

FOCUS

President's Message

Ray Stefanski



Dear North-east Ohio Chapter Mem-bers:

Thank you to our members who partici-pated in our Annual Chap-ter Meeting in September.

They unani-mously approved our 2021 – 2022 Board of Directors and Board Officers' slate, which means that this is my last letter to you as Chapter President. (The good news is, I will continue to work with this amaz-ing group as the Chapter's Treasurer.)

On October 1, I handed over the Pres-idential baton to my successor, Vesna Mijic-Barisic. She has brought great insight and value to our Board and our Chapter since she joined in 2019. I look forward to seeing what Vesna achieves over the next year.

Alas, with the excitement of our new slate comes the sadness of saying goodbye to two wonderful ACC NEO Board Members:

- Bruce Martino, Chapter Secretary and Immediate Past President. Bruce moved back to the Dayton area for work and is now affiliated with the Southwest Ohio (SWOH) Chapter. His leadership and smiling face will be missed by us very much. While it is a sad loss for us, SWOH is gaining a great member and leader.

- Jennifer Miller, 2018 Chapter President and long-time Board Member. Jennifer is Senior Counsel - Global Privacy for Hyland Group. We thank her for her many contributions to our organization and wish her the best.

If you're interested in learning more about joining our Board, please reach out to me, another Board Member or our Executive Director to start a conversation.

Looking toward the future

At this newsletter's printing, we've had our first in-person program since the pandemic started. It was a half-day CLE presented by Frantz Ward at Stillwater Place in the Cleveland Metroparks Zoo.

I understand everything about the well-attended event—excellent presenta-tion topics and speakers, a lovely venue, beautiful summer day—gave attendees a much-appreciated break from their com-puter screens.

Also at this moment, the pandemic con-tinues to keep us from confidently tran-sitioning to more in-person events. Trust me, I am suffering from "Zoom fatigue" much like you are, but we appreciate your continued flexibility.

ACC NEO still has a lot planned for the balance of 2021, including several CLEs, a pro bono program with Franz Ward and the Legal Aid Society of Cleveland, two RoundTables, ACC's Annual Meet-ing (held virtually), a winter social, and much more. We're able to have such a

full calendar of activities because of our wonderful sponsors.

I have one last request to you as outgo-ing President: Please help us maintain a strong relationship with ACC NEO sponsors.

- Tell them when you've especially enjoyed a program they presented or article they authored.
- Consider engaging them when you are searching for outside counsel or law department service providers.
- When working with Chapter sponsors, please let them know you appreciate their support.
- When engaging firms that are not Chapter sponsors, do let them know about our activities and ask them to consider supporting us.

It has been an honor to serve our Chap-ter this past year. I want to thank our Executive Committee and Board for their enthusiastic efforts and support through-out my term.

Lastly, thank you to our outgoing Treas-urer, Kelly Albin, who has left me with some very big shoes to fill. Thankfully, she is staying on as a Board Member, so she will be just an email or phone call away if (when!) I have a Chapter bookkeeping question.

Regards,
Ray Stefanski
2020 - 2021 Chapter President



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The Role of Lawyers in the Face of Increasingly Capable Technology

By David Field, Canon Australia, Chief Legal Counsel and Director, People & Finance

It is something of a tired cliché these days to talk of the threat of artificial intelligence (AI) replacing lawyers. There are already substantial places where increasingly intelligent technology is performing tasks that lawyers used to perform, and we should expect technology to make increasingly aggressive inroads into the practice of law in upcoming decades.

No sensible lawyer should resist this trend, and in fact, the true challenge for lawyers lies in achieving a type of collaboration with technology. Lawyers need to use technology to rapidly and efficiently solve high-volume or routine issues, freeing themselves to apply their uniquely human skills to deliver more value for clients and the community.

So, what are these uniquely human skills, and how should we be looking to deliver more value with them? I'm being told I

need to collaborate — what's my contribution to the collaboration?

In this discussion, I have been somewhat undisciplined in relation to how I use terms like "artificial intelligence." A common definition of artificial intelligence relates to the use of technological systems to perform tasks normally associated with human intelligence. The definition is fuzzy and slightly circular, but the linkage back to "normally associated with humans" is very well suited to the present discussion. We're talking about technology that does things we (or people like us) used to do.

The impact of technology on the practice of law could be described as disruptive. Many established businesses seem to fear disruption and treat it as something to be avoided, as though disruption were

something random and calamitous, like an asteroid collision striking the earth.

But the reality is that, at its heart, if your business is disrupted it means that someone else has found a better or cheaper way to add more value to your customers. If you want to avoid being disrupted, either as a business or in your professional career, you should be focused on delivering as much value as possible and should keenly embrace any tool or technology that allows you to achieve this.

Much of the traditional role of lawyers has been intermediating complex information and processes for clients. The average layperson lacks the time and training to research the law themselves or execute complex processes such as a sale of business. Lawyers are trained where to look

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for the law and how to understand it when they find it; and have training and experience in navigating complex legal processes.

Without wanting to be disrespectful, much of the routine practice of law for the average consumer of legal services can boil down to the skillful, neat, and efficient execution of administrative processes. When seen in this way, technology can facilitate equal access to law.

Legal knowledge, processes, and logic-flows can be captured in technological systems that guide laypeople through the options available to them and the key decisions they need to make, making legal advice accessible without the need for an expensive professional human to dedicate their time. From a public policy perspective, and provided quality control concerns can be met, more people having greater access to the law at lower cost

must be a good thing, and lawyers should be embracing it.

A perpetual dilemma for industries and enterprises faced with threatened disruption is the need for cannibalism of legacy revenues. Many would be familiar with the story that Kodak invented the digital camera in the 1970s but didn't invest in further developing it because it was incompatible with their lucrative film businesses.

The rest is history, to the point where a "Kodak moment" has become synonymous with an incumbent missing the opportunity to pivot into a new opportunity, therefore dooming themselves to irrelevance. Any lawyer who resists opportunities to use technology to deliver more value to clients is courting their own "Kodak moment."

So, if lawyers increasingly delegate lower-order tasks to technology in order

to deliver better value for their clients, where should they be looking to offer unique human value-add? I propose the following (non-exhaustive) starting list of higher-order skills that lawyers should be looking to deploy for clients:

- Insights and opportunities
- Judgment/wisdom
- Values
- Empathy

Insights and opportunities

If you asked clients to describe what they expect from their lawyers, I doubt many would offer the words "insight" and "opportunity." However, it is one of the easiest ways to add profound value to a client and establish yourself as a trusted adviser. In the process of performing more traditional legal functions, lawyers

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often have an opportunity to see the client's business or affairs from a perspective that the client themselves rarely sees.

Where the lawyer is working on disputes, they will be able to see repeat issues or root-causes of problems that are causing unwanted expense, distraction, and customer dissatisfaction. Where the lawyer is working on customer contracts, they will be able to see repeat issues that are triggering customer objections, slowing sales, or causing mismanaged customer expectations. A good human lawyer is on the look-out for these sorts of insights to help their client improve.

Similarly, through being a repeat-player on some of the most challenging parts of clients' lives, lawyers are often in the box-seat to identify opportunities to generate value for clients. A key example that comes to mind is the role that the Disney legal team played in recent decades in their IP protection strategy.

Disney is faced with the progressive expiry of copyright in large swathes of its catalogue, starting with the iconic Steamboat Willie, which brought Mickey Mouse to the world, and becomes public domain from 2024. The Disney legal team has been able to pivot the focus of IP protection from copyright into trademarks, extending the useful life of the catalogue.

Judgment/wisdom

Perhaps not surprisingly for a higher-order human skill, I struggle to precisely define judgment and wisdom. I think the relevant sense in which I am using it here is the ability to go beyond data to a synthesis of complex environmental factors

that shape or constrain the courses of action that are genuinely available.

By way of example, in a large corporation dealing with consumers, it is essential that any proposed course of action is judged against a social media or talk-back radio test. The company's contractual rights may be perfectly clear, but if enforcement of those rights would be judged harshly by a substantial community when reported or discussed on Facebook, Twitter, or talk-back radio, then any quality legal advice on the subject should reflect this.

Values

In a similar vein, recent regulatory developments such as the Hayne Royal Commission and the Bergin Inquiry into Crown Casinos here in Australia, have shown that poor corporate values can result in serious adverse commercial outcomes, and highlighted that anyone responsible for brand, reputation, and risk in a company should be keenly interested in the corporation's values, and the mechanisms for ensuring actions are aligned with those values.

Among many other excellent reasons for having strong values, alignment between a company's actions and its stated values will be a critical factor in determining the degree of trust placed in the company by customers, partners, regulators, and the broader community. As with the social media or talk-back radio test, there will be courses of action that are legally available that simply do not align with the company's values. Legal advice that does not flag important values issues is inadequate legal advice.

Empathy

Intertwined with the last two skills is empathy — the ability to understand the thoughts and feelings of another human. I am aware of research on areas such as robotic interpretation of body language, and that humans are often nowhere near as good at reading another human's emotions as they would like to think. However, I would assert that it's impossible to provide quality legal advice in complex situations without empathy.

Ideally, to provide quality legal advice in complex situations you need to be able to understand as much as you can of the circumstances, aspirations, values, risk appetite, and concerns of your client in order to provide the legal advice that they need. Obviously not all issues justify that — the answer to some simple questions may be black and white, and some problems simply don't justify the additional legal effort. But in complex situations involving competing considerations and a degree of risk, the legal solution must be responsive to the needs of the individual client sitting in front of you.

Ultimately, law is a human system. Yes, the practice of law involves data and logic-flows in ways that may not have been apparent to our legal forebears, but ultimately legal systems add the most value when they serve humans. Across the economy there is strong market demand for people with the skills, awareness, and passion to make systems work better for humans, and I personally believe the legal profession will not be an exception. I know what I'm going to be trying to contribute to this collaboration.

Welcome New (and Recently Renewed) Members!

Jessica Bieszczak
Ankita Channarasappa
Mark Coriell
Nicholas Cota
Elaine Dorsett
Andrew Francus
Mark Guinto
Ben Hammonds

Sean Hartong
Jenna Hayes
Laura Kacenjar
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David Movius
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Beverly Schneider
Halle Sminchak
Timothy Smith
Brian Stevens
Steven Strang
Caitlyn Thurman
Ignacio Walker

NEO CHAPTER NEWS

We ♥ OUR VIRTUAL PROGRAMS!

2021 Labor + Employment Update

On April 22, Jackson Lewis hosted a virtual 2.5 CLE, *2021 Labor + Employment Update*. Jackson Lewis Attorney David Pixley started the presentation by outlining which employee benefit plans have changed—or are expected to—under the Biden Administration.

Next, Jackson Lewis attorney Mary Bradley and Eaton attorneys Lisa Dutton and Katy Frantz, addressed emerging employer workplace safety challenges in 2021. Lisa and Katy finished up this portion of the program with insight on Eaton Corporation's pandemic experience.

Jackson Lewis attorney Rollie de Monte finished the program with a focus on the Employment Law Uniformity Act and how it impacts Ohio Civil Rights Law.

False Advertising Litigation Under the Lanham Act and the Return of the Irreparable Harm Presumption

On May 20, Squire Patton Boggs presented a 1.0 virtual CLE, *False Advertising Litigation under the Lanham Act and the Return of the Irreparable Harm Presumption*.

This program provided an overview of the standards for proving a false advertising claim under the Lanham Act; discuss recent, interesting false advertising cases under the Lanham Act; and discuss recent cases applying the 2020 Trademark Modernization Act's revived presumption of irreparable harm.

Squire Patton Boggs attorneys Steven Auvil and Marisol Mork presented the firm-side perspective, while Tim Krogh, General Counsel, NEO Graf Solutions and D. Ari Sherwin, Corporate Counsel - Intellectual Property, The Sherwin-Williams Company, presented the in-house view.

Impact of COVID-19 Health Orders Being Lifted on Ohio Employers.

On July 13, Fisher Phillips hosted a virtual RoundTable that focused on the impact of COVID-19 health orders being lifted on Ohio employers. The group, led by Fisher Phillips' attorneys Jeff Smith and Joseph Nelson, discussed what the post-COVID-19 landscape might look like for employers and how to prepare for it.

The Legal Implications of the Wandering Worker

On Friday, July 23, Littler presented a 3.0 virtual CLE, *The Legal Implications of the Wandering Worker*. Attorneys from the firm's Cleveland office discussed the unexpected compliance issues triggered by employees who have taken advantage of the WFH opportunity to telecommute from new remote locations without informing their employers.

Littler Shareholders Edward Chyun and Shannon Patton focused on the challenges of wage and hour compliance with a remote workforce, while their colleagues Bonnie Kristan and Meredith Shoop discussed what employers are responsible for when outfitting their remote employees' workspaces, and the potential liabilities that transfer to these home offices, such as workplace safety and keeping confidential information and trade secrets safe.

ACC News

2021 ACC Virtual Annual Meeting: October 19-21

It's here! The 2021 ACC Annual Meeting program is ready and it's jam-packed with valuable substantive and career-focused content you don't want to miss. [Check it out!](#)

ACC In-house Counsel Certification Program: November 1-11

The [In-house Counsel Certification Program](#) covers the core competencies identified as critical to an in-house career. This virtual training is a combination of self-paced online modules and live virtual workshops. The workshops will be conducted over a two-week period, four days a week for three hours each day.

2021 ACC Securities Law Disclosure: November 3-5

New York, NY

Join the conversation in the room where it happens! Amp up your [securities law skills](#) at this one of a kind executive level seminar where we will teach you everything you need to know to participate in those C-suite discussions.

ACC Data Steward Program

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SAVE the DATE for these upcoming programs + events

November 9

Virtual CLE, presented by Fisher Phillips

November 16

Virtual CLE, presented by Blakes

December 3

Winter Social, sponsored by Littler

December 9

Virtual CLE, presented by Squire

For the most up-to-date information on
upcoming programs and events, please visit
the Chapter's web page here:

[www.acc.com/chapters-networks/chapters/
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