

LAWYERING IN THE DIGITAL AGE

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The Covid-19 pandemic has opened the eyes of many when it comes to the use of technology in everyday life. Digital revolutions come in waves and, up until now, professionals such as lawyers have been largely immune to such drastic change. Now, with Covid-19 forcing law firms to operate their practices on a remote basis, the legal community is now facing the digital age and adaptation is essential. Client communications and legal research are two areas where technology has changed the way an attorney advocates for their client.

Client Communications

Client interaction is a vital part of the legal profession and is innately personalized, however, technology can assist attorneys to form professional bonds with their clients. The use of communication platforms such as Zoom, Google Chat, and Microsoft Teams have allowed attorneys to provide safe and secure legal advice to potential clients and clients around the globe without experiencing a material disruption in the operation of their firms.

The advancement of technology over the last decade has been so rapid in the legal community that it prompted the American Bar Association (“ABA”) in 2012 to formally update the rule regarding legal competency. The comment to the rule stated, “to maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology.”¹ Since the adoption of this rule, 37 states have adopted the ABA’s Duty of Technology Competence as a part of their own version of the Rules of Professional Conduct.² While the duty is not clear as to what technology the rule applies to, it is important to note that attorneys should be mindful of all technological changes that affect the profession, especially during these trying times.

Legal Research

In recent years, legal technology companies have emerged to assist attorneys. Many of these companies implement an element of machine learning or artificial intelligence (“AI”) to achieve their goals. Machine learning is an application of AI that provides systems the ability to automatically learn and improve their actions from experience and not by explicitly being programmed. Sophisticated programs such as these allow attorneys the ability to upload a single brief or pleading into a database and have access to summaries, cases, and legal analysis. Covid-19 shut down courts across the United States resulting in a brief decrease in the use of legal research tools. Now, online

¹ Model Rules of Prof’l Conduct R. 1.1 cmt. 8 (2012).

² TECH COMPETENCE, <https://www.lawsitesblog.com/tech-competence> (last visited Dec. 3, 2020).

legal research is more essential than ever in light of the global pandemic. Casetext Chief Executive Officer Jake Heller stated “In the first two weeks in March... we saw about a 25% decrease in the amount of usage of our system. But that bounced back already.”³ There has been an increase in insurance, employment and contract litigation during the pandemic that has resulted in an increased demand in legal research tools.⁴

Conclusion

The world is changing at a rapid pace and the legal community must adapt in order to meet the needs of the client. The companies and firms that come out of this pandemic unscathed or with minimal disruption are not those who can predict exactly what is going to happen, but rather, those who are prepared to adapt, overcome, and continue to provide value to their clients.

If you have any questions about how you can use technology to your advantage during the continued pandemic, please feel free to contact me at AMajano@swc-law.com.

³ LEGAL RESEARCH’S COVID-19 STRATEGY: FULL SPEED AHEAD, <https://plus.lexis.com/api/permalink/8845e579-363c-42e2-8a3b-758924c2a73d/?context=1530671> (last visited Dec. 3, 2020).

⁴ Legal Research’s COVID-19 Strategy, *supra* note 3 (Lex Machina’s Harris agreed and stated that “in particular you’re going to see more insurance litigation, more employment litigation, more contract based litigation-there are going to be things that happen in our space that actually increase activity.”)