

# TOMORROW'S LITIGATION

Technology's impact on the future of litigation



MISO

[hello@miso.legal](mailto:hello@miso.legal)  
[www.miso.legal](http://www.miso.legal)

Since the Covid-19 pandemic, the work landscape has not quite been the same and the role that technology plays in our everyday lives, more prevalent than ever. Although there was a time when we approached Zoom calls with trepidation, we're now old hands at cyber chats and meeting people face to face is almost a thing of the past and, as lovely as it can be, a bit time-consuming.

**Not only did schools jump on the online bandwagon, but so did law firms, barristers, advocates and more, with fervour.**

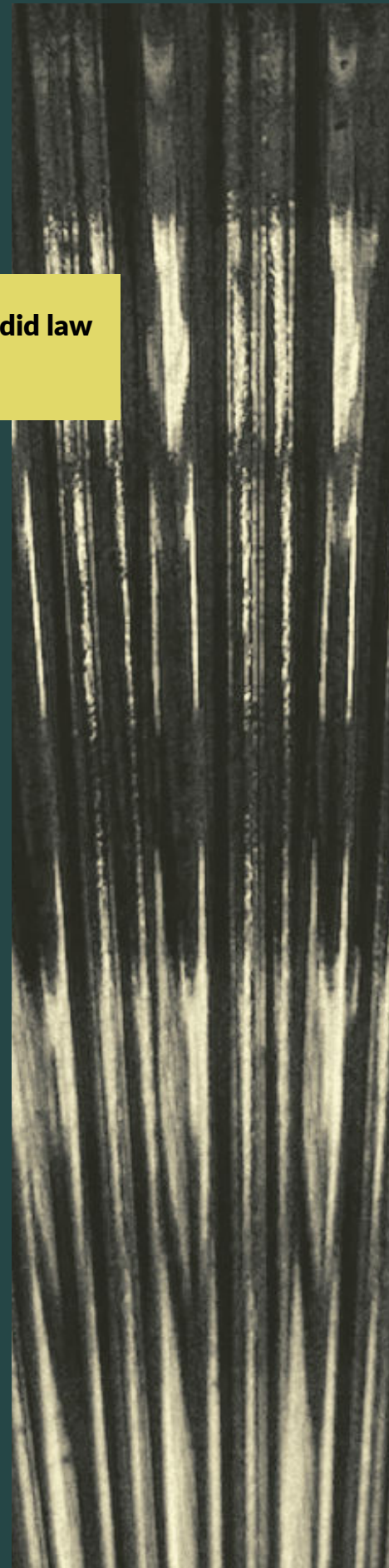
Traditionally, a litigator's day involved meetings here, there and everywhere, a handful of court appearances and a ton of papers being lugged about from place to place. Nowadays, lawyers have caught on to the fact that their previously time-poor work days can be less stressful and more productive, often from the comfort of their own swivel chair. Change can be daunting, but this has most definitely been a positive one.

Thanks to more and more people reaching for technology, rather than a ringbinder and a pen, even the most technophobe of lawyers has become more efficient and productive, albeit, perhaps, through need rather than want. Litigators being seen to be innovative through their use of technology emphasises that they care about efficiency and can make life a lot easier for clients.

The click of a mouse has also become a more popular option for clients. In the first instance, clients can research lawyers online, finding the right one through online profiles and reviews, saving the rigmarole of a day or two spent on the phone. Teams and Zoom interviews make the final selection process quicker and easier, all done from home, rather than intimidating offices.

Once a client has found a lawyer, they can then keep up to date on the progress of their case through online notifications in client hubs and emails, cutting out the middleman and cutting down the phone bill.

[www.miso.legal](http://www.miso.legal)



How research is carried out has evolved too, through search engines and easily accessible online records, computer generated evidence and bundles are much easier to gather and process. Artificial intelligence isn't just for sci-fi movies and in some cases can carry out legal research faster than your average search engine.

**Previously involving filing cabinets, bankers' boxes and clunky ring binders, processes have become automated with legal software taking care of the admin side, meaning lawyers can focus on clients and cases rather than bulging briefcases about to collapse under the weight of documents.**

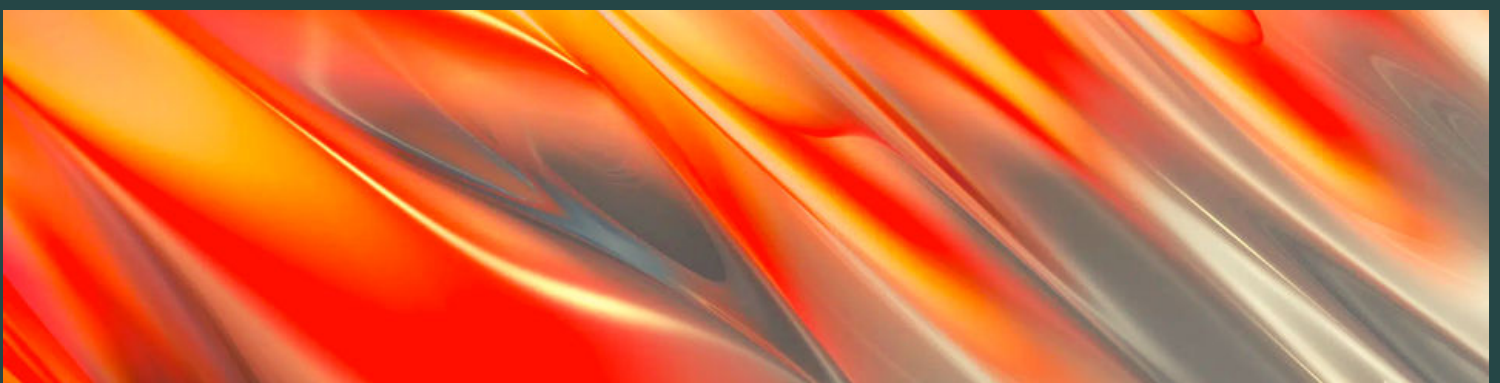
In this white paper we take a deeper look into the way technology is being used by litigators as well as sharing our thoughts on evolving trends for the future of litigation.

Miso CEO, Philip Petersen explains:

*"The word 'unprecedented' has been over-used in recent years, but in terms of technological development - and particularly legaltech - it really does apply to the pace of change we've seen. Now, more than ever, the face of litigation, and how it's managed, really is changing.*

*Here at Miso, we believe that our solution has the power to change how litigators manage cases, supporting them in delivering a more efficient service to an increasingly tech-savvy clientbase. But to do this well, it's important that we understand the context of this evolving marketplace, as well as the demands being placed on litigators' shoulders.*

*This white paper scratches the surface on looking at how litigation is changing in both Scotland and England & Wales, and the impact legaltech developments have - and stand to have - on our legal sector."*



## Trend #1: Screen to Screen rather than Face to Face

---

Days of travelling frantically between meetings in different locations are fewer with most taking part virtually. Lawyers and clients often meet for the first time via the comfort of their homes and a screen.

Although video conference consultations can be more efficient for all (agents, clients, expert witnesses and counsel), everyone involved has needed to adapt to sharing information electronically, rather than via a piece of a paper passed around at a physical meeting.

Similarly, cloud-based project and document management means clients can communicate and update regularly via client hubs and chatbots and receive progress notifications as they happen.

Face to face meetings aren't only less common between lawyers and their clients nowadays, but lawyers are collaborating through online meetings, file sharing and cloud-based project management.

Systems, such as [Miso](#), help to analyse cases by tracking issues, notes and documents in a virtual format, allowing for better, clearer management and communication of arguments in real-time. This allows teams to work simultaneously and collaboratively on projects, getting real-time responses, enabling cases to move forwards faster and more efficiently.

Instead of the process of yore, where appointments were made for updates, making the process lengthier and often pricier, now clients and litigation teams can see everything from billing to written argument notes at the click of a button.

## Trend #2: Work office to home office

---

Another significant difference from pre-pandemic to post-pandemic allowed, by the advances in technology, is the change in work habits. Passive-aggressive notes about the washing-up and queues at photocopiers are no more.

More and more lawyers now work from home. Offices have become virtual rather than physical, meaning less overheads for firms and more flexibility for workers. It has been more than proved in many an organisation, that ditching pin-striped trousers for tracksuit bottoms, doth a more productive and happier worker make.

With the forecast pointing towards home-working becoming a permanent part of the litigation landscape, litigators need to find reliable tools to enable them to work seamlessly together, both remotely and in an office environment.

## Trend #3: Not just roller-coaster and aquariums

---

Virtual reality isn't just to escape the mundane and keep the kids quiet, in the USA and Australia, it is already being used successfully to recreate accidents and crime scenes and be presented as evidence as well as an innovative training tool in recreating immersive courtroom scenarios.

[In a study published by the University of South Australia](#), 'Jurors who view the scene of a crime in virtual reality (VR) before making their verdict in a court case have a better chance of reaching the right decision.'

There was also a significant difference between those who used photographic evidence versus those who viewed a dangerous driving car crash through a headset, 'Study participants viewing the scene through a 3D headset were 9.5 times more likely (87 per cent) to choose the same verdict – death by dangerous driving – than the group who relied on photographs, who were split 47/53 per cent between a careless driving verdict and dangerous driving verdict.'

VR also plays a large role in mediation, where it can be the only way to tell the story visually. In a recent case in the USA, involving a child who had lost his vision as a result of a medical malpractice, VR was used to show parties involved in the mediation, the extent of the loss of vision.

Cynthia Landon of High Impact explained: “We were able to create an exhibit that showed his very limited vision,” “we took that and the goggles to mediation with the other side and everyone was allowed to look through the goggles and see the loss of his vision and it was very emotional. ... It’s a super powerful tool which I think is also why it works so well in mediation.”

While this may not have yet reached UK shores, where others lead, we are likely to follow... so watch this (virtual) space.

## Trend #4: From box-room to courtroom

---

It is becoming more apparent that technology makes content more accessible, whilst potentially increasing the efficiency and accuracy of the judicial system too. As well as this, it’s not only changing the way we work outside of the courtroom, but also inside it too. Virtual hearings are on the rise for certain types of appearances and there is an increasingly widespread use of e-bundles making the whole process more efficient.

As courts seek more efficient ways of working, this trend will only continue. Court practices changing their processes will in turn, lead to litigators having to adapt to these changes.

As much as these changes may feel they are very much to the benefit of the courts, this is where having a foolproof, proficient system in place, puts you one step ahead and able to meet these demands.

## Trend #5: Blue ticks

---

It isn't all just about computers, with the rise of smart technology and all singing, all dancing, phones evidence is often easier to come by. Transcripts of conversations on social media and chat apps, as well as proof of receipt, such as two blue ticks on Whatsapp, are more credible than a testimony with no corroborative evidence to back it up.

## Trend #6: You've got email

---

Notably, the way in which proceedings are serviced has changed too, with service by email becoming common practice, in England, Wales and most recently in Scotland, due to the emergency coronavirus legislation and the Coronavirus (Recovery and Reform) (Scotland) Act 2022. Not only does this save on paperwork and post, but is a much more efficient and sustainable way of serving documents.

## Trend #7: Not just for photos

---

In 2020, the courts in England & Wales were also granted permission to serve proceedings by other means, including social media. A High Court (KB) case in London, [saw the unresponsive defendant being served documents and notices through their active Instagram page and messages](#). As files can't be sent through Instagram messaging, they were sent via email and post, followed up by a link to the documents as the defendant didn't reply.

## Trend #8: It doesn't have to be cryptic

---

With the increasing popularity of crypto currency, it was just a matter of time before it became a method of resolve in the courts. In the recent judgments of [D'Aloia v Persons Unknown \[2022\] EWHC 1723 \(Ch\)](#) and [Jones v Persons Unknown \[2022\] EWHC 2543](#), an order was granted, permitting service of proceedings through a non-fungible token (“NFT”) over blockchain.

[D'Aloia was a victim of crypto-currency fraud](#) (roughly \$2.1 million) and the defendants were difficult to track down, the court granted him permission to serve by email and NFT. [In the case of Jones, a victim of a bitcoin scam](#), the court granted permission to serve the order using an NFT airdrop into the relevant crypto-wallet citing “no traditional means of service are likely to be effective in relation to the fraudsters”.

According to many financial boffins, the future of money is indeed crypto currency. Many now consider that courts being willing to adopt technological advances, after all traditional methods have been exhausted, will eventually serve as a deterrent to fraudsters operating in cyber-finance.

## Trend #9: Be a keyboard - eco warrior

Being more sustainable and eco-friendly is very much a hot topic in the legal sector, so it's reassuring to know that according to [a report by Liverpool John Moores University and E-Sign](#), 'digitisation could save medium-sized UK law firms £400,000 annually.'

The research included calculating the impact on efficiency, through the removal of printing, postage/delivery of documents, storage and administration. It also brought attention to the fact that using email/file sharing tools to receive and deliver documents instead of physical transport, would save over 800 kilos of CO2e per year, for each firm.



According to John Mathias, Eco-I North West Project Manager, *“Becoming a greener, more environmentally sustainable business also brings other benefits such as reduced costs and increased efficiencies. .... digitalisation can have a positive impact on carbon emissions and costs. We would encourage all businesses to start their own low carbon journey.”*

Surely, being recognised as a firm doing their bit to save the planet whilst reaping the benefits in the form of efficiency and sustainability, is incentive enough to embrace technological changes and lose the fear?

Thomas Taylor, the managing director of E-Sign said: *“We know the medium sized legal sector faces huge challenges in the adoption of technology that can improve processes and efficiency. Through this research we’ve been able to demonstrate that change can be met with wider efficiency and sustainability benefits.”*



## The challenges ahead: **Access for all?**

As on trend as the courtroom and litigation world moving online sounds, there are still many hurdles to overcome, such as usability. A lot of lawyers and potential clients aren't up-to-date with the latest technological packages. Trusted tools such as Word, Excel Adobe and Email, although useful can often be limited due to their generic nature, making them unsuitable for litigators' specialised needs. It has also become glaringly obvious that compared to the common use of technology in other litigation fields, such as commercial litigation, civil litigation is lagging significantly behind.

This is highlighted with the [Disclosure Pilot Scheme \(applicable to the Business and Property Courts\)](#) in England and Wales, encouraging all involved to use specific software for the proceedings, occasionally insisting that AI is used for background searches etc. The anticipated outcome being that dealings will be more cost-effective and efficient.

Businesses however, are often already at an advantage financially, whereas a large percentage of civil litigation cases involve clients from lower or middle classes, who are unable to access legal advice and representation, due to the costs involved, and often not entitled to legal aid.

There is hope that with the advances in legal technology, legal services will become more readily available and accessible to everyone. In his [speech](#), in March 2022, Master of the Rolls, Sir Geoffrey Vos, confirmed the widespread opinion that "...justice is changing fast already, and in England and Wales we can expect a truly integrated online digital justice system to resolve civil family and tribunals disputes by the mid-2020s at the latest. Analogue systems and paper will be things of the past."

Vos foresees that by 2040, personal injury disputes will largely be settled through automated systems, possibly without any legal costs incurred at all stating, "I would expect that most disputes will be resolved very quickly indeed by AI-driven portals that provide a rough and ready resolution"



He also predicted that information, such as the speed a car was going at before impact, will be widely accessible, “..factual disputes as we know them will become almost entirely a thing of the past, certainly in most civil claims..”, making it easier for lawyers to gather correct and reliable evidence.

Vos also stressed the need for the system to be all-inclusive: *“I must make clear that both the currently developing digital justice system that I have described, and any future dispute resolution process must cater, and cater effectively, for the vulnerable and digitally disadvantaged”, “...In every change we make to dispute resolution processes, there will be a need for the principle of access to justice to apply as much to the majority of system users who are able to access every digital service as to those who cannot do so.”*



## Help is at hand

At Miso, we understand how daunting this ever-changing landscape is, especially if you have been reliant on paper bundles for the bulk of your career. Our goal is to help you ditch the worry and embrace the change. Miso has got your back and this brings with it flexibility and efficiency. We understand that people have less time and money and want more for less.

As litigators strive to seek efficiencies to meet clients' demands, the need to have 'everything in one place' is greater than ever and we truly believe that automated cloud software is only going to help and enhance your work life experience.

This is where Miso's litigation management tool comes to the rescue. Much more than a simple case management, document management or bundle system, not only do we support lawyers across the whole litigation process, it's the essential tool enabling litigators to remove the stress when navigating a future in an increasingly tech heavy environment.

Importantly, we recognise that supporting you across the whole litigation process doesn't stop with the case you might be working on at that particular moment. Miso Founder and former practising Advocate, Peter Milligan, explains more:

*"With an ever-growing number of regulatory requirements, in terms of data protection and security, as well as wider client confidentiality, we understand that keeping on top of compliance and governance matters can be a real challenge for busy litigators.*

*With the increasing use of sophisticated technology solutions, litigators are being expected to not only 'keep up' but stay on top of increasingly complex compliance demands, at the same time as delivering legal expertise.*

*"We want to enable litigators to feel safe and secure regarding data security and confidentiality matters, by using the technology to give them peace and mind. Having one central platform allows us to do this at a higher level than might be possible with individual solutions and more securely. In essence, because we're thinking about this, ensuring that the functionality is there to deliver compliance with the regulatory requirements, as they evolve, litigators can relax a bit, knowing that this particular thorny issue is taken care of."*