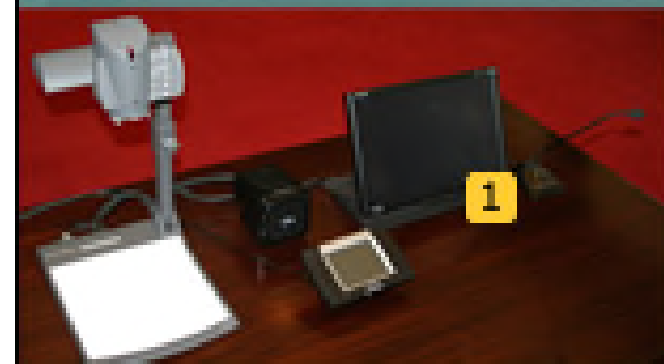
VCR/DVD player combo



high resolution monitors



1. document camera
2. evidence control panel



1. ELO Touchscreen

Courtroom technology

Most of our EDNC courtrooms are equipped with an electronic evidence presentation system:

Raleigh

New Bern

Greenville

Wilmington—please check with Rick Sanchez.

Elizabeth City does not have the evidence presentation system.

Why use it?
Know your audience!











What if you don't use the electronic
evidence presentation system?



Electronic evidence presentation

What do you need to use the system?

- Laptop or tablet
- Adapter (VGA and/or HDMI)
- All of your evidence saved electronically (note: network access versus local access)
- Preparation and training!

Electronic evidence presentation

What can you do with the electronic evidence presentation system?

- Present documentary evidence more effectively than on paper
- Play audio recordings
- Show video recordings
- Illustrate your closing argument
- Save time, money, and the environment

DOCUMENTARY EVIDENCE



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Electronic evidence presentation

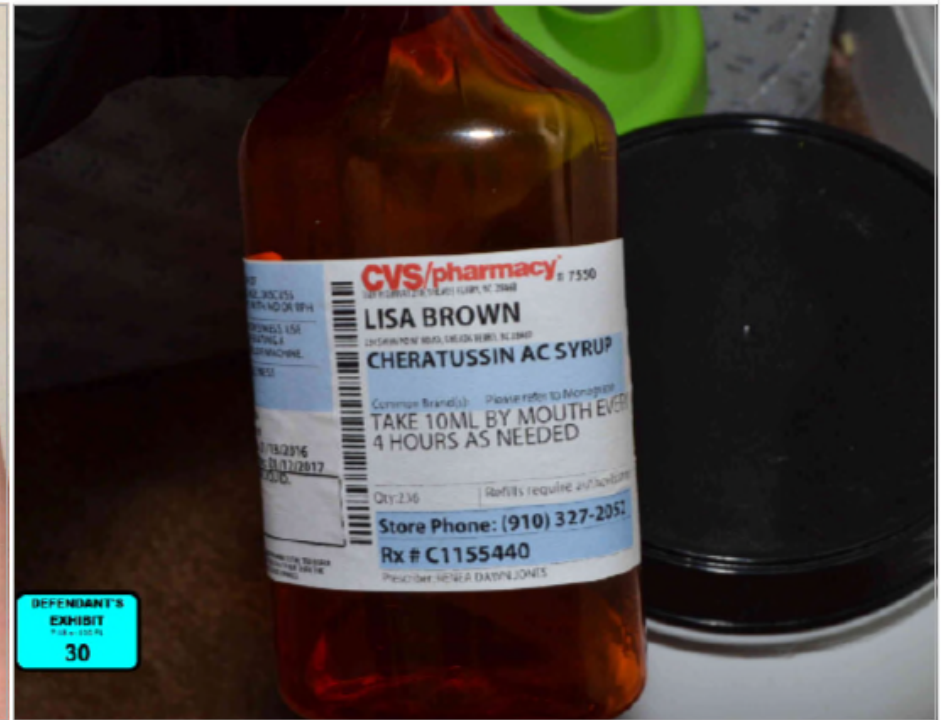
Documentary evidence basics:

1. Present the exhibit and identify it for the record
2. Authenticate it and move to admit the exhibit
3. Publish the exhibit to the jury (note practice preferences)
4. Have a hard copy to give to the courtroom clerk for the record

Electronic evidence presentation

Next, take advantage of the presentation system and your software to make the exhibit interesting.

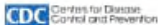
Compare exhibits



Focus your presentation—instead of handing the jury this:

CDC Center for Disease Control and Prevention Emergency Preparedness and Response Influx of Fentanyl-laced Counterfeit Pills and Toxic Fentanyl-related Compounds Further Increases Risk of Fentanyl-related Overdose and Fatalities Archived: This Page Is No Longer Being Updated This information is for historic and reference purposes only. Content has not been updated since the last reviewed date at the bottom of this page.   Disseminated via the CDC Health Alert Network August 25, 2016, 15:15 ET (3:15 PM ET) CDC-HAN-00355 Summary On October 26, 2015, CDC issued HAN 354 (http://emergency.cdc.gov/han/han00354.asp) that alerted (1) public health departments, health care professionals, first responders, and medical examiners and coroners of the increase in fentanyl-related unintentional overdose fatalities in multiple states primarily driven by illicitly manufactured fentanyl (IMF) (i.e., non-pharmaceutical fentanyl); (2) provided recommendations for improving detection of fentanyl-related overdose outbreaks; and (3) encouraged states to expand access to naloxone and training for administering naloxone to reduce opioid overdose deaths. The purpose of this HAN update is to alert public health departments, health care professionals, first responders, and medical examiners and coroners to new developments that have placed more people at risk for fentanyl-related overdoses from IMF and may increase the risk of non-fatal and fatal overdoses. These developments include the following: (1) a sharp increase in the availability of counterfeit pills containing varying amounts of fentanyl and fentanyl-related compounds (e.g., laced as Oxycodone, Xanax, and Norco); (2) the potential for counterfeit pills containing fentanyl and fentanyl-related compounds to be broadly distributed across the United States which could impact states not previously impacted by IMF; and persons using altered prescription pills (i.e., let drugs labeled for illicit purposes and involves the diversion of drugs from legal and medically necessary uses toward uses that are illegal and typically not medically authorized or necessary); (3) the widening array of toxic fentanyl-related compounds being mixed with heroin or sold as heroin, including extremely toxic analogs such as carfentanyl and 4-acetylcarfentanil derivatives in the supply and distribution of IMF (http://www.cdc.gov/drugoverdose/toxic/fentanyl-reports.html). Background In July 2016, the Drug Enforcement Administration (DEA) issued a nationwide report indicating that hundreds of thousands of counterfeit pills have been entering the U.S. drug market since 2014, some containing deadly amounts of fentanyl and fentanyl analogs (2). Traditionally, fentanyl and fentanyl analogs in the illicit market have been mixed into heroin or sold as heroin, often without the knowledge of the consumer, and have primarily impacted areas where white powder heroin is prevalent, including the Northeast, Midwest, and Southeast regions of the United States. The influx of counterfeit pills, which closely resemble oxycodone (2,3), Xanax (4), and Norco (4,5), has increased the chance of fentanyl-involved overdoses among	persons in using prescription opioids or benzodiazepines who seek diverted medications on the illicit market (2), in addition to persons who ingest, sniff, or snort drugs. Persons who misuse prescription pills are geographically widespread; thus, the potential risk for fentanyl overdose has spread beyond those regions previously known to be impacted by IMF, and could intensify the impact in regions already affected by IMF. The supply, distribution, and potency of illicitly manufactured fentanyl and fentanyl-related compounds in the U.S. drug market is evolving. Carfentanyl, an extremely potent fentanyl analog, has been detected in at least one state (2,3) and is currently being investigated as a possibility in a few other locations (6). Designed in 1974, carfentanyl was primarily used exclusively for veterinary use with large animals and is not approved for use in humans, as it has been shown to be 100 times more potent than fentanyl in animal studies. Other fentanyl-related compounds have been reported by the DEA National Forensic Laboratory Information System (NFLIS), which systematically collects drug identification results from drug cases submitted for analysis to forensic laboratories (referred to as drug submissions). From 2014 to 2015 the number of drug submissions testing positive for acetyl fentanyl increased substantially, rising from 49 in 2014 to 1,870 in 2015 (8,11,12), and in 2016, NFLIS reported no less than drug submissions testing positive for fentanyl fentanyl (14) drug submissions from January to July 2016 (13). States should be vigilant about the possibility of highly toxic fentanyl-related compounds becoming available in the illicit drug market, as well as other highly toxic synthetic opioid derivatives, such as 4AC7100 (2,12). NFLIS has reported that the overall supply of illicitly manufactured fentanyl appears to have substantially increased from 2014 to 2015, with the number of drug submissions testing positive for illicitly manufactured fentanyl doubling during this period (from 5,543 to 13,885). The number of states reporting more than 100 fentanyl submissions also increased during this period from 11 to 19 (
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Show the jury this:



Centers for Disease Control and Prevention

Emergency Preparedness and Response

Influx of Fentanyl-laced Counterfeit Pills and Toxic Fentanyl-related Compounds Further Increases Risk of Fentanyl-related Overdose and Fatalities

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In July 2016, the Drug Enforcement Administration (DEA) issued a nationwide report indicating that hundreds of thousands of counterfeit pills have been entering the U.S. drug market since 2014, some containing deadly amounts of fentanyl and fentanyl analogs [2]. Traditionally, fentanyl and fentanyl analogs in the illicit market have been mixed into heroin or sold as heroin, often without the knowledge of the consumer, and have primarily impacted areas where white powder heroin is prevalent, including the Northeast, Midwest, and Southeast regions of the United States. The influx of counterfeit pills, which closely resemble oxycodone [2,3], Xanax [3], and Norco [4,5], has increased the chance of fentanyl-involved overdoses among

persons misusing prescription opioids or benzodiazepines who seek diverted medications on the illicit market [2], in addition to persons who inject, sniff, or snort drugs. Persons who misuse prescription pills are geographically widespread; thus, the potential risk for fentanyl overdose has spread beyond those regions previously known to be impacted by IMF, and could intensify the impact in regions already affected by IMF.

Continued use of counterfeit pills containing fentanyl and fentanyl-related compounds, which are not medically authorized or necessary, and may increase the risk of non-fatal and fatal overdose. These developments include the following: (1) a sharp increase in the availability of counterfeit pills containing varying amounts of fentanyl and fentanyl-related compounds (e.g., labeled as Oxycodone, Xanax, and Norco), (2) the potential for counterfeit pills containing fentanyl and fentanyl-related compounds to be broadly distributed across the United States which could impact states not previously impacted by IMF and persons using diverted prescription pills (i.e., licit drugs diverted for illicit purposes and involves the diversion of drugs from legal and medically necessary uses towards uses that are illegal and typically not medically authorized or necessary), (3) the widening array of toxic fentanyl-related compounds being mixed with heroin or sold as heroin, including extremely toxic analogs such as carfentanyl, and (4) continued increases in the supply and distribution of IMF (<https://www.cdc.gov/drugoverdose/data/fentanyl-le-reports.html>).

Background

In July 2016, the Drug Enforcement Administration (DEA) issued a nationwide report indicating that hundreds of thousands of counterfeit pills have been entering the U.S. drug market since 2014, some containing deadly amounts of fentanyl and fentanyl analogs [2]. Traditionally, fentanyl and fentanyl analogs in the illicit market have been mixed into heroin or sold as heroin, often without the knowledge of the consumer, and have primarily impacted areas where white powder heroin is prevalent, including the Northeast, Midwest, and Southeast regions of the United States. The influx of counterfeit pills, which closely resemble oxycodone [2,3], Xanax [3], and Norco [4,5], has increased the chance of fentanyl-involved overdoses among

1/5

Mark up photographs to illustrate testimony



AUDIO AND VIDEO EVIDENCE



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Electronic evidence presentation

Audio/video evidence basics:

1. Lay the foundation
2. Present a short segment of the recording
3. Stop and ask the witness to identify it
4. Authenticate it and move to admit the exhibit
5. Play the remainder of the recording
6. Have a disc to give to the courtroom clerk for the record

Electronic evidence presentation

Audio/video evidence—other considerations:

- Clips versus entire recording
- Being prepared to stop and start
- Synchronized transcripts
- Network access versus local access

MECHANICS

Electronic evidence presentation

You've decided to use the evidence presentation system. Now what?

1. Where is your trial or hearing?
2. What technology is available in that courtroom?



Not secure | nced.uscourts.gov/#!



United States District Court

Eastern District of North Carolina

PLEASE NOTE: The Wilmington clerk of court's office and court facilities are now located at 1003 South 17th Street

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WELCOME

The mission of the United States District Court for the Eastern District of North Carolina is to support, and continuously strives to provide quality, courteous, and prompt service with a commitment to professional

Electronic evidence presentation

- Seek courtroom technology training—it is NOT optional. The local rules require training.
 - Contact Glenna Falk or Rick Sanchez
 - Bring all of your devices/evidence
- File courtroom technology certification seven days in advance—also required by the local rules.

Electronic evidence presentation

- Consider the courtroom layout
 - How will it affect your evidentiary presentation?
 - How will it affect opening and closing?
 - Where are the screens for jurors/judge? Where is your screen?
 - Where are you going to plug in your devices?

PREPARATION

Electronic evidence presentation

- Test all of your evidence. Do not make assumptions about how it will look or sound.
- Familiarize yourself with the file format and ensure that it is compatible with the device you want to use.
 - Know the difference between a CD and a DVD

Electronic evidence presentation

- Personally review every documentary exhibit, audio recording, or video recording *before* you use it. If you can't see it or hear it, neither can the jurors.
- If you have access to tech support professionals, ask them to help you become independent in the courtroom.

Electronic evidence presentation

- Come prepared—you need extra power cords/strips, HDMI/VGA cables, lightning adapters, external chargers, headphones, etc.
- Have a backup plan!
- Practice, practice, practice, including with witnesses. This will help you prepare for trial, not impede your preparation.

BEST PRACTICES

Electronic evidence presentation

- Be mindful of what is on your screen at all times—consider backgrounds, icons, and notifications.
- Ensure that you silence your device when the opposing party is presenting.
- Be flexible about what you want to present and in what order.
- Don't make assumptions; ask ahead of time.
- Don't let the screen distract you—listen to the witness.