

Preface

Lawyers' resistance to technology is legendary. Lawyers were reluctant to use phones to communicate with their clients when the phone was invented. It is a good bet that if you carefully check a storage closet in a law firm that has been around for a while you will find carbon paper, a Rolodex with phone numbers of many deceased people, and an ancient, yellowed pad used to make handwritten diary entries to bill the client. In a lawyer's house, the VCR is always flashing "12:00."

This book is an attempt to do something about that by communicating to lawyers the urgency of their understanding the technology around them and using it in their practice in a knowledgeable and efficient manner to serve their clients' interest. If we could ban one sentence in the English language, it would be: "you really do not have to understand the technology to get this." You most certainly do. Absolving lawyers from understanding the technology pertaining to the creation, maintenance, and storage of their clients' information is as dumb as telling medical interns that they do not have to understand "that X-ray stuff."

We have therefore written this book to communicate how to manage the technology that lawyers now have to use to collect, search, and analyze the information that their clients or their opponents have created. Whether involved in litigation or in a business transaction, the client's most precious asset may be the information it has created or collected. The days of telling the client to send to the lawyer a banker's box that has the information pertinent to a case or transaction are over. Now, the client may have a staggering amount of unorganized information that the lawyer may need but, unless the client has a superb information governance system, that information will be scattered all over a computer network without rhyme or reason. Learning how to find it, preserve it, collect it, and search for what is truly useful without bankrupting the client has become the lawyer's art and her necessary skill.

We begin with the lawyers' ethical rules that pertain to the required competence they must have and a discussion of other ethical rules that pertain to how a lawyer now must practice law because technology has so deeply affected the rules of the game. We could say that we do not intend to scare you but we do. You will see how

lawyers can be seen punished severely if they persist in refusing to understanding the technology.

We then speak of the evidentiary rules and how these ancient rules are being used (or tortured) to deal with the revolution in how people communicate and create information that will be used at trial.

We then turn to the main course: How do you do it? We provide the most practical information we have as to how the available technology works, how to use it, and how to manage it so that the result is the best that can be achieved with the resources that are available. We explain how management techniques and processes can be used to check the results from the use of any available tool and how the lawyer should manage the process using the skills that come from an understanding of how information is managed in a digital world.

We hasten to point out that none of us can pretend to have had scientific training in data management. We learned everything you are reading in a very good school—the one of hard knocks. We hope that encourages you to learn what we have. It is as if we had been asked to write a book about roller-skating. We suppose that we could, but we prefer that you get up on the skates and we hope you enjoy the ride.

Washington, DC, USA

Judge John M. Facciola

The Legal Technology Guidebook

Williams, K.; Facciola, J.M.; McCann, P.; Catanzaro, V.M.

2017, XI, 142 p. 3 illus. in color., Hardcover

ISBN: 978-3-319-54522-6