



**Federal Bar
Association**
San Diego Chapter



presents:

**THE 18TH ANNUAL
JUDITH N. KEEP
FEDERAL CIVIL
PRACTICE SEMINAR**

September 29, 2022 | Westin Gaslamp Quarter | 1:00 p.m. – 6:00 p.m.

Opening Statements & Closing Arguments

Hon. Cynthia A. Bashant, U.S. District Judge

Hon. William Q. Hayes, U.S. District Judge

Hon. Todd W. Robinson, U.S. District Judge

Rebecca Church & Hayley Grunvald, Moderators

Questions?

Thank you!

Thank You for Supporting!



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT *of* CALIFORNIA

HON. DANA M. SABRAW, CHIEF JUDGE
JOHN MORRILL, CLERK OF COURT



**Federal Bar
Association**

San Diego Chapter



UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA

COURTROOM TECHNOLOGY USER GUIDE

The District Courtrooms in the Schwartz and Carter/Keep Courthouses are equipped with state-of-the-art audiovisual technology. The Audio-Video System installed in these courtrooms consists of an Audio, Video, and Control System. At the heart of this technology is an evidence presentation system. This system combines video distribution with annotation and allows users to connect external media devices such as laptops, tablets, and smartphones. Video inputs (VGA and HDMI cables) are located at the counsel table and the lectern, Judge's bench, Courtroom Deputy, and Witness desks.

The audio system in the courtroom consists of wired and wireless microphones, assistive listening, and interpretation headsets. The A/V system is also capable of doing telephonic conference calls through two telephone lines and video conferencing.



Each lectern has a screen annotation monitor, document camera, Blu-ray player, HDMI and VGA video cables, two microphones, and a control touch panel. There is also a screen annotation monitor at the witness box.



Here is an overview of the components integrated into the lectern and how to control the individual pieces of equipment. Section 1 will cover the AMX control panel and lectern. Section 2 will cover various aspects of the evidence presentation system and hardware.

SECTION 1

AMX Control Touch Panel

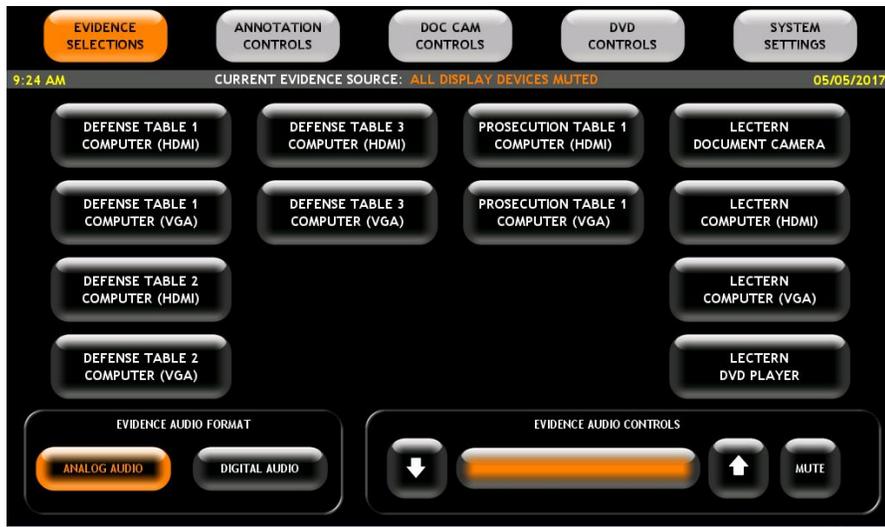
At the lectern, you will find an AMX touch panel that allows you to control the essential functions of the evidence presentation system. The button across the top of the screen is labeled by function.



Namely, you will have partial control of what source is inputted into the system (**Evidence Selections**), control of the annotation system (**Annotation Controls**), control of the document camera (**Doc Cam Controls**), control of the DVD player (**DVD Controls**).

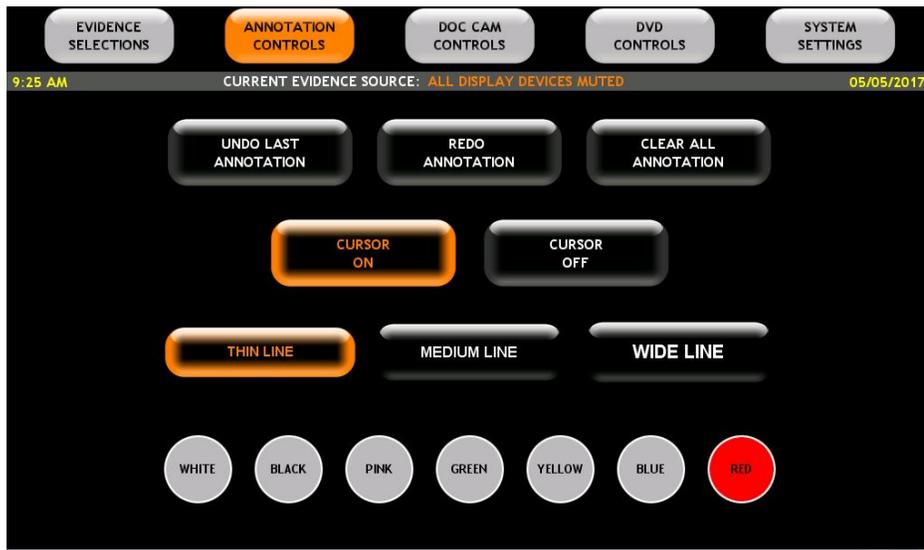
*****Please do not attempt to use the 'System Settings' button*****

Evidence Selections



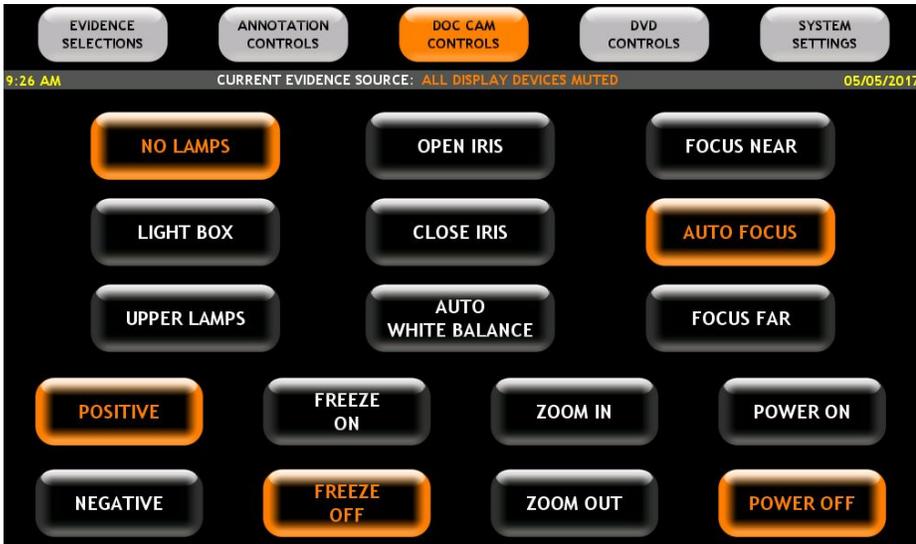
Use this page to select the input of the source you want to distribute through the system. This page also has an “Evidence Audio Control” meter that will allow you to turn up the volume of the source media. Remember to turn up the volume on the video source (For instance, laptop or tablet) to its maximum level before making adjustments to the evidence audio control meter.

Annotation Controls



Annotation can only be enabled/disabled from touch panels located at the Courtroom Deputy’s bench, so always confer with the Clerk before attempting to use the system. Use this page to control the essential functions of the annotation system. You can change the line color, line width, undo your last action, redo annotation, and clear all annotations. If the annotation is not active (disabled), none of the annotation control buttons will function.

Document Camera Controls

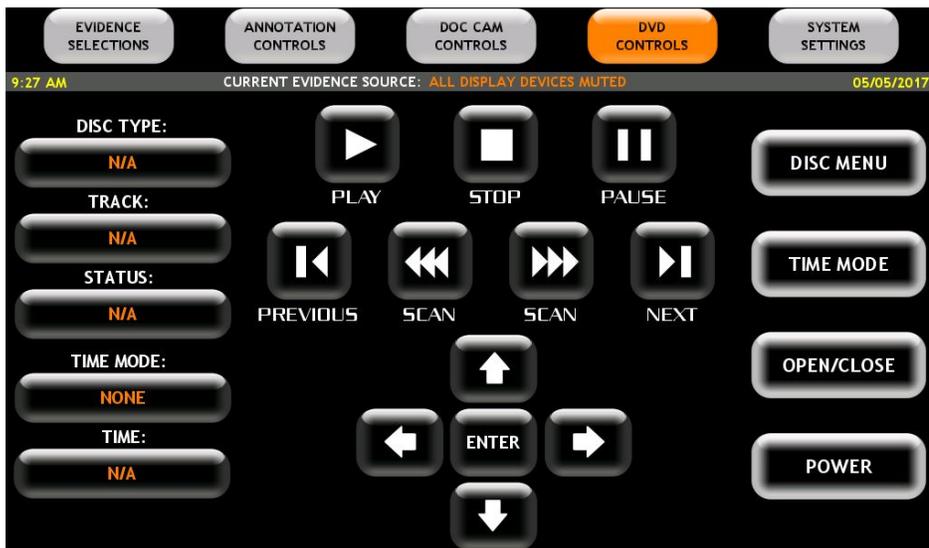


Use this page to turn on/off the power, manually adjust the focus or select autofocus, manually adjust the iris or select auto iris, zoom in/out, select lighting options, switch between text and image mode, switch between positive and negative mode. The document camera is located on the rollout shelf on the side of the lectern (see picture below). **Note: The Iris and Focus setting should always be set to AUTO.**



Please use the pull handle to open and/or close the document camera.

DVD Controls



Use this page to control the DVD player located in the presentation cart. The DVD player is accessible through the front cabinet doors. DVD transport controls (Play, Stop, Fast Forward, Reverse, Next, and Previous) function as those on a standard DVD player. UP, DOWN, LEFT, RIGHT, and ENTER allows you to navigate the on-screen menu and set up items. Information windows on the left side of this page display the disc type, current track number, player status, current time mode, and the whole DVR or current track number remaining or elapsed time. The DVD player is located on the lectern. (See picture below).

Note: The DVD player can only play finalized discs containing mastered video and audio. Data discs, most likely, will not work. Playing the DVD from a laptop is much quicker, easier, and more reliable, especially if you do not know what file format the disc contains. Consult your technical specialist for more information.



DVD PLAYER

SECTION 2

Counsel Tables

At each counsel table, there are recessed boxes with cabling to connect electronic devices. Both analog (VGA cables with 3.5mm stereo audio plug on the left) and digital (HDMI cable on the right) connections are available. Consult with your technician on which connection to use. Each table also has additional AC power outlets. (See picture below).



Video Distribution



Each courtroom has an integrated video distribution system. You can input images/media into the system to display throughout the courtroom. There are video monitors in the gallery, jury box, counsel tables, upper and lower benches. There are projection screens in each courtroom, however, there are no projectors. It is up to you to provide a projector.

Note: Room lighting is the most important factor in determining image quality. The video monitors throughout the courtroom will typically produce an image with much greater contrast than a projector and screen.

ANNOTATION

The monitors at the lectern and the witness stand have touchscreen-enabled annotation, which will allow you to create drawings over top of images or documents. Input your media into the video system by connecting at various inputs at the counsel tables or lectern. Next, ask the Courtroom Deputy to enable annotation. Once enabled, you can use the AMX touch panel for control of the annotation system. **(See Section 1 under Annotation Control for more information).**

VIDEO CONFERENCING

All courtrooms have video conferencing capabilities.

If you would like to use the video conferencing system, don't hesitate to contact the Courtroom Deputy in advance. It is your responsibility to provide all necessary contact information to the Courtroom Deputy. Contact information must include the following:

- Full name, telephone number, and email of the participant.
- Geographic location of the participant.
- Date, time, and approximate duration of the conference.

Ideally, we can run a video test before the court proceeding. Based on the test connection, the Court will determine if the quality and consistency are adequate.

GENERAL GUIDELINES AND RULES

- Bring a technician with you or at least consult with a technician beforehand.
- Show up early to test equipment and media.
- Always have hard copies on hand.
- The equipment and functionality of the system can and will be changed over time. Stay up to date on the latest and greatest by checking with the Courtroom Deputy before your scheduled hearing date.

If you have any questions, please get in touch with the Courtroom Deputy.

Format Requirements for Electronic Exhibits

The U.S. District Court for the Southern District of California provides evidence presentation equipment in all courtrooms. There are also large displays with a computer in the jury deliberation rooms for jurors to view electronic exhibits.

How to submit Electronic Exhibits Files

Electronic evidence files shall be provided on a USB drive.

File Type Requirements

All electronic evidence must be provided using the following formats:

Documents and Photographs: .pdf, .jpg, .bmp, .tif, .gif

Video and Audio Recordings: .avi, .wmv, .mp3, .mp4, .wma, .wav, .3gpp

Regarding the file size of electronic evidence, individual files should not exceed 500MB. If possible, exhibits approaching or exceeding this size limit should be separated into multiple files. Note, PDF documents can often be reduced significantly in size by using tools such as Adobe's "Reduce File Size" feature. Images can be significantly reduced in file size by lowering its resolution or dimensions, usually with minimal affect to viewing quality.

In addition, exhibit files are not to be encoded with any proprietary software, and must be readable by computers running Microsoft Windows software without the need to install any additional proprietary tools.

Documents and images must be properly oriented for viewing.

Submission of noncompliant exhibits violates Local Rules. If the Court determines that a submitted exhibit does not meet the above requirements, the Court will request that it be resubmitted in a format that complies with the requirements defined above.

Objection to Closing Argument

By Anthony J. Battaglia, U.S. District Judge

Copyright 2016

I. WHEN AND WHY.

1. Must be timely.
2. Does the comment have a valid purpose?
3. Will the comment prejudice (not just hurt) your case?
4. Is the argument supported by the facts in the record?
5. Is the comment relevant to opposing counsel's general line of argument?
6. Does it open the door to something you can take advantage of?
7. Will it emphasize harmful evidence?
8. Is the objection petty or merely technical such that it may cause judge or jury back lash?
9. Do you have a strong opposing argument?

II. FORBIDDEN OR AT LEAST OBJECTIONABLE FINAL ARGUMENTS

1. The Golden Rule. Do not ask the jurors to put themselves in the shoes of a party or appeal to the juror's sense of self protection (this latter sometimes called the "Reptile" Strategy). *Forrestal v. Magendantz*, 847 F2d 303 (1st Cir. 1988). Improper to argue "send a message", *Strickland v. Owens Corning*, 142 F3d 353 (6th Cir. 1998) except in punitive

- damages case, *Settlegoode v. Portland Pub. Schools*, 371 F3d 503 (9th Cir. 2004.)
2. Any appeal to emotions, sympathy, passion, prejudice or bias. Includes, racial, gender, ethic, sexual orientation, political or religious comments. *Soloria v. A.T.S.F.*, 224 F2d 544 (10th Cir. 1955); Referring to appeal for sympathy due to military service record. *Hockaday v. Red Line*, 174 F2d 154 (DC Cir. 1949)
 3. The lawyer's opinion or belief on how she thinks or feels about the case, or a witness. *Stemmons v. Missouri Dept. of Corr.*, 82 F3d. 817 (8th Cir. 1996)
 4. Vouching for or against (reverse vouching) a witness or party regarding credibility, etc. *U.S. v. Hermanek*, 289 F.3d. 1076 (9th Cir.)
 5. Relative size or wealth of the parties (except where punitive damages are in issue). *Garcia v. Sam Tanksley Trucking*, 708 F2d 519 (10th Cir. 1993)
 6. Insurance coverage in a negligence case.
 7. Settlement discussions. FRE 408. Note exceptions like, settlement with a witness or as impeachment.
 8. Unjustified Comments about other counsel, party or witness.
 9. Collateral source, based on law in your court, and the issues involved.
 10. Juror's self-interest as taxpayers, and having to pick up the tab.
 11. Arguing damages from a similar case.

12. Reading from statutes, case law or legal opinions. Discussion of the law must be limited to the jury instructions given by the court. *Glendenning Motorways v. Anderson*, 213 F2d 432 (8th Cir.)
13. Referring to excluded matters. *Slane v. Jerry Scott Drilling*, 918 F2d 123 (10th Cir. 1990).
14. Arguing theories not supported by evidence. *Harris v. Pacific Floor*, 856 F2d 64,68 (8th Cir.)