



Who moved my typewriter?

I tweet, therefore I am



Cooper

BY MILES B. COOPER

For some, it is the first gray hair. Or a need for eyeglasses. Perhaps some new crinkles around those eyes. At a certain point, we recognize we are getting older. And yes, it will happen at some point to you, too, youngsters reading this. For me, the defining moment was trying to understand Twitter. See, I've always thought of myself as an adopter, a tech-savvy guy. But with Twitter I was a bit lost.

I found myself saying, "It's like a text message – 140 characters. But it's like an e-mail. But it's on the Web. It's the spork of the communication world." That was it. I was officially a crotchety old man. Although some who know me might say I was born that way...

Keep current

To be an effective trial lawyer you need to have a general understanding of what is going on in the world around you. Mastery of the Evidence Code? Excellent. The ability to communicate with jurors? Priceless. Communication requires the ability to relate, and relating requires paying attention to your world and the changes that are affecting it.

I watched jury selection not too long ago where a lawyer was asking jurors whether they could avoid talking about the trial on social media. The bracketed italics below are my interior monologue while I watched him:

"Any of you use this stuff they call social media? Myspace [*he's definitely dating himself*], the Facebook, LinkedIn? I don't use any of the stuff myself [*that demonstrates distance and inability to relate to a panel where 75 percent do*], can't really understand it [*hand gesture and intonation indicating it is beneath him*]. But you understand that you can't use social media, can't Twitter [*final nail in the coffin*] about the case, right?"

I use social media as an example because it is ripe for exploration. Many lawyers feel they are too busy to learn it or use it. But those lawyers do so at their peril.

Keeping current does not mean mastering everything

You don't need to have 1,000 Facebook friends, post photos, or Tweet pithy comments every half hour. But you should have an understanding of how things work. Open an account and observe. Afraid you may not protect your privacy properly? A valid fear these days. Ask a colleague or friend if you can watch them

while they use it. You can then translate general knowledge into defensive and offensive tools.

Defensive. Once you start seeing the vast array of information people post on social media, particularly Facebook, you start to recognize why the defense is subpoenaing your client's Facebook account. And you may pucker a bit when you learn that the subpoena will probably get material that was deleted or has been long gone from what you can observe on Facebook itself. That's general knowledge that takes very little time on the site to learn.

Offensive. There's a whole new world out there in discovery land. Want that drunken fellow who crippled your client to be in course and scope instead of off the clock with a \$15,000 policy? It would be nice to learn that he Tweeted on an office Twitter account 20 seconds before impact. But if you only ask about e-mails, texts, and cell phone records, you'd never be the wiser.

Specialization is for insects¹

What is true for social media applies to the world of computers and the world in general. You don't need to be able to solder together a computer in your garage. But you may want to know that there's a device in that plastic box called a hard drive and even when you hit delete, the data rarely goes completely away.

A broad knowledge of the world and the changes happening in it will stand you in good stead. Be curious about what is going on in it. Keep current, however you get your news. Pay attention to what is attracting the attention of your friends, kids, grandkids, law clerks and associates. Recognize that their new toys are next year's request for production. Developing your general knowledge of the new and thinking about how it will impact your cases will keep you ahead of the opposition (and for that matter, your competition.)

Tweet me a river

I took the time to learn what Twitter was and how people use it. My initial approach was indirect. I opened an account for our then-unborn son and used it for wry communication from the womb, much to my wife's chagrin. My son will be even more displeased during the social media vetting that will undoubtedly accompany his college applications.

Eventually I graduated to using Twitter for work. You can follow me @milesbcooper. But don't hold your breath waiting for posts – they arrive about once a month and point to this column. My main reason for using Twitter is to remain current on the technology.



As for who moved my typewriter? I did. Sent it away with the carbon paper. And introduced myself to the scanner and a little program called Acrobat...

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Endnote

¹ Robert A. Heinlein, *Time Enough for Love* (1973).