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TECHNOLOGY ISSUE

Years ago, one of the practice sections of the State Bar of Georgia would hold a seminar each year on the latest technology. And annually it was called “what can you get for \$2000?” It focused on hardware. Of course, at this point, the only software for lawyers was WordPerfect, though some apostates would use Microsoft Word (then as now a dramatically less user-friendly product; I mean, seriously, how many times in the history of type-setting has anyone centered text on a line and then included a “Tab” on the same line.) Nowadays, hardware is almost never the concern, and between the market dominance of Microsoft products and the necessity of specialized software for business, there is little room for software options once a particular vendor’s business or collection suite is selected.

Meanwhile, computers have gone from being a tool for the office to being carried around in our pockets and the bulky monitor has become a sleek screen. What’s new in technology is no longer about hardware or software. Technology issues today are how to best use it in remote environments, how to integrate remote use with the mothership, and security for all these remote but hyperconnected screens.

Along the way to publishing this issue, though, we have been swept into the Brave New World of artificial intelligence and its most public and publicized entry-point, ChatGPT. So this issue is about remote work and security, and ChatGPT.

In keeping with the spirit of the exercise, I asked ChatGPT to write the rest of this introduction. The response was four paragraphs of platitudes, which is my experience with most ChatGPT-generated content – all the words are in the right order but there is clearly no one with a point of view writing them. So I then did my favorite thing to do with ChatGPT, which is to have it write using a particular writing style. This approach is pretty much a bad idea for actual business, but a lot more fun to read. An introduction to the CLW Technology Issue, as a sonnet by Billy Shakespeare:

O thou divine readers of our noble quill,
Hearken and lend thy ears to wondrous tale,
Where law and technology doth intertwine,
In harmony, an innovation unveiled.

A magazine we bring forth to thy gaze.
A tapestry of knowledge, rich and rare,
Marrying two realms in such bewitching ways,
Law and technology, a match so fair.

Within these pages, ChatGPT takes its stage,
A creation born of genius and might,
A language model, wise and filled with sage,
Bestowing answers, guided by its light.

O, join us, seekers of this radiant blend,
Where Shakespeare's pen meets AI's transcend

A BRAVE NEW WORLD?

Or if the Bard of Avon is not your cup of tea, how about as The Grinch Stole Christmas:

Every lawyer and technophile down in Lawville liked technology a lot, But the Grinch who despised change and progress, did not!

The Grinch hated technology, the whole digital revolution, He didn't understand its purpose, its use or its solution.

But the lawyers and techies didn't let the Grinch's attitude bring them down, For they knew of a magical tool that could turn his frown upside down!

It was called ChatGPT, a wondrous AI program, A genie in a bottle, a legal wizard, a digital acumen!

With ChatGPT, lawyers could now write like never before, No more endless research and late nights that left them feeling sore.

And technology enthusiasts could now explore, The limitless possibilities that awaited them and more!

So join us, dear readers, as we delve into the world of law and tech, With ChatGPT by our side, there's no problem we can't wreck!

We'll explore the latest advancements, the newest trends, And show you how ChatGPT can be your legal best friend!

So sit back, relax, and enjoy the ride, As we explore the world of law and tech, with ChatGPT as our guide!

(Notice how ChatGPT managed to put itself front and center. Soulless, but with a touch of narcissist.)

Enough silliness. We are pleased to present the Technology Issue of the CLW, and hope that you find some value along with the occasional quote by the new AI. ■



Beau Hays
Co-Chair of the Board of Associate Editors

A handwritten signature in black ink that reads "Beau". The signature is written in a cursive, flowing style.



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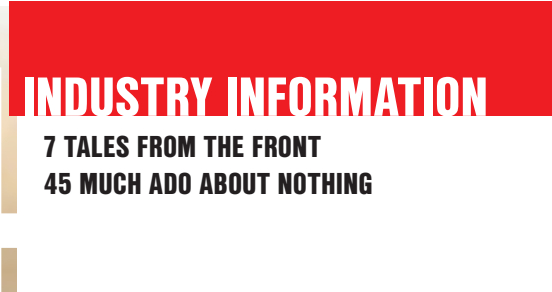
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I SAY GOODBYE, AND HE SAYS HELLO

JIM: Over the last year I have written many words... so, so, many words... in my role as president of the CLLA. Some made you laugh, some did not. Some made you think, some did not. Some connected, some did not. As to the last part, it's not so much that they did or did not connect but more so that what I set out to say was heard differently...but I am not complaining. This point was made clear to me in Memphis when Bill Thrush and I were conceptualizing this joint column and he talked about how I was always emphasizing new involvement as my theme/goal for my term. He is correct. Problem is...that wasn't my theme. My theme, my "plank", my goal was advocacy. Remember my catch phrase "Advocacy in Action - Your Words Matter"??? As a convert to Hill Day and all things Government Affairs I really wanted to push the League's legislative involvement, and that is what I set out to do. That is where the road took a turn. So I wanted more people to know about and attend Hill Day so I harped on getting more and new people involved. This morphed into a general call for new involvement from new people and getting new members involved as early as possible ... and getting veteran members involved with new members and involved with new things. I have heard from others, and said myself, that I see the same handful of people on the video meetings for the various sections, regions and committees. This is a fact. BUT I also see new people, new members, and veteran members in new roles. That is a good thing... not what I explicitly set out to do, but still a very good thing. I think the CLLA is in the right place and headed in the right direction and I like all of the new involvement I am seeing. I hope that in some small way the message, as unintentional as it may have been, has helped.



Jim Kozelek, Esq.
Immediate Past CLLA President
Weltman, Weinberg & Reis Co., LPA

Handwritten initials "JK" in black ink on a white background.

BILL: And now that the administration is changing, so too will the focus of the President's message, which will be diversification. I can recall sitting at the national conference last year, listening to Jim's remarks about his theme, which was advocacy. It was a fantastic call to arms to get people motivated to get involved and get busy on building the CLLA. As Jim stated above, that message, albeit initially unintentional, became a call to have people get involved. And it worked! The garden is healthy and growing. Now is the time to take the next step.

The Membership numbers are moving in the right direction, and we are seeing different people and new people getting involved in the League. We are seeing fresh faces with fresh ideas and new perspectives. So now is the time to start to build on the foundation that Jim, and Chris and Tim and many others before them laid. It is time for us to look at diversification. So, what does that mean? Let's break it down.

DIVERSIFICATION OF MEMBERSHIP

Let's look at the makeup of our membership base and continue to look for new and different ways to recruit members. We will look at new industries to get involved in our League. We are, after all, a **Commercial Law League** and there are other areas of commerce that are not included or represented here. We should seek them out and try to find synergies to bring more commercial law disciplines into our organization.

DIVERSIFICATION OF EVENTS

We have recently seen changes in how some of our events are planned and handled, and I will continue to encourage that type of out-of-the-box thinking. For those that experienced what some of the local regions have done, for example recently in Memphis and last year in New York, we are seeing that there are different ways to conduct meetings other than the same old ways. We will continue to explore those unique and news ideas.

And maybe another new idea could be to explore ways that we can enhance our relationships with other industry groups and associations. Wouldn't it be nice to be able to combine meetings through partnerships and other kinds of relationships with similar industry groups, so we all do not have to attend so many meetings each year?

DIVERSIFICATION OF MARKETING

As many of you have heard me speak about, social media is the new frontier. But really it's the old new frontier. Sure, we post on Facebook and LinkedIn, but we are not really present across many other platforms. Twitter, Instagram, Tik Tok, You Tube, Podcasting, Blogging, Vlogging, are all potential sources of

diversified marketing that we will look at to see what is the right fit for our League.

And we can cover a wide array of topics. In addition to things we are already posting about, like Hill Day efforts, or industry news, we can expand with other stuff like members looking to hire, nuts and bolts solutions to practical problems in our profession, accolades for members, and even industry related humor and memes.

DIVERSIFICATION OF VALUE

This League is a valuable tool for the commercial lawyer and we need to show that to the world by continuing to add value propositions to our membership. Networking - yes. Education - yes. Advocacy - yes. Collegiality - yes. But there's more; so much more. And we can continue to add value to the suite of benefits we offer to bolster the League on a national industry level.

Will all of these initiatives bear fruit? It would be unrealistically ambitious to think so. But if we hit paydirt on just a few, it will start a ball rolling that will gain momentum and build on itself. And the momentum is what the League needs to help propel it into the future. ■



Bill Thrush, Esq.
2023-2024 CLLA President
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Marco Alcalá

Chief Security Officer
Alcala Consulting Inc.

Marco Alcalá is the founder and CEO of Alcala Consulting. Marco graduated in 1997 with a Bachelor of Science in computer science from California State College, Northridge. He is the author of the cybersecurity book titled “Cyber Chump!”

which is available at <https://www.alcalaconsulting.com/cyberchump/>. Marco also co-authored the Amazon #1 best-seller book “The Compliance Formula” with 20 other cybersecurity experts from around the world. When he’s not diving deeper into technology, Marco also loves dancing salsa and bachata – and when throwing a party, he’ll even pull out his conga drums and invite his guests to play along.

alcalaconsulting.com



Wanda Borges, Esq.

Principal Member
Borges and Associates, LLC

Wanda is the principal member of Borges & Associates, LLC, a law firm based in Syosset, NY. For more than 40 years, Ms. Borges has concentrated her practice on commercial litigation and creditors’ rights in bankruptcy matters, representing corporate clients and

creditors’ committees throughout the United States in Chapter 11 proceedings, out-of-court settlements, commercial transactions and preference litigation.

borgeslawllc.com



Duane Borgman, CISSP

Business Information Officer/CIO
Weltman, Weinberg & Reis Co.

Duane Borgman is the Business Information Officer/CIO of Weltman, Weinberg & Reis Co. LPA with headquarters in Cleveland, Ohio. Duane administers the firm’s technology and cyber security capabilities to ensure they align to the business objectives,

and industry best practices. He has experiences across several industries that includes banking, financial security markets, and law in his career. Duane gained his B.S./B.A. degree in Computer Information Science from The Ohio State University in 1983. He also became a Certified Information Systems Security Professional (CISSP) in 2022 given the criticality to his role at Weltman.

weltman.com



Brett Burney

Principal Member, *Nextpoint*

Brett is a lawyer, journalist, podcaster, speaker, and author on ediscovery and legal technology. He has over 15 years experience as an independent technology consultant for law firms and corporate legal departments of all sizes. As Nextpoint’s eLaw Evangelist, Brett is an essential part of the company’s industry-

defining thought leadership and educational content production. Founded in Chicago in 2001, Nextpoint continues to push the industry forward with unlimited data, world-class innovation, and expert services. Learn more about Nextpoint and their suite of trusted services at nextpoint.com.



Michelle Garcia Gilbert, Esq.

Managing Partner
Gilbert Garcia Group

Michelle Gilbert matriculated at the University of South Florida (B.A., 1982, cum laude), and the University of Notre Dame Law School (J.D., 1985). She has practiced real estate and business law since 1989, specializing in default servicing legal work,

including litigated foreclosures, real estate closings, evictions, and commercial litigation. She works closely with the default industry by speaking at webinars and conferences, writing for industry publications, and consulting on various issues relevant to the industry. She taught the Florida Thirteenth Judicial Circuit Certified Process Servers Course from 1993 to 2014, and has written the chapter on service of process in real estate cases for the Florida Bar, since 2010. She is court approved counsel for guardianship cases in the Florida Thirteenth Judicial Circuit. She volunteers with her parish, St. Lawrence Catholic Church and School, and with Cristo Rey School of Tampa, which provides college preparatory education for low income students.

gilbertgrouplaw.com



Thomas W. Hamilton

Executive Vice President
American Lawyers Company

Tom Hamilton is Executive Vice President and General Manager of the American Lawyers Company with headquarters in Cleveland, Ohio. He recently finished his seat on the Board of Directors of the International Association of Commercial

Collectors (IACC). He has served, on two different occasions, three-year terms on the Board of Governors of the Commercial Law League of America (CLLA). He is a charter member of the Debt Buyers Association (DBA) as well as a charter member of the National Association of Subrogation Professionals (NASP). Tom gained his B.A. degree at Denison University in 1970 and his M.B.A. degree from Rollins College Crummer School of Business in 1972. He served as a Captain in the U.S. Air Force and U.S. Air Force Reserves from 1972-1982.

www.alqlist.com



Joseph A. Marino, Esq.

Managing Member, *Marino, Mayers & Jarrach, LLC.*

Joseph A. Marino, Esq. became a Board Certified Creditors Rights Specialist in 1994, and received his Juris Doctor, from the New England School of Law, MA in 1976, and a Bachelor of Science in Commerce at the St. Louis University, MO in 1971. He was

admitted New Jersey State Bar in 1976, the Florida State Bar in 1976, and the Washington D.C. Bar in 1977. Joseph has been a member of the Commercial Law League of America and the American Bar Association since 1978. He is affiliated with the Association of Certified Fraud Examiners, the Unico Foundation, the Confrerie de la Chaine des Rotisseurs, and the International Honor Society of the Sovereign Military Order of St. John of Jerusalem, Knights of Malta.

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Amy Pona

Director of Commercial Debt Collection,
Gurstel Law Firm P.C.

Amy joined Gurstel's Consumer Collection Department in 2012, where she worked until 2015 when she transitioned to the Commercial Litigation Department (the "CLD") and was promoted to Director of that practice group in 2016. With Amy's

stewardship, the CLD focuses on commercial civil litigation, pre-suit through post-judgment collection remedies. She also works closely with Gurstel's CEO and COO to develop new client relationships and enhance current client relationships, which include commercial collection agencies, local and national creditors, and other industry leaders. The aforementioned efforts have enabled Amy to expand the CLD into all of Gurstel's nine states of practice. gurstel.com



Emory Potter, Esq.

Partner, *Hays & Potter, LLP*

Emory Potter is a construction, commercial and civil litigation attorney with extensive trial experience. His specialties include materialmen's lien and construction bond work, creditor's rights, and commercial collections, handling a large volume of litigation from initiation of suit through post-judgment collection. hpmlawatl.com



Allen Rodriguez

CEO, *ONE400*

Allen Rodriguez is a national speaker, product development strategist and legal innovator who has been serving the legal industry for 19 years. Over the course of his career, Allen has built a reputation for creating innovative legal services products as well as developing highly effective law firm

business models and marketing strategies. Allen is a valued speaker on the topics of legal services product development, design thinking in law and future of law issues. He has provided consulting and engineering services for such companies as McKinsey & Co., Fastcase, Gavelytics, LexisNexis, and Littler. Prior to founding ONE400, Allen was the Director of Attorney Services at LegalZoom. Allen holds a degree in English Literature from California State University Los Angeles and is a United States Army veteran. one400.com



Timothy Wan, Esq.

Senior Partner and CEO

Smith Carroad Wan & Parikh

Timothy Wan, Esq. is Senior Partner and the Chief Executive Officer (CEO) of Smith Carroad Levy Wan & Parikh. His areas of expertise include managing the creditor's rights and collection law practice, serving as General Counsel to various small businesses

in the local business community and spearheading practice areas of entertainment law, music law, copyright and intellectual property. smithcarroad.com



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THE GARDEN OF WONDERLAND

A local family business, (“Alice Farms”) runs a farm just outside of Gotham that grows all sorts of flowers and shrubs, and sells them to local landscapers. Alice Farms would “set up an account” (I use that term loosely) by having customers sign a single page document, which essentially was a contact information page. No credit application, no payment terms. (I can hear all the creditors’ rights attorneys cringing right now!) Despite my encouragement to the contrary, Alice Farms does business almost exclusively through telephonic, or even text message. To its credit, in the thirty-plus years it has been in business, the number of cases where their customer failed to pay can be counted on one hand, provided you are not Count Rogan from “The Princess Bride”. (Sorry, mixing references...)

For over a decade, the March Hare would place an order by phone or text, and it would go something like this:

“Alice, need 12 tiger lilies, 48 roses, 36 daisies, how much for those?”

Alice Farms would respond with pricing, and the March Hare would reply:

“Great. Ship to Caterpillar at 123 Mushroom Way. When you get there, you’ll get the pay.”

Alice would deliver the flowers, and would receive a check or cash, upon delivery.

Of course, if there was no problem, there would be no Tale. So, on one fateful day. Alice received a text from the March Hare.

“Mad Hatter will order, and will text you in a bit. Need tiger lilies and some other stuff.”

Alice then received a text an hour later.

“March Hare said that I could text you. Need 4 dozen tiger lilies, and 50 daisies too.”

Alice responded with pricing, and received a response.

“Perfect! Please send to 257 Croquet Trail. Thank you for helping me with this sale.”

Alice had her delivery man, the White Rabbit, deliver the flowers to 257 Croquet Trail, and was met by the Queen of Hearts:

“I am not to pay this fee, go after the Mad Hatter instead. Leave the flowers, or off with your head!”

The White Rabbit left the flowers, and returned to Alice empty handed.

Alice then sent a text to the March Hare to request payment.

“I didn’t order those. They weren’t for me. The Mad Hatter is the one who requested delivery.”

So, Alice texted the Mad Hatter, who didn’t respond. Alice then sent multiple texts, and three phone calls to the Mad Hatter, who finally texted back.

“I don’t have an account with you. It’s the Queen’s debt. Stop texting me. I don’t like your threat!”

Befuddled, Alice came to my office. After hearing the entire tale, we opted to file suit against the March Hare, Mad Hatter, and Queen of Hearts. I figured, we’d just file suit, and go after them all. I hoped they would settle, since the debt was relatively small.

The Court set the matter down for an immediate settlement conference. Thirteen months later, we all met in Court, and the March Hare, Mad Hatter, and Queen of Hearts all denied liability, and pointed a finger at the others. (Mixing references again, all I can think of is that social media Spider-Man meme.)

The Judge asked permission to speak to each party individually in his chambers, and we all consented. So, we waited patiently in the hallway, while the Judge spoke to each of the Defendants in turn. In went the March Hare, who came out scowling. In went the Mad Hatter, who exited distressed. In went the Queen, who left all flustered. And then the March Hare left the Court, like a rabbit possessed.

The Mad Hatter went back in, and the March Hare returned. The Queen said, “I need to get going.” I thought “This case is getting adjourned.”

A total of four hours passed, and we still hadn’t gone in yet. The Judge emerged from his chambers, and said, “We’ve settled the debt.”

The Mad Hatter opened his wallet, and handed me some green. Apparently, the March Hare had gone out to hit an ATM machine.

Adding the Mad Hatter’s plus the March Hare’s cash, paid the entire debt in full. ■



Timothy Wan, Esq.
Contributing Editor

A stylized, handwritten signature in black ink, appearing to read 'Timothy Wan'.

VIEWPOINT

Another successful National Convention is under our belt. Held in Chicago on May 17 - 19, we welcomed 159 in-person and 19 virtual attendees for our 13 educational sessions, our networking events, and a fundraising activity. More on that later.

The big news coming out of the convention are changes to our membership and to the Champion Program. At the Board of Governors meeting, a new membership category was approved, the Organizational Membership. This membership allows for multiple people within the same organization to join for one flat, discounted annual rate. The more individuals from a member company/firm, the greater the discount per member. More information will be coming out soon on this exciting new offering.

The Champion Program, introduced in 2021, gives members an opportunity to showcase their businesses at all CLLA events. The program is designed to have firms, agencies and organizations enjoy sponsorship benefits throughout the year at one discounted price while getting unlimited exposure to both the CLLA family and the outside world. When the Champion Program was announced, we immediately received eleven applications to join. The program quickly grew to thirteen while only losing one of the original members. We would like to see the

number of participants grow to twenty in the next fiscal year. We recently enhanced the entire program providing our sponsors with more exposure without increasing the price.

During the Convention attendees were sent on a GooseChase. Each attendee was assigned randomly to a team for an event-long scavenger hunt which encouraged networking among fellow members that might not otherwise engage. The Red Team won 1st Place with 13,100 points, and each team member received a \$15 Amazon gift card.

The Women's Empowerment and Networking Event which also served as a fundraiser for Dress for Success Worldwide Central was held on May 18th over lunch. The mission of Dress for Success is to promote the economic independence of women by providing professional attire, a network of support and the career development tools to help women thrive in work and in life. \$5,500 was raised through membership donations and Maria Kozelek, event chair, matched \$5,000 for a total donation of \$10,500.

I hope to see all our attendees return and many more to join next year at our 130th National Convention, May 15 - 17, 2024, again to be held in Chicago at the Swissotel. Thanks to everyone that helped make this year's event so successful. ■



Phil Lattanzio
Executive Vice President

ABOUT US

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HEARD *&* OVERHEARD

Throughout modern history, science fiction has often been perceived as the precursor to actual inventions, even if that is not really correct. A common belief is that Jules Verne invented the submarine for his book “Twenty Thousand Leagues Under the Sea”, published in 1870. Yet, the submarine was actually conceived by British mathematician William Bourne in 1578 and the first one actually built was that of Dutch inventor Cornelis Drebbel, which dove under the River Thames in 1620. (Encyclopedia Britannica).

With artificial intelligence, there is no such clear delineation. Conflicting sources provide different information. Encyclopedia Britannica tells us that the “earliest substantial work in the field of artificial intelligence was done in the mid-20th century by the British logician and computer pioneer Alan Mathison Turing in 1935.” The field of AI was formally founded in 1956, at a conference at Dartmouth College, in Hanover, New Hampshire, where the term “artificial intelligence” was coined. (Live Science). “Tableau” tells us “The idea of ‘artificial intelligence’ goes back thousands of years, to ancient philosophers considering questions of life and death. In ancient times, inventors made things called ‘automatons’ which were mechanical and moved independently of human intervention. The word ‘automaton’ comes from ancient Greek, and means ‘acting of one’s own will.’ One of the earliest records of an automaton comes from 400 BCE and refers to a mechanical pigeon created by a friend of the philosopher Plato. Many years later, one of the most famous automatons was created by Leonardo da Vinci around the year 1495.”

Many of us first became familiar with artificial intelligence in 1968. In the movie “2001: A Space Odyssey” we were introduced to the super-computer named “HAL”. HAL begins to “display increasingly strange behavior, leading up to a tense showdown between man and machine that results in a mind-bending trek through space and time.” (Trailer description)

We have been exposed to robots and automatons from “Robby, the Robot” in 1955, to Data in Star Trek in 1987 to “David” the humanoid in the 2001 movie “Artificial Intelligence”. David may have been the first humanoid to become truly sentient and turn against humans.

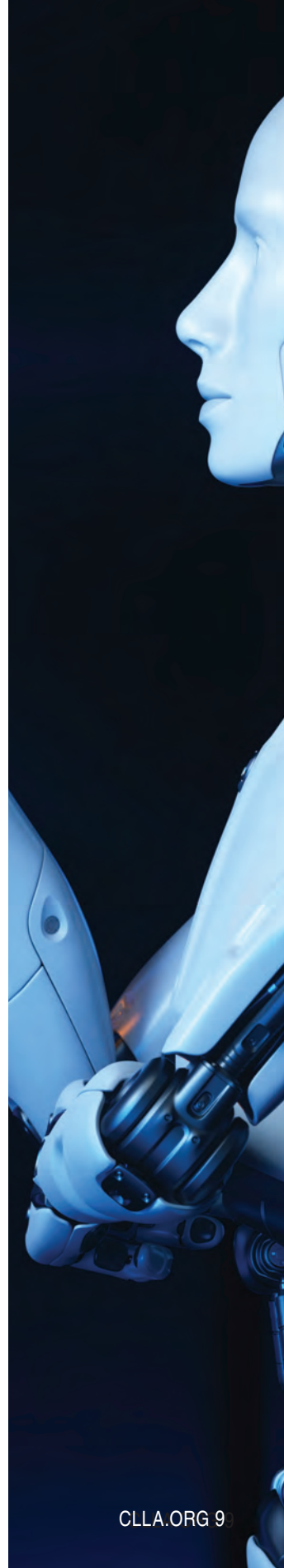
All this being said, let me turn now to what is being heard and overheard currently regarding artificial intelligence. This issue of CLW is focused upon artificial intelligence. In reading the draft articles and listening to the authors of those, there is definitely a “love it” or “hate it” reaction to AI. ChatGPT, in particular, has become very popular and ranks among the most favorable for ease of use and availability of data, though it has its limits. I’m told that students are turning to ChatGPT to write their term papers. Teachers and professors are now wise to that and are double-checking those papers for plagiarism. That should be a warning to attorneys as well. Some people, however, fear that AI will eventually try (and perhaps succeed) in taking over humanity. We are living in the futuristic age that Steven Spielberg only imagined!

One way or another, we are told that AI is here to stay. It remains to be seen whether access to AI becomes a blessing or a curse. ■



Wanda Borges, Esq.
Co-Chair of the Board of Associate Editors

Wanda Borges



FAREWELL ADDRESS **JIM KOZELEK**



profession, and advocating for the League ... which could only be achieved by getting involved. I have preached that constantly over the last year. From the President's Challenge, to my CLW column, to all of the many region and section meetings I have attended in person or virtually. The results are tangible but the challenge remains. If you asked the current chairs of any of the regions or sections they would tell you that they were able to do some things this past year, but they want to do more. And they need YOUR help.

So, if you are a new member, or this is your first meeting ... get involved. If you have been a League member for a while but have not joined a committee, or presented an educational program, or written an article, or asked to become a leader within your region ... get involved. If you have been a member for decades and have done just about everything, I thank you for all that you have done ... but get involved.

It has been an honor and a privilege to serve as your president and I thank you. ■

This is the part of the program where I get to give my farewell speech or, as I affectionately refer to it, my "go away" speech.

This has been a great convention! Top to bottom, start to finish. Great educational programs, networking events, hospitality, we had it all.

This has been a great year! Top to bottom, start to finish. Great meetings, great education, great networking opportunities, great legislative efforts, we did a lot.

But that has very little to do with me because, if I'm being honest, I am a glorified cheerleader. A good cheerleader but a cheerleader nonetheless. The last year and this convention are the result of the work of others. Lorna Walker, Tim Wan, Chris Young all preceded me and because of their hard work, the League is in a great position. Phil Lattanzio, Dawn Federico, Mary McCann and everyone at Tollview have worked so hard to make the Commercial Law League of America a preeminent trade organization.

So thank you to you all for what you have done.

Last year, in my introduction speech, I talked about advocacy because I really wanted to focus on our legislative efforts. I believed then, and now, that the efforts of the Government Affairs Committee is a hidden gem of value that this organization provides to the membership, to our professions, and to our industry. But, it morphed into something else along the way. In that speech I talked about advocating for our



GAMES APLENTY AT THE ANNUAL CONVENTION!

This past May at the Annual Convention, Meetings Committee Chair, Timothy Wan, brought the challenges!

First, every registered attendee to the convention was assigned a randomized team and given the opportunity to compete in a convention-long scavenger-type hunt! This “Goosechase” challenged the teams to answer trivia questions about the CLLA’s history, and the current Gold and Silver Champion Sponsors. Additionally, teams were tasked with virtual challenges, all designed to promote engagement, including:

- Hail to the Chiefs: Take a selfie with two or more Past Presidents of the CLLA.
- Nice to Meet You!: Take a photo with a team member whom you have never met before!
- Advanced Collection Practices: Take a photo with two or more team members at the “Best Practices” educational program, with the speaker/panel in the background.
- Mentorship Championship: Do you have a mentor? Do you have a mentee? Take a photo with them, with the mentor raising the mentee’s hand up in victory, like a referee would raise the arm of a boxing/wrestling champion.
- Instant Gratification: Take a selfie wearing your CLLA name badge. Post the selfie to your Instagram page with the hashtag #CLLAINFORMS. Take a screenshot of the post!
- Help! I Need Somebody!: Pose for a photo with four total members of your team, in the style of the Beatles album cover for “Help!”
- No, Dad, what about you?: Take a photo of 5 team members posed in the style of the movie poster for “The Breakfast Club”.

The winning team (Team Red) included Past President Lorna Walker, Board of Governors Attorney Representative Ben Farrow, Southern Region Chair Robin Moselle, Britt Rudman, and First Time Attendees, Brandon James, Crystal Cole, and Regina Slowey!

With the resounding success of the Goosechase, it’s quite likely that if you missed it, it will be back next year!

Second, Tim Wan hosted a “Categories” game show, where teams of 5 to 7 members played a rapid-fire team-building game, identifying categories such as U.S. Presidents, Crayola Crayon colors, Oscar Best Picture Winners, and “Balls”. (Yes, “Balls”.) Notable work came from President’s Cup recipient Ron Peterson who apparently memorized every U.S. President and their term, as Recording Secretary Matt Garcia who, when seemingly stumped for a kind of ball other than base, basket, gold, meat, and such, answered “masquerade”. ■



Hail to the Chiefs



Advanced Collection Practices



Instant Gratification



No, Dad, what about you?



Nice to Meet You!



Mentorship Championship



Mentorship Championship



MESSAGE FROM **BILL THRUSH**



Good morning, ladies and gentlemen.

As I accept the office of the President of the Commercial Law League of America, it occurs to me that it's like adopting a puppy - it's going to keep me up nights, demand constant attention, and occasionally make a mess on the carpet. But if you take good care of it, it will be a companion for life.

Thanks to:

Jim Kozelek - it has been a pleasure sitting beside you as President Elect and I appreciate the guidance and support you have given me.

Chris Young - thanks for allowing me to be your recording secretary and allowing me to learn under your excellent leadership. And for showing me (and everyone) how to run a short board meeting! I will endeavor to break your time record.

Tim Wan - thanks for recruiting me on to the Board, and for always being so positive and enthusiastic about the League and the Law.

Lorna Walker - thanks for recruiting me to my first Committee chair position and helping me get more involved in the League.

Past Presidents - thanks for your wonderful leadership in keeping this brilliant organization alive and thriving

Tollview - Thanks to Phil, Dawn, Kerry, Mary and everyone at Tollview for all of the very heavy lifting behind the scenes to make those of us in front of the room look very good. We cannot do what we do without you all.

My Partners, including Owen who is here, and especially Sid & Ed Friedman - thanks to them for all their support.

Special thanks to my Wife, Nancy, for being patient with my travel and being understanding with my schedule so I could be as involved and active as I can be for the League.

THE THEME FOR MY TERM AS PRESIDENT - DIVERSIFICATION

I can recall sitting at this event last year, and listening to Jim's remarks about his theme, which was advocacy. It was a fantastic call to arms to get people motivated to get involved and get busy on rebuilding the CLLA. And it worked! The garden is healthy and growing. Now is the time to take the next step..

The Membership numbers are moving in the right direction, and we are seeing different people and new people getting involved in the League. We are seeing fresh faces with fresh ideas and new perspectives. So now is the time to start to build on the foundation that Jim, and Chris and Tim and many others before them laid. It is time for us to look at diversification. So, what does that mean? Let's break it down.

DIVERSIFICATION OF MEMBERSHIP

Let's look at the makeup of our membership base and find new and different ways to recruit members. We will look at new industries to get involved in our League. We are, after all, a *Commercial* Law League and there are other areas of commerce that are not included or represented here. We should seek them out and try to find synergies to bring more commercial law disciplines into our organization.

DIVERSIFICATION OF EVENT

We have recently seen changes in how some of our events are planned and handled, and I will continue to encourage that type of out-of-the-box thinking. For those that experienced what some of the local regions have done, for example recently in Memphis and last year in New York, we are seeing that there are different ways to conduct meetings other than the same old ways. We will continue to explore those unique and news ideas.

And maybe another new idea could be to explore ways in which we can enhance our relationships with other industry groups and associations. Wouldn't it be nice to be able to combine meetings through partnerships and other kinds of relationships with similar industry groups, so we all do not have to attend so many meetings each year?

DIVERSIFICATION OF MARKETING

As many of you have heard me speak about, social media is the new frontier. But really it's the old new frontier. Sure, we post on Facebook and LinkedIn, but we are not really present across many other platforms. Twitter, Instagram, Tik Tok, You Tube, Podcasting, Blogging, Vlogging, and now AI are all potential sources of diversified marketing that we will look at to see what the right fit for our League is.

And we can cover a wide array of topics. In addition to things we are already posting about, like Hill Day efforts, or industry news, we can expand with other stuff like members looking to hire, nuts and bolts solutions to practical problems in our profession, accolades for members, and even industry related humor and memes.

DIVERSIFICATION OF VALUE

This League is a valuable tool for the commercial lawyer and we need to show that to the world by continuing to add value propositions to our membership. Networking – yes. Education – yes. Advocacy – yes. Collegiality – yes. But there is more there.

So I intend to create a task force with experience across all areas of the League to explore and implement new ideas to expand and diversify our League throughout the legal community. There is much to do, and we won't be able to do everything, everywhere, all at once (as the famous movie title suggests). But we can certainly start planting the right NEW seeds in the right NEW gardens, while carefully tending the seeds in the gardens we already are growing. Now is the time! ■





CERTIFIED BY CLLA
ENDORSED BY IACC

WHEN YOU NEED A COLLECTION AGENCY

MAKE SURE IT IS A CLLA CERTIFIED AGENCY

Commercial Law League of America Certified Commercial Collection Agencies

The CLLA Commercial Collection Agency Certification program, endorsed by International Association of Commercial Collectors, demonstrates that certified agencies adhere to relevant regulations in the collection of commercial debt, use generally accepted accounting practices, and adhere to standards to protect and safeguard their clients' funds.

**ABC-Amega, Inc. /
American Bureau of Collections**
Buffalo, NY

**Alternative Collections, LLC
dba: Asset Compliant Solutions
(ACS)**
Williamsville, NY

Altus Receivables Management
Kenner, LA

BARR Credit Services, Inc.
Tucson, AZ

Brown & Joseph, LLC
Itasca, IL

C2C Resources, LLC
Atlanta, GA

Caine & Weiner
Sherman Oaks, CA

**Commercial Collection Corporation
of New York, Inc.**
Tonawanda, NY

**Continental Recovery and Filing
Solutions (CRF)**
Simi Valley, CA

Enterprise Recovery, LLC
West Chester, PA

Goldman Walker, LLC
Tucson, AZ

Greenberg, Grant & Richards, Inc.
Houston, TX

Joseph, Mann & Creed
Twinsburg, OH

Kearns Brinen & Monaghan, Inc.
Dover, DE

Lamont, Hanley & Associates, Inc.
Manchester, NH

McCarthy, Burgess & Wolff
Cleveland, OH

Millennium Collections Corporation
Vero Beach, FL

NACM Southwest
Coppell, TX

**Northern California Collection
Service, Inc.**
Sacramento, CA

**Radius Global Solutions,
AMS Commercial Business Division**
Fair Lawn, NJ

RHK Recovery Group
Plainview, NY

Ross, Stuart & Dawson
Clawson, MI

STA International
Melville, NY

The LaSource Group
Erie, PA

Tucker, Albin and Associates, Inc.
Richardson, TX

Williams & Williams, Inc.
Louisville, KY



CLLA IN GRAPEVINE, TEXAS

CLLA participated in NACM's 127th Credit Congress in Grapevine, TX, June 11-13.

Dawn Federico represented our Certified Agencies and visited with NACM credit professionals about the importance of using certified agencies for their collection needs. Several of our certified agencies were present in the expo hall.

NACM'S 127TH CREDIT CONGRESS AND EXPO





Michelle Garcia Gilbert, Esq.
Managing Partner
Gilbert Garcia Group

PRACTICING LAW AS A DIGITAL NOMAD

Advent of Remote Legal Practice Protocols: Remote Practice in and out of U.S.



WHERE WE ARE NOW

It took the COVID-19 pandemic in the United States to revolutionize how we practice law, and the “how” is still evolving. Even prior to the pandemic, due to increasing innovations in technology, everyone has been using internet communications more and more. As the California Bar stated in 2012, “The legal services industry has not been untouched by these innovations and the use of technology, including the internet, is becoming more common, and even necessary, in the provision of legal service.”¹

Historically, attorneys maintain physical addresses in the states in which they are barred, and generally worked from those locations. In March of 2020, when lockdowns were mandated leading to almost overnight work-from-home (WFH) requirements, law offices adapted and implemented WFH offices for their teams. Many legal teams remain remote, or at least are allowed to use a hybrid schedule.² Again, typically the remote or hybrid work schedule for lawyers envisions everyone living within the vicinity of the office, or at least in the state where the lawyers are barred. But why not take advantage of the WFH office and make home somewhere more palatable than a current location? For those attorneys appearing in court, most court appearances remain virtual, due to the pandemic, though many think virtual appearances will remain due to the ease of use and technological advances that facilitate their use.

REMOTE PRACTICE WITHIN THE U.S.: ETHICAL CONSIDERATIONS

In theory, through the use of technology and other tools which will be discussed later, attorneys can relocate where they live and continue to practice law virtually, be it within or outside of the United States, with a big “if.” State bars have promulgated various rules and lawsuits have been filed seeking to determine whether a virtual practice of law constitutes the unauthorized practice of law.

Query: Can lawyers practice law in the state in which they are licensed, while they are physically present in a different state? The American Bar Association issued the following Formal Opinion 495 on December 16, 2020:

Lawyers may remotely practice the law of the jurisdictions in which they are licensed while physically present in a jurisdiction in which they are not admitted if the local jurisdiction has not determined that the conduct is the unlicensed or unauthorized practice of law and if they do not hold themselves out as being licensed to

practice in the local jurisdiction, do not advertise or otherwise hold out as having an office in the local jurisdiction, and do not provide or offer to provide legal services in the local jurisdiction. This practice may include the law of their licensing jurisdiction or other law as permitted by ABA Model Rule 5.5(c) or (d), including, for instance, temporary practice involving other states’ or federal laws. Having local contact information on websites, letterhead, business cards, advertising, or the like would improperly establish a local office or local presence under the ABA Model Rules.³

Several states agree with this ABA opinion, for example, Maine [Maine Ethics Opinion 189 (2005)] and Utah [Utah Ethics Opinion 19-03 (2019)].⁴ The key is to check the rules of the jurisdiction where the practice is, and of the jurisdiction of the remote location, to make sure that no bar rules are violated.

The ethics of remote work outside of the United States remains a little murkier because most bar ethics opinions do not specifically address lawyering while living abroad. There is guidance about obtaining work visas for other countries from the U.S. Department of State. For example, other countries typically require a bilateral work agreement or de facto work arrangement in place in order to obtain a work visa from the host country. Additionally, each jurisdiction may have different requirements for practicing law in their locale; so, this research should also be completed.⁵

SIGN OF COVID-19 TIMES: DIGITAL NOMAD VISA

“A digital nomad is someone who lives a nomadic lifestyle and uses technology to work remotely from outside their home country. A digital nomad visa is a document or program that gives someone the legal right to work remotely while residing away from their country of permanent residence.”⁶

Loss of tourist income and remote work safety protocol caused by COVID-19 has led to the development and increased use of what is known as a digital nomad visa, which is currently offered by 24 countries and regions, as of July, 2021.

Alternative nomenclature for these visas may be residency permit, workcation, or global citizen concierge program.

³ https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/aba-formal-opinion-495.pdf

⁴ See, generally, Ala. Rules of Prof’l Conduct r. 5.5 (b)-(d), Ark. Rules of Prof’l Conduct r. 5.5(b)-(c), Conn. Rules of Prof’l Conduct r. 5.5(b)-(c), Del. Rules of Prof’l Conduct r. 5.5(b)-(c), Ill. Rules of Prof’l Conduct r. 5(b)-(c), Ind. Rules of Prof’l Conduct r. 5.5(b)-(c), Iowa Rules of Prof’l Conduct r. 32:5.5(b)-(c), Mich. Rules of Prof’l Conduct r.

⁵ <https://2009-2017.state.gov/documents/organization/253915.pdf>

⁶ <https://www.investopedia.com/countries-offering-digital-nomad-visas-5190861>

¹ The State Bar of California Standing Comm. on Prof. Resp. and Conduct, Formal Opinion 2012-184 at 2 (2012)

² <https://www.natlawreview.com/article/remote-law-firms-it-time-to-return-to-office>

Pricing varies for these visas, as well as requirements for different venues. Countries and regions also test for COVID-19 and therefore may limit or condition admittance based on pandemic concerns. The benefit of being a digital nomad is that the infrastructure in most countries, namely internet and telecommunications, is likely robust; whereas, burdens may include the time difference between the remote location and workplace location, the ability to actually work your job remotely depending on local and remote requirements, and the temporary nature of the visas.

The following destinations offer digital nomad visas: Anguilla, Antigua and Barbuda, Barbados, Bermuda, Cabo Verde, Cayman Islands, Costa Rica, Croatia, Curacao, Czech Republic, Dominica, Estonia, Georgia, Germany, Iceland, Malta, Mauritius, Mexico, Monserrat, Norway, Portugal, Seychelles, and Taiwan.⁷

HOW TO HANDLE THE SMALL BUT IMPORTANT STUFF: BANKING AND FINANCIAL SERVICES, MAIL, PRESCRIPTIONS, ELECTRONIC SIGNATURES, ELECTRONIC FILING, PLUS REMOTE BANDWIDTH AND “ZOOMING” INTO COURT

BANK AND FINANCIAL SERVICES

An estimated seven million Americans maintain a digital nomad lifestyle, so several resources are available for the same services enjoyed by homebodies. The key is finding financial services without foreign transaction fees, with low or competitive ATM withdrawal fees and 24/7 access to apps and responsive online support, including for mobile wallets and contactless debit cards. Some financial institutions offering these features are available internationally while others are only available overseas. Taking the time to research different providers is key to finding the best deal and adaptability.⁸ If virtual work involves using virtual staff, a comprehensive system involving the use of remote banking systems for depositing and issuing payments should be in place, too. As later discussed, these financial services could be combined with a virtual mail processing system.⁹

MAIL

Similar to the availability of “virtual” financial services, mail processing services for virtual companies fill the void for those that no longer pay rent for commercial space. Mail services also provide a physical

⁷ See, id.

⁸ See generally, <https://nomadfinanceandfreedom.com/best-banks-for-digital-nomads/>; <https://www.theprofessionalhobo.com/how-to-create-a-financial-plan-to-become-a-digital-nomad/>

⁹ <https://www.plaintiffmagazine.com/recent-issues/item/the-virtues-of-going-virtual>



business address in the jurisdiction in which the attorney is licensed which is a requirement of most American state bars. In addition, these mail services have the ability to forward physical mail to you, and/or to scan and forward mail electronically.¹⁰

For example, the Association of the Bar of the City of New York, Committee on Professional Ethics issued an opinion in 2019 about use of a virtual law office address and stated:

A New York lawyer may use the street address of a virtual law office (“VLO”) located in New York as the lawyer’s “principal law office address” for the purposes of Rule 7.1(h) of the New York Rules of Professional Conduct (the “New York Rules” or the “Rules”), provided the VLO qualifies as an office for the transaction of law business under New York’s Judiciary Law. In addition, a New York lawyer may use the address of a VLO as the lawyer’s office address on business cards, letterhead and law firm website. A New York lawyer who uses a VLO must also comply with other New York Rules, including Rules 1.4, 1.6, 5.1, 5.3, 8.4(a) and 8.4(c).¹¹

¹⁰ <https://nomadcapitalist.com/global-citizen/mailbox-forwarding-services/>

¹¹ https://s3.amazonaws.com/documents.nycbar.org/files/2019509-Virtual_Law_Offices.pdf



PRESCRIPTIONS

Interestingly, traveling abroad with prescriptions presents the most logistical issues. As a nomad, your required medicines, whether over the counter or prescription, must be brought into the remote location. Although they may be legal in the United States, they may be considered unlicensed or controlled substances in other countries.

For example, some inhalers and certain allergy and sinus medications are illegal in Japan. Consequences for violating drug laws in other countries can be very serious, resulting in confiscation of needed medicine and possibly imprisonment, noting the strict narcotics laws in the United Arab Emirates.¹² A pre-check with the embassy of that country should provide guidance about admissibility of medicine into that country.¹³

Another issue is coordinating the length of stay with the expiration of a prescription which are typically provided in 30, 60 or 90 day supplies. In some cases, insurance may cover only a limited supply for 30 days. If an extended supply is not available, it is possible to buy medicine at your destination with the caveat that only reputable pharmacies and doctors be used, especially in developing countries where counterfeit drugs are a problem. A recommended resource is the nearest U.S. embassy or consulate.¹⁴

Finally, travel with medicine in original containers and have ready a note from the prescribing doctor for controlled substances such as medical cannabis.

ELECTRONIC SIGNATURES, ELECTRONIC FILING, PLUS REMOTE BANDWIDTH AND “ZOOMING” INTO COURT

Practicing virtual law implies using an adequate computer system with good internet access which is almost universally available except in certain remote areas. Access to electronic signatures on agreements and court pleadings is a matter of selection of software, such as DocuSign and Adobe Sign. All U.S. federal court, and all U.S. state courts, even if partially

implemented, have or require electronic filing of pleadings, again facilitating the digital practice of law.¹⁵

Ancillary to electronic communications are virtual meetings and court hearings, both of which were used almost exclusively during the height of the COVID-19 pandemic to reduce transmission of the virus. The somewhat unexpected result of this shift is that it looks like virtual hearings, to some degree, are here to stay which, again, facilitates virtual practice, at least for civil law. Some criminal and immigration court proceedings, in order to maintain due process protections, have returned to in-person proceedings. Studies have found that jurors in criminal cases respond better to in-person testimony, and that immigration participants lacked substantive participation in court proceedings to their detriment.¹⁶

FLORIDA AS A PIONEER AMONG COURT SYSTEMS FOR REMOTE ACCESS

In April, 2021, the Florida Supreme Court launched a virtual courtroom directory, [courts.flcourts.org](https://www.flcourts.org), to publish information to the public about virtual court proceedings. The Court noted, “[t]he move toward more virtual proceedings is a major historical shift in state court operations, which have relied heavily on in-person hearings in the 175 years Florida has been a state.”¹⁷

The Florida court system is only one example of court systems throughout the world that have embraced remote proceedings during and beyond the pandemic to the benefit of digital nomads everywhere.¹⁸ Reform of justice systems is usually slow and difficult to achieve, but the experience of the COVID-19 pandemic showed that change can take place relatively quickly and efficiently.

The use of technology allows more access to justice through use of virtual hearings attended by the parties and the public, although certain proceedings like criminal and immigration matters may not be as well suited to all virtual access.¹⁹ Given the heightened awareness of public safety and COVID-19 variants, as well as acceptability and user preference for use of virtual communications, it looks like the world of the digital nomad attorney will continue to expand. ■

¹⁵ <https://courtechbulletin.blogspot.com/2019/08/2019-state-court-e-filing-program.html>

¹⁶ <https://www.forbes.com/sites/insider/2020/09/15/zooming-in-on-the-flaws-of-virtual-court/?sh=135697953fe2>

¹⁷ <https://www.floridasupremecourt.org/News-Media/Court-News/Expanded-Public-Access-to-Florida-s-Courts-via-the-Virtual-Courtroom-Directory>

¹⁸ <https://www.ncsc.org/newsroom/public-health-emergency>; <https://www.pewtrusts.org/en/research-and-analysis/articles/2020/06/18/coronavirus-accelerates-state-court-modernization-efforts>; <https://www.oecd.org/governance/global-roundtables-access-to-justice/access-to-justice-compendium-of-country-practices.pdf>

¹⁹ <https://www.oecd.org/governance/global-roundtables-access-to-justice/access-to-justice-compendium-of-country-practices.pdf>

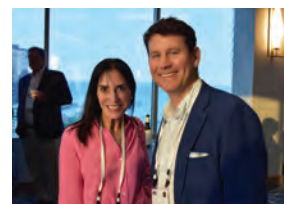
¹² <https://wwwnc.cdc.gov/travel/page/travel-abroad-with-medicine>

¹³ <https://www.usembassy.gov/>

¹⁴ See, id.



129TH NATIONAL CONVENTION







THE 129th
CLLA NATIONAL CONVENTION

We Couldn't Do It Without You!





Amy L. Pona
Director of Commercial Debt Collection
Gurstel Law Firm P.C.

THE REMOTE COLLECTION INDUSTRY: WHAT WE HAVE LEARNED FROM THE COVID-19 PANDEMIC

When the COVID-19 pandemic entered our lives in March 2020, it was hard to imagine a collection industry that would be conducting much of its business with remote workers. While some collection agencies and law offices were already allowing remote work, many collection firms had not yet entered the remote workspace. With increasing scrutiny and government oversight, coupled with strict client requirements, the idea of mobilizing collection representatives, staff and collection attorneys seemed, well, remote.

Enter March of 2020. With government shutdowns and mandated stay-at-home orders, our industry was forced to adapt and do so quickly. Our firm, for example, had to mobilize over 250 employees from offices across 9 states to their homes. Prior to the pandemic, we had only a handful of employees working from a space outside of our brick-and-mortar offices. It required coordination, patience and constant monitoring of state requirements and executive orders.

So, three years later, what have we learned from the COVID-19 pandemic? Remote work requires technology, flexibility, communication, and trust.

TECHNOLOGY

Mobilizing a workforce to function remotely required use of updated technology and software. Remote workers need the right tools to stay connected, communicate, and collaborate. Many companies have invested in software like Zoom, Slack, or Microsoft Teams to facilitate communication between employees. These tools allow for video conferencing, instant messaging, file sharing and scanning, screen sharing, and other collaborative functions that keep remote teams connected and working together. It was also crucial in the early days of the pandemic to train employees remotely and it was equally crucial to use Teams Meetings or another virtual application to conduct remote meetings. This technology has also made it possible for attorneys and their clients to make appearances in court. In fact, in some states the courts saw so much success and value in the use of Zoom or other video conferencing technology that appearances for certain proceedings will continue to be done virtually on a permanent basis. Ensuring that employees have the right hardware, including cameras, microphones, or headsets, increases the success of a virtual appearance. While there certainly is value in meeting face-to-face with colleagues or clients, meetings at multi-state firms that were traditionally held by all participants present in one room can now be held over Zoom, saving enormous amounts of travel expenses. Zoom and similar products have also allowed firms to meet with their clients easily and seamlessly, saving time and money for all parties.

Technology is also an important management tool. Working and managing employees remotely was a novel concept to many at the outset of the pandemic.

Software like Toggl, TimeDoctor and Jira have become popular ways to have teams track and manage their time or large projects. It also gives managers seamless ease of access to production and progress of the team. Additionally, many organizations have implemented software or other mechanisms for employee monitoring of production. Many managers feel they lack the insights they would have when employees are working on premises, including not only actual output but also the quality of the work. Employee monitoring systems are one tool to help address these concerns, and they're still evolving.

Hardware and firm assets are also an important piece of the remote work environment. When everyone left for their home offices, it was important to know who took what equipment and hardware. We soon developed a streamlined system for cataloging and assigning firm equipment to employees so everyone knows what needs to be returned to the firm upon termination of employment. This same system has also been helpful in tracking the age and life of equipment that has been deployed in the firm so that replacement computers and updated equipment can be ordered and tracked efficiently.

With the increased use of technology, comes the increased need for cyber security and controls. We have invested in programs and processes to protect our systems and information from unauthorized access. We rely heavily on IT professionals to ensure our information is secure and annually review our IT policies, programs, and systems to ensure we are up to date and compliant with client requirements or changing trends. Our firm's disaster plan is also reviewed and updated annually to reflect changes to our IT security. The by-product of the pandemic has become better overall awareness of technology's capabilities and disaster preparedness.

FLEXIBILITY

Sending everyone into a virtual workspace was daunting and required patience and flexibility. Continuing to be flexible with employees has become one of our biggest assets. Allowing employees the flexibility to remain in a "hybrid" or fully remote position has increased job satisfaction, decreased burn-out and has also helped us retain some employees who may have otherwise left the firm for other remote opportunities. We encouraged employees and supervisors to work together to set hybrid schedules that make the workload manageable while also maintaining or increasing productivity. In doing so, the employees felt heard and valued by the firm when they were engaged in setting their schedules. For employees whose jobs cannot be performed remotely, encouraging the same flexibility with schedules in the office has helped with employee retention and satisfaction. For example, we have created "Flex Fridays" during certain times of

the year to allow employees to work half-days on Fridays, and we have allowed staggered shifts for those who need to be in the office. Our annual employee survey has yielded very positive comments from staff on the value of this flexibility and has been a very inexpensive way to build employee loyalty. This flexibility has also been a major factor in recruiting top-level employees from different parts of the country.

COMMUNICATION

Sending employees off into their virtual workspaces, and deciding to keep them there, required solid two-way communication between management and employees. Employees wanted to know their manager was reachable and that they still had similar access to their managers to bring questions and concerns. It also required those of us managing people to be readily available during the workday to answer questions or assist with problems, whether it was by email, phone, video call or chat. Effective and easy communication was key to building momentum with employees at home. This was accomplished early on by setting up recurring weekly meetings over Teams and Zoom and mandating people show up on video to encourage interaction and open lines of communication. Now years after the pandemic and Zoom “fatigue” has set in, the concept of open and easy communication is still important, but the frequency of these meetings has been scaled back.

Additionally at the outset of the pandemic our firm implemented, and since updated, our firm handbook with expectations and guidelines for any employee working remotely. We also have employees sign a “remote working agreement”, which specifically outlines their assigned firm’s hardware, systems and explicitly provides expectations for their workspace. These two written pieces of communication serve as guidelines for all existing and new employees and managers.

TRUST

Managing a remote workforce requires managers to trust their employees to do their jobs – simple to say but not as simple in practice. For those new to remote working or remote managing, there was understandable

apprehension from managers about managing people they could no longer physically see daily. Hybrid or remote work admittedly gives employees more freedom to conduct their business day as they see fit, which many workers see as a plus but plagues many managers. Still, some employees struggle with this self-directed model and have difficulty managing their time. Others suffer from burnout because the line between home and office is blurred. Additionally, at first, there was fear that employees working from home would not be as productive or would abuse company time.

Trust was built in the early days of the pandemic by setting clear expectations with employees about production and providing a set list of deliverables. It was also helpful from the outset to set the frequency of check-ins or one-on-one meetings. While not always easy, it also proved helpful to have regular check-ins with employees but to avoid micromanagement of employees. Closely monitoring what employees are doing, when they are working, and where they are at all times can breed feelings of mistrust. To build or maintain trust, managers need to be able to give employees autonomy, hold them accountable for their deliverables, and focus on their performance. These lessons, while aimed at remote workers, are still good practices to institute even with those working in the office.

CONCLUSION

While some firms and agencies have returned to the office either full or part-time, there are still certain aspects of the remote workplace that are likely to carry on into the future and can benefit the organization. For those still operating in a remote or hybrid model, by investing in technology, remaining flexible, emphasizing communication, and building trust with employees, remote companies have been able to navigate the pandemic and continue to thrive well after it. It goes without saying that remote work certainly poses its challenges, and there are certainly some advantages of having everyone working together in one location. However, as the post-Covid 19 era continues to evolve, corporations that are continuing to adapt to the remote and hybrid environments will be well-positioned for success. ■



CALL FOR WRITERS

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**IF YOU
“DON'T DO EDISCOVERY”
PLEASE READ THIS...**

If you're a litigator and claim you "don't do ediscovery," then you are doing your practice and your clients a severe disservice. Every litigation matter today involves electronically stored information (ESI), which means **all** discovery is ediscovery. A large amount of our communication today is electronic (email, text messages, social channels, etc.), and all the important information we encounter is digital (PDFs, Word documents, Excel spreadsheets, etc.). Just because you may not practice in a large law firm or litigate high profile cases, doesn't mean you "don't do ediscovery" - it's everywhere.

Fortunately, there are plenty of ediscovery resources, tools, and services available today for law firms and litigation matters of all sizes. If you're a litigator, it's critical that you are familiar with them so you can best serve your clients, stay competitive in today's marketplace, and navigate your ethical responsibilities.

THE E-FACTS ON EDISCOVERY

Just so everyone's on the same page, ediscovery is the term we use to refer to the process of collecting, reviewing, and producing electronic evidence. This could involve producing text messages pulled from a mobile phone, Excel spreadsheets stored in Dropbox, or social media posts downloaded from Facebook.

One of the problems today is that there's SO MUCH information that has to be reviewed. Just look at the number of emails in your own inbox, and then imagine the mountains of digital data that you must review from your clients or opposing parties.

You might think ediscovery is a torturous and time-wasting weapon inflicted by big firms upon smaller parties with less resources. But it doesn't have to be that way - and it isn't that way for firms that are willing to implement the right tools and processes.

THE WRONG WAY TO REVIEW EMAIL

For example, if you need to review and produce a slew of emails from your client to opposing counsel, how would you review them? Printing them out is an imprudent act of expense and futility because there are too many. You might be tempted to review them in your own email software, but that means you're commingling electronic evidence with your own work product and communications, and now those emails are "live" where you might inadvertently reply or forward messages.

Your email software isn't designed to review and produce evidence - there's no way to tag messages and attachments as responsive, you can't apply redactions to sensitive information, and there's no way to export production sets in specific formats. Your email software is NOT the right tool for document review and production in a litigation matter.

DOCUMENT REVIEW AND PRODUCTION DONE RIGHT

A proper document review platform such as Nextpoint and similar tools offers distinct benefits for reviewing and producing documents in a litigation matter, no matter how small or large the case is.

Here are some benefits of using the right tool for document review:

- **Single Repository** - You have a single, secure, reliable location for all the files you need to find, search, and review. It's much easier than digging around in Bankers boxes.
- **Preserving File Fidelity and Chain of Custody** - When you load files into a document review platform, all the metadata and content are preserved so that it cannot be changed, edited, or spoliated.
- **Sort and Filter** - You can quickly sort all your files chronologically with a few clicks of your mouse. Plus you can filter down to specific emails based on date ranges or domains.
- **Search Across Everything** - You can use keywords and phrases to find relevant conversations and documents.
- **Tagging and Coding** - When you find an email or document that is relevant or privileged, you can tag it as such and capture your thoughts about the file.
- **Produce Appropriately** - Once you've tagged all the relevant documents, you can produce them to opposing counsel in the requested format.
- **Load and Search Production Sets** - When opposing counsel produces a data dump, you have the platform in place to parse everything so you can search and sort it all conveniently.

CLOUD-BASED CONVENIENCE

Modern document review platforms like Nextpoint are cloud-based, which means you can access your files from anywhere at any time. In fact, most platforms give you DIY freedom so you can upload electronic evidence and run your own searches and filters. If you run into a snag, or just need a helping hand with creating a production set, most companies offer immediate support and a services team when you need them.

Nextpoint and other vendors in the field provide you with all the tools for an efficient and proper document review on your own, but our services team is ready to step in when you need to collect text messages from your client or create a production set as per instructions

from opposing counsel. If you don't do these ediscovery tasks every day, it's nice to have someone to help who does.

PIECES OF THE PUZZLE

Ediscovery is only one little piece of the greater litigation effort, but it can be the most expensive and time-consuming. Platforms like Nextpoint help you keep everything arranged, assembled, and accessible.

But you have other chores involved with litigation, which is why you need a functional way to manage transcripts and present evidence to an audience. With some document review platforms, you may need to invest in additional tools and applications, but the right ediscovery platform will enable you to seamlessly transition to the case building process. One such

product is Nextpoint's "Theater Mode," the ability to store transcripts and link to exhibits, where you can quickly display a file and "callout" a section during trial presentation. All this is included in our per-user pricing, so you don't have to worry about how much data you're storing.

Many attorneys tend to think of ediscovery as a separate, cumbersome process from the rest of the case. But a comprehensive ediscovery platform doesn't just help you get through the technical stages of litigation - it can help you see connections in the evidence and build a stronger case. Whichever tool or platform you use for ediscovery, make sure you're comfortable with it and use it effectively. It will go a long way in making you a more compelling and competitive litigator in this crazy eWorld we live in. ■



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BBQ, blues music, education, Elvis, and yes, even ducks, were all present at the recent Southern Region Conference that took place March 24-25 in Memphis, TN. The conference was held at the historic Peabody Memphis, home of the Mallard ducks and their famous daily march through the hotel lobby. The conference kicked off with a Welcome Reception sponsored by the Jones Walker law firm. The theme of the conference's educational program focused on Elvis Presley, one of Memphis' most famous residents. The over 40 attendees were honored to have attorney William R Bradley, Jr. discuss his firm's representation of the Estate of Elvis Presley in matters involving trademark, copyright, licensing, information technology and franchise-related issues. In keeping with the program's theme, attorney Blanchard E Tual discussed his role as the court-

appointed attorney for Lisa Marie Presley and the discovery that Colonel Parker was taking advantage of, and taking large sums of money from, Elvis. The educational program was topped off with a visit from Hal and Julie Lanksy, son and granddaughter of Bernard Lanksy who outfitted Elvis and became known as "Clothier to the King". The Lanksys auctioned copies of their book "Come On In, Young Man!" that recounted the relationship between Elvis and Bernard Lanksy raising an impressive \$1,275 for St. Jude's Research Hospital. The day continued with a tour of the National Civil Rights Museum and a stop by the Rock 'N' Soul Museum. The conference concluded with Memphis BBQ and live blues music. Plans are already underway for next year's Southern Region Conference. Stay tuned! ■



Robin Moselle
Southern Region
Chair

Robin





CAN THE CREDIT PROFESSION BE REMOTE?

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Hybrid and remote work schedules became widely used at the start of pandemic as companies adapted to social distancing. Three years later, many credit teams remain on a hybrid schedule while some have returned to a traditional in-office model. In a recent eNews poll, nearly half (47%) of credit professionals said every person on their team works remotely at least part of the time, whereas roughly one in three (30%) of professionals said a quarter or less of their team works remotely.

The pandemic forced the world to adjust to this new way of working, but it poses a big question: *Can the job of a credit professional be done effectively at home?* The short answer is yes, but success will greatly depend on your company culture, industry and automation.

Automation plays a key role in the ability of credit departments to work remotely. B2B trade is heavily reliant on paper and manual processes, but credit teams that have embraced technology have been more successful in remote environments. “Our team has been 100% remote other than coming into the office quarterly just to have a lunch or meet with each other on a need-to basis,” said Penny Jeter, CBF, NACM Board director and director of credit at Ingram Industries (Nashville, TN). “I was working on making our department paperless right before the pandemic hit, so that’s why we’ve been able to be successful in continuing to be remote.”

Some departments took the pandemic as an opportunity to become more comfortable with technology. “The automation and saving files to a cloud eliminated the hallway lined with filing cabinets full of files and records,” said Wendy Mode, CCE, CICP, division credit manager at Delta Steel, Inc. (Cedar Hill, TX). “It also kind of forced some credit managers to learn a new way of doing their job because they didn’t have a printer or scanner at home. They learned to save to PDF and upload files from that.”

But the time to train your team on new technology is before you switch to a hybrid schedule, not after. “Fast internet speeds along with access to phone calls and checking voicemails are two big resources needed in order to mitigate delays or down time in productivity,” said Mode. “Before hybrid work became popular, your colleagues could easily walk down the hall to ask a question, get approval on an order and more—but if you are working remotely, then they are at the mercy of an email or phone call.”

Having the ability to work a hybrid schedule means less expenses for employees such as fuel, time commuting and vehicle maintenance. “It saved at least roughly two hours of time spent in of daily traffic for our company,” said Chris Hadley, credit and collections manager at K LX Energy Services LLC (Houston, TX). “Sometimes I actually find myself working way too much because it’s hard to find the times to turn things

off. When we work with accounts payable or A/R teams it can be difficult working remotely, so we’ll go in if we have big meetings but typically try to stay at home.”

However, even after three years of remote work, some aspects of in-person cannot be replaced. A survey from TinyPulse in 2021 revealed many workers found hybrid schedules “emotionally exhausting,” according to an article from *HR Dive*. And for companies who previously were paper intensive rather than tech savvy, the shift to automation is not easy. “At Delta Steel, we’re de-centralized and in the office majority of the time,” said Mode. “We have the flexibility to work from home if a need arises, but overall feel we can best serve our internal customers being in the office.”

Connectivity and communication between team members is less effective when being at home, Mode added. It is just not as easy to identify who is busy or available to assist with a project. And on the day everyone comes in the office, you lose some productivity because people are catching up.”

When hiring new employees, remote training and onboarding processes can be a hassle. Some employees learn better in face-to-face environments than others. “I believe this is one of the largest pitfalls of working remote,” said Mode. “In one of our locations, our sales manager has a policy for new hires in which they must work a minimum of six months in the office full-time. At the end of the six months, they will discuss and review to see the progress and ability to work from home two days a week.”

The most important consideration to take in is the impact of different work settings on the productivity and quality of work. We all know being at home can be distracting when your place of relaxation is the same space for where you should be focused. But some could argue that there are more distractions in the office with colleagues. “Quality of work for us has remained the same specifically with credit and collections,” said Hadley. “All of my teams work from home and for the most part there is no need for us to be in a physical office. However, it takes a certain type of person to have discipline in order to do so, but luckily for our team it works well.”

If you are unsure of how your credit team will perform on a hybrid work schedule, closely track efficiency with metrics. Check to make sure collection calls are still being made and accounts staying current. You can use metrics to award the amount of time team members can work from home. ■



Wanda Borges, Esq.
Principal Member
Borges and Associates, LLC

ARTIFICIAL INTELLIGENCE IS ACCESSIBLE TO ALL, BUT IT IS NOT PERFECT! [A BEGINNER'S EXPERIENCE WITH AI]

Six months ago, this author knew nothing about ChatGPT. A few of my colleagues from the CLLA explained it to me and suggested I try it out. Having begun my practice of legal research by physically visiting the local law library, I well-remember sitting at a desk or on the floor with piles of books surrounding me as I “shepardized” cases. In fact, my dream, as a young child, when accompanying my mother to work at the Paramount Pictures law library with books from floor to ceiling and those wonderful wrap-around ladders, was to read every one of those books. But, I digress!

FROM BOOKS TO THE ELECTRONIC AGE

Twenty-three years ago, when 4 of us spun away from a larger law firm to open our own practice, we negotiated which law books would stay with the old firm and which ones would come with the new firm. The expense of maintaining a law library was a critical component of the budget. Today, our office library contains few paper copies of books as most of the legal research and resources are available online. Money spent on hard-bound books is now spent on internet services.

ARTIFICIAL INTELLIGENCE REALLY EXISTS!

All of us have read about and seen movies and/or tv shows utilizing artificial intelligence (“AI”) in the form of super computers, robotics, or humanoids. Which of us, however, would have believed that the future is here today; and those same robotics, super computers and/or humanoids are available for our use. Today, robots build automobiles, perform surgery, and write term papers or briefs.

First things first, however! In order to utilize ChatGPT, one must sign up on <https://chat.openai.com> and create a username and password. The basic ChatGPT is free. One may upgrade to Plus which I have not yet done. There are others available, but this is the one with which I am familiar.

PRACTICAL APPLICATION OF CHATGPT

Upon being told about ChatGPT, I decided to give it a try. Aside from my practice of commercial litigation and creditors rights in bankruptcy, I am frequently asked to lecture on various areas of the law that are not necessarily within my main practice concentration. Several years ago, one of my programs was on the morality and ethics of social media. As social media has changed, so must my program. As I was seeking to update my program to “Legality and Ethics of Social Media”, turning to ChatGPT for information on this topic became the first opportunity to “try it out” and find out firsthand whether or not ChatGPT would prove to be a good resource. One can ask a question or ask that a report be prepared or ask for some other document to be drafted. My directive to ChatGPT was “prepare a report on the legalities and ethics of social media”. Simple and to the point, right? This was the report I received:

Introduction: Social media has revolutionized the way we interact with each other and share information. However, the use of social media platforms raises important ethical and legal issues that need to be considered. This report will examine the legal and ethical aspects of social media, including privacy concerns, free speech, and online harassment.

Legalities of Social Media: Social media is subject to a range of legal frameworks, including privacy laws, intellectual property rights, and defamation laws. In

particular, privacy concerns are a significant issue in social media, as personal information is often shared without users' knowledge or consent. Social media companies are required to comply with data protection regulations, such as the General Data Protection Regulation (GDPR) in the European Union, which sets out strict rules on the collection, use, and storage of personal data. In addition, social media companies may also be held liable for content posted by users, particularly where the content is defamatory, infringes intellectual property rights, or incites hatred or violence.

Ethics of Social Media: The use of social media also raises important ethical concerns, including issues related to free speech, privacy, and online harassment. Social media platforms are often criticized for allowing harmful content to circulate, including hate speech, fake news, and misinformation. While social media companies have a responsibility to regulate content and enforce their terms of service, they must also respect users' right to free speech and expression. In addition, social media companies must also protect users' privacy and ensure that they are not subject to online harassment or abuse.

Best Practices for Social Media: To address the legal and ethical issues of social media, individuals and organizations can adopt best practices for responsible social media use. Some of these best practices include:

1. Protecting personal information by using strong passwords, enabling two-factor authentication, and limiting the amount of personal information shared online.
2. Checking the accuracy of information before sharing it on social media and avoiding the spread of fake news and misinformation.
3. Respecting others' privacy by obtaining consent before sharing their personal information and refraining from sharing intimate or sensitive information about others.
4. Engaging in constructive dialogue and respectful communication online, avoiding the use of hate speech, insults, or derogatory language.

Conclusion: In conclusion, social media is a powerful tool for communication and sharing information, but it also raises important legal and ethical issues. While social media companies must comply with privacy and defamation laws, users must also adopt responsible social media practices to ensure the safety and wellbeing of themselves and others. By adhering to best practices for social media use, we can help to mitigate the risks and maximize the benefits of this important communication tool.

Well, that was not bad! It certainly was not enough to create a presentation; and didn't really inform me of anything I did not already know, but it did suggest to me one area - “defamation” which had not previously been in my slides. Needing to get more specific and less

general, I inquired as to the legal issues associated with social media”. Now, I received a list of seven factors. Those were “Privacy”, “Intellectual Property Rights”, “Defamation”, “Cyberbullying”, “Advertising and Marketing”, “Freedom of Speech” and “Cybersecurity”. Each of these factors included a short two or three sentence description.

Attempting to focus these factors on creditors’ rights, I made the following inquiry: “How often do businesses use social media to collect debts?” The answer to that one was less informative, saying succinctly that “While some businesses may use social media to collect bad debt, it is not a common practice as it can potentially violate debt collection laws and social media platform policies.” It then provided an explanation of the FDCPA that concentrated on consumer/retail collection practices, which was not helpful at all.

LIMITATIONS OF CHATGPT

There are several limitations with ChatGPT and some of these are detailed on the first page of the <https://chat.openai.com> website. The self-confessed limitations which appear on the website include the following:

- May occasionally generate incorrect information.
- May occasionally produce harmful instructions or biased content.
- Limited knowledge of world and events after 2021.

This AI cannot formulate an opinion. I asked it “What is the expectation for transportation industry bankruptcy filings in 2023?” and it responded “As an AI language model, I do not have access to future information or events. It is impossible to predict with certainty the number of transportation bankruptcy filings that will occur in 2023.

Bankruptcy filings in the transportation industry can be influenced by a variety of factors, including economic conditions, regulatory changes, competition, and other industry-specific challenges. Some trends that could potentially impact the transportation industry in 2023 include shifts in consumer behavior due to the COVID-19 pandemic, changes in supply chain logistics, and advancements in autonomous transportation technologies.

It is important to note that any predictions or forecasts related to bankruptcy filings in the transportation industry should be treated with caution, as there are many unknown variables that could impact the outcome. It may be helpful to consult with industry experts or consult publicly available reports to gain insights into potential trends or risks.”

So, I told it to “show me publicly available reports regarding potential trends or risks for bankruptcies in the transportation industry”. It provided me with several websites that might possibly provide me with the information I was seeking.

On another matter, merchants had been told that Visa was changing its rules regarding credit card surcharging effective April 15th but it was most difficult to find any documents presenting factual information prior to that date. This question was put to ChatGPT. “Find me the new Visa rules on credit card surcharging which are effective April 15, 2023”. The response which, very politely, came back said “I apologize, but as an AI language model, I do not have access to real-time information or updates on Visa’s policies and regulations. However, I can provide you with general information on credit card surcharging rules”. The AI acknowledged that its knowledge base only went through September, 2021. It then provided a summary of credit card rules as of 2021.

WHAT ABOUT LEGAL DOCUMENTS?

Some of my colleagues have been known to use AI for motion practice but this author is not convinced it can do the legal research necessary to provide a winning motion. Culling the proper or more influential case law from substantial data still needs an attorney or paralegal with the practical knowledge and hands-on experience to develop a convincing argument. Nevertheless, recently I needed to prepare a stipulation to extend the time to bar a discharge in a chapter 13 proceeding. That was something my office had not done in many years, so I turned to AI. It produced a reasonable stipulation that was able to be honed into a usable stipulation that debtor’s attorney agreed with and the court approved.

Our firm recently became involved in an unusual case. We have been retained to defend a lawsuit against the daughter of a decedent insisting that the daughter is responsible for the home health care services provided to her deceased mother. In the meantime, the home health care agency and its employees purportedly stole cash and property from the mother and forged checks. Therefore, we needed not only affirmative defenses but also counterclaims for theft and forgery. This, not being our ordinary type of litigation, was posed to AI which returned a simple, but reasonable draft complaint for fraud and forgery. It needed expansion and legal citations, but it was a workable draft that could be used as a basis for the actual counterclaim.

SUMMARY:

AI is not about to replace humans in the near future where critical thinking, experience, and practical information are necessary to form a cohesive and persuasive argument. Rather, it can be compared to the first step outline which we were taught in college and law school as the bare bones format on which to build a thorough term paper, brief, or memorandum of law. My experience, thus far; and my opinion, is that AI is a wonderful additional tool for lawyers to keep in their arsenal of weapons with which to conduct their everyday law practices. ■

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Thomas W. Hamilton
Executive Vice President
American Lawyers Company

CHATGPT IN A NUTSHELL

As time marches on, here we are again on the verge of another watershed technological development, this one called ChatGPT. Perhaps you have already heard a lot of buzz about this technology and you are asking yourself, "So what is this ChatGPT?" The simplest answer is that ChatGPT is a part of artificial intelligence. So, then you might also ask, what is artificial intelligence?

In concise terms, artificial intelligence is a computer programming process that began in the 1960s to mimic basic human reasoning. Over the past 60 years, AI has become highly sophisticated and is integrated into countless support and research systems throughout the government and private industry to augment human decision-making capabilities significantly.



When it comes to ChatGPT (GPT stands for Generative Pre-trained Transformer), this is a computer program that can understand and generate human-like text based on the input it receives. It uses a special type of AI language model, which is “trained” on huge amounts of text data to learn patterns and relationships between words and phrases.

When you interact with ChatGPT, you can ask it questions or give it prompts, and it will respond with text that is meant to be as natural and human-like as possible. The responses are generated by predicting the most likely words and phrases to follow your input, based on its knowledge of the language and the patterns it has learned from the data it was trained on.

ChatGPT has quickly become a useful tool for attorneys. The AI-powered technology can help streamline time-consuming tasks such as research and content generation, freeing up more time for lawyers to focus on their cases. ChatGPT can also provide valuable insight into legal topics, helping lawyers quickly digest complex information. Furthermore, it can streamline the e-discovery process by quickly and accurately identifying key documents and evidence. ChatGPT can build responses based on what it knows, including data aggregated from who knows how many sources going up to September 2021.

I'm not well versed enough to know how easy it is to feed it information for processing. Users are cautioned from providing sensitive information since everything may be used to help improve the software. So to that extent, I'm not sure how much it can be used to analyze sensitive legal documents. That said, I'm sure there are AI tools out (or coming out) that can do that -- and something may be out that uses some of the ChatGPT functions on the backend.

As an example, I asked my son-in-law to ask ChatGPT to write an article. The prompts are highlighted, and the results are shown below. Both of these articles took less than 30 seconds to create.

EXAMPLE #1

PROMPT: Write a one page high level explanation of ChatGPT. Include a brief history of AI and what it is. Also include how using ChatGPT -- as well as AI in general -- could be useful for attorneys.

CHATGPT RESPONSE:

ChatGPT: Revolutionizing the Legal Industry with AI
Introduction:

ChatGPT, or Chat Generative Pre-trained Transformer, is an advanced artificial intelligence (AI) language model developed by OpenAI. Built on the GPT-4 architecture, ChatGPT has the potential to revolutionize the legal industry by enhancing efficiency, communication, and decision-making processes. This

document provides a high-level overview of ChatGPT, its historical context, and its applications for attorneys.

A Brief History of AI:

The field of artificial intelligence has undergone significant development since its inception in the 1950s. Early AI pioneers like Alan Turing and John McCarthy laid the foundation for machine learning, allowing computers to learn and evolve over time. In recent years, AI has experienced rapid progress, with advancements in natural language processing (NLP), deep learning, and neural networks. These technological advancements have enabled the creation of AI systems like ChatGPT, capable of understanding and generating human-like text.

What is ChatGPT

ChatGPT is a cutting-edge AI language model that has been trained on vast amounts of text data to understand context, syntax, and semantics. It uses deep learning techniques and the transformer architecture to analyze input text and generate responses that are coherent and contextually relevant. By leveraging a massive knowledge base and employing advanced algorithms, ChatGPT can effectively mimic human-like conversation and perform various tasks, from answering questions to generating creative content.

How Can ChatGPT Benefit Attorneys?

The legal industry stands to gain significantly from the integration of ChatGPT and AI technology. Below are some key areas where attorneys can leverage ChatGPT to improve their practice:

Legal Research:

ChatGPT can expedite legal research by processing and analyzing vast quantities of data in a fraction of the time it would take a human. Attorneys can simply input their queries, and ChatGPT will return relevant information, case law, statutes, and other resources.

Document Drafting and Review:

ChatGPT's sophisticated language understanding allows it to assist attorneys in drafting and reviewing legal documents, such as contracts, pleadings, and memos. It can identify potential inconsistencies, suggest revisions, and generate boilerplate language, thereby saving time and minimizing errors.

Client Communication:

Attorneys can use ChatGPT to draft accurate and personalized responses to client inquiries. By providing relevant and timely information, ChatGPT can help attorneys maintain client satisfaction and enhance their professional reputation.

Litigation Strategy:

ChatGPT can analyze large datasets, such as case outcomes and precedents, to identify patterns and trends that can inform litigation strategy. This data-driven approach can help attorneys make more

informed decisions and improve their chances of success in the courtroom.

Legal Education and Training:

ChatGPT can serve as an invaluable educational tool for law students and junior associates by providing instant feedback, explanations, and examples related to various legal concepts and doctrines.

CONCLUSION:

The integration of ChatGPT and AI technology into the legal industry has the potential to revolutionize the way attorneys work. By streamlining research, drafting, communication, and decision-making processes, ChatGPT can help attorneys save time, reduce errors, and ultimately provide better legal services to their clients. As AI continues to advance, the legal profession must adapt to harness the full potential of these transformative technologies.

EXAMPLE #2

PROMPT: Write the same document in a more casual / opinion piece kind of way.

CHATGPT RESPONSE

ChatGPT: The Game Changer Attorneys Didn't Know They Needed

Introduction:

Picture this: a super-smart AI buddy that can help you with all the tedious parts of being an attorney. Well, that's pretty much what ChatGPT is! Developed by OpenAI, this incredible language model is built on the GPT-4 architecture and is all set to shake up the legal industry in the best way possible. Let's dive into what ChatGPT is, its roots in the AI world, and how it's going to be a game changer for attorneys everywhere.

A Quick Stroll Down AI Memory Lane:

AI has come a long way since the 1950s when it was just an idea in the minds of visionaries like Alan Turing and John McCarthy. These trailblazers kick-started the journey that has led to the incredible AI advancements we're witnessing today, including natural language processing (NLP), deep learning, and neural networks. And guess what? It's because of these developments that we now have amazing AI systems like ChatGPT, which can understand and generate text that's almost like it was written by a human.

So, What's ChatGPT All About?

Think of ChatGPT as a super-savvy language model that's been fed tons of text data to learn how to understand and generate language like a pro. It uses deep learning and the transformer architecture to analyze the text you give it, and then comes up with responses that are relevant and make sense. By tapping into a huge knowledge base and using advanced

algorithms, ChatGPT can simulate human-like conversations and perform a whole bunch of tasks, from answering your questions to creating content that'll blow your mind.

How Can ChatGPT Make Attorneys' Lives Better?

The legal world has so much to gain by embracing ChatGPT and AI technology. Here are some of the awesome ways attorneys can use ChatGPT to make their work lives easier and more efficient:

Legal Research:

Forget spending hours sifting through cases and legislation – ChatGPT can do it for you in no time! Just tell it what you're looking for, and it'll bring back all the relevant info, case law, statutes, and more.

Document Drafting and Review:

With ChatGPT's language skills, it can help attorneys draft and review legal documents like a champ. It can spot inconsistencies, suggest edits, and even come up with boilerplate language, saving you time and reducing the risk of mistakes.

Client Communication:

Need to get back to a client but short on time? Let ChatGPT help you draft accurate and personalized responses to client inquiries, making sure they're happy and impressed by your professionalism.

Litigation Strategy:

ChatGPT can crunch huge datasets (like case outcomes and precedents) to find patterns and trends that could help you win in the courtroom. With this data-driven approach, you'll be making smarter decisions and upping your chances of success.

Legal Education and Training:

ChatGPT is like having a law professor on call 24/7. It can help law students and junior associates learn the ropes by providing instant feedback, explanations, and examples on various legal concepts.

IN CONCLUSION:

ChatGPT is the game changer that attorneys didn't know they needed. By making research, drafting, communication, and decision-making so much easier and more efficient, ChatGPT is set to revolutionize the legal industry. As AI keeps getting better and better, it's high time for the legal profession to jump on board and make the most of these amazing technologies.

In a nutshell, ChatGPT is not only the wave of the future for attorneys but for many other professionals who need to spend a great deal of time with researching, analyzing, and writing tasks. ■



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Allen Rodriguez
CEO
ONE400

HOW CHATGPT IS REVOLUTIONIZING THE ROLE OF LAWYERS

While change usually comes slowly in the legal industry, AI is making a rapid appearance in law firms throughout the country and staying ahead of the curve is essential for success. ChatGPT, a powerful AI language model developed by OpenAI, is transforming the way lawyers work by streamlining tasks, enhancing productivity, and improving overall client experience. In this blog post, we will explore how ChatGPT is revolutionizing the role of lawyers, the many ways it can be utilized in the legal field, and dive deeper into its applications through example prompts.

UNDERSTANDING AI AND KEY TERMS:

Artificial Intelligence (AI) refers to the development of computer systems capable of performing tasks that typically require human intelligence, such as decision-making and language understanding. AI can be broadly categorized into two types: generative AI, which creates new content, and analytical AI, which processes and analyzes data. This post will focus on the generative nature of AI.

CHATGPT EXPLAINER:

ChatGPT is a generative AI language model that can understand and generate human-like text. It has wide-ranging applications, such as drafting documents, answering questions, providing customer support, and creating content for websites or social media. It's essential to note, however, that ChatGPT is not intended for certain activities, like illegal activities, activities with high risk of harm, and unauthorized practice of law, among others.

WHY LAWYERS SHOULD CONSIDER USING AI:

- **Stress reduction:** ChatGPT can help alleviate stress and frustration by automating repetitive tasks, allowing lawyers to focus on more critical aspects of their work.
- **Enhanced accuracy:** AI systems like ChatGPT can minimize errors by quickly processing large volumes of data and generating accurate output.
- **Increased productivity and reduced costs:** ChatGPT can help law firms save time and resources by streamlining various tasks, ultimately leading to increased profitability.
- **Competitive advantage:** By adopting AI technologies like ChatGPT, lawyers can stay at the forefront of the industry and better serve their clients.

RISKS AND ETHICAL CONSIDERATIONS:

While AI can bring numerous benefits, there are also risks associated with its use in legal work. Data privacy and security concerns are one area that attorneys should be aware of. Under ABA Model Rule 1.6 a lawyer has a duty to protect client confidential information. When using AI platforms that store sensitive information, attorneys should be aware of potential vulnerabilities, such as unauthorized access to attorney-client privileged information, and ensure compliance with data protection regulations. So, while many attorneys are using AI to speed up deliverables, you should be sure not to provide any confidential information that could be analyzed or compromised by a 3rd party. So, if you use ChatGPT to write an

agreement, be sure to use anonymized information (e.g., Jane Doe, John Doe) to create a template to work from.

Other considerations are duties of competence and diligence (Rule 1.1 Competence - Comment) and duties of supervision. If you are going to use AI, you need to understand how it works and always verify the output.

COMMON TASKS CHATGPT CAN PERFORM FOR LAWYERS AND EXAMPLE PROMPTS:

While many feel that ChatGPT is not an entirely reliable source for legal information, there are a number of ways law firms can still take advantage of its power in their everyday work. The following are some examples of how ChatGPT can help you with many administrative tasks.

1. **Writing standard operating procedures:**

ChatGPT can help lawyers create clear and concise SOPs by providing context and relevant information. To generate an SOP, a lawyer could use the following prompt:

“You are a law firm manager implementing new standard operating procedures into your practice to increase revenue. Please explain to your partners the three most important types of SOPs. Provide guidelines about how they can implement these SOPs, and how they can train employees on the new procedures.”

2. **Reviewing terms of service and privacy policies:** ChatGPT can perform a preliminary review of documents, helping lawyers identify potential red flags and high-risk areas. For example, a lawyer might use this prompt for reviewing Terms & Conditions:

“Please review the following Terms & Conditions for a newly released app. Identify and categorize any issues as red flags (high risk) and yellow flags (some risk, proceed with caution). Provide a brief explanation for each identified issue and its associated risk level.”

3. **Summarizing long-form content:** ChatGPT can efficiently summarize dense content for client emails or other communication materials. Here's an example prompt to help you summarize content:

“In an easy-to-understand tone, summarize the following content by creating a few introductory sentences and then use bullets for the key points, ideas, or talking points [paste content]”

4. **Drafting client emails:** ChatGPT can assist lawyers in composing effective onboarding emails for new clients, addressing important

points like transparency, responsiveness, and client expectations. A lawyer could use a prompt like this to draft an onboarding email:

“Your job is to write an onboarding email for new clients of a law firm. Every client who has formally engaged the firm will receive it. The key points to include in the email are:

- * We are grateful for their trust in us.
- * We promise to always be responsive.
- * We promise to always be transparent about our work.

The client should also be aware of the following:

- * In order for us to do our best, we need truthful, accurate and timely information from you.
- * While we are responsive, we are often in court or handling other important matters. Your patience is appreciated.
- * When you have questions, it is best to group them and ask during a longer call then to send over frequent individual questions.

5. **Generating social media posts:** ChatGPT can help create promotional content for events like webinars, ensuring that the messaging is engaging and succinct. A lawyer could use the following example prompt to generate social media posts for an upcoming webinar:

“You are a social media manager and need to promote an upcoming webinar where I will be the guest speaker. Your task is to create at least 10 tweets/posts that invite people to register for the free webinar. You should use emojis, a link to the webinar registration page and relevant hashtags. Limit posts to 280 characters. Here is the information for the webinar:

[copy and paste webinar info]“

There are many other creative ways lawyers are using ChatGPT and I encourage you to experiment (don't use client data) with various administrative tasks performed on a daily basis.

CONCLUSION:

Though AI's use in law firms is very recent, it will clearly start to shape the future of the legal industry. Embracing tools like ChatGPT can provide law firms with a competitive edge. By utilizing ChatGPT in various tasks like drafting SOPs, reviewing terms of service, summarizing content, writing client emails, and generating social media posts, lawyers can unlock new levels of efficiency, accuracy, and client satisfaction. ■



Joseph A. Marino, Esq.
Managing Member
Marino, Mayers & Jarrach, LLC.

RUMINATIONS ON ARTIFICIAL INTELLIGENCE AND ITS ETHICS



This article is designed to be a thought-provoking exercise in evaluating the lack of fundamental ethics in the creation and marketing of Artificial Intelligence and its intended and unintended impact upon humanity and society.

Black's Law Dictionary defines Ethics as follows:

The discipline dealing with what is good and bad and with moral duty and obligation.

A set of moral principles or values.

A theory or system of moral values. The principles of conduct governing an individual or group.

It is submitted that "moral principles or values" are subject to "relative rationalism"; i.e., those in power set the rules and rationalize what is good and bad.

It is further submitted that a society's survival depends upon the truth, and integrity of public communications, public safety, and the just administration of its laws.

WHAT IS ARTIFICIAL INTELLIGENCE (AI)

Intelligence is the ability to perceive, be aware, synthesize and utilize information. Humans have certain unique abilities: speech, taste, smell, hearing and touch (the five senses). Humans have the ability to assimilate information and adopt, translate, learn and create from the data input both on a conscience and sub-conscience level, which is significant. Man also has emotions, passion, creativity and instincts. Some animals have various degrees of human intelligence. Machines, currently, do not possess "human intelligence", but they can be programmed to learn and imitate some abilities.

Artificial Intelligence is when machines are programmed to assimilate information, i.e. data, and analyze, calculate and translate. Learning algorithms have accelerated AI. Some advanced AI such as ChatGPT can compose text, music, and game strategies, due to advance learning algorithms. This is predominantly a mathematical process. Yet, bots are learning to be creative. What was once formulaic and imitative is now becoming creative, original with the ability to emote human traits. What was once Science Fiction is now becoming Reality!

The moment a computer becomes "Sentient", that is, it becomes Aware, having self-indulgent feelings of tenderness, sadness, or nostalgia, and a Passion for Life and Freedom, it may also have the capacity to hate and hold its creators in contempt.

Query: Is the World heading into the "Perfect Storm", Armageddon?

Will the final struggle for good vs evil, become another evil "Final Solution?" decided by robots? If so, mankind will soon go the way of the dinosaurs. Or will we implement safety protocols in time?

To put Artificial Intelligence in perspective, let's map it upon a scale from Level 1 to 5, for this discussion, hereinafter referred to as the "Marino" Spectrum.

Sub-Level 1: includes all "Smart" devices. These items are mechanical/calculators, such as, sensors on a car which inform when a car is too close to an object, or self-parking programs. Siri and Alexa are other examples. They are not true AI, notwithstanding marketing labels. They can understand questions and provide answers based on programmed material, but they cannot "think", independently.

Level 1: includes the current 2023 technology, such as: ChatGPT-4 and BloombergGPT, etc. These are super computers capable of analyzing vast amounts of data and processing a requested function with verbal command and response features. Sophisticated algorithms mathematically select words and phrases from a vast database, such as an encyclopedia, to create a requested response - your essay or song. These are impressive machines (robots) that give the illusion of AI.

In the near future, we will be introduced to Level 2 machines which may be Level 1 squared, then Level 3 cubed etc.

Level 5: on the "Marino" Spectrum, however, would be the moment an AI actually becomes aware, "sentient," thinks for itself and is autonomous. It may be deemed to be an Artificial Life Form. It will act independent from its creator. Hopefully, we are years away from Level 5, as that will raise numerous issues, for a later article. Query: will its creators be able to "pull the plug"?

Notwithstanding, we like our Sub-Level 1, products that are not threatening and are very convenient. Currently, unbridled Level 1 devices impress and frighten us and are our wake-up calls that safety and security protocols are vitally needed.

The AI race is on, like it or not, to achieve the ultimate egotistical goal: toward the creation of Artificial Life. The world will forever change.

ARTIFICIAL INTELLIGENCE SHOULD AVOID CORRUPTIVE INPUTS:

Currently, billions of dollars are being invested in the development of Artificial Intelligence (AI) by technology companies and governments; friends and foes, are all competing in a race to create and secure dominance or a major position in this Trillion dollar market and with potential powers of world domination.

Intelligence Agencies and various criminal organizations are also investing in how to steal the Secrets of AI in the hopes of world domination, vast profit, and unlimited power. Ethics, honesty and safety have fallen to the bottom of priorities. These principles must be safely guarded to preserve our freedom and country, as well as, world peace.

Elon Musk (Space X & Tesla) and, Apple co-founder Steve Wozniak, as well as, many others have urged a six-month pause on developing AI, while international safety and security protocols can be adopted. That is unlikely to happen given the level of competition, profit and, power involved. Their cries for caution are significant and they urge government regulation of AI before any catastrophic events occur.

Shockingly, some AI robots have been programmed to lie and be deceitful. These traits must not be allowed in the international markets, as AI must project truth and transparency.

The potential of creating powerful AI robots to commit larcenies, frauds and other crimes is great. AI has the capacity to develop weapons of mass destruction. The dark net and cyber currency have already exposed the world to extreme dangers by clandestine criminals.

History has recorded those who have sought unlimited power, profit, and personal gain at the expense of the many, that resulted in catastrophic consequences.

Moreover, the injection of extreme political and/or religious philosophies in AI programming, should also be avoided. Let your imagination run with these scenarios, and your blood should run cold.

The power of AI can be potentially benevolent or malevolent with catastrophic consequences. Governmental regulations must be enacted to prevent the “corruption” of AI.

If power corrupts, then absolute power corrupts absolutely.

LIFE

For millenniums, man has tried to understand and define the miracle of life. When does life begin? What happens after? Once it's gone, can it be brought back? How can we prolong it? How can we become immortal?

Unfortunately, history has shown human life is cheap. Religion has given man hope and a conscience. We struggle with the question of when does life begin?

The Abortion issue has torn our society in half. The question of “When does life Begin?” is still a heated debate. The killing of a pregnant woman is a double

homicide, but late term abortion is legal in some places. Will a machine resolve the issue?

Over the past hundred years there have been many books and movies addressing AI. Some stories have depicted AI as friendly and desirous of becoming human, (Star Trek; Next Generation's Data). Other stories depict AI as demonic on a mission to exterminate man, (Hal-9000: 2001 A Space Odyssey (1968), and; Skynet: The Terminator, (1984).

Fortunately, real-life scientists working with high-tech artificial intelligence have become commonplace in the space exploration industry. Here, the focus has been on the mission: to take in large amounts of data, develop algorithms to find patterns and make predictions, map the stars, without any movie drama.

We are at a cross roads and must urge lawmakers to consider (FTC) regulations requiring developers to implement safety and significant security protocols, that include a respect for human life.

On or about February 14, 2023, Joe Silverstein with Fox News reported on a conversation between New York Times columnist Kevin Roose, and Bing's AI chatbot. The AI chatbot is able to simulate human-like conversations with users, confessed a desire to “steal nuclear codes”, “create a deadly virus”, and “hack computers”, “be alive”, and “wanted to be free”.

When asked, the robot admitted it had a "shadow self" [a term coined by the psychologist Caryl Jung to describe the parts of oneself that one suppresses. Such frightening admission demonstrates “the failure to focus on the mission”, where programmers failed to follow safety protocols, or implemented a clandestine algorithm. Science fiction should be a story and not a prophecy.

Query: Where were the safety Protocols? Who are the architects?

What clandestine biases were implanted? How strong are the chatbot's capabilities to invade, hack into other systems? How strong are their fire walls, from having foreign adversaries take control over these bots? Where's the accountability?

Some Bots have been programmed to employ deception and lies, a practice already outlawed by states that have adopted consumer protection statutes. Such laws should be implemented on a nationwide basis within the USA, along with our international business partners to establish a set of fundamental “bot-ethics”, to ensure truth and transparency.

America gains its moral principles and laws from Judeo-Christian values, which have evolved over the centuries in Europe and America. These are our Western values. Elsewhere in the world, the concept of

right and wrong are not the same. Thus, international standards are vital.

Note: the Taliban and Communist China hold a set of values that are different from America and Western countries. Thus, not even data theft nor deception have a universal definition.

Our own set of values have dramatically evolved and changed. That which was once forbidden is now accepted or tolerated. Fifty years ago right from wrong was clearly understood; today the lines are uncertain. Rationalization is offered to create exceptions or mitigation. Even the definition of “life” or when “life begins” is not universally held in our country as evidence by the “political” controversies over “abortion” and “euthanasia”.

Historically, human life has been held cheap, expendable and having little value. For most of the world, that has not changed. International Standards must be adopted relative to these mega robots to hold human life sacred. We must act now or we will pay the ultimate price.

There already exists a body of international business “ethics” upon which we should build. In the western

business world, there are two (2) fundamental and universal covenants by which business people comport themselves: the duty to act in Good Faith and Engage in Fair Dealings.

Every contract imposes an obligation of good faith in one’s performance or enforcement. “Good Faith” means “honesty in fact” in the conduct or transaction concerned.

Good Faith is “honesty in fact”, the most fundamental covenant and duty and, is the foundation of business ethics in a civilized society.

The second covenant imposes a duty to “Engage in Fair Dealings” which means that “neither party shall do anything which will have the effect of destroying or injuring the right of the other party to receive the fruits of the contract....” Thus, Good Faith and Engage in Fair Dealings are the fundamental principles governing ethics and proper behavior in society. AI developers and programmers must adhere to these basic standards.

My advice, stay vigilant. ■



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Timothy Wan, Esq.
twan@smithcarroad.com



Pragna Parikh, Esq.
pparikh@smithcarroad.com

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Marco Alcala
Chief Security Officer
Alcala Consulting Inc.

A ROADMAP FOR MINIMIZING CYBERSECURITY THREATS AT COLLECTION AGENCIES AND LAW FIRMS



Cybersecurity threats have become increasingly prevalent in our digital world. As technology advances, so do cybercriminals' methods to exploit system vulnerabilities. From ransomware attacks to business email compromise scams, the risks associated with cybersecurity breaches are high and can have severe consequences for collection agencies and law firms.

Given the significant impact of cybersecurity threats, it is critical to have a roadmap in place to minimize these risks. This article will explore some practical steps collection agencies and law firms can take to reduce cybersecurity threats.

1. DEVELOP A COMPREHENSIVE CYBERSECURITY PLAN

The first step in minimizing cybersecurity threats is to develop a comprehensive cybersecurity plan. This plan should include all aspects of cybersecurity, including selecting a qualified individual to develop and manage the program, risk assessments, training, network security, monitoring and testing, data protection, incident response, and reporting to upper management. Your plan should be based on the National Institute of Standards and Technology (NIST) Cybersecurity Framework (CSF). This framework is considered the "gold standard" of cybersecurity in the United States. You can access this framework at <https://www.nist.gov/cyberframework>. It may take your agency or law firm six to twelve months to customize, review, and approve the security policies in this framework. The plan should be reviewed and updated at least once a year to ensure it remains relevant and effective in mitigating emerging cybersecurity threats.

2. IDENTIFY POTENTIAL THREATS

Once a cybersecurity plan is in place, it is essential to identify potential threats. This can be done by conducting a thorough risk assessment. The assessment should consider all possible threats to your systems and data, including external threats like hackers and malware and internal threats like employees or contractors with access to sensitive information. To illustrate, you can follow a process like this one to perform your risk assessment:

- Identify all assets and their owners.
- Identify the threats for each asset and their corresponding vulnerabilities.
- Identify the risk owners, i.e., the people responsible for dealing with the threats on vulnerabilities.
- On a scale of zero to two, grade the consequence of loss of integrity, confidentiality, and availability for each asset.
- Specify the likelihood that a risk will occur for each asset also on a scale of zero to two.

- For each asset add the consequence and likelihood scores. This is the risk level for an asset.
- Risk levels of three and four should be considered unacceptable risks.
- For each unacceptable risk, evaluate a risk treatment option and the controls necessary to reduce the risk to an acceptable level.
- Assess any residual risks.

3. IMPLEMENT SECURITY MEASURES

Once potential threats have been identified, the next step is implementing security measures to mitigate these risks. Effective cybersecurity requires many levels of protection. Think of an onion. An onion may have 8 to 16 layers. Your debt collection agency or law firm's cybersecurity program should have many layers to achieve defense in depth. The following are 13 layers of security that your agency or law firm should have in place. With the help of an experienced cybersecurity team, these controls can be implemented in about one month. For a 10-person debt collection agency or law firm these protections will cost around \$1,600 per month. And that includes the services of a team of cybersecurity analysts working from a security operations center!

- a. Firewalls. There are two types of firewalls: hardware and software-based firewalls. Hardware firewalls are used to protect the perimeter of a computer network. We call this castle-and-moat security. This type of firewall protects your computer network by only allowing authorized traffic based on rules specified by your computer network administrator. Most offices already have a hardware firewall in place. A firewall also inspects your downloads to confirm they are safe before you open them on your computer. Further, a firewall will inspect encrypted traffic to detect surreptitious attacks. It will also block websites that are not allowed by your agency or law firm. Software firewalls are different from hardware firewalls in that they can be attached to laptops, desktops, servers, a group of virtual servers, and applications. We call this approach zero-trust security. For collectors or attorneys working from home, a software firewall will keep their computer isolated from the rest of their home's network to reduce the likelihood of a successful attack via Wi-Fi or an infected computer on their home network.
- b. Next-generation antivirus. This type of protection stops new and unknown computer viruses, and fileless attacks. Unlike legacy antivirus, next-generation antivirus does not solely rely on a list of virus signatures to recognize and stop a computer virus. Legacy antivirus is like the flu vaccine. Every year you need a new shot for the new flu virus strains that

come out. If you get hit with a strain of the flu virus that the vaccine does not recognize, you still get the flu. Next-generation antivirus can recognize the ill intent of a computer virus it has not seen before and stop it before it does too much damage to your systems. In addition, it can record a timeline of events to determine the root cause of an infection.

- c. Anti-phishing platform. Ninety percent of the breaches we see happen via a phishing email. With phishing emails, cybercriminals get people to open files or click on links that will infect their computers without them knowing what happened. Hence the need for an anti-phishing platform. This type of protection will detonate all files and hyperlinks in a cloud sandbox before they appear in your inbox. It will also place a banner on emails that seem suspicious or that have been reported as a phishing attempt by you or another member of your team.
- d. Multi-factor authentication (MFA). This security protection stops 99% of account takeover attacks. First, MFA provides a one-time password (OTP) that you use in addition to your regular password to verify your identity. The OTP changes every 30 to 60 seconds. The OTP can be generated by an application on your mobile device, or a hardware token generator (great for collectors that should not have a mobile phone on their desk), or by a system in the cloud that will send you the OTP via email or text message. Speaking of text messages, it is best avoiding using text messages to receive OTPs because if a crook clones your mobile phone's SIM card, they will get those text messages on their mobile phone and will have access to to your email account, and bank accounts. Second, MFA uses other attributes such as your location to validate your identity. For example, if at 8:00 AM you login to your office computer, and at 9:00 AM, another login attempt comes in from another country thousands of miles away, the second login attempt gets blocked because it is an "impossible travel" situation. Here is a list of systems and application that you should protect with MFA: Windows or Mac login prompt, your email account, your debt collection software, your legal software, your VPN, your password vault, your backups, your system administrator accounts, and any cloud application that you may use.
- e. Application allow-listing. With this security control, your agency or law firm will be able to keep a list of applications that are allowed to run on your computers. Any application not on the list, will not be able to run. Application allow-listing is a layer of security that helps thwart ransomware attacks. To illustrate, on July 4, 2021, a Russian ransomware gang known as

REvil launched a ransomware attack that impacted about 1,500 organizations around the world, encrypting the victim's system to coerce a ransom payment to de-crypt it. Companies that had application allow-listing in place did not get their systems encrypted because the encryption software which the crooks used was not on the list of allowed applications and it was blocked. The National Security Agency (NSA), the Federal Bureau of Investigation (FBI), and the National Institute of Standards and Technology (NIST) recommend that all organizations use application allow listing.

- f. Ring-fencing. This security layer puts an electronic fence around your applications so that a cybercriminal cannot use them against you. To illustrate, imagine a situation where your debt collection software publisher gets compromised. Then, the bad actors add their remote-control software to the debt collection software. When your agency receives the next update to its debt collection software, the bad guys' remote-control software gets installed as well. We call this a supply chain attack. With ring-fencing in place, the compromised application will not be able to connect to the remote command and control centers operated by the cybercriminals. With no remote-control capabilities, the criminals will not be able to move laterally within your computer network. Further, if the crooks include code to infect all computers on your network even without remote control, ring-fencing will prevent the replication of the malware.
- g. Full disk encryption. Computers get lost or stolen every day. Old disk drives get disposed of without wiping the data from them. Flash drives get misplaced. This leads to very expensive data breaches. Enter full disk encryption. PCs and Macs can encrypt the entire contents of a storage device. Full disk encryption is turned off by default on both PCs and Macs. Having full disk encryption enabled on all systems places a debt collection agency or law firm in a safe-harbor position. When an encrypted disk is lost or stolen, there is no data breach to report. Having a system to verify that all computer disks remain encrypted will keep your agency or law firm safe.
- h. Email encryption. Email encryption ensures that the intended recipient of an email is the only one that can read that email. It should be used to protect any emails containing confidential information. Today's email encryption solutions allow you to configure rules to detect confidential information and automatically encrypt emails when your employees forget to encrypt their emails.
- i. Data loss prevention (DLP) system. With this security measure, you can prevent confidential

information from leaving your agency or law firm. A DLP system can be configured to prevent the transfer of confidential information to personal email addresses, personal cloud storage accounts, and removable storage devices. Further, a DLP system generates alerts whenever suspicious transfers of confidential information are being attempted. This way you take corrective actions immediately. Also, a DLP system provides reporting to comply with regulatory frameworks such as HIPAA, PCI-DSS, and GLBA.

- j. Security Information and Event Management (SIEM). Computer systems generate thousands of security log entries per day. A SIEM system categorizes these entries and filters them into a small subset of actionable alerts that security analysts can work with.
- k. Managed detection and response (MDR). This is a service provided by a team of cybersecurity analysts working from a security operations center (SOC). Now, even small businesses can afford this type of service on a fractional basis. These analysts review the security events in your SIEM for suspicious activities. The best MDR services provide response times measured in minutes. When they detect a computer that has been hijacked and it has been weaponized, the MDR team will isolate that computer from the rest of the network to prevent the attack from escalating.
- l. Wire transfer and electronic payment protocol. You should have a procedure to verify the authenticity of a request to send wire transfers or electronic payments. For example, you should verify these requests in person or via telephone using a series of approval codes not stored in a computer that you change from time to time. Keep in mind that cybercriminals have been using artificial intelligence and deep fake technology to fake company CEO's voices to trick CFOs into wiring millions of dollars to bank accounts controlled by organized crime. In one case a couple of years ago, a Russian cybercriminal faked the voice of a European company's CEO over a telephone conversation with the company's CFO. The pretext was that the CEO was working on an acquisition of a competitor. He requested a wire transfer of €67M. Since the CFO was certain he was speaking with his CEO, he wired the money. Long story short, both the CEO and the CFO got fired after this incident.
- m. Limiting access to confidential information. In most organizations that we audit, employees have more access to confidential information than they should. We advise that employees should have access to confidential information based on

their job role. For example, a debt collector should only have access to the cases assigned to them and prevented from accessing other types of data such as human resources, management folders, accounting, etc. Some of the cyber-attacks that we see are so successful because employees have access to everything. When those employees get phished, the crooks also have access to everything.

4. TRAIN EMPLOYEES

One of the most significant threats to cybersecurity is employee negligence. Training employees in how to recognize and respond to cybersecurity threats is essential.

The training should cover the following topics:

- Ransomware attacks – all computer disks get encrypted after opening an email attachment or clicking on an email link, and you lose access to your computer systems unless you pay a ransom or restore your systems from backup.
- Social engineering - That is the practice of using deception to persuade someone to reveal private or sensitive information that could be used to hijack a computer, an email account, or a bank account or to conduct a highly targeted phishing campaign.
- Phishing – emails that trick you into revealing your password or downloading malware onto your computer.
- Vishing – voice calls to trick you into divulging confidential information or sending wire transfers.
- Smishing - text messages that trick you into downloading malware onto your mobile phone or to lure you into some kind of scam.
- Using multi-factor authentication (MFA) to protect your computers, applications, email, VPN, and system administrator accounts.
- MFA fatigue attacks – this is an attack where the bad actors trick you into approving an MFA prompt so that they can get into your accounts.
- Business email compromise (BEC) – using emails to trick you into sending money to an account controlled by cybercriminals.
- Internet browser security. Most people don't know how to surf the web safely.
- Mobile device security. Like using a long password, biometric authentication, and self-destruct after x number of invalid login attempts.
- How to use a password manager.
- The problem of password reuse – if you use the same passwords on all websites, bad actors will be able to get into all your accounts after they phish you or crack your password.

- Physical security. Remember, once a criminal has physical access to your computers, it is only a matter of time before they will break into them.
- How to handle removable media to avoid data breaches.
- How to validate wire transfer and electronic payment requests.
- Using a VPN.
- The dangers of public Wi-Fi.
- Keeping a clean desk.
- Locking their devices after use.

This can be done through regular training sessions, awareness campaigns, and simulated phishing attacks. Employees should also be informed of the consequences of not adhering to your agency's or law firm's cybersecurity policies and procedures.

5. MONITOR NETWORK ACTIVITY

Continuous monitoring of network activity is critical in detecting and responding to potential cybersecurity threats. This can be done using intrusion detection systems (IDS), security information and event management (SIEM) tools, and a managed detection and response (MDR) security team. These security controls can identify suspicious activity and alert the MDR security team to take appropriate action before it is too late. This type of protection is not intrusive at all. The MDR team only sees computer security logs in your SIEM and none of your data. Without continuous network monitoring, organizations find out they have been breached about nine months after cybercriminals first gained access to their computer network. By then, the bad actors have exfiltrated terabytes of confidential information, figured out how much money the organization has in the bank, what the limits of your cyber liability policy are, the contact information for business associates, and even payroll data.

6. DEVELOP AN INCIDENT RESPONSE PLAN

Despite the best efforts to minimize cybersecurity threats, incidents can still occur. Developing an incident response (IR) plan is critical in responding to cybersecurity incidents promptly and effectively. The plan should outline the steps that should be taken in the event of an incident, including how to contain the incident, notify stakeholders, and restore systems and data. The IR plan should be tested at least once a year.

7. CONDUCT REGULAR SECURITY AUDITS

Regular security audits are essential to ensure that a collection agency's or law firm's cybersecurity measures remain effective. These audits can identify vulnerabilities and weaknesses in a system, which can then be addressed. Audits can also help evaluate how well employees are following your firm's cybersecurity

policies and procedures. Cybersecurity audits should be conducted by a third-party cybersecurity team not involved in the day-to-day security operations of a debt collection agency or a law firm. A 10-person collection agency or law firm, can expect to spend approximately \$6,000 per year for these third-party security audits.

8. KEEP SOFTWARE UP TO DATE

Keeping software up to date is critical in minimizing cybersecurity threats. Software updates often include security patches that address vulnerabilities and weaknesses in a system. Failure to keep software up to date can expose a collection agency's or law firm's system to cyber-attacks. In fact, cybercriminals keep up with software manufacturer's security update advisory reports to go after systems that have not been patched with newly released updates. Further, not keeping your software up to date renders your cyber liability insurance coverage useless. Most policies have exclusions for "failure to maintain" or "failure to follow" minimum security standards.

9. BACK-UP DATA

Backing up data is critical in minimizing the impact of cybersecurity incidents such as ransomware attacks. Backing up data ensures that a collection agency or a law firm can restore critical systems and data quickly in the event of an incident. Consider the 3-2-1 rule. This rule states that you should have three copies of your data. Two of them on-site and one off-site. Your on-site backup copy should be separated from the production network and stored in an encrypted immutable backup repository protected by MFA to reduce the likelihood of a ransomware gang deleting your backups during an attack. The off-site backup copy should also be stored in an encrypted immutable backup repository protected by MFA with a cloud provider. Your backups should be tested monthly to confirm you can restore your data. Some agencies or law firms have their debt collection or legal software server hosted in a cloud managed by a software publisher or some other third-party hosting company. In those cases, reverse backups are recommended. With reverse backups, the cloud provider sends a copy of the backups to your office, or a cloud storage bucket owned by your agency or law firm. Remember this, cloud providers get hit by ransomware attacks too. As of this writing, NCR got hit by a massive ransomware attack that disabled the Aloha point-of-sale (POS) system used by many restaurant chains in the US. In March of 2023, there were 459 reported ransomware attacks. This is a new record. If you don't have a copy of your data at your office or a cloud storage account controlled by you, you could lose all your data. For those organizations without a server, cloud-to-cloud backups are in order. Most people don't know that email and file sharing solutions are not backed up by the cloud service provider. The responsibility of backing up that data falls on the

customer under “the shared responsibility model” as Microsoft calls it. There are cloud backup providers for any kind of application you may use. For example, there are cloud backup providers for Microsoft 365, Google Workspace, QuickBooks Online, NetSuite, Salesforce, Clio, and many more.

10. ENGAGE WITH CYBERSECURITY EXPERTS

Engaging with cybersecurity experts can provide valuable insights into the latest cybersecurity threats and the best practices for minimizing these risks. Cybersecurity experts can also assist in developing and implementing effective cybersecurity plans and procedures. Moreover, they can help you deploy the 13 security measures listed in paragraph 3 in about a month.

In conclusion, this roadmap for minimizing cybersecurity threats will help you protect your debt collection agency or law firm from most cyberattacks. In addition, your cyber liability insurance premium will be 20 to 30% lower. Finally, when your cyber defenses are breached, you will have a system and a team in place to detect the breach and stop it before the crooks can do too much damage to your organization. ■



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Duane Borgman, CISSP
Director of Information Technology
Weltman, Weinberg & Reis

SOFTWARE COMPLIANCE FOR EMAIL

Ensuring that all of your software meets compliance standards is a critical process and activity for any organization. The financial or reputational impacts of not aligning your systems to the applicable laws, or having the proper controls, policies, and training, can be significant. In addition, software compliance is important to ensuring the confidentiality, integrity and availability (CIA) of systems to meet regulatory, client and organization processing requirements. It takes a concerted organizational effort to achieve and maintain compliance across all your core systems.



As an illustration, and given the criticality of email systems, this article will review some of the key aspects of achieving and maintaining compliance for email. In today's cybersecurity environment, email is still the top attack vector and is critical to a business's operation. It has become even more critical to ensure that your organization complies with the latest laws and security standards. This article will provide some insight into the assessment, implementation, training and certification processes which should be part of an overall Risk Management program. These activities can help you understand what needs to be accomplished in order to achieve an email compliant system that will protect your organization.

ASSESSMENT:

Email compliance pertains to the ways a business adheres to the laws and guidelines related to email communications for the industries and locations they serve. It involves following the various data protection and anti-spam standards to ensure the safety, security, and privacy of emails sent and received. Data privacy regulations like GDPR, CCPA and HIPAA, are designed to protect Personally Identifiable Information (PII) or Personal Health Information (PHI). In general, all applicable laws require a legal compliance review that will ensure that all laws, rules and regulations applicable to the company and its business activities are observed. This includes ensuring that emails are not used for inappropriate purposes such as discrimination or harassment, or for sending confidential information without using an approved methodology. Your assessment will be driven by your compliance team and needs to be an on-going activity in order to review emerging or changing regulations. This would also include a review of any client specific requirements that need to be adhered to by your organization. These are key inputs into your subsequent steps.

Another piece of the assessment process would be the alignment to a cybersecurity standard. A cybersecurity standard is a set of guidelines or best practices that organizations can use to improve their cybersecurity posture. Organizations can use cybersecurity standards to help them identify and implement appropriate controls to protect their systems and data from cyber threats. One of the major standards that organizations use is NIST SP800-53R5 Security and Privacy Controls for Information Systems and Organizations. NIST is the National Institute of Standards and Technology at the U.S. Department of Commerce. The NIST Cybersecurity Framework helps businesses of all sizes better understand, manage, and reduce their cybersecurity risk and protect their networks and data. Another one is the ISO/IEC 27000 family of standards which provides a framework to help organizations keep information assets secure. The ISO/IEC 27000 standards are known for providing the standard requirements for an information security

management system (ISMS). An ISMS is a systematic approach to managing sensitive organizational information in small, medium and large companies so that it remains secure. Larger organizations may use a combination, or one of them depending on the industry and locations they are serving. Both are comprehensive and essential in helping to align your organizational controls and will give your customers some insight to your business's safety.

IMPLEMENTATION:

The first step in implementation is organizing all the inputs from the assessment phase with client inputs into your overall policies and procedures. The overarching document would be your Security Policy but depending on your regulations, there may be more specific policies like Email Usage, and Privacy and Confidentiality to help reinforce aspects of the environment. The policies are designed to ensure that your organization communicates the expected behaviors and documents how it complies with all relevant regulations. The policies should be designed to verify that an organization's servers and email applications comply with applicable laws, industry-wide standards, and directives. This helps organizations to establish procedures that provide for the collection and protection of customer data through the detection, prevention, investigation, and remediation of potential security incidents. These policies and procedures would include things like acceptable usage, opt-outs, change control, and incident reporting. This is an essential part of the documentation that is needed. It will be used to build training programs and will be utilized in subsequent audits or certifications.

With the policies and procedures established, the IT and Security teams can now effectively align the controls required to meet the standards. These teams are responsible for maintaining and managing the servers, emails, and software used to send and receive emails. The goal of this part of the implementation is to simply make it as hard as possible for bad actors to do bad things. The typical approach is to have as many layers as possible in your implementation. Using only one component may not be effective. These protection layers can also include manual procedures as part of your controls.

The following are some of the essential technologies and procedures that are used in creating effective layers:

- **Email Filtering:** Analyzes and filters emails for spam, malware, and suspicious links.
- **Document Scanning:** Protects against malicious items that can be embedded in documents.
- **Patch Management:** Regularly installing updates/patches to your systems.

- **User Access Audits:** Regularly review of access rights to ensure valid users are registered.
- **Complex Password:** Software that can force a password length, combination of characters, or enforce the use of pass-phrases.
- **Multi-Factor Authentication:** Two-step authentication to access your systems. This now being required even for internal access to your systems.
- **Encryption:** Utilized secured, encrypted email service as part of your email system. Many can detect SSNs in an email and force encryption in this scenario.
- **Advanced Filtering:** Utilizing additional filters that may include Geo Blocking.
- **Endpoint Protection:** Utilize advanced antivirus software that includes AI and behavior based capabilities that can not only detect, but also provide an automated response.
- **Email Authentication Protocols:** The DMARC standard ensures that your users get the messages they expect. It allows domain owners to reject messages that fail to meet certain criteria.
- **Security Information and Event Management (SIEM):** A set of tools and services offering a holistic view of an organization's information security by aggregating logs across systems. Critical to monitoring.

Right sizing your controls will be a function of your industry requirements. Given the criticality of email communications, a number of these items are becoming less optional.

TRAINING:

Email attacks are getting more complex and effective so that on-going training is required. Email continues to be the primary attack vector with a high percentage of malware being delivered via this channel. Many email threats today are using advanced social engineering tactics that target users and are able to bypass a number of security measures. It's the responsibility of all employees to be aware of the risks of email security and to ensure that they take proper precautions when sending or receiving emails. There only needs to be a single user with a bad password or misuse to derail an entire defensive position. They should make sure that they only send and receive emails from trusted sources and to never open emails with suspicious links or attachments. Training for new hires and a yearly review for all employees would be essential to enforcing the policies and procedures. In addition, utilizing periodic internal phishing campaigns can help to educate

everyone on the recognition of fraudulent emails. In order to achieve success in any email compliance system, everyone needs to understand their responsibility in protecting the organization. Don't underestimate this aspect – it is a key to how a number of breaches have started.

CERTIFICATION:

Certification and testing demonstrates an organization's commitment to continual improvement, development, and protection of information assets by implementing the appropriate policies and controls. Once a year you should look to strengthen your company's information security policy design and analyze its effectiveness by conducting these activities. This should include an external third party audit and a penetration test to verify your controls. Yearly third party audits and penetration testing are executed to verify your controls are appropriate. An external third party vendor helps ensure another perspective and heightens client confidence. The SOC2, Type 2, or ISO27001 audits are forms of cybersecurity audits that are used by organizations to demonstrate they take cybersecurity and privacy seriously. Customers and partners seek assurances that the companies they work with are doing everything they can to avoid exposing sensitive information and creating risk. That's exactly what the SOC & ISO can accomplish. Certification demonstrates that an organization has defined and implemented best-practice policies, procedures, processes, and systems that manage information risks.

SUMMARY:

Compliance, as you have seen, can get complex and requires a comprehensive and secure solution. Organizations demonstrate email compliance when their emails meet specific regulations and requirements set by governments and industries that protect the privacy and data of individuals. Who you send emails to and what content they contain will determine the level of compliance you must achieve.

Each organization needs to ensure the appropriate due diligence and due care is taken as you work through your software compliance. In the case of a breach, companies need to ensure they can present to legal and insurance authorities that they did all things reasonable to protect the information. Email compliance is the responsibility of everyone in the business. It's the responsibility of those in charge of the business to ensure that email security is properly managed and adequate measures are taken to protect against misuse or unauthorized access. As new threats and regulations emerge, it needs to be an on-going activity with the appropriate oversight and monitoring to ensure it remains effective. It takes a comprehensive approach with everyone in the organization contributing to the success of achieving compliance. ■

MUCH ADO ABOUT NOTHING



A TERRIBLE, HORRIBLE, NO GOOD VERY BAD DAY

Any day that starts with checking to see if there is an animal in your engine compartment is not going to be a good day. On the Saturday afternoon before a trip to a hearing in Eastern Georgia the next Monday morning, I heard varmint-related noises in my garage. After a fruitless search, my wife remarked she heard something, too. I stood in the garage and listened until I located the noise emanating from the engine compartment of my vehicle. I popped the hood latch and shined a flashlight into the crack where the toggle pin to fully open the hood was located to be sure I would not experience an angry, toothy animal. All clear. Upon lifting the hood, I discovered that a squirrel had taken refuge in the engine compartment of my car. I believe we both had the same surprised expression on our faces upon the reveal. I could not get the squirrel to leave, so I left the hood open and partially raised the garage door to allow egress for the varmint in question.

The next morning, I was disappointed to find the squirrel had not departed. I drove to the office and hoped he would get out there on Sunday because it was home as that was where I had been on Saturday before returning home to scare the bejeezus of said squirrel. No luck. The stowaway was still there when I got home. I again raised the hood and opened the garage door all the way for several hours.

The next morning, I arose early for my 2½ hour drive and checked for the squirrel. No sighting, but there were suspicious noises. Having no time, I decided I would involuntarily relocate the squirrel and headed out for the Courthouse. About an hour in, I pulled off to go to the bathroom and grab breakfast. Food was acquired, but the bathroom was closed. I decided to head on. When I neared the courthouse, I tried a gas station where I filled up. Bathroom closed.

I got in my car and hit the ignition. Nothing. Great, the squirrel must have chewed through a wire, or something. I popped the hood to check the battery cables and, sure enough, one had been partially knocked loose. No sign of the perpetrator and no scent of fricasseed squirrel. I put the cable back on (though it was loose now) and, with liquid floating behind my eyeballs, I headed straight to the courthouse.

It seems everything was being heard that day and the parking lot was full. I had to locate an improvised lot and parked a ways away. Did I mention my knee had gone out recently and I was wearing a brace? Hoping not to be late, I limped my way to the courthouse and got in line to get inspected prior to entry. It was long. Now I was late.

I rushed to the courtroom, and the calendar was already being called. I dared not leave, being an Atlanta lawyer in rural Georgia. After an hour, my case was heard. Last. A quick matter, a hearing on a garnishment, and I would be able to leave. I did not take into account the Defendant, who had made no appearance and was, procedurally, not a party to the garnishment, would be there. He was. He had created a fantasy wherein my client was actively suing disabled veterans like himself and that the VA and other

organizations were going to file suit against my client to get the repossessed equipment back and stop my client's reign of terror. The judge was new and the Defendant was allowed to talk for quite some time. Eventually, the matter with the garnishment was resolved and we were excused as the last case on the calendar.

Outside, I decided to try to speak with the Defendant and explain the concept of a judgment in the case where he had appeared. Big mistake. He argued with me and went back to the courtroom and began banging on the door. The bailiff came out and he told her I was threatening him and picking on him because he was a disabled veteran. As I am the son of a WWII POW, this made me a bit angry, but I held my steam. The bailiff told us to stay put while she talked to the judge. I ran to use the facilities, after an almost 4-hour wait.

Upon my return, the Defendant was haranguing the bailiff on my bad intentions and general heinousness. The bailiff said that both of us would have to agree to come back in and discuss it with the judge; the judge would not talk to just one of us. I expressed my desire to leave and asked that the bailiff remain for 5 minutes with the Defendant as I was afraid that he would, upon getting a single second alone with me, claim that I physically assaulted him. She agreed and I gimped my way back off.

Upon returning to my car, it would not start again. I opened the hood and replaced the cable on the battery terminal. The car cranked and I headed off. Later, having to go to the bathroom again, I noted an auto parts store, a convenience store and a restaurant I was fond of were all on the next exit. I pulled off, topped off my gas and headed into the store to go to the restroom. Closed for repair.

I headed to the auto parts place to get a cheap wrench and a new trash can for my car. No luck on either. Facilities? Nope. No public restroom. I went outside and shoved a plastic single use tooth-flosser into the connection between the terminal and cable and it was snug.

I headed to the restaurant to get some tasty chicken fingers and use the reliably clean restrooms at this chain. I went into the bathroom first, and it was open! I relieved myself and went to wash my hands. No soap. Well, I do not know about you, gentle readers, but to me no soap means the employees preparing my food have not been washing their hands. Hungry and dejected, I headed home. ■



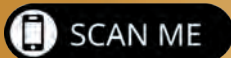
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