

# REDEFINING THE WORKPLACE: TECHNOLOGY AND THE MODERN JUDICIAL CHAMBERS

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## *INTRODUCTION*

New and evolving technology has had and will continue to have a revolutionary impact on how the judiciary conducts business. Significantly, these technologies are drastically changing both the way we work and our concepts and attitudes about what we have traditionally referred to as the “workplace.” Our “workplace” is no longer confined to judicial chambers in a building. Because of computer technology and the ability to connect to a hotspot for internet access, our “workplace” can be a home, a car, an airport, a boat, a hotel room, or a park bench, and those who do business with the court need not physically appear before us for routine matters. Although some government policies support technological changes through remote access, virtual access, telework, and flexible work schedules, this technological and radical workplace revolution is not without its detractors who generally resist change or who believe that employees will be inefficient without in-person supervision. I, however, embrace technological advancement and the workplace changes that accompany it, and I believe the attendant benefits far outweigh the disadvantages.

## *THE DARK AGES*

I was appointed a Judge of the United States Court of Appeals for Veterans Claims (USCAVC) in 2004, after a rich and vibrant career as a law professor. The USCAVC, an Article I court created in 1988, is unique in the federal appellate structure because it has both single judge and panel authority to decide cases.<sup>1</sup> The Court’s

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1. 38 U.S.C. § 7254(b) (2012).

statutory authority to issue single-judge decisions is a result of the USCAVC caseload—approximately 4,500 appeals filed annually.<sup>2</sup>

Deciding cases was once a paper-heavy endeavor. The Court would receive by mail most all appeals and petitions filed with the Court. From there, a paper file was created that would house each filing, including paper copies of voluminous records, and each order from the case (all of those orders were mailed to the parties). Those files took up hundreds of square feet of space in the Court's D.C. office and countless hours reproducing documents at the copy machine.

In addition, the Court's own quality-control system added to the paper burden. The Court's internal operating procedures (IOP) require each single judge memorandum decision, as well as panel opinions, to be circulated for comment to all active judges prior to issuance, during which time all judges have the opportunity to comment substantively on the decision.<sup>3</sup> In 2004, at the time of my appointment, the review and comment process required each chambers' administrative assistant to make physical copies of draft decisions and hand-deliver them to the other chambers. I remember the administrative assistants wheeling stacks of opinions and other documents around the Court in metal carts for delivery to chambers. The reviewing judges would then make hand-written comments on the draft, and hand-deliver copies of their comments to the drafting judge. This process was cumbersome, paper wasting, and time-consuming.

### *THE AGE OF ENLIGHTENMENT*

Much has changed since those dark days. First, having joined the Court from an academic institution where we emailed documents as attachments, I led the push to utilize the Court's email system for circulating cases. We began depositing drafts for review into a "circulation folder" within the Court's email system. Judges who wished to comment could download the draft, make changes, and create a redline in Word Perfect for the drafting judge to review. Review by email revolutionized and streamlined the Court's comment and review process.

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2. Information about the caseload can be found on in the court's most current annual report, which can be found at <https://www.uscourts.cavc.gov/documents/FY2015AnnualReport.pdf>.

3. U.S. Vet. App. Int. Op. Proc. II(b)(1).

Then, in 2008, the USCAVC again embraced new technology by implementing an electronic filing system and adopting related electronic filing rules. Electronic filing of documents is now mandatory for all represented parties, absent an exemption. This technology change helps claimants easily access their own court records from any computer, and also permits Court personnel to quickly locate and download case records, motions, writs, and briefs. The reallocation of space previously allotted to paper files now provides for larger and better space dedicated to personnel.

Recently, my chambers received training to test technology that allows the Court to maintain operations in the event of a national emergency or natural disaster. Continuity of Operations permits courts and many government agencies to maintain their operational capabilities away from the “workplace” in the event of an emergency by utilizing remote access capabilities and virtual desktops. These changes are challenging and, of course, technological change is certainly no panacea. Power outages and electrical problems will cause a quick, if only temporary, shutdown and require us to return to the old way of doing business. In such circumstances, it helps to have knowledge from the dark ages of working without technology.

### *SEA CHANGE TO THE WORK ENVIRONMENT*

The way we as a society seem to be adapting to the use of technology will usher in a sea change to our traditional approach to doing business. Some argue that becoming too dependent on technology will render us helpless when the machines break. Others express concern that technological advancements will discourage people from coming to a “workplace” and reduce the face-to-face and day-to-day interactions of the traditional office environment. Although some make the point that the easier it is for people to work with mobility, the more productive they can be, many argue that teleworking and flexible work schedules will make people less productive.

Despite such arguments, the work environment as we knew it is inevitably changing and we must adapt. Those who cannot adapt—people who get distracted and cannot handle the freedom and independence of working from a non-traditional office environment—may be asked to find other employment.

*DAVIS CHAMBERS*

I have had my fair share of supervisors and colleagues who were oppressive and inflexible, abused authority, and were insensitive to the needs of their subordinates. I vowed that if I were ever in the position to create a much better work environment than some of those that I had experienced, I would, and technology has permitted me to create such a work environment. Remote access technology allows a judicial chambers to research, draft, edit, and issue judicial opinions from anywhere that provides an internet access.

I hire mature professionals who care about the work we do, and most of my chambers staff work well over a minimum forty-hour work week. They also understand that I am not so concerned about the hours they work—or when they work—as long as their work gets done. I also believe that happier people are more productive, and thus I am flexible when it comes to teleworking, adjustable work schedules, and leave requests, and I encourage my staff to get engaged in many of their life passions.

Moreover, our changing family structure necessitates intelligent integration of technology. Working mothers and fathers, grandparents, and others need not sacrifice the critically important responsibilities of raising families if they are accommodated through the use of remote access and virtual desktop capabilities. One of my law clerks who teleworks regularly correctly notes that her case production soared when she began working from home, where she can enjoy spending her lunch hour with her preschool aged children.

Mobile work manages to balance benefits to both employees and employers. Employees have no or little commute time or costs, whereas employers spend less on office space leases, utilities, and materials. Annual reports compiled by the government on teleworking also show that employees who telework report greater job satisfaction and less interest in leaving their jobs, and employers report better recruitment, retention, and performance. Moreover, employees who telework may use less leave and can continue to work during a snow day or other emergency. Of course, there is no substitute for face-to-face interaction and a number of meetings and other events are simply better done in person. The beauty of technology, however, is at least to have the option and the ability to conduct work virtually.

*CONCLUSION*

New technologies will continue to have a major impact on the nature of what we do, how we do it, and from where we work. I believe we are witnessing and participating in a workplace revolution that is quickly changing the traditional workplace concept to a more mobile and flexible work-any-place concept. I embrace the revolution because based on my experience, I believe it will lead to a generally happier, mentally healthier and more productive work force.