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AN INSIDE LOOK AT THE COURT OF APPEAL

Justice Zerne P. Haning III†

[Editor's Note: Justice Haning spoke at a luncheon sponsored by Santa Clara University School of Law entitled "Judges, Computers, and the Future". I attended that luncheon and asked the Justice if he would allow me to publish his remarks on how he uses computers in his daily routine. He kindly agreed and here is the text of those remarks.]

Good afternoon. Judge Nicholson called me the other day and asked me to describe how we use computer technology and electronic data processing in the appellate courts, and what we are planning for the future. Let me first admit that I suffer from a lack of formal training and education in the computer sciences. I am basically a self-taught, low-grade hacker, who has discovered that this technology not only makes my job easier, but in fact must necessarily be employed if we are going to keep pace with growing caseloads.

Justice Mosk hit the nail on the head¹ when he said that the courts must keep pace with sound business practices. The judicial branch of government is unique in many ways, but most of the attention we draw focuses on *what* we do, rather than *how* we do it. However, if we are to continue to fulfill our constitutional obligations under increasing caseloads and with the limited resources made available to us, we have to periodically review, refine and improve the *manner* in which we operate, i.e., our business practices. From a business perspective the Court of Appeal is essentially a service industry, and to that end, we are in the research and writing business. But, in addition to our primary function of resolving legal issues, we also have administrative problems which directly affect our judicial duties. We have time deadlines for filing records, briefs and opinions, and for ruling on motions and petitions for writs. We have to calendar cases for oral argument, and keep track of thousands of documents and other items of information.

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1. Justice Stanley Mosk of the California Supreme Court also attended this luncheon and made some opening remarks.

How we keep track of documents and records and manage our increasing caseload is sometimes as important, if not more so, than the ultimate decision in the case. For instance, the quality of our decision or the fact that it is legally correct is of little significance if we miss a critical deadline for the ruling itself. Also, keep in mind that with the increase in statutory, administrative and decisional law, both at the state and federal level, the area within which we conduct our basic research is rapidly expanding. This necessitates an increase in the time we spend in required research.

To assist us, both in our judicial and administrative duties, we have established an integrated automation system for calendar management, case processing, data processing, electronic message and mail service, and legal research. Eventually, all appellate districts will be directly linked for message and mail service and appellate issue tracking.

All judicial secretaries and research attorneys on the Court have individual computer workstations linked to a central processing unit (CPU). The justices have personal computers, also linked to the central CPU, which can emulate and function as workstations, in addition to performing all tasks which PC's are designed to handle. In short, we have designed a system for legal research, statewide transfer of mail, messages and other data, and at the same time preserved the confidentiality of each justice's work. For instance, I can send a message to Justice Mosk or his secretary concerning a legal conference we may be attending at Santa Clara Law School next week. However, I cannot gain access to any of his data because my system is not physically connected to the CPU on which his work is contained.

On the central CPU we can shield individual documents or entire electronic "libraries." In my own case I have configured my system so that my secretary and I have access to my data, and I have the ability to limit that as I choose. The time-saving advantages of such a shared system are obvious — the material only has to be typed once. Thereafter, all editing and transfer of information is accomplished electronically.

In addition to word processing, we also have the following available on the terminals in our own offices and chambers:

a) Access to the Clerk's automated docket and calendar program, giving the status and filing dates, rulings and other data on all matters pending before the Court.

b) Lexis and Westlaw. This is another time saver eliminating

the need to queue up at a special terminal somewhere else in the building.

c) A message and mail system which will soon be statewide throughout the appellate courts. This is handy for obtaining copies of very recent cases or for instantaneous transmission of information to large numbers of personnel. Supreme Court opinions are now being transmitted to Sacramento and Los Angeles as they are filed in San Francisco. Soon, all appellate decisions will be available statewide as soon as they are filed.

d) The Issue Tracking System: a database containing all pending cases in the Court of Appeal. It functions as an electronic digest of legal issues, enabling us to locate cases in a variety of ways, using Boolean logic. We can locate cases by names of the parties, the trial judge, the trial court number or appellate court number, Bancroft-Whitney Digest number, state or federal constitutional provision, statute, administrative regulation, rule of court, BAJI or CALJIC instruction, statewide proposition (Prop. 8 or Prop. 13 issues), local charters or ordinances, "key-case" names (e.g., *Foley*, *Miranda*, *Moradi-Shalal* issues), or any combination of these factors including others internal to the Court. This is extremely helpful for researching and tracking new legal issues for which there is no established precedent.

e) In addition, our law librarian has additional databases on line for ready access to a wealth of material. If it's in the Library of Congress, we can get it.

For justices with home computers, the Court supplies modems and Lexis and Westlaw software, plus communication software that permits direct access to the Court. The communication software comes with a conversion program that translates between various commercial word processing programs and the system used by the Court. Because the normal work day does not afford sufficient time within which to do everything we are supposed to do and still keep the court calendar current, the ability to work efficiently at home is a significant advantage for busy judges these days.

As an example, I had to travel to San Diego recently for a judicial conference which was held during a busy period. I was trying to complete and file an opinion in a writ proceeding in sufficient time so as not to interfere with a trial date that had been set by the trial court. In addition, I had to review calendar memoranda which were in the process of being prepared by my own staff and that of my judicial colleagues in preparation for the case conference we hold prior to oral arguments. I finished the final draft of my opin-

ion at home the evening before I had to leave. The following morning I reviewed it again, made some slight changes, and transmitted it electronically to the Court. When I returned from San Diego that evening I went home, turned on my computer and connected with the Court. I discovered that the other judges had signed off on my opinion, and it was ready for filing. I also collected my messages, returned some phone calls that needed immediate attention, and obtained the calendar memoranda for review. Through Lexis I was able to check some critical authorities that were cited in the memos and accomplished all this in a few minutes without leaving my home. (I also keep a complete set of Witkin, the unannotated "bench" codes and copies of all my published and unpublished opinions at home for quick reference.)

With regard to the future, we are planning an electronic "bulletin board" which will permit computer access to public information: case filings, dispositions, rulings, docket information, etc. We find that our Clerk's office spends an inordinate amount of time on the telephone answering inquiries not only about the status of proceedings, but also about matters which are well publicized, such as the time within which to file records, briefs, etc. All this information can be informatively placed in an electronic bulletin board for computer access at *any hour*, saving time and money for the litigant, the court and the taxpayers.

In the future I would like to see a direct link between the Court of Appeal and the trial courts, and eventually between the courts and the attorneys. I am also awaiting the publication of California cases and the annotated statutes on CD ROM.² The ability to access the entire body of California law from a disk in your computer is intriguing. The potential of containing the national library on your desktop is truly exciting. The advantages for the courts, the litigants and the taxpayers is obvious. We are just beginning to tap the potential of this technology, but we are moving forward, and substantial benefits are awaiting us if we move prudently. With your help, we'll get there.

2. A CD ROM is a method for storing documents or other written information on compact disks. These disks are generally unalterable and generally function in a read-only