

# The Practice of Law: Catapulted into the Future by the Pandemic

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When lawyers turned the calendar page to January 2020, they could not have dreamt of the two-fold nightmare that would descend upon the profession so quickly. A global pandemic and a troubled economy at the same time? We thought we had seen the end of hard times when we finally emerged from The Great Recession in 2009. Some of our lawyer friends still have lines of credit to pay down from that recession.

## The New Normal

In the “new normal,” we learned that lawyers could work effectively from home. In the beginning, it was a bit of a mess getting everyone working remotely and safely but it was accomplished with amazing speed.

As we write this in May, new legal matters are down more than 30% according to a survey by Clio. 56% percent of legal professionals say they have seen a serious reduction in the number of people asking for legal help, and 53% say they are significantly less busy.

Sixty-seven percent of lawyers are worried about the success (and even the survival) of their practice and 57% are worried about making a living over the next few months.

We have also seen in a May LAW.COM report on actions taken by major law firms in response to the economic downturn. Firm after firm reported some mixture of layoffs, furloughs, hiring freezes, pay cuts, reductions in party distributions, freezes on discretionary expenses and suspension of summer associate programs.

Young lawyers are looking at a grim future. Those who graduated this year and passed the bar will not likely find jobs and those who have been with firms for just a year or two are the most likely to be laid off or furloughed. Add to that the burden of their student loans and it is no wonder that they are so anxious.

## Where Are We With Technology?

The Clio report says 69% of lawyers view technology as more important to their firm than before COVID-19. Cloud computing is now seen as a necessity for survival by 83%. The fear of the cloud, once commonplace among law firms, has all but evaporated.

Will the way we practice law change? Two-thirds of lawyers believe it will. And we think they are right.

For years, lawyers have deferred (mostly because of cost considerations and inertia) upgrading their technology and cybersecurity enhancements. We have explained the importance of endpoint protection endlessly, but not until everyone was working remotely did that message hit home.

Cybercriminals, always sniffing the air for new opportunities, quickly realized that lawyers working at home were vulnerable, both because they were often using home machines (unprotected by their firm's security) and using home networks, many of which were not secure. Everyone had to scramble to up their security game under this new working environment. Now everyone wanted endpoint protection – immediately.

Webinars we taught on “Working Remotely – and Securely” attracted hundreds of attendees, suddenly interested in recommended VPNs, ways to speed up home networks, video conferencing tools and their safe usage . . . the list of live questions was so long that we had to extend the webinars past their scheduled end times.

## Crystal Balls, Goat Entrails and Tea Leaves

Predicting the future of law practice is a dicey business. In two months, we changed how we practice law more than we did in the last two decades. Virtually everyone now knows about e-notaries, how to prepare documents for electronic signature, how to videoconference with colleagues, clients and courts, how to deposit checks via a phone app – and the list just keeps growing . . .

Though lawyers have traditionally grafted technology onto the way they always practiced law, they are now fundamentally changing the way they practice law. We are not likely to go back to the way law was practiced before this pandemic.

More than we ever thought possible, lawyers are evolving in how they practice law. Online court proceedings are still new, but rapidly becoming normal. Why do we need to congregate in person to do justice? There has been lots of lawyer resistance to online courts in the past – but it appears that more and more lawyers and judges are rethinking how we solve our disputes. Mediators have quickly glommed onto Zoom and other software tools for conducting mediations.

All those law firm meetings in conference rooms (which won't seem safe for a very long time) are now being conducted via video conferencing. While we started a bit awkwardly (inadvertently muting ourselves, talking over one another, etc.), we seem to have developed video conferencing etiquette rapidly. Lawyers are getting better at hosting meetings, muting everyone but the host(s) at the beginning and then unmuting folks after they electronically raise their hand. And we are learning how to secure our video conferences.

Which video conferencing service should you be using? It depends on your needs and desired features. The three big players are Zoom, Webex and Microsoft Teams. Many lawyers have turned to Zoom, which is feature rich, intuitive, well known to clients and other lawyers – and likely will be end to end encrypted by the time this article is published. A remarkable number of lawyers now own green screens so that they look more professional in their video conferences when using virtual backgrounds.

Getting payments electronically has become critical for most law firms – sending an office manager to deal with the checks in the mail has been the band-aid for many law firms, but for those solo/small firms who were not accepting electronic payments, they are now seeing the need to do so.

Will we ever go back fulltime to brick and mortar offices? It seems unlikely. There is a big push for “more work time, less commute time.” And no one wants to go to work via carpools, subways, trains or buses. Since there is no expectation that we will have a COVID-19 vaccine until sometime in 2021, it unlikely that we will simply return to how we practiced law in the past. Amazingly, in May, the research firm Valoir conducted a broad survey of people working from home and only found a 1% average loss in productivity. Though work-at-home distractions (social media being the biggest distraction) occupy a little more than two hours a

day, workers are extending their workday to an average of 9.75 hours. That is driven, no doubt, by everyone's need for job security.

Anecdotally, law firms tell us they are regretting the amount of physical space that they have contracted for with their landlords. Many are thinking of downsizing during their next lease renegotiation. Rent abatements and renegotiation are taking place on a regular basis.

Facebook, Google and Zillow have announced that their employees will work from home for the remainder of 2020. Twitter has said that its employees may work from home indefinitely. As of May, most law firms tell us that they are not comfortable reopening yet – and they will listen to medical experts, not politicians, about when it is safe to reopen. Moreover, they are considering partial reopening, with some people working in the office and some from home, to make social distancing at work easier to achieve.

Global Workplace Analytics (GWA) thinks that, even after we triumph over COVID-19, 25%-30% of the workplace will still be working from home – because 80% want to work from home, at least some of the time. Rather to the surprise of many supervisors, who didn't trust people to work untethered from the office, they are learning that people do work when not in the office.

We are learning how to adapt. As we write, law firms are still ensuring law firm stability and business continuity while they institutionalize new ways of working. Ultimately, they will have to survey their progress. It isn't possible to think of everything in a crisis and no plan survives first contact with the enemy. Lawyers will have to review all they have done in the midst of the crisis and find the best practices they have developed and modify or abandon those which have not worked well.

In the end, lawyers have learned that clients want to contain costs and receive exceptional service. Using new ways to practice law can give them both – if we are willing (and we are) to embrace innovation in our thinking. Phone calls are less personal than video conferencing – and personal relationships are what we need to nurture. The best thing lawyers can do today in marketing is call their clients and simply ask “how are you doing?” And then listen, carefully and thoughtfully. It is important that the interests of clients and their lawyers be aligned. We are learning that technology can help do exactly that.

When we look back from a future that it is hard to fully see at this moment, we may be astonished at how this topsy-turvy time catapulted the practice of law forward more in two months than the previous two decades.

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