



AMERICAN BAR ASSOCIATION

November 19, 2020 **ARTICLE**

Virtual Legal Practice—A New Paradigm and Potent Opportunity

How small firms can benefit from going virtual.

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The essence of any law firm, big or small, is client service. Our world looks fundamentally different than it did a year ago, but the expectation that lawyers will put their clients' needs first has not changed, nor should it. It is incumbent upon attorneys to adapt to the “new normal” and help clients acclimate to the resulting changes.

When we started our law firm in January 2020, we knew that we would face particular challenges as a small, woman-owned business, but we did not know we would be facing those challenges in the midst of a global pandemic. Fortunately, these unusual circumstances have brought with them some hidden opportunities and an environment that is fertile for experimentation.

Nobody will be surprised to hear that technology is at the center of our new practice paradigm. Tools once used intermittently, like virtual meeting programs, became essential almost overnight. Conversely, the brick-and-mortar facilities used by law firms have diminished in importance. We believe this provides an advantage to small businesses. While our physical office is well appointed, it cannot compete with the impressive spaces maintained by law firms with multiple offices and dozens of lawyers. The focus on such spaces already had begun to fade in the last decade as clients pushed for more value-based pricing and as law firms, cognizant of trickle-down costs, looked for ways to trim their square footage and corresponding expenses. Now that work is done remotely in nearly all settings, the significance of this difference between large and small office suites has receded even more.

Fortunately, investing in the best technology available is, comparatively speaking, much more affordable and attainable for small firms than outfitting a large office

suite. Small firms can use this unexpected leveling of the playing field to their advantage. The value of technology as a marketing tool can be amplified by offering clients a variety of user-friendly technology options. On the other hand, that benefit can quickly become a detriment if clients worry that the firm lacks the necessary technological infrastructure. For this reason, we have found that partnering with a first-rate legal technology vendor is a wise investment. For lawyers who are weighing the possibility of starting their own firm and calculating how much capital they will need at the outset, this new focus on technology can be a net positive, if it is handled with care.

The challenges of practicing law amid a pandemic also have had a palpable impact on our interpersonal relationships with clients. It takes extra effort to cultivate a trusting attorney-client relationship in the virtual world. An important part of the virtual experience is ensuring that your client feels connected to you despite the relatively impersonal ways we must communicate in the era of social distancing. We have found it very useful to connect with our clients right away to inquire about their preferred means of communication, be it virtual meetings, texts, emails, telephone calls, facsimiles, or some combination of the above.

Clients want to be “kept in the loop,” and in a world where technology is at everyone’s fingertips, expectations are high in this regard. Using more modern means of communication can save time and make it much easier to meet those expectations, but this only works if clients are comfortable with the medium. As with all things, it is essential to know your customer. We have found that giving our clients our undivided attention while online, maintaining a professional experience, and connecting more frequently have helped to bridge any gaps.

While online communications have the potential to be awkward thanks to barking dogs, giggling children, unexpected construction work, and a hundred other sources of noise, many clients are working from home, too, and a sense of humor and flexibility are more valuable than ever.

Perhaps the most dramatic change for litigators over the past several months has been the sudden and unprecedented need to conduct external meetings and legal proceedings remotely. The shift to virtual proceedings has resulted in significant cost savings to law firms and clients as it reduces or even eliminates the need for travel. Work that was routinely done in person in the past can be shifted to an online format without a significant loss of quality. We have now used virtual meeting software to conduct client meetings, expert witness consultations, arraignments, hearings, sentencings, and appellate arguments.

Along the way, we have discovered a few best practices to guide technological choices, depending on the task at hand. Most importantly, any time a client must participate in a virtual judicial proceeding, a “backdoor” line of communication is essential. We have had good luck simply notifying the presiding judge that, in addition to participating in the virtual proceeding through our computers, we also would open a separate conference call line with our client so that the client could speak with us privately if needed. It is essential, of course, to prepare your client on how to mute his or her microphone and camera in the virtual meeting software before moving to the conference line. When working with an incarcerated client who must participate virtually from jail or in person in a courtroom, this is not possible, of course. In those cases, virtual attendance by counsel should be avoided if possible. If virtual attendance cannot be avoided, we have found that conducting several “run-throughs” of the proceeding during which we role-play different scenarios has eased our clients’ anxiety and made the process more palatable. It is paramount that your clients understand that if it is unclear what is happening or there is an awkward silence, they need not fill it and that they trust you will communicate when it is time for them to speak.

Working with witnesses and consulting with experts also can benefit from an online setting. As a practical matter, these tasks become more affordable and more efficient when travel and downtime are eliminated. Screen sharing, audio sharing, and document marking make it relatively simple to review and discuss documents and even video footage as a group. This is obviously superior to a simple conference call, and it adds an opportunity to see how your proposed witness would come across to a jury and respond to questions in real time. Not all virtual meeting platforms offer these advanced tools, however, so selection of appropriate software is essential.

Finally, it goes without saying that the shift to virtual work has opened up more possibilities for flexible scheduling and the repudiation of “face time,” a change that many of us in the field have been thirsting for over many years. As small firm owners, we knew from the outset that we would adopt a philosophy of accommodation and balance. The move to working online for much of the day has made that even easier to accomplish.

For many women, one of the harshest realities of maintaining a busy law practice stems from the constant tug-of-war between being present for our clients and being present for our families. As members of the “sandwich generation,” we are used to scrambling to care for our families, friends, and one another. As virtual working becomes more accepted, we believe it is imperative to recognize how this change is helping us attain much-needed flexibility and to reinforce its importance in discussions with colleagues. We must be vocal about maintaining this new workability, even as we move back to a more traditional practice setting. If we do

not, we will risk a backslide into the less accommodating expectations of prior years. The benefits described in this article should be permanent improvements, not merely a response to exigent circumstances.

The legal profession is changing as the world is changing. Women lawyers have earned a seat at the table with leaders who will help determine the direction in which our profession moves, not only during the COVID-19 pandemic but also long term. We hope and expect that increased reliance on virtual work will empower women litigators, including those in small firms who want to maintain sophisticated practices and rich personal lives.

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