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## DAILY BUSINESS REVIEW

### PRACTICE FOCUS / TECHNOLOGY

## 2020 Outlook: How Technological Advances Are Changing the Legal Landscape

Commentary by  
**Michael Hersh and  
 Kimberly Wald**

Technology has unquestionably had an exponential effect on the legal industry. Every year, attorneys discuss how technology has transformed the practice of law. It was not long ago that we discussed the shift from paper to computers. Now we're discussing the effects of "smart" technology and social media. While it has always influenced our profession, technological progress is having a greater impact now than ever before.



Hersh

Technology has the power to save lives. Driverless vehicles, intelligent robotics in medicine and science and many other technologically advanced products reduce the rate of human error that in turn reduces injuries and lost lives. This is of course a welcomed change, and companies implementing these advancements should be applauded so long as they do so methodically and in a manner that keeps the public's safety the foremost priority. Yet, despite these significant advances, error will unfortunately not completely disappear. Catastrophic personal injury and wrongful death litigation will continue, but, as



Wald

will be the case in many areas of the law, the frequency and types of cases will change.

Car crashes caused by human distraction or mistake, for example, will give way to incidents where driver-assist "smart" technology fails. As a result, certain car crash cases (which in some instances in Florida come with a rebuttable presumption of negligence) will be replaced by complicated and expensive products liability actions involving seemingly unforeseen questions as to liability and causation. While these changes may seem beyond the horizon, in recent years we've already witnessed car crashes involving driverless technology, some of which have tragically resulted in catastrophic injuries and even fatalities. We've also already seen advancements in robotic equipment affecting medical-related litigation and internet privacy and security issues impacting class actions. Technology is undeniably affecting the litigation landscape, and we therefore must prepare for these changes and adapt our practices of law.

These same technological advancements have also revolutionized how attorneys work, litigate and manage. In recent years, law firms have turned to cloud based software and case management systems and have automated case flow and deadline management. Offices have gone paperless. Law firms have implemented "virtual" meetings

with staff and clients. We now can connect anytime, anywhere, from any device, with anyone in the world. We can accomplish nearly any task from any location at any time. We review transcripts on sophisticated computer programs which allow the user to edit and share notes effortlessly with colleagues. Terabytes of data are analyzed, in a matter of minutes, by incredibly advanced e-discovery tools which offer analytics that seemed impossible just a decade ago.

Thus, it comes as no surprise that technology has also altered the course of litigation itself. Smart phones, smart cars, smart watches, smart houses, and smart towns have given us access to an incredible amount of information. Juries

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now frequently watch surveillance footage of the incidents at issue because of the increased prevalence of cameras. Highly complex injuries, medical procedures and financial damages are explained in courtrooms through computerized illustrations and animations that are phenomenally spectacular and instructive. And, the advent and rampant use of social media has fundamentally changed the jury selection process. We now know incredibly detailed information about our jurors before they even speak one word in the courtroom.

Yet, as we prepare to enter the new year, we need to also recognize the various obstacles and potential dan-

gers technology presents. As we become more familiar with and reliant upon technology, we risk losing certain vital skills. If we too often hide behind computer screens, text messages, animations and PowerPoint presentations, we risk losing the ability to engage and connect with colleagues, jurors, witnesses, judges and most importantly, our clients. Technology can be extremely compelling and informative, but it simply cannot replace the impact of a captivating orator making a persuasive and enthralling argument.

Perhaps most importantly, technological advancement has changed us as attorneys and people. Our clients need us ... to consult, navigate, guide, protect, and seek justice. Technology threatens us with information overload. We've become physically addicted to our phones, computers and emails. Our dependence on these devices distracts us from our most important priorities. There is no question that our clients are harmed if we allow technology to increase stress, anxiety and disorder, and that is a real danger.

In 2020, and the years to follow, we as a profession face an increasingly difficult challenge to learn how best to utilize technology, which in so many ways makes us better, without allowing it to distract, overwhelm and undermine us.

**Michael Hersh and Kimberly Wald are attorneys at Kelley | Uustal, a Fort Lauderdale law firm focusing on catastrophic injury and wrongful death. Contact Hersh at mah@kulaw.com and Wald at klw@kulaw.com.**