



IS TECHNOLOGY MAKING YOU CRANKY? IS IT RINGING THE DEATH KNELL OF CIVILITY?

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It was not coincidence that the reminder for writing this article popped up while Havertown attorney and technologist Dan Siegel and I were pulling together our seminar on courtroom presentation tools, to be presented for the Berks County Bar Association in Reading's high-tech U.S. District Courtroom. The issue for which this article was requested by editor Don Sarvey is the annual technology issue. The connection is pretty obvious.

Truth be told, since I joined the Pennsylvania Bar Association in 1999, technology has played a continuing heavy role in the assistance I provide to members. Despite a large repertoire of seminars created, articles written, and resources assembled on a myriad of topics, the majority still touches on technology in one aspect or another.

I was fortunate back in the days when I managed law firms. Most of the firms I worked for wanted to expand and improve their technology infrastructure. They were willing to endure bumps here and there in order to stay ahead of the competition. I was able to do great things with technology early on as a result.

Technology back then was, in most regards, simpler. It was not really for attorneys. It was for non-lawyer staff. Applications were all about word processing, time keeping and billing, and accounting and reporting. All of these functions were handled by staff.

When lawyers didn't really have to learn much about all the new hardware and software, they were happy. Document production was vastly improved both in terms of appearance, and turnaround time. The ability to reuse prior work product easily spurred creativity where it mattered. Some attorneys used the extra time and liberty to edit documents to death, beyond all reasonable measures. Most, however, simply became more productive.

I started to notice considerable push-back when the technology became a tool for attorneys to use hands-on. This accompanied the transition from dedicated word processing to desktop PCs. Most attorneys did not want to use a mouse and

keyboard. They were highly resistant to learning how to use software, even though much of it offered strategic advantages. Like marketing activities, many complained that these weren't skills they went to law school to learn. Silently, I mentally asked the rhetorical question, "Your point?" over and over through the years.

As the legal marketplace has matured, competition has risen to a daunting level. Lawyers and firms struggle to maintain the bottom line. More sophisticated clients are demanding that their lawyers work even more efficiently, in order to be more responsive, and help to control legal spend. So reluctantly, with feet dragging, lawyers have been pushed, pulled, coaxed, or outright dragged into the information age.

Many lawyers have discovered that with some diligence and effort, many of the new technologies —especially software applications— provide some real strategic advantages over their competition. Instead of viewing all this technology as a big conspiracy to reduce their status by making them do "clerical work", they are realizing that they can indeed work smarter instead of harder. As so many of you have heard me say repeatedly, most of you are working as hard as you possibly can. You only have one option left: work smarter.

Yet, despite my love of technology, and all the strategic advantages it offers, I see storm clouds building behind my silver lining. It's becoming increasingly clear to me that aspects of the incorporation of technology into the very fabric of the legal industry hasn't been entirely positive.

If I had to pinpoint the precise location of the dark cloud mass, I would say it surrounds our current state of communications. It's been almost two decades since email replaced "snail mail". So too, have faxes all but disappeared. Nowadays, documents and information are being exchanged electronically.

As we've all learned the hard way, electronic communications have downsides. We've mostly gotten over the discomfort associated with the inherent risk of transmitting documents and sensitive information electronically. We'll probably never get over the lack of total reliability, although being able to send communications with a read receipt eases that discomfort somewhat.

Ask any lawyer, and he or she will no doubt cite two areas we won't get over so quickly. First, the digital exchange of documents forced most attorneys to migrate from WordPerfect to Word, in order to produce documents fully compatible with clients' systems. Second, our world became much "faster" when email became the primary method of communication.



Not often cited but equally disturbing is the lack of social queues and feedback mechanisms in email. Lacking this important context, readers often respond by overlaying their own emotional colorings on otherwise innocuous text. The result has been a sharp elevation in miscommunications. No doubt each of you reading this recalls at least one huge misunderstanding from what started as a simple email communication.

The shift from mail to email meant that one no longer enjoyed the extra time to finish current work, while waiting for new work to arrive from a client by mail. Work arrived instantaneously. Worse, clients developed expectations regarding response time—which most of us were forced to allow to continue if the client was to be retained—placing a heavy burden on attorneys and staff alike. People at all levels became increasingly tied to their computers, in a continuing effort to remain responsive and connected.

Oh, if only I had the power to capture and summarily execute those who invented chain emails, spam, Trojans, and even those emails loaded with the adorable puppy pictures. Even a pet lover like myself has a limit! Being largely unable to separate the wheat from the chaff, most of us have hunkered down to try to keep up with the rising level of inbound communications.

An interesting side development has been the rise of email communications internally. Admittedly, it's much more efficient with mass communications. And it leaves a paper trail, where a personal conversation does not.

When email was first introduced, most partners would criticize someone in the office for sending them an email instead of walking to their office to make a face-to-face communication. But it didn't take long before people decided it was more efficient to send off a short email, and get back to other pressing work, than to walk to someone's office, and wait in a chair while they answered telephone calls and responded to other interruptions.

What was not anticipated was the ultimate surrender to email. Nowadays, the most frequent complaint I get from associates is that they no longer get to have personal interaction with the partners. Work assignments come by email. Questions are sent and responded to by email. Face-to-face time is dying a slow and painful death at way too many firms.

In recent years, we have all been swept up in a sea change in communications. I'm talking about all of the web-based tools for communication. While they have provided innumerable advantages for strategic research, marketing, social interaction, instantaneous mass communication, and more, they



have further exacerbated the problem of keeping up with all the in-bound communications.

If you have children age 6 and above, or grandchildren, you know what I'm talking about. If you have a child in college, I need say no more. You can't get them to pick up a phone, or even respond to an email. But they'll live their lives openly on Facebook, and communicate with you —and the immediate world— that way. These aren't just your family members. They're increasingly your clients, your prospects, your employees, and your colleagues.

We're blogging, tweeting, posting, linking and liking our brains out. Literally! Do we have a choice? Some of you refuse to engage in these new forms of communication. You've drawn the line in the sand. And if your practice is booming, and you have all the work you can handle, and are within 5 – 10 years of retirement, and if your clients *let* you, you may be able to continue to exercise your right to stay disengaged from social media communications.

But . . . we're increasingly hearing the success stories of those who do it "right". If your practice isn't booming, if you have a long way to go before retirement, or if your clients demand it, you will have no choice other than to participate. You won't be able to fall far behind the competition in today's competitive marketplace. Not to mention the fact that this "stuff" is highly relevant to your client's interests. It's all ESI — Electronically Stored Information — and lawyers have an obligation to develop competency in understanding and dealing with ESI on behalf of their clients.

So nowadays, we're increasingly "connected" 24x7. Thanks to a new generation of mobility tools, we have the ability to monitor and respond to all forms of communication at any time, from anywhere. Now, I'm not suggesting that you *should* be connected 24x7. I'm strongly suggesting that you should be *able* to be connected 24x7. That way you have the flexibility to pick and choose when and how. You can make wasted time productive, so that you can actually really enjoy some true downtime when you need it.

Like so many of you, I am continually overwhelmed by the sheer volume of communications coming my way. Sometimes it's so bad, it's funny. We're all in communication crisis mode right now. We're overwhelmed with the volume of communications in so many forms. We're spending hours "connecting" with people and information electronically, instead of spending even a small portion of that time in face-to-face interaction.



I see the diminishing turnout at seminars, social events, networking opportunities. I know why so many of you are not “out there.” I hear the crankiness on the occasions I get to connect with you. I agree with all of you; it’s too much! Will it change? Probably, but not for the better. The volume will continue to increase.

Lots of you are developing methods to keep your head above water. Folders and routing Rules in Outlook help the cream rise to the top of inbound emails. Using a different email address (like a free gmail address) for anywhere on the web that asks for an email address helps to eliminate a ton of spam. (Don’t have that mail come to your inbox. Spam web crawlers take about 20 seconds to “harvest” new email addresses.) Use otherwise wasted small increments of time to read eNewsletters, catch up on Facebook posts, etc. It adds up quickly.

Most importantly? Forget hunkering down and avoiding this battle. This perpetual state of information and communication overload isn’t going away. You need to become more comfortable with the tools available, and maybe get a handle on a few more, in order to wage this battle effectively. Sure, you can complain about it. Rightfully so. But complaining is just a waste of scarce time resources.

Last, we all need to carve out time to restore face-to-face communications. Within our firms, within our families, with our colleagues, and with those in our communities. Civility doesn’t have to smother under the weight of our digital lives. I frequently recall the words of one of my favorite legal administrators, who admonished me after an unnecessarily heated email exchange between us, “Just because you *can* communicate by email, it doesn’t mean you *should*.” True. As in all things in life, balance is required.

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