

Editor's Page

By Michael Franklin Smith



This issue marks my inaugural volume of serving as Editor of the *Defense Counsel Journal*. I am humbled by the appointment and am grateful for the vote of confidence by the leadership of the International Association of Defense Counsel. I am also excited about working with Editor-Elect, Kenneth R. Meyer. Much gratitude goes to Mary-Christine Sungaila, past *Defense Counsel Journal* Editor, who maintained the scholarly integrity of the *Defense Counsel Journal* and showed me the ropes along the way. I hope I am able to continue the *Defense Counsel Journal's* tradition of publishing scholarly, cutting-edge articles.

Change is a constant. Lawyers are used to that as the practice of law is a rapidly changing beast. Technological advancements contribute greatly to the evolution of the practice of law. Remember when lawyers communicated via facsimile using thermos paper? Now we email .pdf or .jpeg versions of pleadings and documents. Speaking of email, and I'm dating myself here, I still recall that fall afternoon in 1995 when one of my law partners came into my office to explain a new fangled tool we'd be implementing called "electronic mail." That new tool quickly became entrenched in my way of practice and it is now the primary communication tool for me as a litigator—allowing instant communication with clients and opposing counsel allows me to practice at lightning speed. Sometimes that's a good thing, and sometimes not so much.

As lawyers, we constantly have to change the way we practice law to keep up with rapid changes in society as well. I don't think anyone could have predicted the growth and power of social media. We didn't study case law addressing social media when I was in law school. However, according to a simple search on Westlaw, the phrase "social media" appears in nearly three thousand cases. Social media is now a topic of discovery and an area of investigation in all kinds of litigation. A client's or a witness's posts on social media can implicate a party's claims or defenses. And the failure to preserve social media can lead to fines or sanctions. Something that wasn't even prominent until 2006 is now a significant consideration in litigation. Lawyers need to keep abreast of cutting-edge topics to navigate the ever-changing landscape of the practice of law.

We here at the *Defense Counsel Journal* are also changing to keep up. We're moving to an exclusively digital format this winter. We are also focusing on publishing articles that provide lawyers—who now see less jury trial time than lawyers practicing 30 years ago—practical information about jury and bench trial experiences. One such article is in this issue and is titled *The Use of Computer-Generated Animations and Simulations at Trial*. That article surveys federal and state case law in the United States on the use of computer-generated animations and simulations at trial. Other articles in this issue look at recent opinions by the United States Supreme Court regarding the pursuit of litigation arising in foreign jurisdictions. We also look at the evolving standard for causation in negligence actions in Canada, and the harmonization of trade secret law between the United States and the European Union.

Embracing change is a prerequisite in the practice of law. We hope we make change a little easier for you by providing helpful articles shining light on those changes. We hope you look forward to the exciting things happening here at the *Defense Counsel Journal* as much as we do.

Michael Franklin Smith

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