

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN RE: §
§
THE COMMISSION ON LAW §
AND TECHNOLOGY §

ORDER

This 27th day of November 2023, it appears to the Court that:

a. Delaware lawyers must competently represent their clients. In today's practice, competency includes a level of proficiency in the use of available technology.

b. Procedural fairness demands that clients of Delaware lawyers and those who choose to represent themselves in Delaware's courts understand the relationship of technology to the practice of law as well as the risks and benefits of using technological tools in legal matters.

c. In August 2013, this Court created the Delaware Commission on Law and Technology ("DCLT") as an arm of the Court to provide Delaware lawyers guidance and education in the aspects of technology and the practice of law to facilitate compliance with the Delaware Lawyers' Rules of Professional Conduct. For the past decade, the DCLT, in accordance with its enabling order and rules, has provided the Delaware Bar guidance and best practices relating to the use of technology in the practice of law.

d. In November 2013, this Court created the Delaware Access to Justice Commission (“DATJC”) to identify and address critical needs and gaps relating to access to justice in Delaware for low and moderate income Delawareans. The DATJC, over the course of the past decade, investigated and addressed many systemic issues and generated solutions to improve the access to justice within Delaware’s courts.

e. Recent developments, including the expansion of the permitted possession and use of cellular devices within Delaware’s courts and the introduction of generative artificial intelligence, highlight the need to address the continually expanding use of technology in Delaware legal matters.

f. The Court concludes that expanding the mission of the DCLT to address lawyer competency and access to justice concerns will provide a coordinated approach to today’s (and tomorrow’s) issues surrounding the use of technology in the practice of law in Delaware. The Delaware Bar, those who avail themselves of Delaware’s legal system, and the citizens of Delaware will benefit from the focused efforts of the DCLT.

NOW THEREFORE, IT IS ORDERED THAT:

1. As of September 1, 2023, the Delaware Commission on Law and Technology, shall remain an arm of the Delaware Supreme Court and shall be charged with assessing the current and developing technology applicable in

Delaware courts and the practice of law in Delaware. The DCLT shall investigate, identify, and address extant technology, developing technology, and critical technological needs and gaps.

2. Members of the DCLT shall be appointed by the Supreme Court and shall consist of no less than 12 members, including at least one representative from each of the following:

- a. The Delaware Supreme Court;
- b. The Delaware Court of Chancery;
- c. The Delaware Superior Court;
- d. The Delaware Family Court;
- e. The Delaware Court of Common Pleas;
- f. The Delaware Justice of the Peace Court;
- g. The Delaware Department of Justice;
- h. The Delaware Office of Defense Services;
- i. The Delaware Department of Technology and Information;
- j. A Delaware litigation law firm;
- k. A Delaware corporation with its principal place of business in Delaware, or a nationally chartered business entity with a substantial physical presence in Delaware;
- l. The Information Technology Department of a law firm.

3. DCLT members shall be appointed by the Court for a term of 3 years, subject to reappointment for additional terms by the Court.

4. The Court shall designate a chair or two co-chairs from DCLT membership. The members of the DCLT appointed under this Order shall determine the Commission's organization and operations consistent with this Order, including, but not limited to, the mission, goals, activities, and deliverables of the DCLT, the creation of subcommittees, and recommendations to the Supreme Court to designate chairs of any subcommittees, fill any vacancies, or to expand membership.

5. The authority of the DCLT shall be limited to that created by this Order and any subsequent Orders of this Court. Any recommendations of the DCLT shall be made in the name of the DCLT only, and not of the individual members or the institution they represent.

6. The DCLT shall submit an annual report to the Court; the first report shall be submitted by April 1, 2025, to cover DCLT activities through December 31, 2024.

BY THE COURT:

/s/ Karen L. Valihura
Justice