

Trial Tactics – Sometimes Simple is Better.

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A couple of months ago, I took on a new case with a rapidly approaching trial. It was a relatively straightforward Federal Court action. An equipment supplier was seeking to recover about \$250K in equipment rentals provided to a Federal construction project.

I took over from another attorney who'd had the case for about 18 months. This prior attorney had approached the case with a “no-holds barred” mentality. There seemed no limit to the extensive case preparation: databases, trial software, digital visual presentations, hours and hours of paralegal time scanning and indexing documents, etc. An expert had reviewed thousands of pages of materials and worked up detailed opinions. Billings to the client reflected this “over the top” approach.

When I got the case, we adopted a new approach – simplify and streamline! We waived jury, significantly reduced the trial documents, nixed the visual presentations, withdrew the expert, and pared down the witness list. We had a strong case on the facts and the law. In my view, a busy California Federal Court judge wouldn't need all the bells and whistles, and corresponding court time, to decide this case.

We tried the case last week. The result? We were awarded about 85% of the claim with interest and legal fees – a big victory for the client. Strong case – simple trial presentation – good result!

This streamlined approach would not have worked in all cases. The facts, the law, the amounts at stake and the forum in which the case will be decided will dictate the approach in any given case. But, at least in this case, simple was better.