

Through a Glass, Darkly: The Future of Court Technology

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At the behest of our good friend, D.C. Superior Court Judge Herbert Dixon, we noodled a bit on the future of courtroom technology for an article Judge Dixon is writing. Having brainstormed the topic, we thought it might be fun to take some of our random thoughts and make them marginally coherent.

At the outset, it is clear that there will be disruptive technologies that no one will anticipate. Having covered our collective posterior on that score, some things seem relatively certain. As courts strive to accommodate the needs of citizens, it is likely that we will one day see affordable virtual translation firms pop up so that on-site translators don't need to be tracked down, often delaying proceedings. We have also started to see assistive listening devices in Virginia but expect them to become universal. Long ago, we remember a client in a wheelchair being transported to a courtroom on a freight elevator – very demeaning. We are making great strides in providing accessible courtrooms and the future may see us fully achieve accessibility for all.

Appellate courts (the bane of lawyers who need to preserve a paper record) will go paperless. We're not dumb enough to predict when, but it will happen. Even the hidebound U.S. Supreme Court will go paperless – in time. In fact, it will probably be the last court to adopt nearly every technological enhancement. Pretty safe prediction, that one.

Court proceedings will be routinely recorded – audio and video. Access to them may actually be sold to the media – perhaps even the public directly over the Internet as courts seek to use technology to provide badly-needed revenues. For similar budgetary reasons, it is likely that all court personnel functions will be studied to see where technology can replace people. We don't think robots will replace bailiffs in the near future, but you never know.

Can anyone doubt that e-filing will be universal? Or that the day will come when the only kind of courtrooms that will be built will be high tech? To avoid the problem of those who have and those who have not, courts will furnish as much technology as possible, as well as training on the technology. As for the archaic rules some courts have about restricting the use of wireless networks in the courtroom, those rules will go the way of the Tyrannosaurus Rex. New rules to govern new technology that jurors, parties and spectators bring to the courtroom are certain – perhaps there will technology to monitor or control the use of technology.

The “touch revolution” will reach the courthouse in spades. And how will those in courtrooms exchange documents? By near field communications devices, which will be especially helpful when documents are annotated on the fly.

Hackers **will** breach court security systems and information security will become a constant focus for those who manage court IT systems. Court IT personnel will need to have multiple backup solutions in place, in different geographic areas, to meet the combined threats of hackers, technology meltdowns and natural disasters. It may well be that courts move their data to the cloud – particularly to cloud providers with excellent reputations for providing security, perhaps better security than in-house personnel.

Video conferencing will boom. Judges will talk to lawyers, at least outside of trials, primarily through video conferencing. This technology will be used for scheduling conferences, hearing motions, etc. In fact, it may become common for video conferencing to be utilized in just about all family law, traffic, juvenile and small claims courts. Judges will begin to ask “Who really needs to be at the courthouse and why?”

We have already seen technology assisting judges in family law cases. Parents have been ordered to provide Skype or Facetime to children so they can communicate with the other parent. They have also been ordered to use apps like “Our Family Wizard” to track parenting time, reduce divorce conflict and remove the “he said/she said” that keeps families returning to court over custody and co-parenting issues. One can only imagine what apps that courts might employ in different areas of law to keep matters out of court.

Pugnacious attorneys warring over e-discovery may be ordered to videotape their “Meet and Confer” conferences and to record the audio if they confer by phone. One or two judges have already employed this methodology and find that the number of discovery disputes declines rapidly when conversations and meetings brilliantly illustrate who is being reasonable and who is being a jerk.

Online resolution of disputes, through the private sector and perhaps through courts as well, are likely to become more common, perhaps lessening the number of court cases.

And finally, there absolutely will be a successor to Judge Judy who will have a high tech courtroom and star in a reality show which has nothing whatever to do with reality but which will be avidly consumed by the next generation of reality show devotees. You can bet the mortgage money on that prediction.

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