IS A Tech Audit IN YOUR FUTURE?

WOULD YOU PASS OR FAIL?

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As a lawyer, there are a variety of skills you need to develop and hone. Many of these skills are taught in law school, and many more are learned on the job: analyzing an issue from different perspectives, interpreting statutes or decisions in the context of your client's situation, negotiating with opposing counsel, advocating your case before a judge and jury, etc.

But what about your skill with a word processor? Or maybe your ability to create a spreadsheet? What is more important for evaluating the aptitude of attorneys: their ability to pore over the details of a case or their proficiency in typing up a memo about what they have concluded?

Obviously there is a qualitative difference in the work being done in the aforementioned example. But more often than not, there is no quantitative difference in the time taken for the two types of tasks: substantive legal works can take just as long as clerical processes. And yet, many firms will bill at the same hourly rate, regardless of the type of work being done.

There are few shortcuts you can take in the legal process, but there are numerous functions built into the software we use on a regular basis that could greatly reduce the time spent writing documents, sending emails or manipulating spreadsheets.

While many clients are more than willing to pay regardless of the type of work being done, some have begun to wonder if their bills are being inflated due to their attorney's inability to use those timesaving features. Enter the Legal Tech Audit.

What is the Audit?

The Legal Tech Audit began as a notion by D. Casey Flaherty, corporate counsel at Kia Motors America. The idea was that it would be a way to evaluate outside counsel's effective use of certain pieces of software like Microsoft Word, Microsoft Excel and Adobe Acrobat.

Compared to other topics of "legal technology," like eDiscovery, using social media and firm management software, and so on, familiarity with using basic office productivity software seems comparatively benign. However, time spent using this kind of software routinely can end up being a not-insignificant part of the bills being sent to companies like Kia and Flaherty.

Why Does the Audit Exist?

TESTING TECHNOLOGICAL PROFICIENCY

The audit was designed in such a way that it would test for familiarity with software features in the context of typical tasks, like automatically applying Bates numbering to a collection of PDFs, inserting cross-references to different sections in a contract in Word or calculating billable hours in Excel.

Accomplishing all the tasks in Flaherty's list took him 30 minutes, so he set a satisfactory completion time at one hour. If the attorneys at the firms working on his business could not meet his expectations, he reduced their negotiated rates by 5 percent until they could.

Of the nine firms that took the audit, the best time posted was two-and-one-half hours. Attorneys at one firm took eight hours, and another firm had to do the audit twice before their lawyers got it right.

Clearly there was a gap in what Flaherty believed was an acceptable level of competence and the reality of the situation.

But looking at the actual tasks demanded by the Legal Tech Audit, it is not surprising the firms struggled. Some of them are perfectly benign (e.g., using find and replace in Word), but many are downright arcane: applying complex formulas and formatting in Excel, removing metadata and embedded scripts from PDFs, using Word styles to apply automatic numbering to headings, etc.

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PROVIDING INCENTIVE TO CHANGE?

While these technological tools can be complex and unintuitive to use, their practical applicability cannot be understated. For example, using the styles built into Word can shave minutes off tasks that you will routinely perform while writing a document. Multiply that across all of the other tools evaluated by the Legal Tech Audit, and the time savings become significant: if you can shave a minute off the assorted tasks that you do about 50 times per day, you will save eight weeks of time over five years.

While those benefits are not insignificant, getting to that point is not without its own costs. There is a lot of finding, learning, practicing and working involved in getting to a point where these timesaving tools can be used efficiently. Plus, not all of this time is billable.

In fact, even if you do attain the level of efficiency demanded by the audit, you will ultimately end up billing for less time. In this respect, there is a distinct disincentive for attorneys to improve their technological skills.

UNDERSTANDING THE EXPECTATIONS

There is nothing inherently wrong with letting lawyers prioritize how their time is spent. Indeed, many clients will only be interested in a lawyer's knowledge, experience, communication skills, etc., so having attorneys focus their time and efforts on substantive legal work rather than training is not bad per se.

But some clients could put more emphasis on their attorney's ability to use the technology that is readily available more effectively. The Legal Tech Audit allows clients to request their attorneys to take the audit and view their performance. This tool enables clients to see if their lawyer's priorities and technological competency align with their expectations.

Why the Audit is Important

The Legal Tech Audit is currently available at *www.legaltechaudit.com.* It is marketed as a way for firms to evaluate their employees, for clients to test the proficiency of attorneys they might retain and for students to hone their skills.

Currently there is no information on how widely adopted the audit has been since its launch, but this author has worked through the version available for students.

While the functionality is a little limited (requiring concurrent use of a current version of Microsoft Word and Internet Explorer on a Windows computer), it is a well put together product that teaches and assesses in a clear and understandable manner. It would not be a surprise to see wider adoption as it is developed further.

If it does not gain traction with clients as a way to exert influence on lawyers to improve their technological skills, being able to boast about legal tech prowess (and the savings that are passed to clients due to improved efficiency) is a decided marketing advantage for law firms.

Even absent the firm promotional opportunity, boosting your own familiarity with the advanced features of the software you use on a regular basis will make your life simpler.

Finally, and this is just this author's speculation, there appears to be a not-insignificant portion of the Silicon Valley crowd actively eying inefficiencies (both real and perceived) in established fields. They see these shortcomings as an area where they can disrupt a profession and claim some business for themselves.

There is a growing number of careers that are within the legal supply chain, but they are not part of a law firm. These include careers like legal process analysts, online dispute resolution (ODR) practitioners and legal management consultants.

Rather than staying static and letting the profession be taken apart by opportunistic start-ups (taxis and Uber, anyone?), lawyers should consider the situation presented by the Legal Tech Audit as an occasion to evaluate and evolve.

Lawyers are known for their ability to navigate the complex maze of the legal system, but they are not necessarily considered the most competent users of technology. This could be an opportunity to start shifting perceptions, improving the overall work done and staking a claim in the future for the profession.