

THE POST-PANDEMIC PRACTICE

THE NEW FRONTIERS

SERIES - 1 / ARTICLE - 11
DECEMBER 22, 2022

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On January 31, 2020, President Trump declared the COVID-19 outbreak in the U.S. a public health emergency (PHE) pursuant to the Public Health Service Act. Forty days later, on March 11, 2020, the World Health Organization (WHO) declared the COVID-19 outbreak a global pandemic.

As of September 18, 2022, President Biden has announced that the pandemic is over—a comment that some in the medical community deemed to be premature. But regardless of whether the pandemic is officially over from either a political or medical point of view, one thing remains certain: the lingering effects of the pandemic on the workforce, and for our purposes, on the legal workforce, will be with us for some time. In fact, many observers note that the pandemic was not merely a disrupter but rather a game-changer for the practice of law. We will examine what has changed—and will remain changed—post-pandemic.

Seismic Change

So, what changed concerning the practice of law during the pandemic? Just about everything. From workplace to attorney-client meeting platforms, firm team interaction, adoption of new technologies, courthouse filings, and even attendance at routine hearings and real estate closings, a seismic change took place across the legal industry. Space requirements, data protection concerns, and even social and psychological co-worker relationships were all revisited in this new environment.

But when the dust settled, many observers pointed to the remote-work, heavily technology-reliant legal practice scenario as the ‘new normal’. New? Yes. Normal? That, of course, depends on your definition and perspective. But the real issue is, how many of these changes in the practice of law will, in fact, remain—normal or not—in the post-pandemic era?

For Better? Or for Worse?

One of the changes that appear to be rather permanent is the hybrid work environment. Some firms will, of course, take to this arrangement more readily than others

depending upon the area of and employee demand. While a hybrid work schedule sounds good in theory, implementing that change may not be so simple. In mid-2021, when Amazon announced that most of their Seattle-area workers would be brought back in-house before the end of the year, employee resistance was palpable with some threatening to leave the company. Conversely, Microsoft embraced the notion, allowing work-from-home, work-from-office, or a hybrid combination.

For some lawyers, the lack of social interaction encountered at the office led to higher levels of stress, a greater distraction from work, and even depression. They simply missed the element of office comradery. This has led, according to some observers, to a greater attrition rate and more lawyer burnout. But for others, once having tasted the fruit of flexibility, incorporating flex-work as an important element of the overall employment package became a provision to hold out for. And employers, always seeking an edge in the competitive field of attorney hiring, are now increasingly willing to sign off on such terms. But is there a downside for the firm?

Executive Summary

› The Issue

What pandemic changes in the practice of law will remain with us post-pandemic?

› The Gravamen

The demand for hybrid work arrangements, greater reliance on connectivity platforms, and adapting to a cyber-culture as the main livelihood environment are all changes that have become the new norm.

› The Path Forward

Law firm culture, policies, and work-social relationships will have to be adjusted in order for both lawyers and clients to feel comfortable with the new practice realities.

Lawyers who are not physically present in the office may be lacking in the all-important factors of visibility and accessibility to clients, and, certainly, the partner mentoring dynamics are not going to be the same. For administrators, keeping track of lawyer whereabouts might even become a problem. On the positive side, the highly-touted work-life balance that many lawyers have cited as ‘nearly impossible’ to maintain during the first few years with a firm might now be less of an issue. In addressing that elusive goal, numerous firms now eagerly promote such a balance as yet another attraction to join their team.

Practice Predictions

Increased reliance on connectivity and communications platforms will, of course, be necessary for those who telecommute from home, but even for those working in the office, a common practice that has emerged is to conduct attorney-client interfacing via Zoom and other similar technologies and this mode of communication is expected to become permanent.

The economic stresses that accompanied the pandemic also resulted in a shifting of practice areas. Practice in transactional dealmaking decreased during the pandemic, while legal work related to regulation of the financial sector and utilities increased throughout 2021. The pandemic’s economic implications also saw an uptick in private equity, debt finance, securities, and employment litigation. Whether these shifts were temporary or constitute trends will become clearer as 2022 comes to a close.

Another natural consequence of the pandemic has been the greater pressure on providers of low-cost legal services to meet client demand. And the closures, lockdowns, homeschooling initiatives, and other impacts on family structure tensions have resulted in higher demand for family law practitioners. Interestingly, although divorce rates did not spike during the pandemic, requests for formal marital separation agreements did, and a year and a half after the pandemic began, this area of practice is still growing beyond its 2019 levels.

Adapting to a New Firm Culture

The pandemic necessitated shifts in law-firm culture, policies, and future planning. As the old norms of law office operations, modes of practice, and even practice areas give way to the new post-pandemic realities, law firms—and lawyers—will have to embrace the changes and develop guidance that balances client needs, business revenue concerns, and employee work-life accommodation. The altered business environment most certainly presents tough challenges to be met—but that’s what lawyers do best!

“EVERYONE IS REALLY STRUGGLING TO UNDERSTAND WHAT THIS NEW WORLD IS GOING TO LOOK LIKE, AND THERE’S NO ANSWER...NO ONE THINKS WE’RE GOING TO GO BACK TO THE WAY IT WAS IN 2019”

- DAVID WILKINS, HARVARD LAW SCHOOL CENTER ON THE LEGAL PROFESSION

Action

1 Assessing Impact:

Make a realistic examination of how the pandemic affected your firm’s workplace; for some, the impact was indeed a game-changer, while for others, it was a temporary disrupter.

2 How Employees Were Affected:

Assess how employees related to office lockdowns, working full-time from home, and converting their entire modus operandi to digital interfacing.

3 Gauge Acceptance:

For some employees, the opportunity for flex work is most welcome, while for others, it is a disaster; post-pandemic policy in this regard should be as accommodating as possible.

4 Client Outreach:

It is not just the firm’s lawyers who are affected by the new norm, but clients as well; be reassuring to clients that the changes taking place will enhance communication and absolutely maintain your high standard of lawyer accessibility.

Further Reading

1. <https://nysba.org/covid-19-and-its-lasting-impact-on-the-legal-profession/>
2. <https://cl.cobar.org/departments/best-practices-for-law-firms-during-a-pandemic/>
3. <https://www.lexisnexis.ca/en-ca/ihc/2021-02/how-covid-19-changes-practice-of-law.page>
4. <https://www.law.com/dailybusinessreview/2020/12/07/awful-impact-the-long-lasting-effects-of-covid-19-on-the-practice-of-law/>
5. <https://www.mycase.com/blog/general/the-post-pandemic-law-practice-what-lawyers-expect/>
6. <https://www.bestlawyers.com/article/work-habits-affected-covid-pandemic/4176>





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After receiving his Juris Doctor degree from The John Marshall Law School in Chicago, Mr. Brochin served as an Administrative Law Judge with the Illinois Department of Labor for six years where he presided over cases dealing with job separation issues and matters pertaining to contested Unemployment Insurance claims. He also co-wrote the agency's administrative rules, and periodically served as a 'ghost writer' for Board of Review decisions.

Following that position, he was Director of Development for a Chicago-area non-profit college where he was responsible for High Net Worth donations to the institution. For the next eighteen years he practiced as a solo practitioner attorney with an emphasis in the fields of Real Estate law and Commercial Contracts transactions, and was an agent for several national title insurance agencies.

In 2003 he was recruited to head up a U.S. title insurance research office in Israel, a position he held for four years, and between 2007-2017 he participated in litigation support for several high-profile cases. He has taught Business Law as a faculty member of the Jerusalem College of Technology, and has authored a wide variety of legal White Papers and timely legal articles as a professional legal content writer for GPL clients. Separate from his legal writing, he has co-authored academic articles on Middle East security topics that have been published in peer-reviewed publications.



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William Anderson is Managing Director and Head of Law & Compliance. He leads the GreenPoint practice in providing regulatory, legal, and technology solutions to law firms, legal publishers, and in-house law departments around the world, overseeing our team of experienced US attorneys and data and technology experts. Will has over 25 years' experience working with corporations to improve the management of their legal and corporate compliance functions. Will began his legal career as a litigator with a predecessor firm to Drinker, Biddle LLP. He then served as in-house counsel to Andersen Consulting LLP, managing risk and working with outside counsel on active litigation involving the firm.

Will has leveraged his legal experience interpreting regulations and appearing before federal (DOJ, SEC, FTC) and state agencies (NYAG) to oversee research and other areas at Bear Stearns. In this capacity, he counseled analysts on regulatory risk and evolving compliance requirements. Will also consulted on the development of a proprietary tool to ensure effective documentation of compliance clearance of research reports. Will then went on to work in product development and content creation for a global online compliance development firm pioneering the dynamic updating of regulated firms' policies and procedures from online updates and resources. Will holds a Juris Doctorate with High Honors from the Washington University School of Law in Saint Louis and is admitted to state and federal bars. He lives in Pawling, NY, with his wife and daughter.



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