GEORGETOWN LAW

Presentation Proposal

Drew Simshaw

2017 *Nova Law Review* Symposium

Entrepreneurship 2.0: Legal, Regulatory, and Economic Challenges to the Innovation Economy

Lawyers' Professional Duties as Advisors on—and Consumers and Developers of—New and Evolving Technologies

Lawyers are at the forefront of nearly every dimension of emerging technology. They are advising clients on their use of new high tech products, sophisticated analytics tools, and online services, including helping clients manage cybersecurity risks and privacy concerns. Lawyers are also consumers of these technologies, and for the first time in history, are among those leading the way on the development of services using tools such as big data and artificial intelligence. In the coming years, lawyers will also be in charge of crafting policy to regulate emerging technology in areas such as healthcare, finance, and the legal profession itself.

This presentation will examine the role of the legal profession in the innovation economy, with a focus on lawyers' professional duties as advisors on—and consumers and developers of—new and evolving technologies. It will focus on recent changes to, and evolving interpretations of, the rules of professional responsibility in light of new technology, including (1) a lawyer's obligation to competently advise clients on the use of technology, and (2) obligations pertaining to a lawyer's own use of technology, including competence, confidentiality, supervision, and client communication. Finally, the presentation will confront the ethical, practical, moral, and regulatory challenges and opportunities associated with the emergence of artificial intelligence in legal services.

About the Presenter

Drew Simshaw is a communications and technology attorney with the Institute for Public Representation and teaches in Georgetown Law's Communications & Technology clinic. Prior to joining Georgetown, he served at Indiana University as a fellow with the Center for Applied Cybersecurity Research and analyst with the Center for Law, Ethics, and Applied Research in Health Information. He frequently publishes and presents on the regulation of emerging technologies and the ethical obligations of lawyers in light of new technology. In July 2017, he will join Elon University School of Law as a teaching fellow.

Select Relevant Publications and Presentations

Publications

Law Reviews & Book Chapters:

In Progress: "Robot Lawyers: Improving Access to Justice Through Ethical Design of Artificial Intelligence in the Practice of Law" (working title) (forthcoming)

"Regulating Healthcare Robots: Maximizing Opportunities While Minimizing Risks," 22 RICHMOND JOURNAL OF LAW & TECHNOLOGY 3 (2016) (lead author, with Nicolas Terry (Indiana U.), Dr. Kris Hauser (Duke U.), & Dr. M.L. Cummings (Duke U.)), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2739462.

"Legal Ethics and Data Security: Our Individual and Collective Obligation to Protect Client Data," 38 AMERICAN JOURNAL OF TRIAL ADVOCACY 549 (2015), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2668174.

"Consumer Cloud Robotics and the Fair Information Practice Principles: Recognizing the Challenges and Opportunities Ahead," 16 MINNESOTA JOURNAL OF LAW, SCIENCE, & TECHNOLOGY 145 (2015) (with Andrew Proia & Dr. Kris Hauser), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2466723.

Chapter, "Cybersecurity and the Legal Profession," in *Cybersecurity in Our Digital Lives*, National Cybersecurity Institute, Hudson Whitman/Excelsior College Press, March 2015, (with Andrew Proia), http://hudsonwhitman.com/books/cybersecurity-in-our-digital-lives/.

Other:

"Ethical Implications of Electronic Communication and Storage of Client Information," THE COMPUTER & INTERNET LAWYER, Vol. 33, No. 8, August 2016, available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2814313, originally published in *Res Gestae*, The Journal of the Indiana State Bar Association, December 2015, Vol. 59, No. 5, available at https://issuu.com/res_gestae/docs/rg-12-15.

"Privacy Rights in the Digital Age," encyclopedia entries on the Federal Communications Commission (FCC), Fair Information Practice Principles (FIPPs), and Health Insurance Portability and Accountability Act (HIPAA), Grey House Publishing (2015), http://www.greyhouse.com/privdigital.htm.

"Ethics and Cybersecurity: Obligations to Protect Client Data," for National Symposium on Technology in Labor and Employment Law, San Francisco, CA, March 15-17, 2015 (with Stephen Wu), available at http://www.americanbar.org/content/dam/aba/events/labor_law/2015/march/tech/wu_cybersecurity.authcheckdam.pdf.

"Data Collection, Privacy, and the Role of Regulatory Agencies in Healthcare Robotics," In Proceedings of the 10th ACM/IEEE International Conference on Human-Robot Interaction, 2015, Workshop: The Emerging Policy and Ethics of Human-Robot Interaction, March 2, 2015, available at http://www.openroboethics.org/hri15/wp-content/uploads/2015/02/Hf-Simshaw.pdf.

Presentations

Upcoming: "Access to Justice in the Age of Technology, Television & Trump," *2018 AALS Annual Meeting*, San Diego, CA, January 3, 2018 (discussion group panelist).

Upcoming: "Artificial Intelligence in Law and Discovery," *Georgetown Law's 14th Annual Advanced eDiscovery Institute*, Washington, DC, November 16, 2017 (panelist).

"Robot Lawyers: Improving Access to Justice Through Ethical Design of Artificial Intelligence in the Practice of Law," *We Robot 2017: Sixth Annual Conference on Robotics, Law & Policy*, Yale Law School, New Haven, CT, March 31-April 1, 2017 (panelist).

Keynote: "Current Issues in Law Firm and Lawyer Use of Social Media and Online Technology," *North Carolina Bar Association 2016 Professionalism CLE*, Cary, NC, December 9, 2016 (keynote speaker).

"Artificial Intelligence in the Practice of Law," webinar presentation to the artificial intelligence and robotics committees of the Santa Clara County and American Bar Associations, hosted by the Silicon Valley Law Group, San Jose, CA, October 26, 2015.

"Ethics and New Technologies," panel on Cloud Computing and Other Internet Tools: Using Them Ethically and Preventing and Mitigating Their Abuse, *A Continuing Legal Education Program, Jointly Presented by the Federal Communications Bar Association's Professional Responsibility and Privacy and Data Security Committees*, Washington, DC, October 25, 2016 (panelist).

"Hackers Targeting Lawyers: Ethical Duties to Guard Client Information," *Indiana State Bar Association Utility Law Section 2016 Fall Seminar*, Michigan City, IN, September 15, 2016 (presenter).

"Regulatory Aspects of Robots in Health Care," Panel on Human Factors: Focus on Robots in Health Care, *2016 Design of Medical Devices Conference*, University of Minnesota, Minneapolis, MN, April 12, 2016 (panelist).

"Data Security Concerns and Consequences for Clients and Lawyers," Panel on Practice Specific Concerns Regarding Cyber Attacks, *2016 Symposium: Cyber Attacks & Civil Liability*, hosted by the SOUTH CAROLINA LAW REVIEW, University of South Carolina School of Law, Columbia, SC, February 5, 2016 (panelist).

"Legal Ethics & Data Security," Panel on Cybersecurity for the Practitioner: Client Security, Discovery, and Ethical Considerations, *Symposium: Cyber Wars: Navigating Responsibilities for the Public and Private Sector*, hosted by the CHAPMAN LAW REVIEW, Chapman University Fowler School of Law, Orange, CA, January 29, 2015 (panelist).

"Ethical Obligations & Technology in Law Practice," CLE by the Indiana State Bar Association Legal Ethics Committee, Lafayette, IN, June 18, 2015 (presentation on "The Duty of Confidentiality" and panelist).

"Cybersecurity Issues for Lawyers," Legal Netlink Alliance spring meeting 2015, Indianapolis, IN, May 15, 2015 (presenter).

"Regulating Healthcare Robots in the Hospital and the Home: Considerations for Maximizing Opportunities and Minimizing Risks," *We Robot 2015: Fourth Annual Conference on Robotics, Law & Policy*, University of Washington School of Law, Seattle, WA, April 10, 2015.

"Human Robot Interaction: Law on the Home Front," *10th ACM/IEEE International Conference on Human-Robot Interaction*, Portland, OR, March 3, 2015 (panelist).

"Legal Ethics and Data Security: Our individual and collective obligation to protect client data," Panel on Protecting Client Data in an Age of Uncertainty, *Symposium: Practicing Law in the Age of Surveillance and Hackers: An Exploration of Privacy and Data Security*, hosted by the AMERICAN JOURNAL OF TRIAL ADVOCACY, Samford University Cumberland School of Law, Birmingham, AL, February 27, 2015 (panelist).

"Information Governance for Robot Usage in Healthcare," webinar presentation to the artificial intelligence and robotics committees of the Santa Clara County and American Bar Associations, hosted by the Silicon Valley Law Group, San Jose, CA, February 25, 2015.

"Lawyers' Heads in the Clouds: Indiana Ethics Implications of Electronic Communication and Storage of Client Information," invited presentation to the Indiana State Bar Association Legal Ethics Committee, Indianapolis, IN, September 27, 2014.

"Cloud Robotics: Data Security & Privacy," webinar presentation to the high technology sections of the Santa Clara County and American Bar Associations, hosted by the Silicon Valley Law Group, San Jose, CA, August 27, 2014 (with Dr. Kris Hauser).

"Consumer Cloud Robotics and the Fair Information Practice Principles," Panel on Robots and Social Justice, *We Robot 2014: Third Annual Conference on Robotics, Law & Policy*, University of Miami School of Law, Coral Gables, FL, April 4, 2014 (panelist).

"IT Security Policy Design and Evaluation: How to evaluate and design a security policy for an organization," *2013 Cyber Security for National Security (CS4NS) Conference*, Charleston, SC, September 10, 2013 (panelist).