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My Continuing Legal Education

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My Continuing Legal Education

BY STEVEN A. REISLER

I received my 2011 Continuing Legal Education Compliance Notification this month.

It's not as though I really needed to be reminded about my CLE obligations. Today, I got two CLE flyers by snail mail and three by email. I sometimes receive more email CLE announcements than dubious invitations written in peculiar legalese seeking my help to smuggle billions of dollars out of Nigeria. Some days, I get five, six, seven, or more electronic CLE invitations, often warning me that admission prices will go up tomorrow or that seats are limited for the hottest legal education course about EU regulation of hydroponic eggplant farming in Cyprus or that I can get three years' worth of legal education credit by attending a week-long seminar sunning myself on the beach sipping umbrella drinks in Tahiti.

I remember, back when I was a newbie in the Bar, hearing the "old timers" talk about "the practice" when nearly every lawyer in the state knew nearly every other lawyer (and judge) on a first-name basis. Back then,

your "continuing legal education" consisted of a client stiffing you for your fee or your pleadings being bounced out of court on the technical mystery of a demurrer. I am not of that generation, but I do remember a few decades back when the Bar Association was the only game in town for continuing legal education. The course offerings then were a limited and rather stodgy, mainstream fare, but each course was filled to overflowing and you would recognize half or more of the lawyers in attendance. Of course, compared to now, there were also only half as many lawyers to know.

Today, a large number of continuing education offerings are available as "webinars," as "podcasts," as audio and video productions, and, perhaps one day, as CLE video games (*Mortal Kourttroom Kombat*, *Grand Theft Auto Trial*, and *Call of Ethical Duty 3?*). I do not eagerly await the .1 credit Twitter CLE delivered to one's smartphone in 140 characters or less (*OMG U frgt 2 fil cmlplt U R so SOL call E&O insur & givup license, LMAO ethicsdept WSBA #discnotices*).

Continuing legal education is a good

idea, in concept, although like everything else in our commodity culture it has become a business. The captive "consumers" of this business's commodities are us. Like some free marketplace of jurisprudence on steroids, we CLE consumers can now choose from a smorgasbord of continuing legal education courses in such cutting-edge fields as coffee barista workplace injuries; the law of beer brewing in Saudi Arabia; renewable green technologies used by the Pentagon in war zones;¹ the mock trial of an insanity defense to a littering prosecution; how to use your smartphone for everything except making a telephone call; and antisocial networking for curmudgeonly antisocial legal counsel. Diversity is good, as is freedom of choice, but will the "competition" in the marketplace of continuing legal education eventually lead us to the Facebook vacuity of law *qua* social networking?

If I tote up the hours I have spent in continuing legal education over a multi-decade career, then I probably have attended law school twice. Perhaps I should tout this fact to clients, for if having once attended law

school is good, then doing it twice ought to be better. Or would clients wonder whether my continuing legal education was a “re-do” like summer school, and did that explain why, whenever they asked me a question, I did not know the answer off the top of my head and always had to “look it up”?

Learning in the law is a lifelong endeavor. We learn from experience and we learn from all. As a lawyer, however, I have tried *not* to learn from everyone. For instance, as a lawyer, do I really have anything to learn from the banks? One of them keeps trying to entice me with a vanity charge card branded as “Black,” as in black letter law, I suppose. It is so “exclusive” that it would cost me only \$500 a year for the status of carrying the thing in my wallet, which, undoubtedly would put me in the very exclusive company of people such as those who respond to the aforementioned solicitations to help smuggle billions of dollars out of Nigeria. The “Black Card” is so exclusive that it is made out of pure “carbon” — but then, so is a charcoal briquette.

I think I’ll pass on the law-office-branded credit cards with one percent annual cash rebates for frequently litigating clients. I will also pass on putting automatic-bill-pay provisions into my fee agreements. I really do not like getting invoices by email, I eschew debit cards altogether, and I absolutely refuse to permit creditors in advance to electronically dip into my own bank accounts to pay their bills.

I refuse to learn from the telecommunications companies I do business with. Where do they get the cheek to write clauses into their contracts that say, notwithstanding every other provision we’ve agreed upon, they can unilaterally change our written contracts at any time, in any way, for any reason that they see fit? A contract that one party can re-write unilaterally at will is not a meeting of the minds, and, therefore, is not a contract.

Am I the only lawyer concerned about medical providers’ near-universal practice of maintaining electronic medical records and how easy it could be for the unscrupulous to digitally troll for my clients’ confidential information? Am I the only lawyer whose eyes are getting pixelated reading thousands of pages of PDF e-documents on a computer screen?

Am I the only lawyer who would rather talk to a human being in person rather than interact with scripted webpages that surreptitiously track and record my every click and hover? Am I the only one who prefers a telephone conversation with a living, interactive human being rather than the interminable

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automated phone systems intended to thwart communication and just make you give up in total frustration? When you call my law office, you get . . . *me*. You may still hang up in frustration, but at least you will have the small satisfaction of knowing that if I bite your ear off (legally speaking), it was done dentally and not digitally.

I am more environmentally conscious than most, but the “green” brand slapped on so many business practices makes this green attorney see red! Who is kidding whom? If a company sends me a “green” electronic invoice to save paper, all that happens is that *I have to print it out*, not they who sent me

the bill. The bill senders save on postage, while I pay for their printing. The cost of doing business has been shifted, but no trees were saved.

Anyone who understands the technology knows that electronic payments are no more secure than your computer’s digital contacts file that apparently has been spoofed by Belarusian spammers selling satyr-like sexual prowess in a pill, or the Pentagon’s nuclear missile launch codes hacked by teenagers in Brazil from their iPhones. I want paper bills that I have to slice out of a sealed envelope, documents that I can hold in my hands, annotate with a red pen, stamp

“PAID” with a black stamp, and file into a brown folder in a gray file cabinet (no password or PIN needed, thank you very much). I will pay my bills with a paper check and my clients, recipients of monthly, paper lawyer bills in honest-to-goodness envelopes bearing U.S. postage, will benefit from my stalwart unwillingness to learn *some* new things in my continuing legal education.

Perhaps we need fewer CLEs about “marketing the law” and more CLEs about navigating the dangerous shoals of this medieval law practice sailing through an age of bits and bytes. No, this is not a request for yet another swarm of business consultants to sell their services to lawyers in the guise of a continuing legal education program. Rather, it is a call for some common-sense instruction for a common-law profession: No, your client’s unencrypted “confidential” emails to counsel are, practically speaking, no more confidential than communicating by megaphone at a shopping center; Yes, when talking loudly on your cellphone in a restaurant, everyone within earshot overhears your confidential legal advice; Yes, blogging your latest social exploits to the web will put you in the same hall of fame as Tony Weiner; No, do not ever reply to flame mail until after you have sat on your equally caustic draft response for at least 24 hours; No, do not ever send your client a blind cc of the email you send to opposing counsel because you know your client will “respond to all” with the most embarrassing revelations; Yes, blacklist people who send you blast emails with your address shown in clear on the “to” line because nothing makes you a juicier target for spammers and phishers.

Life should be an educational process. We are all born stupid — the goal of life is to die less so. I am not sure, however, based on current events, that *homo sapiens sapiens* appreciates this. Perhaps we need some species-wide “continuing human education” to supplement our continuing legal education. Maybe we should get Continuing Human Education credit for accumulating wisdom through the school of hard knocks. Maybe humanity should accrue *negative CHE credit* when those same hard knocks fail to teach us anything.

It’s all about our continuing education as lawyers, and as human beings. ☺

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NOTES

1. This is not a joke but a real CLE offering.



Gardner Trabolsi & Associates PLLC is pleased to announce that Sonya Goykhman has joined our firm as an associate. Before joining GT&A, Ms. Goykhman worked for the King County Prosecutor’s office and clerked for Judge Appel in Snohomish County. Ms. Goykhman will work in all areas of our civil litigation practice. We are very happy to have Sonya joining us.



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