

Making a Case for Technology

It Has Improved Client Service, but Made the Law Almost a 24/7 Business

By GEORGE O'BRIEN **Gary L. Fialky, Esq. & John Chavis weigh in below**

“Blessing and a curse.” “Double-edged sword.” These are just some of the things those in the legal profession are saying about ever-advancing telecommunications technology. Sophisticated phone systems and handheld, do-it-all devices like the Blackberry and iPhone are turning this business, like many others, into 24/7 propositions. There is an upside to all this, especially the ability to add time (meaning billable hours) to the day. On the downside, however, lawyers tend to spend less vacation time vacationing.

Karen Gravelin was getting ready to depart on a much-needed long weekend away from the office. She was saying goodbyes to some colleagues at the Springfield-based law firm Robinson Donovan, which she serves as chief operating officer, when, to her puzzlement, her assistant, Becky Thompson, and Managing Partner Jeffrey Roberts made a quasi-ceremony out of seeing her off. Her curiosity was resolved when, as the elevator doors started to close in front of her, she saw Thompson somewhat gleefully waving Gravelin's Blackberry.

That's when the curiosity was replaced by something approaching panic, but just momentarily.

“I started thinking, ‘what am I going to do without my Blackberry?’ she told *BusinessWest*, adding that it took a few minutes, but she eventually came to be at peace with the thought of being without the device for 72 hours. “I guess I really needed to be saved from myself.”

There are many in the legal profession who need similar saving.

Indeed, technology has made attorneys and others in this business available on a seemingly 24/7 basis, and it essentially gives them a moveable office. This has yielded many different kinds of benefits, especially the ability to add that most precious of commodities — time, and therefore billable hours — to one's day.

There are others, ranging from improved customer-response time to elimination of the need to print many documents; from the ability to (when appropriate) cut and paste language created for one document into another, thus saving clients money, to fewer lost items — they're all stored in the device, somewhere.

But when people are accessible, people will

try to access them — sometimes at night, in the early morning, on weekends, and on vacation, and this is what prompts lawyers and others in this profession to balance glowing talk about the pros of technology with the cons.

“Sometimes I'll get E-mails from the lawyers at 10 o'clock at night,” said Gravelin. “I'll respond, and they'll say, ‘I don't want you to take care of this until tomorrow.’ I'll laugh and say, ‘then why did you send it to me at 10 o'clock at night?’ That's one of the reasons it's a blessing and a curse.”

Gary Fialky, a corporate-law specialist with the Springfield-based firm Bacon Wilson, goes a little further with his hyperbole. He jokingly refers to the Blackberry as the “best and worst invention known to mankind.” The best, he said, for the reasons listed above: “it used to take weeks to negotiate a contract; now, with E-mail, you can do it in one or two days.” And it's the worst “because I don't know how to turn the darn thing off.”

He does, of course; he just chooses not to, and he's not alone.

And there are other potential problems with technology as well, including diligence on the part of employers not to have non-exempt personnel answering E-mails at 10 p.m., because then they would have to pay them overtime for such work. And then, there's that aforementioned ability to respond quickly. Sometimes, said Jeffrey Trapani, an associate at Robinson Donovan, lawyers can respond too quickly.

“Just because you see it instantly and can respond instantly doesn't mean you should; you need to take the time to sit down, write something, re-read it, and sit on it,” he explained, adding that there is now case law that holds people to words sent in a hasty E-mail response.

Overall, though, technology has become a tremendous asset to those in the legal profession, said Peter Shrair, managing partner of the Springfield-based firm Cooley Shrair. He said that, if one were to weigh the benefits of technology (for the client and the attorney) — put them on one side of the scales of justice — against the drawbacks, it wouldn't be close.

“Bottom line, the client gets a better product; the client gets much more responsiveness, which is great for our firm, because that's how we differentiate ourselves,” he said. “The client gets a better work product, a more efficient work product, because with technology, you don't have to reinvent the wheel every single time.”

But, like Gravelin, Fialky, and others we spoke with, he urged that people definitely make use of that ‘off’ button. “It really is a two-edged sword.”

In this issue, *BusinessWest* looks at how technology has changed things for lawyers, and for the better, but why some in this profession still need to be saved from themselves.

Time and Space

John Chavis's business card provides ample evidence of how technology is changing the world of law.

It announces him as the ‘systems administrator’ at Bacon Wilson. Most law firms don't have anyone on the payroll with that title, and for those that do, it's a very recent phenomenon; Chavis has been in that capacity just over two years.

When asked, he said it's his job to oversee all the network systems for the regional firm of 41 lawyers, meaning everything from the main server to the phone system. He handles everything from making sure everyone's getting E-mail to putting the firm in compliance with the state's new regulations regarding the protection of personal information (see related story, page 21).

Chavis has watched the Blackberry count go from 10 to 26 over the past two years, in a clear display of how attorneys are taking advantage of the opportunities presented to them by technology to be accessible and to do work — be it texting a client, drafting a document, or simply checking their schedule — when they're not in the office.

It's the same across the industry, said Gravelin, who told *BusinessWest* that she believes Robinson Donovan is on or slightly

ahead of the technology curve.

As of last fall, every lawyer has a firm-issued Blackberry, she explained, noting that Robinson Donovan standardized to what is known as the World Edition (there is a newer generation, but the feeling was that there are still some bugs to be worked out). Nationwide monthly calling plans run about \$50 per device, then another \$50 on top for that for the data plan to be connected to E-mail, she explained, adding quickly that a single billable hour for most attorneys will be much more than pay for the monthly cost, while greatly improving response time for the client.

Meanwhile, the firm has a new phone system that also enhances accessibility. "It delivers voice messages directly to our Blackberries, making availability almost seamless," she told *BusinessWest*. "You can be in the office, on the beach, or out of the country and respond as if you are sitting in your office in Springfield."

Previously, most of the attorneys had personal cell phones, and were reluctant to hand out those numbers to all their clients, she continued. On top of that, it was an accounting nightmare to try to figure out how much of the usage was personal and how much was related to work.

The net result of all this enhanced technology is that lawyers can be more accessible to clients, put more hours into the day, bill more hours (theoretically), and, bottom line, work more efficiently. Like Shrair, Trapani said that, while lawyers and the firms they work for benefit, the client is perhaps the biggest winner because it's far easier to reach out to his or her attorney.

"Technology has made the practice of law — or any business, for that matter — a 24-hour undertaking," he explained. "With the Blackberry, your office is with you all the time. To some extent, clients expect a response during non-business hours because they know you are walking around with a Blackberry that lets you see they E-mailed or left a voice mail.

"I have a client who E-mails me at 6:50 in the morning because he knows I am up with my kids and always have my Blackberry," he said. "After a couple of E-mails or return calls, the pattern was set. This is probably exacerbated by the fact that I use my Blackberry as my personal cell phone and often rely on it to read the Web. It is simply always with me."

And it's always on, as is the case with most lawyers and administrators, whether

they're at the supermarket or vacationing on the French Riviera. That's why Gravelin had hers confiscated before she went on holiday, and why Fialky and others say the devices should come complete with warning labels.

"There is an 'off' button, but you have to be disciplined enough to use it, and most of us aren't," said Gravelin. "You can be your own worst enemy."

Riding the Wave

Shrair would say that he's acquired some discipline, with the accent on some, and he cited a recent vacation, one in which he and his family spent most of their time learning to sail, as a good example.

"If I was physically doing something at a given moment, I wouldn't be looking at my iPhone," he said. "But on the other hand, during a lunch break, or when it was calm and I was just sitting in the bow of the boat, I'd flip through my iPhone and answer any E-mails that could be readily answered, because there's no reason not to, and I'm able to provide a client service."

Shrair said there's nothing at all new about lawyers working on vacation or after hours or on weekends. It's all part of effectively serving clients and building a practice, he said, noting that he learned all this by watching his father and co-partner, David, during family vacations decades ago.

The elder Shrair would phone in early, late, and usually several times during the day, he explained, adding that pressing documents would put on buses in the days before fax machines and overnight services.

Today's telecommunications technology simply makes it all much easier, said Shrair, noting that documents can now be E-mailed, clients can be texted, and transactions that once had to wait until the lawyers returned to the office can now be finalized while he has one hand on the tiller — figuratively if not literally.

Technology has certainly changed the way Fialky spends most summer days. He's on the Cape, and a home in East Dennis, for almost all of July and August — he's back in Springfield for closings, for example — continuing a trend he's practiced for years, starting when he bought a home on Nantucket, which he later sold because the commute became too burdensome.

These days, Fialky admits that, because of technology and the accessibility it provides, he's spending less time fishing and more time working — again, because he's

not willing or able to use the 'off' button on his Blackberry.

"Now, there are very few days when I'm not doing work for at least a few hours," he said, adding quickly that he's not complaining — much, anyway. "The technology is wonderful — it allows you to work very efficiently, get more work done in less time, and stay in contact with clients. You do need to shut it off once in a while, though."

Shrair agreed.

"With the cell phone where you're getting E-mail anywhere in the world, 24 hours a day, you can be responsive, but it becomes difficult to turn it off, because people can locate you whenever need be. So it becomes difficult to know when you're allowed to say, 'I'm going to take a little personal time.'

"Overall, though," he continued, "technology, if you use it properly, and use it wisely, allows you to provide much better service, which is really what this business is all about."

Getting the Message

Along with all the benefits and potential headaches that come with technology, there's something else, said Shrair — heightened or unrealistic expectations that are a byproduct of the speed with which information can be sent. And he relayed a recent story to get his point across.

"I was sent an 80-page acquisition agreement a few weeks ago, and the client called probably 10 minutes after I got it and said, 'what do you think?'" he recalled. "I said, 'it was E-mailed to me; it wasn't beamed into my head. I still have to read it and digest it.'

"Sometimes people forget that," he continued. "And that's one of the problems with E-mail. People think it's instant; yes, it was sent instantly, but it still takes time to read 80 pages."

Keeping expectations realistic and the Blackberry on 'off' are just some of the many new challenges facing attorneys and their clients in this age of super-fast, highly versatile telecommunications technology.

It's a wonderful blessing, most would agree, but many in this profession, as Gravelin said, can become their own worst enemy. ■

George O'Brien can be reached at
obrien@businesswest.com