

Lost In Translation... Again

BY CLAUDE DUCLOUX

Our journey as lawyers is fraught with the incessant requirement to learn new terminology. Our quest to serve clients requires nothing less than the constant absorption of changing lexicons, popping up as barriers to challenge the problem-solving tasks we strive to complete. Lawyers are involuntarily burdened with a barrage of new terms which we alternatively embrace, mangle, misuse, and simply throw out like wet spaghetti, trying to sound impressive, clever, or competent. Of course, complex words have always been part of our profession's toolkit.

Expressing concepts in obtuse terms (especially in ancient languages) has set us apart from the pitiful plebeians. Our first year of law school taught us the sine qua nons of the professions, which in my day, still included wingtips and suit vests. Those de rigueur signs of professionalism didn't last, but need I say—*res ipsa loquitur*?

Our stilted use of impenetrable old Latin maxims was mocked in the famous story of the English Barrister, appearing to defend the damages awarded to his client, a peasant blacksmith from Shrewsbury, whose shop was lost to a fire when a horse he was shoeing kicked over his forge. One of the judges, implying that perhaps his client was contributorily negligent, asked the Barrister, "Surely your client is aware of the concept of *volenti non fit injuria*?" Without batting an eye, the Barrister replied, "My Lord, I assure you, in Shrewsbury, they speak of little else."

The famous J. Harris Morgan, late of Greenville, who for decades advised Texas lawyers on the skills involved in

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managing law offices, regularly reminded lawyers that their failure to update to new technology would inevitably doom their practices. He reminded us that for example, in the late 1950s, "No self-respecting lawyer could survive without a secretary skilled at shorthand. Yet, when dictaphones became affordable around 1960, lawyers who refused to adapt were, like the dinosaurs, dead to the profession." He noted for us the same extinction for lawyers who preferred carbon paper to photocopies, and those who eschewed new-fangled ideas like word processing and women lawyers. I will always remember that in 1991, to the gasps of lawyers in the audience, he calmly predicted, "The next transformative change in the practice of law will be our freedom from the duty to air-condition and heat

our law libraries. In a few years, you will be doing everything on a computer, and paper law libraries will not be a regular part of a typical law office." The scoffing of disbelief was muffled by the sound of several hundred jaws hitting the floor. Of course, he was prescient.

That was exactly the time when all lawyers were dragged into the world of computers.

Oh, the horrors. Those of you my age will remember that simply pulling up a document in 1990 required us all to learn a system called "DOS" (the disk operating system), more monstrous and intimidating to lawyers than making their own coffee. You had to get to the right screen, then put in a puzzling series of letters, numbers and backslashes which defied resolution. For example, to access a letter to Mr. Jones you'd

have to enter `c:/client/jones/54/rototiller/cofefe`. If done right, the letter appeared on the screen, prompting involuntary screams of joy—and often tears. But DOS was just the beginning of our modern odyssey.

Now, the irrepressible march of technology has required lawyers, often kicking and screaming (usually at their support staff and younger associates), to modernize. No one ever thought 25 years ago we would be staring at computer screens all day long, keeping client files up in some cloud, and fighting viruses that don't respond to medication.

But our increasing comfort with technology has brought other changes. Software hawkers have replaced book salesmen, e-discovery has replaced the banker boxes of evidence (except, apparently, for family lawyers—some of whom I sus-



pect like having those “props” in court to show how hard they worked to get that extra 2 percent of the community estate). After the past 30 years from DOS to Dropbox, what is the next change? Here’s a clue: it won’t be machinery, equipment, and appliances.

We already accept that digital communication has replaced the certified letter, and e-filing has made the locomotive-sized copy machines obsolete, thus threatening the Dunder-Mifflin’s of the

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country who made fuel for them. But the biggest transformative change our profession is undergoing is the incessant learning curve to harness processes, procedures, and communications to deliver legal services quickly and inexpensively. This leads

me back to the arcane language of technology that infiltrates our daily lives.

As a frequent speaker, I examine how tech companies entice lawyers to sign on to webcasts, as well as the credentials of the speaker. In late

January I received a webinar invitation to teach me how to get more business. The speaker, a non-lawyer, was impressively presented as: “the Enterprise Channel Manager at [tech co], a marketing company that helps businesses generate positive reviews and improve their online reputations... [and] is responsible for driving strategic engagement via integrations and partnerships. [He] works to help industries build an automated ecosystem of real reviews by real clients (user-generated content).”

Sigh... I’m back in 6th grade. I have no idea how to “build automated ecosystems.” Heck, I have trouble with parking meters. And I’m almost positive that “driving strategic engagements” will probably sprain something or prevent me from driving for Uber.

Faced with this indecipherable techno-babble, let’s go back to what lawyers REALLY do best: Communicate. We help our clients diagnose the issues we need to resolve, and then communicate with each other, our clients, and the courts in careful and considered terms. That’s our superpower.

Sure, we need to keep up with technology because if there is a better process to deliver legal services, we had better learn it. I don’t know about you, but I definitely don’t want to be one of Harris Morgan’s dinosaurs. I love this job.

—Keep the faith. **A**



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