

A chronology helps you tell the ‘story’ effectively

By: F. Dennis Saylor IV and Daniel I. Small ○ February 18, 2016

Most trial presentations center on a narrative — that is, the facts of the case, woven into a story. With rare exceptions, that story should be told in chronological order. It’s almost always more interesting, more effective, and more compelling to do it that way.

One of the greatest challenges of being a trial lawyer is digesting a large amount of factual detail and condensing and synthesizing it so you can tell that story effectively. One important tool that can assist in the process is a case chronology.

A good chronology can keep facts organized and in context, be a focus for considering the importance of sequence to your case, and be an ongoing reminder of key events and dates. You likely will want to prepare a timeline as a demonstrative exhibit at trial as well.

Chronologies also can help you to see what is *not* there. Why are there gaps in the sequence? What do they mean? Is there a hole that you need to fill or explain (plaintiff or prosecution) or can try to exploit (defense)?

Dan Small creates a chronology in nearly all his cases. He believes that developing a good chronology is an ongoing, iterative process. He seeks input from his client and anyone else working on the case. In his view, it is a good way to bring together everyone’s input for a thorough review of what happened, and how it can be proved.

Each time it is revised, he looks it over to make sure (1) the chronology makes sense and (2) his case (or the other side’s case) makes sense in light of the chronology.

The chronology should cover all significant events in the case, with the date, description, and citation or source included.

1. Events

Be inclusive at first. You can always eliminate entries later if the document gets too long (or in complex cases, do separate shorter chronologies organized by key events, key players or key themes). Things that appear minor early on may take on more significance later.

2. Dates

The level of precision depends on the circumstances. Sometimes just the month or even the year is sufficient; in other cases, you may want to include times down to the minute.

3. Description

Forget full sentences or grammar. A short, staccato description of the key fact(s) is sufficient. Include enough information to be understood, without making the description too long to be useable.

4. Cites

Set forth the best source and cite for each item (with alternative cites, if appropriate). It’s surprisingly difficult to remember where you read something if you don’t write it down.

5. Waypoints

A “waypoint” is a reference point used for purposes of navigation. Think about including waypoints in your chronology that help provide context to events. Waypoints can be personal events unrelated to the case that are memorable for the parties (such as a merger, a wedding or a death), or they might be broader events or

developments (such as the terrorist attacks of Sept. 11 or the widespread adoption of cellphones or social media networks).

Dan likes to keep a "chrono update" file, so that anyone reviewing documents, transcripts or other materials can make notes of new events or cites and put them in the file for later updating. He also uses the chronology when preparing his witnesses and makes sure to note anything that raises an issue.

Finally, don't forget to make one for the trial. One of Judge Saylor's colleagues recently presided over a criminal trial for money laundering. According to the judge, the principal complaint of the jurors afterward was that neither side provided them with a chronological timeline, making it difficult to understand the evidence (and assess the defendant's state of mind at various points over time). The jury wound up creating one of its own.

In sum, narratives are best presented, and best remembered, by lawyers and witnesses when the story is laid out in chronological order. Preparing a chronology will help you organize and present your case effectively.

Previous installments of Tried & True can be found at masslawyersweekly.com. Judge F. Dennis Saylor IV sits on the U.S. District Court in Boston. Prior to his appointment to the bench, he was a federal prosecutor and an attorney in private practice. Daniel I. Small is a partner in the Boston and Miami offices of Holland & Knight. He is a former federal prosecutor and teaches CLE programs ac

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