The background of the slide features a faint, stylized image of the scales of justice, a symbol of law and equity. The scales are positioned on the right side of the slide, with the pans hanging from a central point. The overall color scheme is a gradient of dark blue.

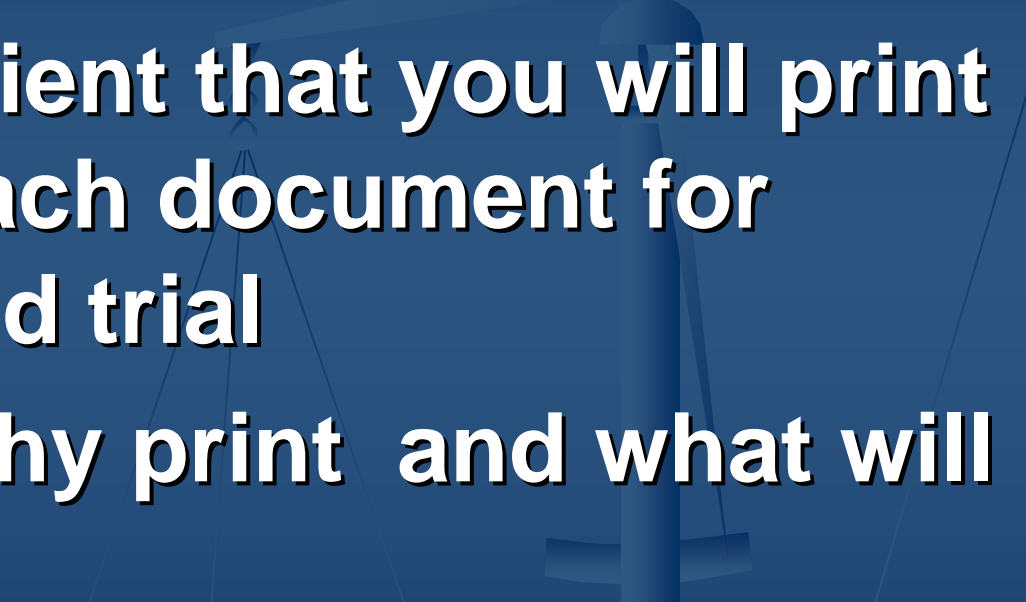
“GETTING YOUR ELECTRONIC DOCUMENTS INTO THE COURTROOM” – THE DO’S AND DON’Ts

**LEGAL IT 4.0
MONT-ROYAL
APRIL 26-27, 2010
MONTREAL QUEBEC**

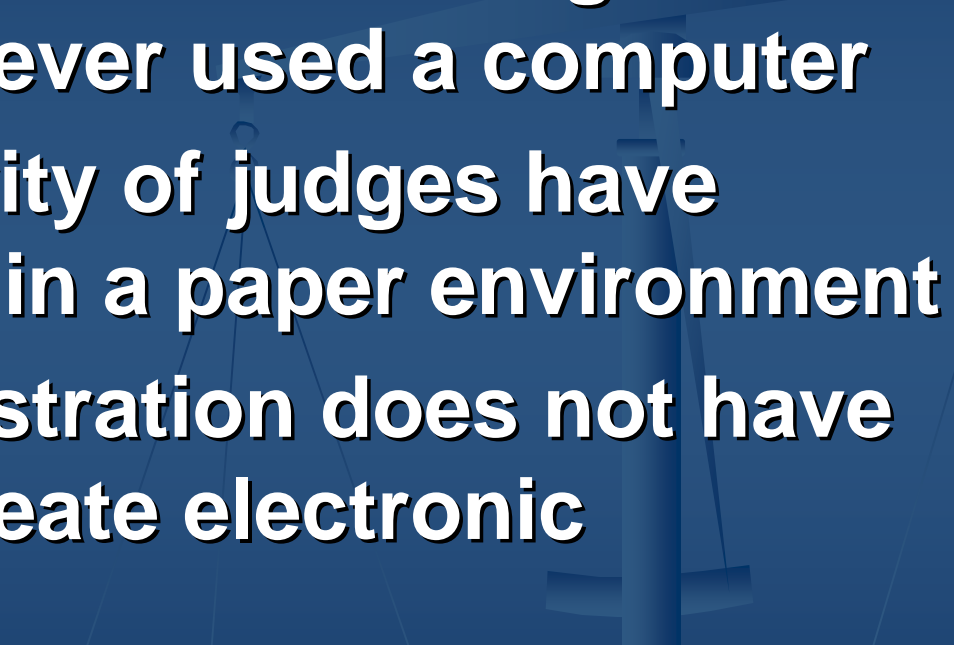
**JUSTICE B.T.GRANGER
ONTARIO SUPERIOR COURT OF JUSTICE
Thomas.granger@scj-csj.ca**

Setting the Scene

- You are a young litigator working for an “old time litigator”
- You are preparing a large document case for trial
- Request your client to make disclose documents available

- 
- **Client advises that there are about 3000 documents (50,000 pages) and will send them to you on a DVD**
 - **You advise client that you will print 5 copies of each document for disclosure and trial**
 - **Client asks why print and what will it cost**

CLIENT WHY PRINT? - YOUR ANSWER

- The senior litigator who charges \$750 per hour has never used a computer
 - The vast majority of judges have always judged in a paper environment
 - Courts Administration does not have the funds to create electronic courtroom
- 

THE COST OF CONVERTING TO PAPER

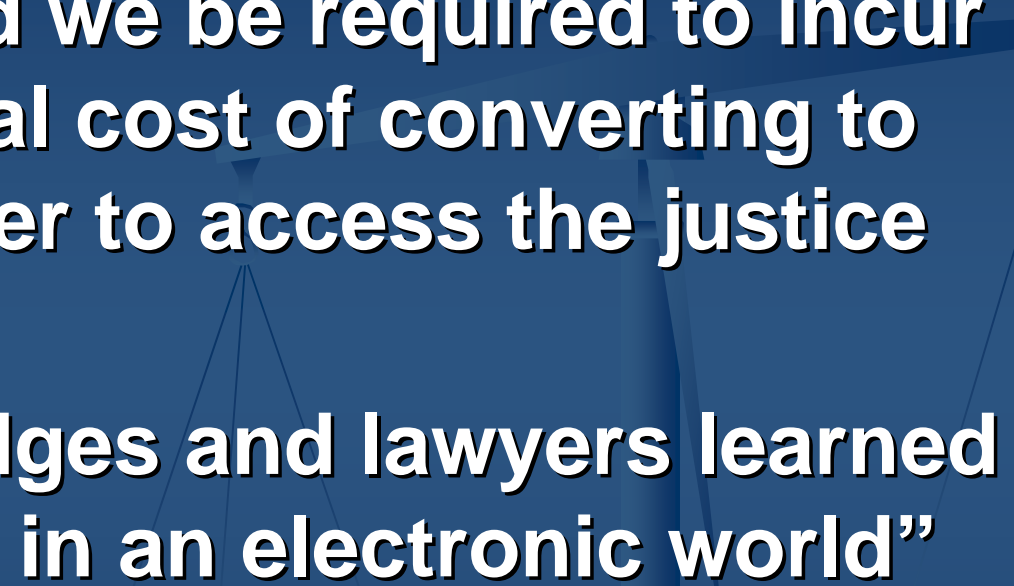


- Photocopying 50,000 pages
 - $5 \times 50,000 \times 25 =$ \$62,500
- Cost of legal clerk (\$125 per hour) photocopying and organizing 50,000 pages

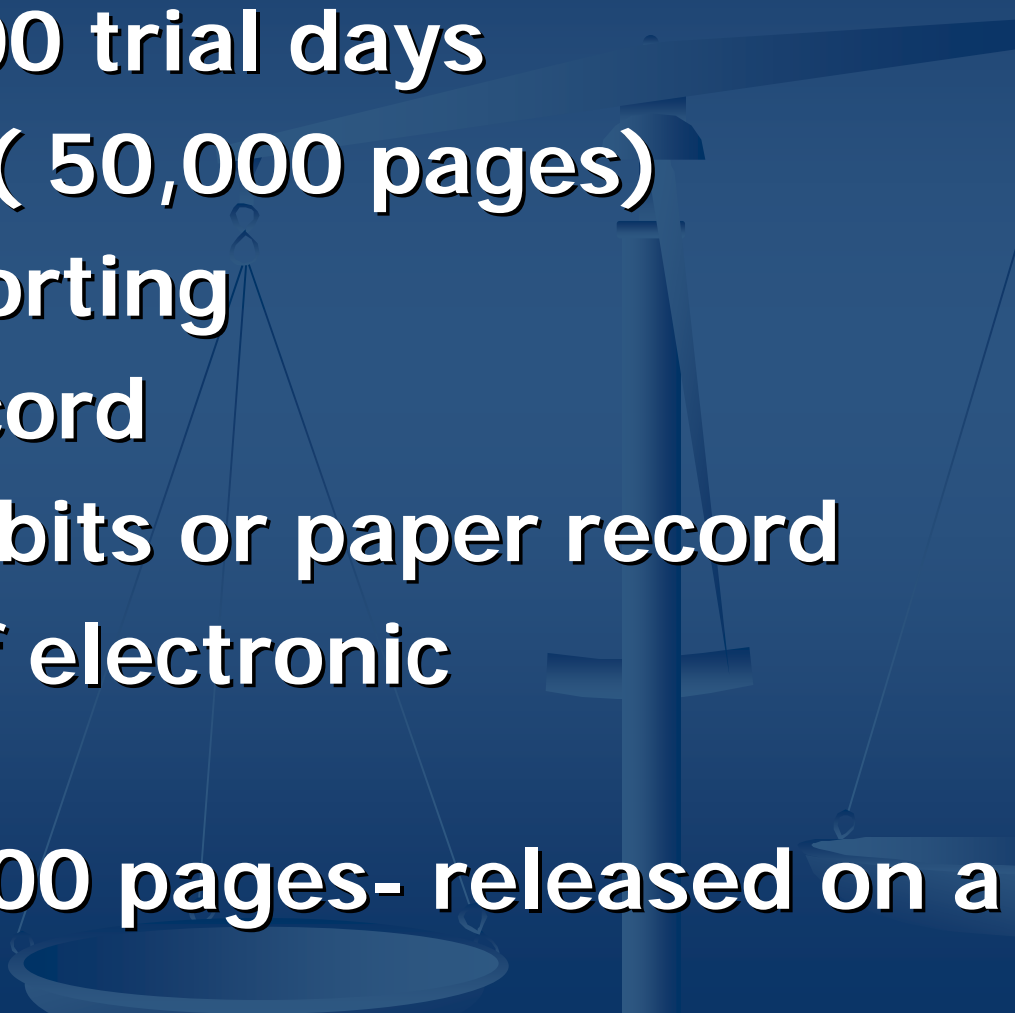
CLIENT'S REACTION TO COST OF CONVERTING TO PAPER IN ORDER TO ACCESS THE JUSTICE SYSTEM

■ Client:

- “We carry on business in an electronic world”**
- “We had to learn how to carry on business and our lives in an electronic world”**

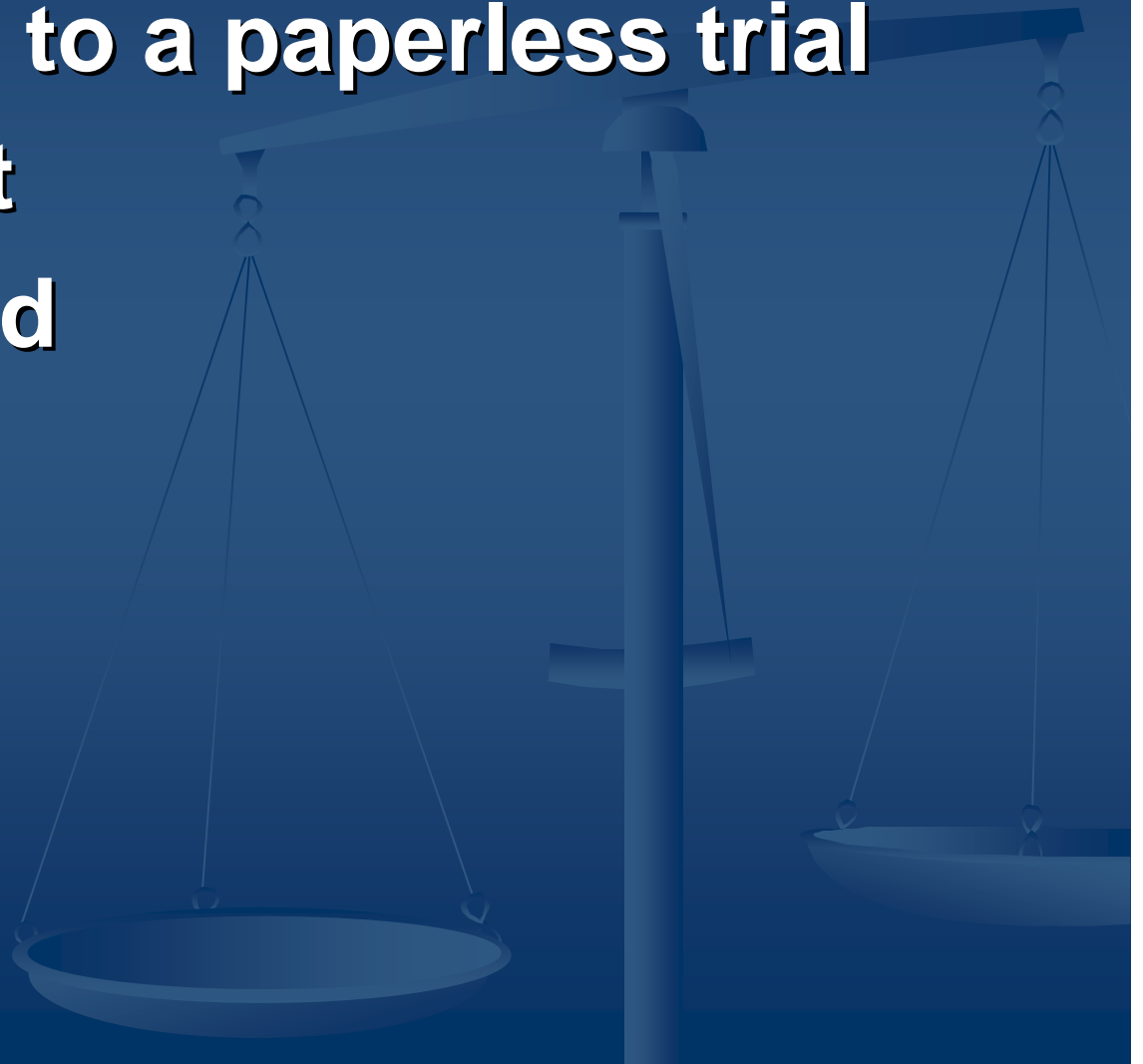
- 
- A faint, stylized illustration of a pair of scales of justice is visible in the background, centered behind the text. The scales are rendered in a light blue color, matching the overall theme of the slide. The background is a solid dark blue.
- **“Why should we be required to incur the additional cost of converting to paper in order to access the justice system”**
 - **“It’s time judges and lawyers learned how to work in an electronic world”**

GasTOPS v. MxI

- Trial lasted 300 trial days
 - 3000 exhibits(50,000 pages)
 - Real time reporting
 - Electronic Record
 - No paper exhibits or paper record
 - 3500 pages of electronic submissions
 - Judgment – 700 pages- released on a CD-ROM
- 

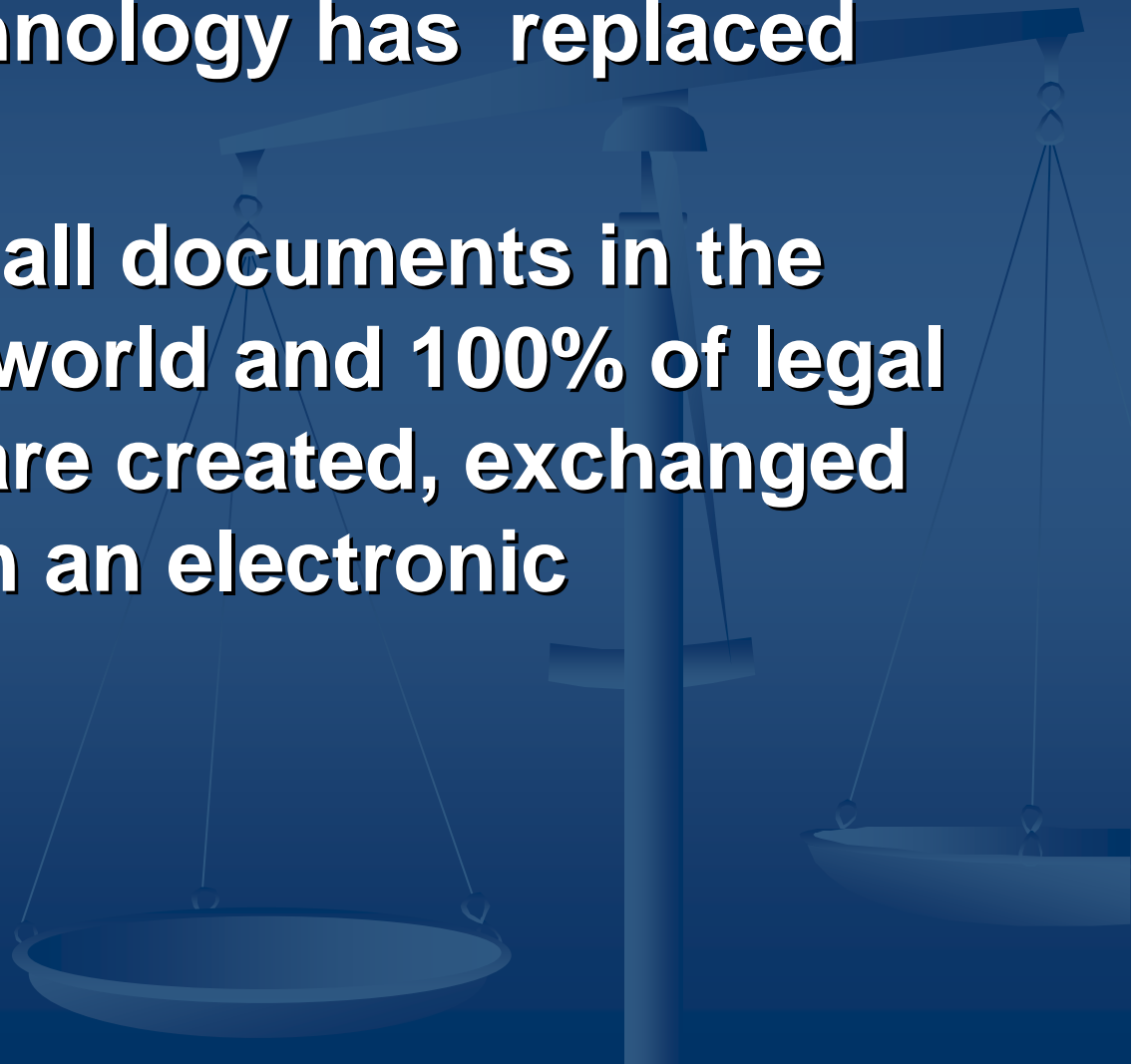
GasTOPS v. MxI

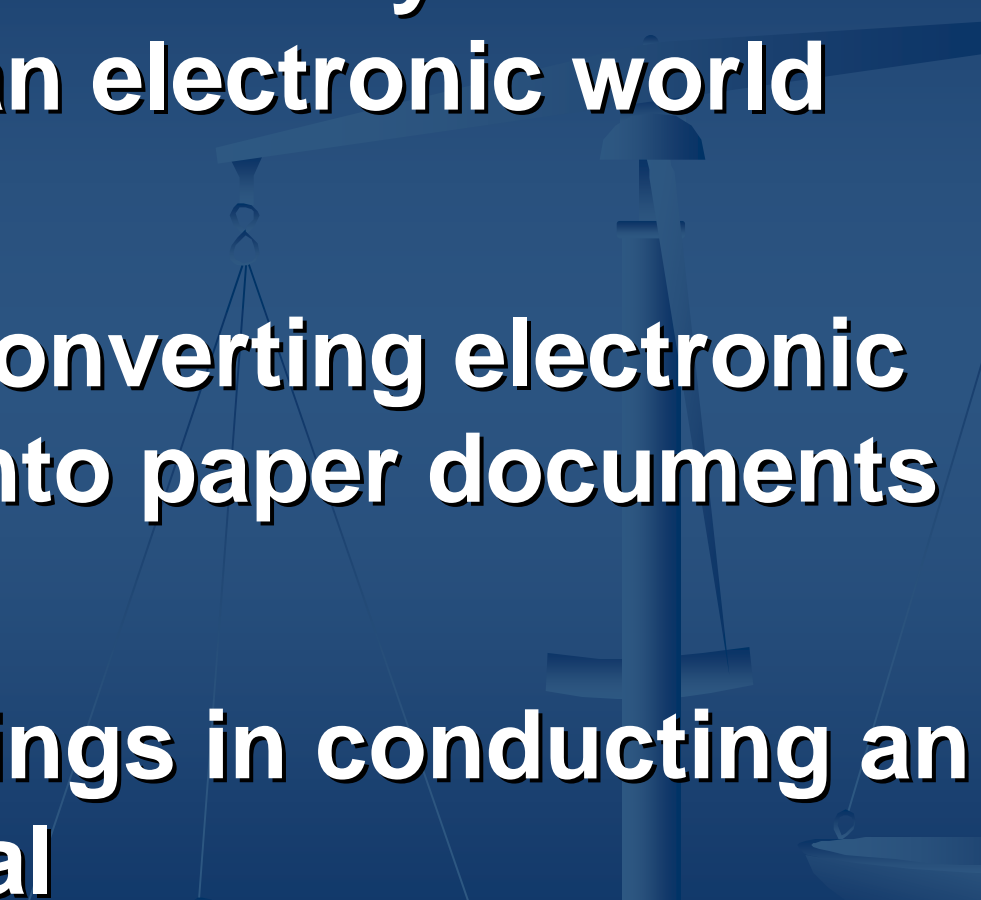
- **Why I agreed to a paperless trial**
- **How we did it**
- **What I learned**



WHY I AGREED A PAPERLESS TRIAL

- **Electronic technology has replaced paper**
 - **Over 98% of all documents in the commercial world and 100% of legal documents are created, exchanged and stored in an electronic environment**



- 
- **Litigants live and carry on business in an electronic world**
 - **The cost of converting electronic documents into paper documents**
 - **The cost savings in conducting an electronic trial**

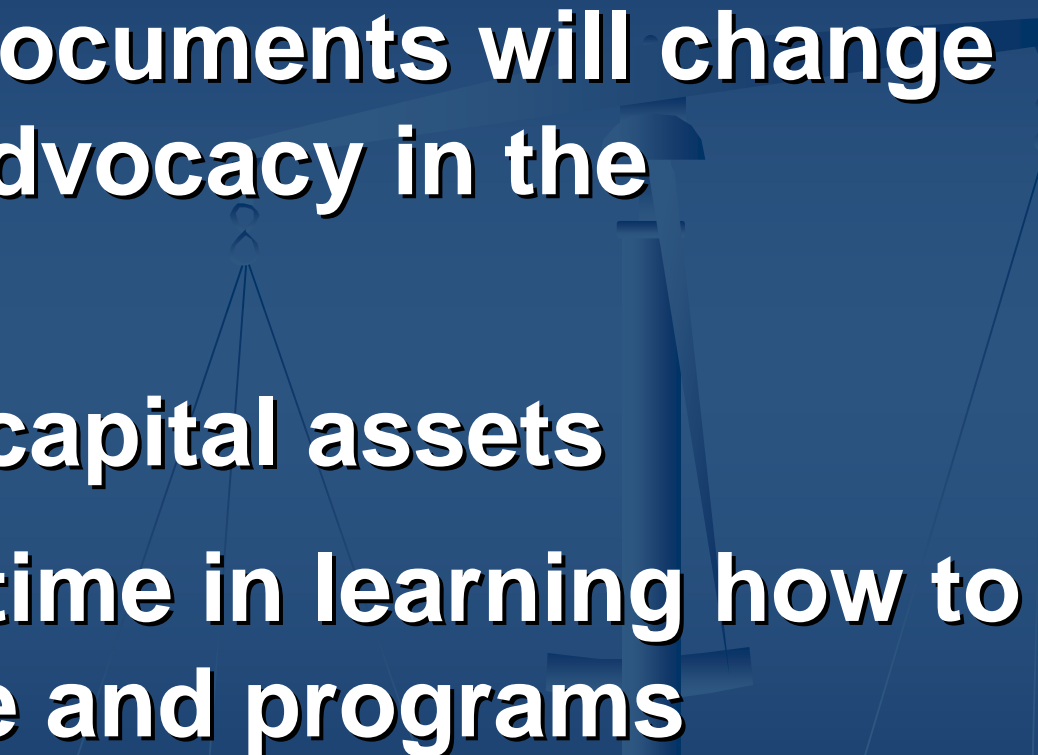
MOVING TO AN ELECTRONIC COURTROOM ENVIRONMENT

- **Constituents of an electronic courtroom**
 - **Client**
 - **Counsel**
 - **Judiciary**
 - **Courts Administration**

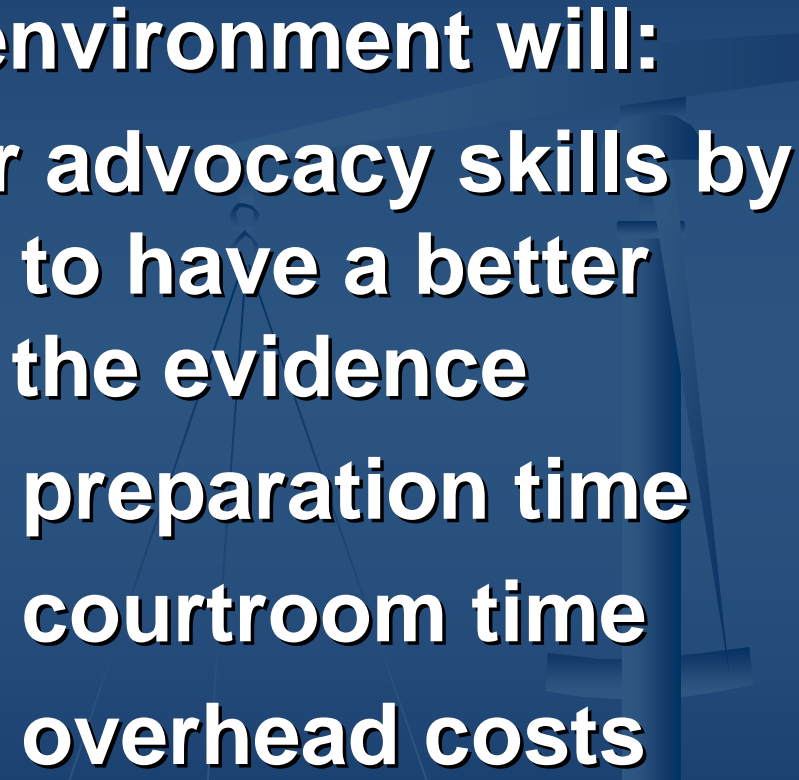
COUNSELS' RESISTANCE TO AN ELECTRONIC COURTROOM ENVIRONMENT



- **Hardcopy has been the standard in courtrooms for 150 years**
- **Original document is paper**
- **“I learned to be an advocate using paper and I am too old to change”**

- 
- A faint, stylized image of a pair of scales of justice is visible in the background, centered behind the text. The scales are rendered in a light blue color, matching the overall theme of the slide. The background is a solid dark blue.
- **“Electronic documents will change my style of advocacy in the courtroom”**
 - **Purchase of capital assets**
 - **Non-billable time in learning how to use hardware and programs**

CONVINCING SENIOR COUNSEL TO GO ELECTRONIC

- An electronic environment will:
 - Improve your advocacy skills by allowing you to have a better command of the evidence
 - Reduce your preparation time
 - Reduce your courtroom time
 - Reduce your overhead costs
- 

JUDICIAL RESISTANCE TO JUDGING IN AN ELECTRONIC ENVIRONMENT



- **Traditions**
- **Rules of Practice**
- **Original document is paper**
- **Lack of computer skills**

SEEKING JUDICIAL APPROVAL

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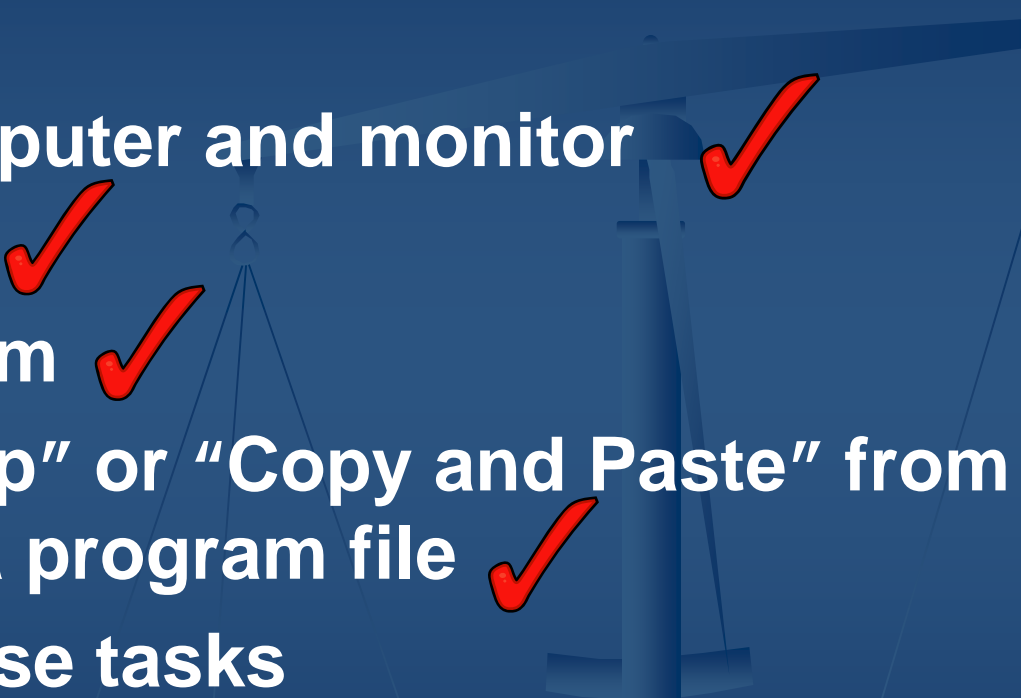
When

- Before the commencement of the trial

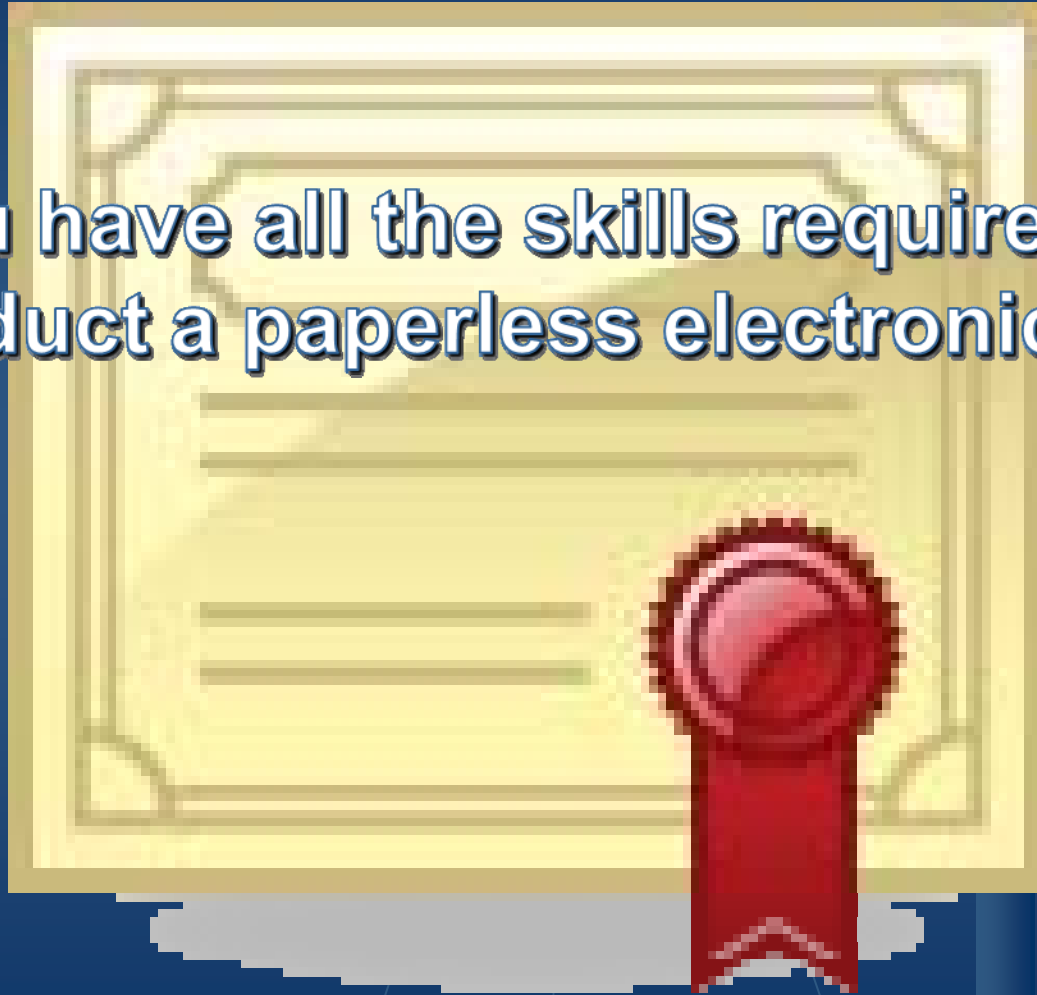
Who should attend

- Senior counsel
- Information Technology personnel
- Legal Clerk
- Clients

TEST FOR JUDGING IN AN ELECTRONIC ENVIRONMENT

- Are you able to:
 - Turn on a computer and monitor ✓
 - Use a mouse ✓
 - Open a program ✓
 - "Drag and Drop" or "Copy and Paste" from a CD-ROM to a program file ✓
 - If you can do these tasks
- 

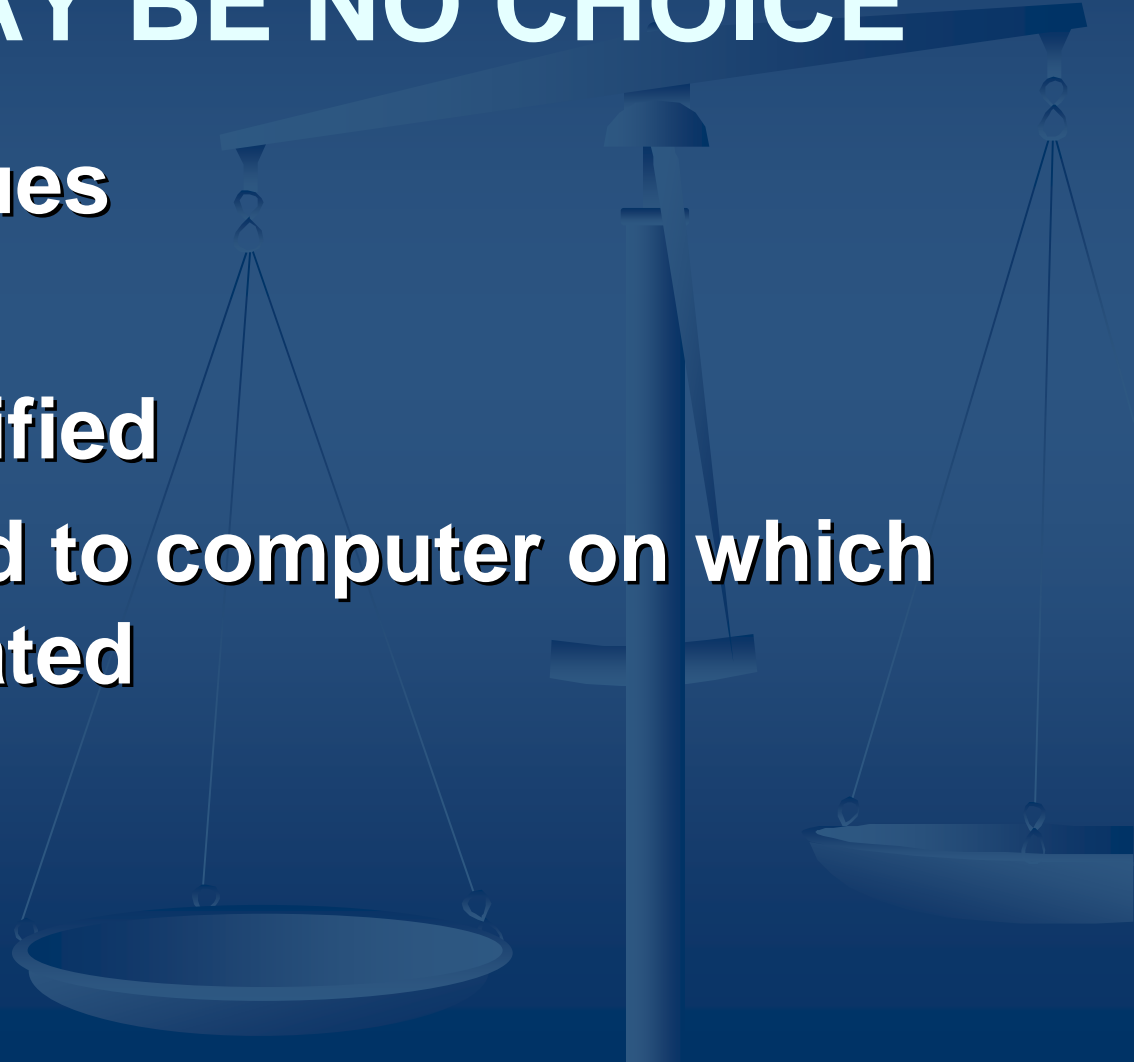
**You have all the skills required to
conduct a paperless electronic trial**



THE NEED TO VIEW ELECTRONIC DOCUMENTS – THERE MAY BE NO CHOICE

Authenticity Issues

- Date Created
- Date Last Modified
- Name assigned to computer on which document created
- Date printed



THE "ORIGINAL DOCUMENT" ELECTRONIC OR PAPER?

- **Electronic Document**
 - Created and saved in electronic format
 - Contains embedded or hidden data
- **Paper Document**
 - Copy of electronic document without embedded data

COURTROOM COST SAVINGS ELECTRONIC v. HARDCOPY

GasTOPS v. Mxl

Hardcopy Documents

- 5 copies of each disclosed document
- Photocopying 50,000 pages
 - $5 \times 50,000 \times 25 =$ \$62,500

Electronic Documents

- Scanning 50,000 pages = \$12,000

COURTROOM TIME-

GasTOPS v. MxI

Assumptions

- 3000 exhibits
- 300 days at trial
- 5 hours per trial day
- Total counsel fees (6 counsel) per trial day = \$6000
- Access 25 exhibits per trial day

TIME TO DISPLAY A SENTENCE IN AN EXHIBIT

Hardcopy

- 2 minutes > Binder > Tab > Page > Sentence

Electronic

- 5 seconds

COURTROOM TIME - LITIGATION COSTS

GasTOPS v. MxI

Hardcopy

- Access Time

- $300 \times 25 \times 2 = 250$ hours or 50 trial days

- Costs

▪ Litigation Fees	\$300,000
▪ Photocopying	\$ 62,500
▪ Total	\$362,500

COURTROOM TIME - LITIGATION COSTS

GasTOPS v. MxI

Electronic

- Access Time

- $300 \times 25 \times 5 \text{ sec.} = 10 \text{ hours or } 2 \text{ days}$

- Costs

- Litigation Fees \$12,000

- Scanning \$12,000

- Total \$24,000

COST SAVINGS

- **Hardcopy Exhibits**

\$362,500

- **Electronic Exhibits**

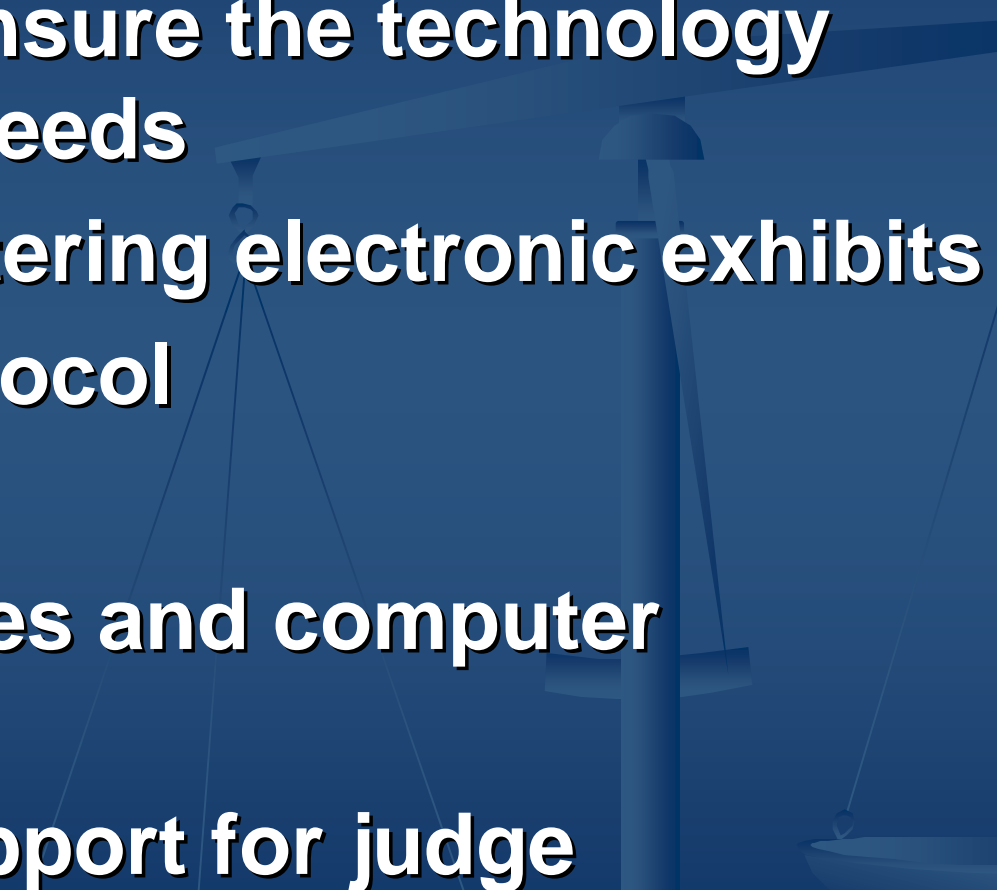
\$ 24,000

- **Savings**

\$338,500

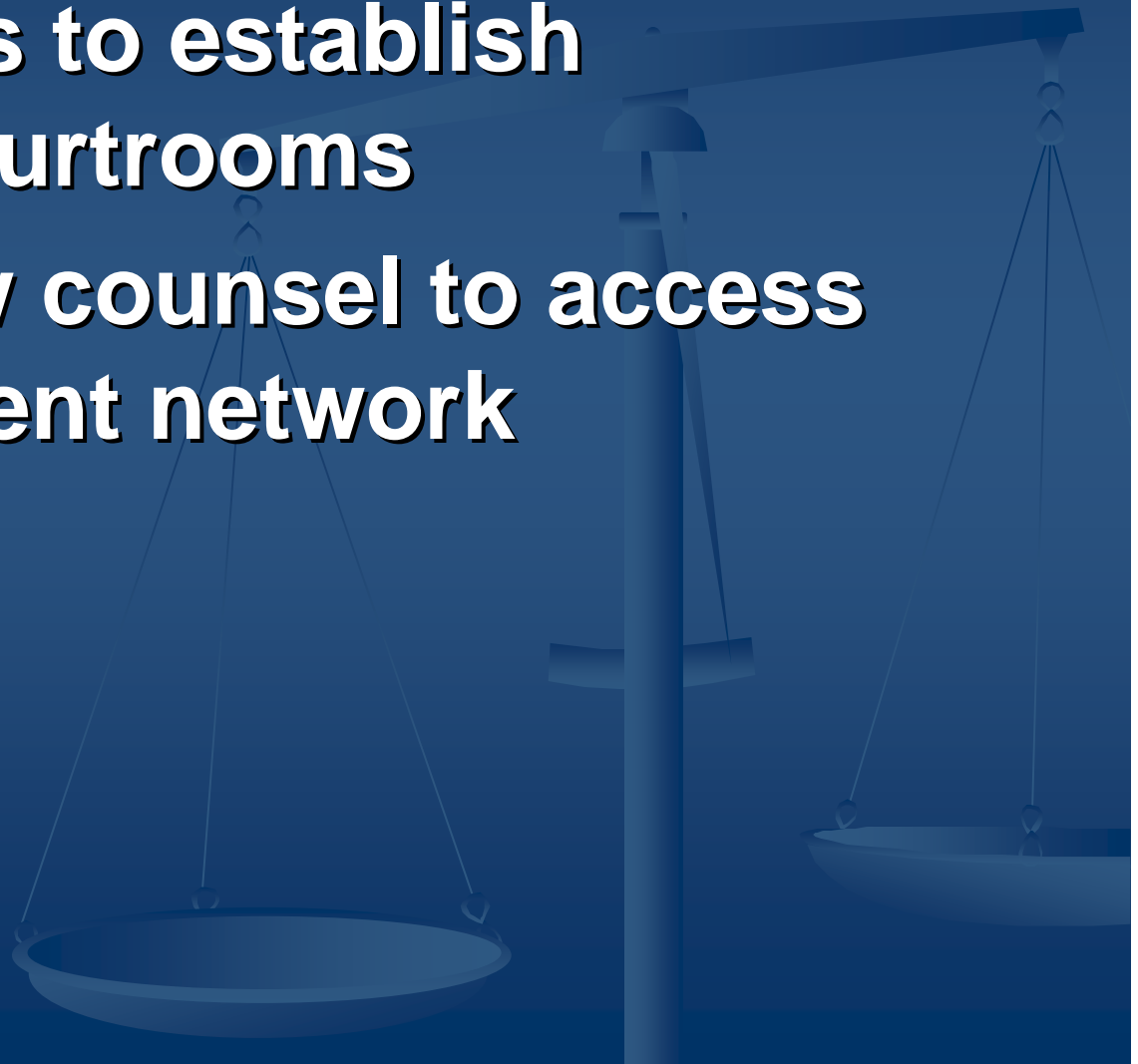
IF JUDGE AGREES TO THE USE OF ELECTRONIC DOCUMENTS IN THE COURTROOM - ISSUES TO DISCUSS WITH JUDGE

- **Will electronic documents and an electronic record suffice**
- **Maintaining the electronic record**
- **Will Judge agree to use a litigation support program**

- 
- **Will judge agree to a practice day in the courtroom to ensure the technology meets his/her needs**
 - **Protocol for entering electronic exhibits**
 - **Courtroom protocol**
 - **Data backup**
 - **Software glitches and computer breakdowns**
 - **Technology support for judge**

COURTS ADMINISTRATION

- **Lack of funds to establish electronic courtrooms**
- **Will not allow counsel to access the government network**



REQUIREMENTS OF AN ELECTRONIC COURTROOM

- **Improve presentation**
- **Reduce courtroom costs**
- **Meet judicial needs**

JUDICIAL NEEDS IN AN ELECTRONIC COURTROOM

A faint, stylized image of a pair of scales of justice is visible in the background, centered behind the text. The scales are rendered in a light blue color, matching the overall theme of the slide.

- **Ability to read electronic documents**
- **Highlight documents**
- **Create and maintain an electronic record**
- **Access to the electronic exhibits**
- **Secure judicial database**

THE EXPENSIVE ELECTRONIC COURTROOM

- **Hardware**
 - **Central Server - common database**
 - **Plasma and projection screens**
 - **Additional personnel to operate central server**

SHORTCOMINGS OF THE EXPENSIVE ELECTRONIC COURTROOM

- Remote access to electronic documents is difficult
- Judges will be reluctant to use common database for notes, summaries and judgment preparation
- Difficult to set up and/or remove
- Cost

INEXPENSIVE OR "WORKING MAN'S" ELECTRONIC COURTROOM

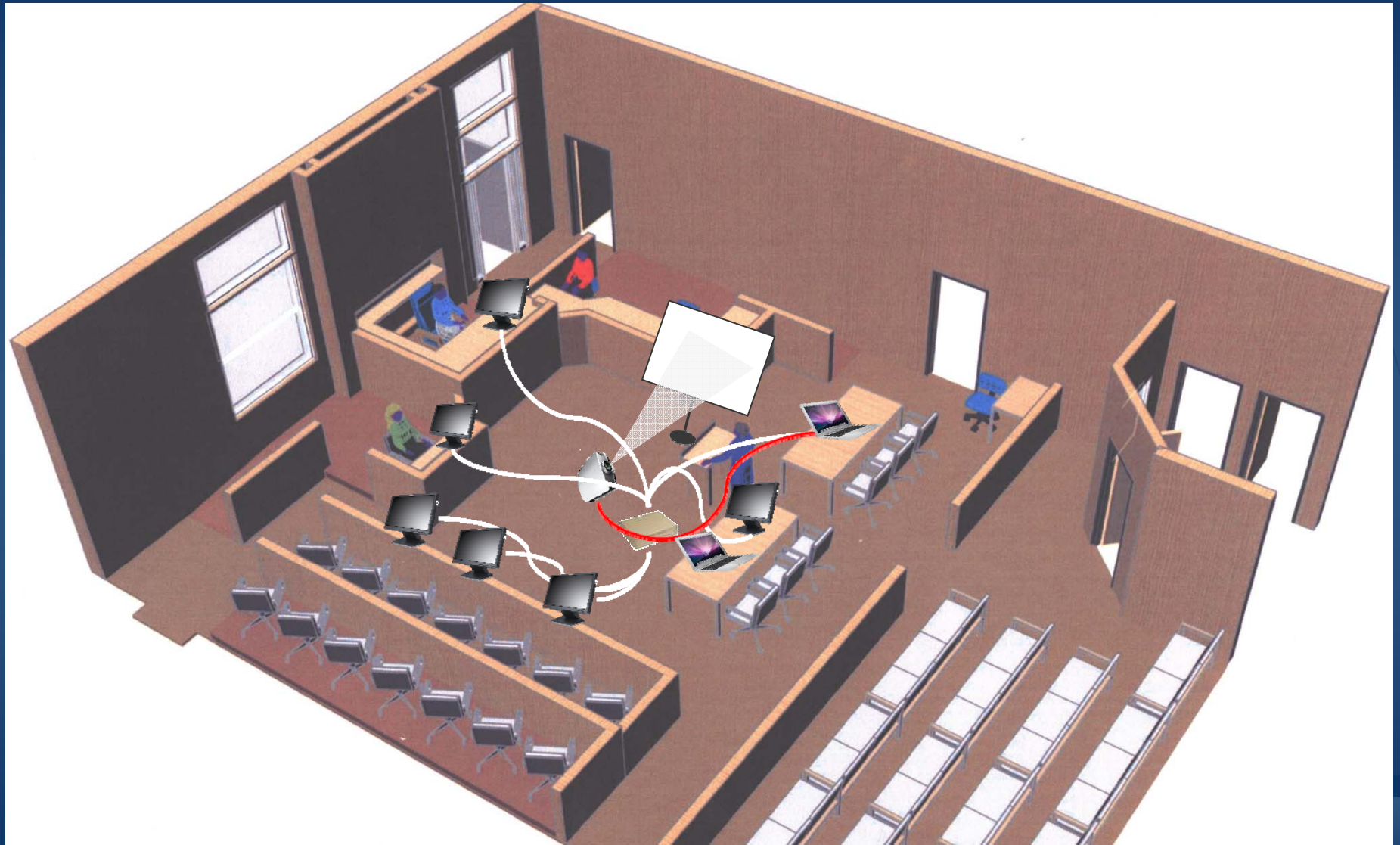
- **CT Summation iBlaze is used to:**
 - **Display documents**
 - **Create independent database on each laptop**
- **Monitors**
- **Video splitter**
- **External hard drive**

ADVANTAGES OF INEXPENSIVE ELECTRONIC COURTROOM

- Each laptop has a copy of electronic record on its hard drive
- Each laptop has its own secure database
- Portable
- Affordable

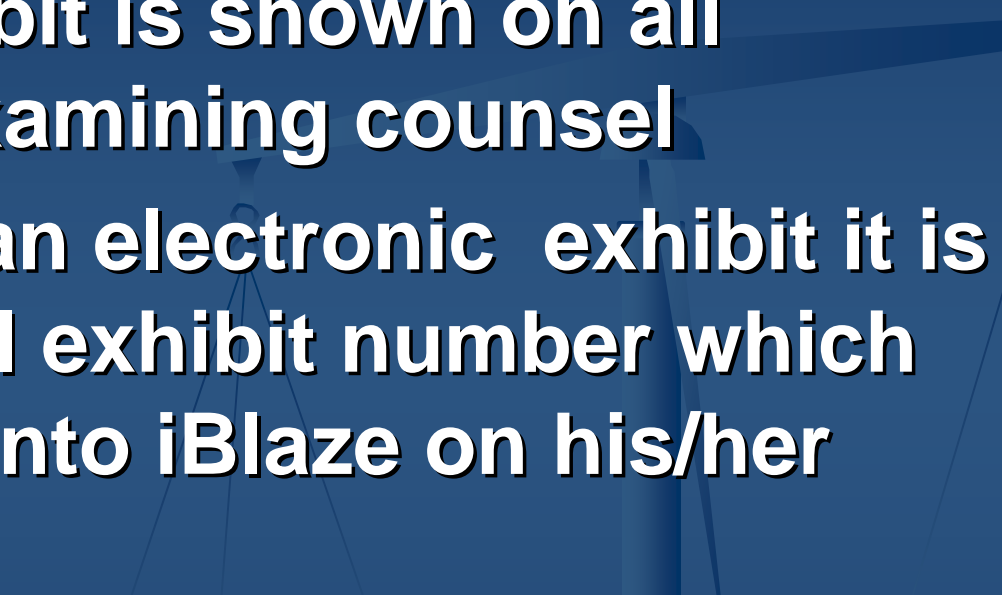
GETTING YOUR ELECTRONIC COURTROOM AT "RADIO SHACK"

- **Hardware**
 - Four monitors
 - Video splitter
 - Cables
 - External hard drive
- **Capital Cost**
 - \$1000



USING CT SUMMATION iBLAZE AS A SECURE DATABASE AND TO DISPLAY DOCUMENTS

- Each counsel has iBlaze on his/her laptop
- Each counsel has all disclosed documents filed in his/her copy of iBlaze
- Judge has iBlaze on his/her laptop

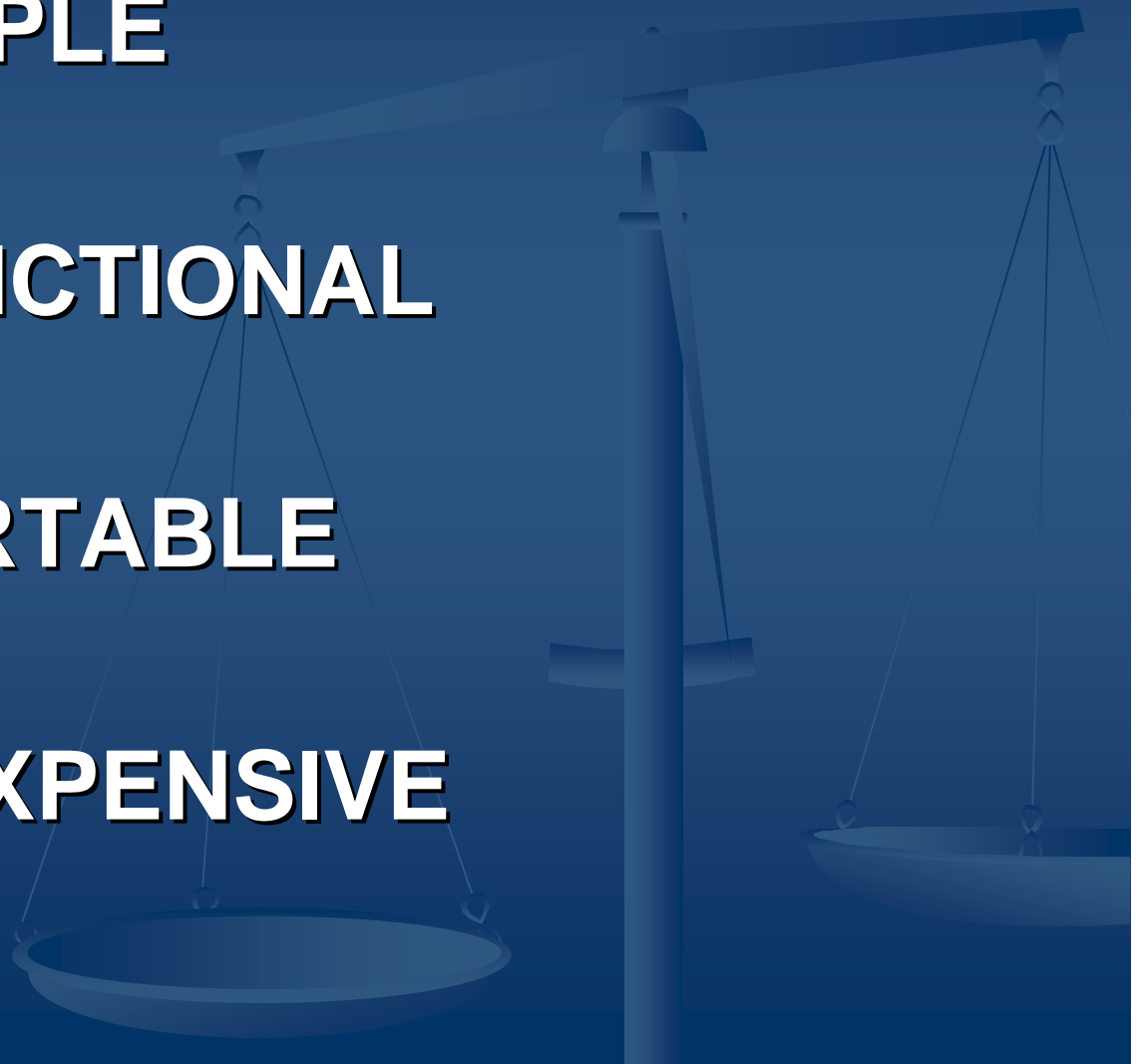
- 
- A faint, stylized image of a pair of scales of justice is visible in the background, centered behind the text. The scales are rendered in a light blue color, matching the overall theme of the slide. The background itself is a solid dark blue.
- **Proposed exhibit is shown on all monitors by examining counsel**
 - **If admitted as an electronic exhibit it is assigned a trial exhibit number which counsel enter into iBlaze on his/her laptop**

MAINTAINING AN ELECTRONIC RECORD FOR JUDGE & COURT

- At end of each day counsel provides Judge with a CD-ROM containing new exhibits
- Judge loads exhibits into his/her copy of iBlaze
- Counsel updates external hard drive maintained by the Clerk of the Court

GRANGER'S RULES FOR AN ELECTRONIC COURTROOM

- SIMPLE
- FUNCTIONAL
- PORTABLE
- INEXPENSIVE



A faint, stylized illustration of a balance scale is visible in the background. The scale is positioned on the right side of the frame, with its vertical column and horizontal beam extending across the upper right. Two pans are suspended from the beam by thin lines. The entire scene is rendered in a light blue color against the dark blue background.

THANK YOU

Justice B.T. Granger