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System in Preparing Negligence Cases

Constantine L. Corpas*

SYSTEM IS THE SECRET OF successful preparation of a case for trial. The systems used in one large plaintiffs attorneys' office and one large defense office are described here.

There are certain standard procedures that ordinarily should be followed in the preparation of any negligence suit prior to trial, but as the factual situation varies with each individual case, so must the preparatory work be varied to fit system and facts to each other.

A primary problem is whether it is better to have the individual attorney conduct the preparation according to his own particular methods, without the use of systematic aids; or whether it is better to follow a systematic and prescribed course, to which the attorney will fit his own methods. The latter approach affords both aids and safeguards against omissions of important items in the preparation.

Regardless of the method or system used, final responsibility always must rest solely with the attorney handling the case. Systematic approach to this problem is not a substitute for the attorney's work. It merely serves as an aid in his preparation of the case, through the use of various control items. At the same time it offers to him a constant running analysis of his work.

There are varied opinions among lawyers on the subject of systems of preparation. Some lawyers are unaware that a system as such can be utilized regularly and successfully as an aid in the preparation of cases for trial. In general, many lawyers tend to shy away from anything resembling a systematic approach to any problem relating to law. Yet, even those lawyers who say that a systematic approach to any lawsuit is inconceivable, when relating the procedures or steps followed by them in the preparation of a case for trial, in effect themselves state a prescribed course which they follow in such preparation. The main factor distinguishing their "methods" of preparation from the so-called "systematic" approach is that they have no sure way of checking their work as it progresses, or of knowing

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whether or not they have included or completed all phases of the preparation.

Some law firms leave the entire responsibility of preparation solely with the individual attorney handling the case. He is aided only by the routine work of the docket clerk, who notifies him of pleading dates, appearance dates, and so on.¹ Others believe that when a system is properly utilized, it acts as a guide, signaling each step of the work as it progresses, and that it also acts as a constant reminder of items necessary to the preparation and not yet completed.

Magnet Data Chart System

A remarkable system has been devised and is presently being used in the preparation of negligence cases by the Cleveland law firm of Sindell, Sindell, Bourne & Disbro.² One entire room in the Sindell office is devoted to this system. Its walls are covered with movable shingle-cards, pins and charts—like a stock brokerage tabulation, or a military “War Room.”

The system, known as the “Magnet Data Chart,” was designed to show most of the essential work elements on every case and to make every element visual and immediately available to every lawyer in the office, as well as to signal the status of every pending matter and the dates of expiration of statutory limits in every case. A total of twenty-four items of essential information is shown by this system, which has been patented by the Sindell office.

A master control board is ruled into twenty-four sections, with headings lettered in on each section. The whole is mounted on a wall. Every case that comes into the office is put on a slat, measuring about $\frac{3}{4}$ inches in height and 22 inches in length. The slat, which has magnets attached on the back, is then mounted on metal strips in the wall directly under the master control board. In this way the cases may be moved to any position on the wall as they progress from the section for unfiled cases to the section for filed cases. The unfiled cases are lined up alphabetically, and after they are filed they are lined up by case number.

¹ This is the procedure of the Cleveland law offices of Arter, Hadden, Wykoff & Van Duzer; and of Thompson, Hine & Flory.

² David I. Sindell was requested to illustrate the “Magnet Data System” at the 1957 NACCA Convention in New York City.

The following is an illustration of part of the master control board. Headings are shown in *Line a*. A typical slat containing the twenty-four items of information on a particular case is shown in *Line b*.

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	
a.	ATTORNEY CO COUNSEL	CASE NUMBER	NAME OF CASE	PLAINTIFF'S AGE	TORTFEASOR NAME (S) ADDRESS (S)	TYPE OF PLAINTIFF	INSURANCE CO.	DEFENDANT'S FIRM & COUNSEL	DEFENDANT'S INDIVIDUAL COUNSEL	DATE OF COLLUSION	STATUTE OF LIMITATIONS	DATE FILED	DEFENDANT LEAVES TO PLEAD	PLAINTIFF'S DEPOSITION	DEFENDANT'S DEPOSITION	FEDERAL CASE IN CLERK'S OFFICE	REMOVED FROM STATE COURT	EVALUATED	COMPENSATION CLAIM	SPECIAL DAMAGES					
b.	● 83	655421	Dos, Max vs. Smith, John	60	SMITH, JOHN 3100 BUCKLE CLEVELAND, OHIO	●	13	BLACK BLACK WHITE	BLACK WHITE	APR 27, 54	APR 27, 54	MAY 2, 55	●	●	●	●	●	●	●	●	●	●	●	●	●

Of the twenty-four items listed in the master control board, some are statistical and others are essential work items. The following is a list of the twenty-four items shown on each case:

1. The attorney in the office assigned to the case.
2. The lawyer who referred the case to the office.
3. The case number.
4. The case caption.
5. The age of the plaintiff.
6. The name and address of the tortfeasor.
7. The type of plaintiff (if a married woman, the expiration date for the loss-of-service case is noted).
8. Is there a companion case in the office?
9. What liability insurance company are we dealing with?
10. What law firm represents the insurance company?
11. Who is the individual lawyer in that firm handling the case?
12. What is the date of the accident?
13. On what date will the statute of limitations expire?
14. On what date was the case filed?
15. Defendant's leaves to plead.
16. Has the defendant taken the plaintiff's deposition?
17. Have we taken the tortfeasor's deposition?
18. Has the defendant insurance company's doctor examined our client?
19. Is there a federal case noted in the clerk's office?
20. If the case has been removed from the state court to the federal court, has a jury demand been filed?
21. Has the lawsuit been pre-tried?
22. Has the lawsuit been evaluated by our office?
23. Is there a compensation claim?
24. Have special damages been tabulated?

The essential work items, such as depositions and medicals, are given special attention. As a case starts out, red pins are inserted in the spaces under the various work items. As the work is scheduled, amber pins are substituted, and when the

work is completed, the amber pin is removed, and a green pin is inserted.

Each attorney in the office has a different colored pin assigned to him. By looking at the control wall, at all of the slats, he can immediately see which cases are his. He has a constant visual reminder of filing dates, and can see at a glance which cases need depositions, medical examinations, and so on.

Every case is lined up under the master control board by case number; the oldest case is at the top of the list and the last case filed is on the bottom. The lawyer knows at all times the position of his cases in the court list, and can plan his work accordingly.

There is a separate section on the control wall for cases pending in the United States District Court. These cases are put on blue slats, while the Common Pleas Court cases are on white slats. Another section of the control wall is for out-of-town or out-of-state cases, which are designated by green slats. Cases against the Cleveland Transit System are put on yellow slats.

The name of the case is written in, and if there is more than one defendant that fact is also listed. Cases of minors and elderly plaintiffs need special attention, and so the age of the plaintiff is noted as an item of information. In many cases it is necessary to take depositions promptly in order to preserve testimony. Warning pins are used to indicate need for prompt action.

As to type of plaintiff, special notice is given where the plaintiff is a minor or a married woman. A blue pin is used to designate a minor, and a red pin is used to designate a married woman. A death case carries a black pin. The expiration date of the loss-of-service claim is put in the section under the statute of limitations. This acts as a constant reminder to the attorney to file his loss-of-service action.

The insurance companies are listed on the slats by code number, so that at any time it can be determined which cases and how many are had with each insurance company.

After a case is filed, the defendant's counsel is entitled to a reasonable number of postponements before he files his answer. Each time a leave to plead is made it is noted on the slat. After three such leaves the lawyer handling the case can begin to resist further leaves if defense counsel is obviously trying to delay a joinder of issue. When the answer is filed, a green pin is inserted in this section of the slat, and the lawyer can tell at a glance which cases are at issue.

Where the defendant's counsel has not taken the plaintiff's deposition, he will have little chance of getting authority from the insurance company to settle the case. The red pin in this section is a signal that it has not been done. Each lawyer in the office can chart his depositions by noting immediately from the red pins in which cases he has failed to take defendant's deposition preliminary to trial.

When a case is settled or otherwise disposed of, the slat is removed from its trial position on the control wall, and the slat is ready to be used on another case. The magnet data system keeps track of certain work items, but not all of them. It tabulates important statistical data. It offers a current analysis of work. It serves as a safeguard against costly omissions.

Defense System

In the initial preparation of a case it is only natural that the defendant will have fewer items to be concerned with than the plaintiff. Since the plaintiff is the one who files the lawsuit, the defense is chiefly concerned with the period of limitations within which such action may be filed. Before the attorney for the plaintiff can file his lawsuit, he must make an investigation of the case so that he will have sufficient information to prepare his petition. Once the lawsuit is filed the preparation work on the case is very much the same for both plaintiff and defendant.

The efficient method followed by the Cleveland Transit System in the preparation of its cases for trial is typical of methods followed by many defendant companies. The Assistant Superintendent of Claims, Mr. Ladd J. Tichy, in the Accident Department of the Cleveland Transit System, handles all reports and claims which are made against the company and which may result in lawsuits.

The various steps followed by C. T. S. in the preparation of a case for trial help to give a broader view of what is actually being done in the negligence field in relation to this problem.

As reports of accidents are made to the Accident Department, they are checked briefly, and then numbered and filed, indexed, and cross-indexed by name, address, and place where the accident occurred, and the date of the accident. At this point nothing further is done with the accident reports unless the accident is of such a serious nature that there is a strong probability

that a claim will result therefrom, or that additional information will be needed for a proper evaluation of the case.

When the claimant or his attorney contacts the Cleveland Transit System in reference to the accident, the status of the accident report changes to a claim against the company. Then preparatory work is begun toward possible settlement of the claim. Where settlement cannot be made, the defendant company, as in this instance, has but to wait until the plaintiff files his action against them. Prior to the time when the plaintiff files his action, and during the time of preliminary attempted settlement, the defendant has had ample opportunity to compile a great deal of information on the accident from its reports and investigations.

When the lawsuit is filed by the plaintiff and the defendant is given notice thereof, the Accident Department drafts a summary report in the form of a letter and sends it to the attorney who will use the report in answering the plaintiff's petition. The summary report includes all material facts of the accident, and any other information that the Accident Department feels the attorney needs in preparing his answer to plaintiff's petition. If the attorney feels that he needs additional information he may ask to see the file on the case.

At the same time that the summary report is drafted, the reviewer makes up a list of instructions for the investigation or work that is needed in the preparation of the case for trial. If some of the items which are listed need immediate attention, such as statements from witnesses, depositions or medicals, they are earmarked for prompt action and are assigned to someone in the office for completion. If new facts are set out in the plaintiff's petition, which necessitate further investigation, then this is noted on the list of instructions and immediate attention is given to these items.

After all the preparatory work is completed, and after the answer to plaintiff's petition has been filed, the case folder is filed away by case number until it is ready to come up for pretrial. A few weeks before the case comes up for pretrial it is pulled out of the file for re-examination and completion of any preparatory work as of that time. If at pretrial the need arises for further investigation or additional work, that fact is noted on the list of instructions, and then is completed. By checking the list of instructions on every case, the office knows at all times which items of

work have been completed and which items have not been completed. It is a simple but invaluable safeguard against omissions.

Out of all accident reports received by the Cleveland Transit System only 50% develop into claims. Of this percentage about 70% of the claims are settled and 6% of such claims result in lawsuits. The rest just drop their claims against the company. Approximately 9,000 claims are handled each year.

Over a period of about 12 years the number of accidents reported involving the Cleveland Transit System has decreased by one-half, as compared with a relative increase of accidents involving transit systems in other cities.

No comparisons are drawn by the writer, and no comments made, on the two systems described. It is hoped that this brief description will be useful as illustrative of two systems, both of which work well.