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2020 Outlook: How Technological Advances Are Changing the Legal Landscape

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Technology has unquestionably had an exponential effect on the legal indus-

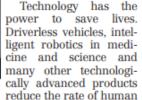
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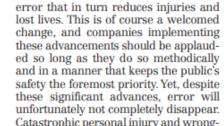
Hersh

try. 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 be-

fore.





ful death litigation will continue, but, as

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 fatali-

ties. We've also already seen advancements in robotic equipment affecting medical-related litigation and internet privacy and security is-

sues 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

now frequently watch surveillance footage of the incidents at issue because of the increased prevalence of cameras. Highly complex inju-

ries, 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 dangers 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 devises 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.

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