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## Modernizing the civil courts

### *Everyday technology could reduce costs, increase access to justice*

By Darryl Singer

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At a time when government and the legal profession are trying to solve the access to justice puzzle, an integral piece of the picture and one which will increase accessibility, decrease costs, and speed up the glacial pace of litigation, is for the civil courts to use the technology that has overtaken every other part of our lives.

Outside of the courtroom, lawyers have loaded up on technology: we all run around with the latest version Apple, Samsung or BlackBerry smartphones. We all have laptop computers that instantly transform any Starbucks into our mobile office. WiFi is ubiquitous. We get around to appointments using GPS, now built into car dashboards.

We listen to our iPods while working out at the gym. We watch Netflix on our iPads on weekends. We can send a tweet directly to our prime minister. We can order an Uber driver to take us to meetings. We can shop online in a bathrobe and fuzzy slippers.

That's life outside the courtroom. Inside Ontario courtrooms, it's like stepping back in time.

So, let me issue a clarion call: "Hey Ontario court system. It's 2017 and time to get with the technology!" It's a safe bet that technology is here to stay.

With the exception of a failed Superior Court pilot project and a recent attempt by small claims court to allow online filing of pleadings, service and filing of pleadings, motion materials, trial records, essentially all of our interactions with the civil courts are no different today than they were in 1991, when I graduated from law school.

Let's take a typical summary judgment motion. I must still bind an often voluminous record, send it with my process server to serve opposing counsel, and the process server must then attend at the courthouse in person to file the record.

Scheduling the motion, which is more often than not done on consent, still requires me to leave my office and appear personally in front of the judge, even for such a simple matter. Resisting technology and the price of procedure cost clients money; about \$900 for scheduling a motion in fact.

Dragging the Ontario civil courts into the modern decade matters because it directly affects many people's access to justice.

If I could file my materials electronically, those time and cost savings would be passed on to clients. If I could attend simple court appearances like case conferences and scheduling appointments via web conference, the client would be charged accordingly. Instead, clients are charged for hours instead of minutes because of the necessity to leave the office and travel to court.

Like all lawyers today, I check voicemail from wherever I am and often return my calls during otherwise dead time sitting in traffic. I carry a very light briefcase with a thin laptop that allows me to log in to my file server from anywhere and access the entirety of my files. I can set my laptop up on



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the podium in court and find what I need faster than flipping through volumes of documents and pages of handwritten notes. The Rules of Civil Procedure are downloaded and in searchable form on my iPad.

Some very progressive law firms are now allowing lawyers to work remotely, saving tens of thousands of dollars a year in physical space costs. All of which has led to being able to practise law in a more efficient, cost-effective manner.

These days, I regularly regale students and young lawyers I mentor with stories of the “glory days” — not dissimilar from Don Draper in the iconic TV series *Mad Men*. Except in this case, the “glory days” are now over, thanks to the technological revolution.

Like a grandfather telling tales to grandchildren by the roaring fire, I describe little pink pieces of paper containing telephone messages from clients and other lawyers. I would then sit at my desk for an hour or two and respond to the stack of pink message slips. Quaint, but hardly productive.

Many government and regulatory body tribunals already allow case conferences and prehearings to be done via telephone.

In British Columbia, the courts opened up to online filing of court documents several years ago. The provincial criminal courts in Ontario have long had simple remand matters done by videoconference to avoid transporting prisoners from the jails just to adjourn a matter to another date.

The civil courts in Ontario are anachronistic in their day-to-day operation. The courts serve the people of this province. We must do better. The people of Ontario deserve better.

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