

The Lawyer's Toolkit: A 30-Year Retrospective

IN DECEMBER 1980, THE STATE BAR ISSUED bar number 93548 to J. Scott Bovitz, Loyola Law School class of 1980. In December 2010, the State Bar issued bar number 273894 to Joy Chen, Loyola Law School Class of 2010. I had the pleasure of mentoring Joy while she was a law student, and one of the questions she asked me was how the practice of law has changed during “my time.”

In many ways, the job of lawyering has not changed much. A lawyer helps a client identify options and make the best choices under difficult circumstances. The transactional lawyer's job is to find and clearly document practical solutions for a client. The litigator's job is to present a client's position in the best light, be a master of civil procedure and evidence, and identify the time to press for a fair settlement or do battle. A lawyer's key assets are intelligence, education, experience, thoughtful analysis, and a good attitude.

What has changed over the last 30 years are the tools and procedures a lawyer uses to meet client expectations. In 1980, a lawyer started his (or, less frequently, her) day with stale black coffee and a donut. In 2011, a lawyer starts the day with an “extra hot, skinny, no whip, Americano” and an organic muffin. In 1980, communications took place in meetings, by letter, by fax, by cable, by telegram, and on telephone handsets designed in 1948. When I was a young associate, I purchased a 45-pound “car phone” for \$3,500. In 2011, meetings are rare. Communications take place by e-mail and texting, on speaker phones and BlackBerrys (with Hip Hop ring tones). But, unreturned communications are still a major source of attorney discipline.

In 1980, the average ratio was one law firm partner and one associate to one secretary. In 2011, the average ratio is about five lawyers to one professional assistant. In 1980, document preparation started with an outline on a yellow pad, followed by dictation to a secretary, who wrote in shorthand. Secretaries had typewriters without error correction. Legal secretaries were top spellers, editors, and letter-perfect typists. There were no modern word processing features—spell check, track changes, cut and paste, and the like. When computers finally landed on lawyers' desks, a controversy sprang up. Could a lawyer ethically bill a client for typing his or her own letter or pleading in WordPerfect 5.1? In 2011, document preparation means zippy word processing in Word 2010. Lawyers prepare most of their own drafts on computers. A few true lawyer-geeks dictate directly into the computer while the software types along.

In 1980, secretaries used carbon paper. Large firms and law schools owned finicky black-and-white photocopy machines. In 2011, color photocopy machines are ubiquitous. In 1980, court filings were blue-backed and carried by messengers. In 2011, most federal pleadings are filed online. Lawyers are deputy clerks of the court and make direct entries onto the court docket. As a result, docket entries are filled with spelling errors and unwelcome advocacy.

In 1980, a client found a lawyer by reputation and word of

mouth. Martindale Hubbell was a daily tool, and lawyer certification was still a pilot program. Lawyers promoted themselves by public service, getting quoted in the paper, writing articles, and volunteering in organizations. In 2011, clients still find lawyers by reputation and word of mouth. But Martindale Hubbell is now part of Lexis Nexis. State and national certification programs abound, and lawyer advertising is everywhere. But lawyers still like to be quoted.

In 1980, lawyers recorded their billable time on paper time sheets. Good lawyers charged \$60 an hour and mailed paper invoices. In 2011, lawyers log every minute onto a computer program, and some

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lawyers charge up to \$1,000 an hour. Invoices are e-mailed.

In 1980, research was done in libraries with books. Lexis and Westlaw were new. Lawyers worked in law firms to spread out the cost of a library. In 2011, legal research is almost always done online. Lexis and Westlaw have artificial intelligence. Boolean searching is taught in law school. Primary legal resources are available online. In 1980, a librarian was the best resource for...almost everything. In 2011, Google is the best resource for...almost everything. (But I still love librarians.) In 1980, appearances were made in person. In 2011, appearances are done on the telephone, by video, and in person. In 1980, books were published on paper. In 2011, books are published on paper and in digital form.

In 1980, every pleading was a custom project, typewritten in Courier font. In 2011, many common pleadings have been reduced to fillable PDF forms. In 1980, lawyers wrote down their tasks on a pad of paper. A manual tickler system and paper calendar served as backup. In 2011, a computer keeps the task list and sounds an alarm for each deadline. In 1980, a lawyer kept up-to-date through dinners and a few formal educational programs. In 2011, a lawyer has boundless educational opportunities—in person, on demand via recorded media, or live via Webcast.

In 1980, white males predominated in the profession, and it took years to become a partner at your law firm—if ever. In 2011, color and gender barriers are slowly dissolving—but it still takes years to become a partner at your law firm—if ever. My robot looks forward to reading Joy Chen's own retrospective in 2041. ■

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