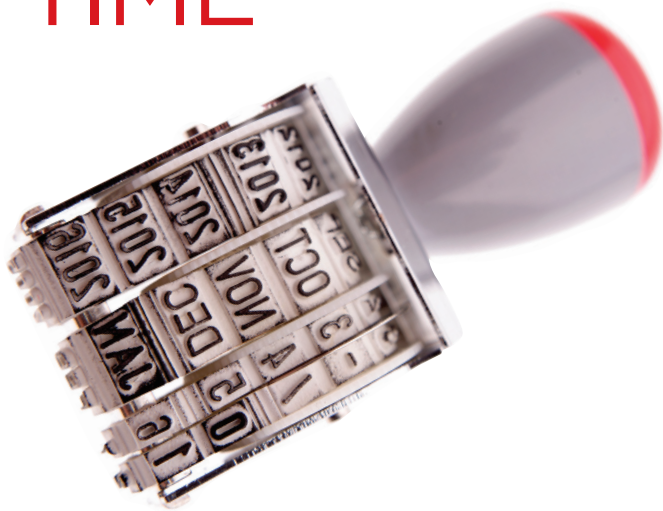


# RUNNING OUT OF TIME



## Tuning Out, Turning Off, and Dropping In

BY STEVEN A. REISLER

**A**t the end of December, my law office ran out of time.

No, I did not miss a pre-trial deadline. My date stamper ran out of years at the end of 2014 — literally. It is an old-fashioned mechanical device, hand-powered with cogwheels and pinions that rotate a stamp that impresses a red date and the blue word RECEIVED onto the front page of your pleadings.

In fact, it's rare that I get pleadings hand-delivered anymore. I am slightly nostalgic for that era when, in a race against the clock, oddly attired bicycle messengers, fueled by caffeine and adrenaline, barreled down the streets and sidewalks, leaped dozens of stairs at a time and slammed the stack of affidavits and briefs on the reception desk. Panting for breath, they would manually *shhh-TAMP shhh-TAMP shhh-TAMP* the two-color proofs of service onto their copies as the wall clock ticked off the seconds to 5 p.m.

that delineated the difference between just-in-time and you are SOL! It was not a video game, but a physical experience in real time. The pleadings had raindrops (or drops of sweat) on them, and real hand-scrawled signatures that said your opponent thought you worthy of the personal attestation.

Today, everything is delivered by email and digitally signed. The pleadings still arrive at the last second, but now they are electronically date-stamped. It was more precarious in the age of the manual stamp machine for opposing counsel to wait until the absolute last minute to serve the responsive pleadings on Friday afternoon just before your offices closed for the weekend. One traffic jam, a local police incident, a protest event downtown, or a freakish snowstorm in July could delay the malicious last-moment service of process just enough to make it untimely, thus encouraging everyone *not* to wait until the last minute. Now, however, index fingers hover over the “send” button, while lawyer Grinches sip lattes and coolly watch the seconds count down, waiting for the very last

nanosecond when electronic service of process can slip under the wire and ruin opposing counsel's evening.

If the paper pleadings delivered at the front desk used to be massive, with volumes of exhibits and attachments, at least you could muscle them back to a work table, lay them out article by article and cross-reference them, highlighting, annotating, and yellow-stickering as you licked to make your finger sticky to flip through the pages. Today, you still get the same volumes of exhibits, but they are bloated gigabyte-sized attachments to the email. Your stare at the screen as you open multiple tabs of attached PDF and JPEG files. Yes, whole forests died for our pleading excesses in the pre-digital law days. But now, ultimately, when your pixillated eyes start to pinwheel after reading hundreds and hundreds of electronic pages on eye-straining back-lit computer screens, you print the whole mess out anyway, so nary a twig is saved in the long run.

*Do judges really like reading PDF files all day long or was it an opticians' plot to force us all to buy “computer glasses” to add to our bifocals, trifocals, and prescription sunglasses?*

I realize it was an economic necessity — the clerk's offices were bursting at the seams storing all of our massive documents. So we were told. In my imagination, I can see the documents bulging out the courthouse walls like in an old Looney Tunes cartoon while M.C. Escher-esque lines of clerks wheelbarrow the documents into the basement like coal heavers feeding the boilers. The real economizing, of course, was that clerical “labor” could be laid off or just not hired, and it is always in wages and benefits not paid that “economizing” makes sense. Or cents... *just so long as you are not the one being “economized.”*

I realize it's handy to be able to digitally search documents, catalog, and scroll through them at your fingertips. But the barrister's touch has been attenuated. There was more panache waving an incriminating document at a witness on the stand than there is waving an iPad, and actually handing up to the judge a hard-copy of the seminal, game-changing case had more *éclat*

than merely calling out the web citation for the judge to look up on her desktop.

It's 2015 and my front-desk date-stamper has run out of years.

These days, when cursive handwriting is a dying art form, I leave the laptop in the office and take pen-and-paper notes at depositions. True, my grammar school penmanship grades were abysmal and my handwriting, to this day, resembles cryptography more than calligraphy. Still, my script looks better than the shaky ransom-note block printing that I sometimes see on hand-addressed envelopes sent to me from millennials.

I like old-fashioned Rolodexes, the kind you scroll around with your thumb and forefinger to look up an address. I like paper. Lawyers and paper go together like books and libraries. *But what's a "book," you ask?* Is it something like a dog-eared primitive e-reader that you actually "own" and don't "rent" from a corporate gate-keeper who logs what you read and sells your reading habits to marketers?

These days, every vendor exhorts me to "go paperless." Every organization I have ever joined wants me to renew my membership online. I refuse. I do not like being pestered. I do not want my membership data sold or laid out on a platter for hackers, data pirates, and spammers. My computer is configured to disable most of the usual application programming interfaces (APIs) and scripts. Why would I, a lawyer, agree to allow those APIs and scripts to intrude upon my digital privacy just for the "convenience" of renewing my membership online rather than spending 49 cents for a postage stamp?

In an age of conformity, I almost always "opt out" when given the choice. It's not *just* a matter of stubbornness (although there is some of that). It is a matter of exercising the few real choices we have left in these days of coerced uniformity. The Internet's potential for educating and democratizing was enormous, but it has been corrupted by unbridled commercialism and government Peeping Toms. Can I at least keep them out of my law practice?

I routinely opt out of marketing lists, customer satisfaction polls, and full body-scanners at the airport. I do not have a transponder on my dashboard

that tracks where I am, where I'm going, and how I'm going to get there. I avoid using GPS because, as it simultaneously tells me the shortest route from Point A to Point B, a record is simultaneously created that I went from Point A to Point B. Poet Robert Frost did not write that "two roads diverged in a yellow wood, and I took the one Google Maps told me to take..."

I do not want my "likes" and my email, address book, photographs, and web searches, and especially not my client files harvested by Big Data. I do not want to be data-mined. I do not tweet with tweets, nor do I book my face. I do only anti-social networking. I do not want my shopping receipts emailed to me. I avoid banking and bill-paying online notwithstanding the supposedly secure hypertext transfer protocols (HTTPS) that can only make data heists more difficult, but not impossible.

I carry a cellphone, but it is almost always *off* unless I absolutely need to make or receive a call. I have office hours, and after hours you simply cannot contact me. That is why they are called *after hours*. Why should anyone, other than close family or friends, be able to find me anytime and anywhere like a servant? Truly important people are literally unreachable; and though I am certainly not important, I can, at least, minimize the wireless shackles of being forever "on call."

I like signing documents with a pen. Your hand-endorsed signature is like a very personalized work of art, even if it is nearly illegible. Ink has a certain gravitas that clicking an "OK" button on an interactive screen will never have. I do not think that everything must yield to economies of a few cents and the instantaneousness of an Uber app. I do not want my digital persona to be stored in some nebulous cloud maintained by an enormous mega-corporation and simultaneously co-filed in various three-letter agencies' virtual dossiers. Most cloud data service contracts that I have seen disavow any responsibility if your supposedly "confidential" law client files are stolen, compromised, or irretrievably scrambled. I inherited from my parents some old wax cylinders that I can no longer hear because the steel-needed gramophones are extinct. I still possess vinyl LP records that I cannot listen to

without a phonograph, seven-inch magnetic tape I cannot play without a reel-to-reel tape recorder. I have eight-inch disks, floppy disks, eight-track music cartridges, VCRs, video cassettes, and microfiche that have become unreadable because the media-players are now obsolete. So, too, will inevitably be the fate of every memory stick, flash drive, USB device, and, of course, the cloud. I keep paper files as insurance against that inevitability; if, eventually, they fade away, so will I, and probably at the same time.

My mechanical date-stamper has become a paperweight.<sup>1</sup>

I considered fudging a time warp by rolling it back to 2005. Would anyone notice that your motion papers will have arrived 10 years before you filed suit? I considered ordering a truly customized stamp. It might say, REJECTED instead of RECEIVED; RECYCLED, Regurgitated, DECEIVED, NEVER-MORE, *REALLY?* or FUGETABOUTIT. I toyed with ordering a stamp with the "i" before "e" even after "c," and wait for the pedagogues to ream me out for having a misspelled "RECIEVED" stamp. Could I fill the stamp reservoir with disappearing ink, just for the fun of it?

I looked at catalogs to order a new date-stamper. Of course, the catalogs were online. I called to talk with a customer service specialist who could personally place my order. But once I worked my way through the automated answering systems with multiple dead-end menus, there were no customer service specialists available. Many of the new models are plastic, not metal. Others have an antimicrobial antibiotic embedded in the handle. They now put antibiotics (often a type of Triclosan under various trade names) in athletic shoes, stockings, baby diapers, toothpaste, mops, and now date-stampers. Soon, perhaps your jury instructions, briefs, and briefcases will be impregnated with antibiotics. Is it a good idea to put this stuff all over the place willy-nilly? Does this really cut down on disease or make the infectious agent triply potent? Do people really have gobs of evil germs growing in their hairy palms such that I need to wear latex gloves and a surgical mask just to shake hands? If the antibiotic is in their shoe insoles, socks, and underwear are

## A Hospital Mistake . . . .



"After my husband checked into a hospital ER with a blood clot in his leg, the nurse failed to give him prescribed blood thinners before a scheduled procedure. He died the next morning of a pulmonary embolus.

I feel my path led me to CMG's office and Tyler Goldberg-Hoss. Not only is Tyler personable, but he went above and beyond to ensure the process was not a burden to me and to achieve the final result. The settlement will take care of my daughter's needs for the rest of her life."

~ Jessica H.



**Tyler Goldberg-Hoss**  
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they traipsing the stuff all over my office whether I want them to or not?

I found and ordered a classic mechanical date-stamper. It is hand-made, probably by Santa's elves in North Pole ice caves. In this age of computer games and virtual reality, the elves build office machines for lack of work making wood and metal toys. The new stamper is made of steel and has heft. It was not made by a 3D printer. It has no antimicrobial in the handle. Beware — when you drop off a pleading at my office, the "bugs" might get you! My new machine has cog-wheels and pinions that rotate a stamp that impresses a red date and the blue word RECEIVED onto the front page of your pleadings, just like the old one. It feels antique. I feel antique.

I bought a date-stamper with a 10-year life cycle. When this device runs out of time it will be the year 2025. I assume by then that there truly will be no papers to stamp or shuffle. By then there may be no more date-stamping machines built or sold. Or ice caves at the North Pole. Or North Pole elves. They may be obsolete. So might I. And you. And so, too, the practice of law. **NWL**

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**Sponsored CJC law in 1981, served on Supreme Court Rules Committee  
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**A former  
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#### NOTE

1. For those who have never seen a "paper-weight," it was a heavy device, made of metal, stone or glass, whose sole purpose was to keep the stacks of papers on your desk from being swept away by the wind blowing through the window. What do I mean by "wind blowing through the window?" How can wind blow through a sealed window in a climate-controlled office? But the tale of openable windows and fresh air versus HVACs is a story for another day.