



PROGRAM MATERIALS

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The World Turned Upside Down: How the Pandemic Has Permanently Transformed the Legal Industry

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The World Turned Upside Down: How the Pandemic Has Transformed the Legal Industry

Mike DeFrank

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Time Machine: January 1, 2020

Law Firms

- Period of continued economic growth
- Embracing remote working, but majority of lawyers work in the office
- Travel is part of the job (both the daily commute and business travel)
- The legal industry “enjoys” the reputation of being slow to adopt new technology
- Heavy emphasis on in-person contact and personal relationships with clients
- Disaster planning means fires, floods, and data theft

By April 1, 2020, the World Turned Upside Down

- Global Corona virus pandemic has disrupted the legal industry (and the world) in ways that few could have imagined
- Despite the unfathomable tragedy wrought by the pandemic, the practice of law and delivery of legal services have in many ways permanently changed for the better as a result of it
- When Covid is finally controlled, the benefits to the legal industry, legal consumers, and legal providers will remain

Topics We Will Cover

1. Technological efficiencies that have come out of the pandemic
2. The future of attorneys working from home
3. Benefits and drawbacks of the post-pandemic “new normal” in the legal industry
4. Client feedback on what the future holds for the legal industry

Virtual Meetings and Technology- Before Covid

- Unwritten Rule for attorneys: Avoid video conferences at all costs!
- Conventional wisdom was that lawyers *needed* to meet with clients in person because of our unique role as counselors.
 - Same approach for interactions with judges, mediations, witnesses. Lawyers thought they were not as effective if not there in person.
- This meant that a not insubstantial amount of a lawyer's time was devoted to travel. The client often paid for this travel directly, the law firm paid for travel, and the client still paid for travel indirectly.
- Did in-person meeting custom actually mean that lawyers were less accessible to their clients?

Virtual Meetings and Technology- Before Covid (cont)

- Teams, Zoom, WebEx, Google Meet are ubiquitous and easy to use
- For the uninitiated, there are web-based video conferencing applications which allow for video, screen and document sharing, among many other functionalities.
- Ease of use has been critical for baby boomers and above.
- If senior partners embrace Zoom for meetings, it makes it much easier for the entire firm to embrace these technologies. Bridges generational divide.

Additional Advantages:

- Can be more personal to talk with a client from home or home office than in a sterile conference room
- Eliminates travel, so easier to schedule virtual meetings than in-person
- Less time traveling = more availability for your clients
- Less time traveling = more time to take a deeper dive/less client calls in airports/Ubers
- Most importantly, legal consumers have been using video for meetings for years with their own employees and teams. They expect their service providers to do the same. Virtual meetings keep lawyers in step with how their clients do business.

Working Remotely Before Covid

Before the Corona virus, an unscientific summary of how lawyers viewed working remotely by generation might look like this:

- *Millennials*– Perfectly comfortable working remotely and expect to be able to do so as much as they would like. When it is necessary to come into the physical office, swing-space (“hoteling”) is the expectation.
- *Baby Boomers*– Practicing law is collaborative and personal and does not lend itself to working remotely. See you at the office!
- *Gen X*– Sure we would like to work remotely more often, but we are not about to rock the Boomers’ boat. Not to mention, we never got to work remotely when we were associates.

Law Firm Office Space Before Covid

- Between 2006-2016, the average square foot per attorney decreased 30-50% (*The American Lawyer*, November 2016)
- In 2016, a JLL report found that law firms averaged 760 sq. ft. per attorney

Office Space After Covid

- By some estimates, by April 2020, 62% of employed Americans worked at home, compared with 25% in 2018. (Brannan, M., “U.S. Workers Discovering Affinity for Remote Work,” *Gallup*, April 3, 2020)
- According to a survey published by McKinsey in June 2020:
 - 80% of respondents said they enjoyed working from home
 - 41% said they were more productive
 - 28% said they were as productive

(Boland, B., et al. “Reimagining the Office and Work Life After Covid-19”, *McKinsey*, June 8, 2020.

Working Remotely After Covid

- Lawyers will work remotely more frequently
- Larger percentage of lawyers will work remotely
- Very different than all firms going fully remote. Expect firms to have lawyers commit to certain days in/out of the office so that there is certainty for space management purposes.
- Hoteling and swing spaces will be much more prevalent.
- Lawyers will be able to “find time” in their day by not commuting
- Better work/life balance. This does not mean that lawyers work less, but does mean that they are better able to accommodate child care schedules and feel less chained to a desk.
- Those lawyers who are disciplined and demonstrate strong work ethic while working remotely have the opportunity to distinguish themselves.

Benefits of the “New Normal” for the Legal Industry

- Lawyers are more available to their clients because they have more time
- Lawyers are no longer technophobes
- Easier to retain talent because of fewer geographic restraints, and less emphasis on in-office work
- Access to new talent pools for the same reasons
- Firms are more efficient because they have right-sized office space and support staff
- Lower overhead and less attorney travel should equate to cost savings for clients
- The ingredients are in place for the quality of legal services to improve

Drawbacks of the “New Normal” for the Legal Industry

- Less social engagement could mean less dynamisms
- Job satisfaction and productivity is related to social capital which develops over time (i.e. water cooler conversations)
- Ability to mentor. Learning to practice law.
- Onboarding and integrating new attorneys.
- Challenge of preserving firm culture with more attorneys working remotely.
- Maintaining cohesion and preventing dichotomy between attorneys that work in the office and those that work from home.
- How to manage expectations of clients who expect their lawyer and law firm to behave in a “conventional” (pre-pandemic) way

Client Feedback. What do Legal Consumers Think?

- “1. There will be a prioritization of focus on only the highest-value things. We are living real-time in a MASH episode. Triage. Fix ‘em up. Save their lives. Send them on. Do it again. Don’t screw around with things that aren’t life or death. Perfection is for suckers.
- 2. Creativity. Cookie cutter solutions from yesterday are history. Lawyers need to think outside the box much more than ever before as businesses are facing and will continue to face brand new challenges never faced before.
- 3. Speed. Refer to #1. Speed matters. Time kills deals. The world is spinning much faster than ever before.
- 4. Using technology is no longer a differentiator. It should be a given. It’s almost 2021 and we have been 9 months into a pandemic. Not being able to use technology is the only way you can use technology to differentiate yourselves right now....on the [wrong] side.
- 5. Good peripheral visions — the success of future lawyers will even more depend on being able to see things beyond just their area of expertise. Look left, look right, look up, look down, look ahead, look backward. There are minefields everywhere and we clients assume our lawyers are looking out for ALL of them, not just the ones marked with your specific practice area.”

-General Counsel, publicly traded REIT

Client Feedback (cont.)

- “In house lawyers are working longer hours. Full stop.”
- “The expectations that people working in the business has increased and that has cascaded to in house lawyers...Expectations are so much higher. Lawyers are naturally trained to meet expectations.”
- “In-house people are not spending enough time doing something strategic because there are such demands on their time... Aggregate hours have definitely increased, but strategic time has suffered.”
- “The best brainstorming still happens in person.”

-In-House Counsel, Global Asset Management Firm

Client Feedback (cont.)

“I completely agree....that the pandemic will change the legal landscape going forward. In-house counsel are always searching for ways to save their clients money and the elimination of in-person meetings is low hanging fruit. Outside counsel’s push back against telephone/video meetings, mediations and depositions is no longer the norm. I strongly suspect that even after the pandemic is over, outside counsel will need to justify why they need to incur travel time and travel costs when a videoconference would accomplish much the same thing.”

-In House Counsel, National Financial Services Company

Client Feedback (Cont.)

“From the client side of things, I have not noticed any difference in responsiveness, work product or in relationships with attorneys. Maybe I’m spoiled since I have met a majority of the attorneys we have worked with but have seen zero differences in how we interact or exchange information. The one downside of the Covid situation is the lack of personal connections with attorneys – inability to meet in person for events”

-Owner, Professional Services Company

Takeaways

- Although it has come at a terrible cost to humanity, Covid has forced the legal industry to evolve. Those firms that do not evolve, and think we can “go back to the way it was” are going to get left behind.
- Attorneys are going to work remotely more frequently and in greater numbers. Firms will need to understand the benefits and the shortcomings of remote work and manage their firms accordingly.
- Clients have reason to expect that they will receive better service (and quality) from their lawyers because of the efficiencies their law firms have gained as a result of the pandemic.

Thank You. Questions?

I welcome your questions, comments, and observations, either now, or by phone or email. Please do not hesitate to call or email me. Thank you, and I hope that you and your families remain safe and healthy.

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The World Turned Upside Down: How the Pandemic Has Permanently Transformed the Legal Industry

By Michael D. DeFrank



When our firm updated its disaster recovery plan several years ago, global pandemics were just above locust plagues on what we perceived as realistic threats. Yet here we are in the throes of the Corona virus– the world turned upside down. Although the global health crisis is nothing short of terrible, the practice of law and the delivery of legal services have in many ways permanently changed for the better on account of the pandemic. When the Corona virus eventually subsides, the benefits to law firms and legal consumers will remain.

Most of the efficiencies that have come with law firms having to operate fully remotely have been bandied about in one way or another for years. Before the pandemic, there were plenty of excellent legal service providers with little or no brick and mortar presence, but law firms are (or at least were) notoriously slow to adopt new systems and technology, so the vast majority still clung to their physical space and the “conventional” way to practice law, which was replete with inefficiencies. Corona has forced law firms to embrace technology and the efficiencies it affords in order to survive.

Virtual Meetings

Video conferences were previously something most lawyers avoided if at all possible. They were awkward, impersonal, clunky, and often unproductive. The conventional wisdom was that if a lawyer needed to meet with a client, they would do so in person, both as a matter of professional courtesy, and because the attorney-client relationship is so personal that only a face-to-face meeting would do. The same could be said for interactions with judges, mediators, deponents, and witnesses– we simply could not be as effective if we were not there in person. The ubiquity and ease of use of Teams, Zoom, WebEx, Google Meet, and similar video meeting applications during the pandemic have called conventional wisdom into question.

People are accustomed to communicating by video (how often do you FaceTime with friends and family?) and communicating with their lawyer is no different. Many lawyers have been pleasantly surprised that video meetings can be

every bit as personal and productive as in-person meetings. In many cases, talking with a client by video while you are both in your homes is actually more personal than doing so in a sterile conference room in your office. Because no travel is involved, video meetings are infinitely easier to schedule than in-person meetings. Because they are not spending time in cars, airports, and airplanes, lawyers are more available to have video meetings with their clients. In addition, legal consumers have been using video meetings for years with their own employees and teams. They expect to hold virtual meetings with service providers. Far from being off-putting, video meetings are a way for their lawyer to remain in step with the way their clients do business.

Working Remotely

Before the Corona virus, an unscientific summary of how lawyers viewed working remotely by generation might look like this:

Millennials – Perfectly comfortable working remotely and expect to be able to do so as much as they would like. When it is necessary to come into the physical office, swing-space (“hoteling”) is the expectation.

Baby Boomers – Practicing law is collaborative and personal and does not lend itself to working remotely. See you at the office!

Gen X – Sure we would like to work remotely more often, but we are not about to rock the Boomers’ boat. Not to mention, we never got to work remotely when we were associates.

These notions almost seem quaint now. Nearly every lawyer has had to adjust to working from home in some form or fashion. And while there are certainly things, like summer associate programs, that better lend themselves to the in-office setting, the forced experiment of practicing law remotely has been successful overall.

While the evidence is admittedly anecdotal, lawyers of all ages have been pleasantly surprised by their productivity, ability to provide exceptional client service, and quality of work life while working remotely. Transactional costs are removed, the daily commute in particular, so lawyers are “finding time” in their day. While the dynamic of virtual collegiality has taken some time to get used to, using video chat or IM to socialize, mentor, and manage has become second-nature to us. We are more accessible to our colleagues and clients because we are not doing things like commuting to the office or flying to in-person meetings.

It is fair to assume that lawyers with childcare challenges on account of the pandemic would strenuously disagree that the “forced experiment” of practicing law remotely has been a success. However, when the country and world are finally able to get a handle on the virus, and daycares and schools reopen, these attorneys will also have the opportunity to benefit from the improved efficiency of teleworking. To be clear, I do not envision a post-pandemic legal landscape where all or most law firms are fully remote. In-person meetings are highly effective for endeavors like mentoring younger attorneys or certain collaborative projects. The value to morale of in-person, in-office camaraderie is difficult to overstate. However, we should expect that a much larger percentage of lawyers will regularly work remotely, and legal consumers will be the beneficiaries of this shift.

Clients will receive better efficiency and better service. Law firms will be able to do things more cost-effectively because they will have lower overhead. Law firms are going to need less physical space with more lawyers working away from the office. Firms will similarly right-size their administrative staff now that lawyers have, by necessity, become more comfortable with technology. Most importantly, legal consumers will no longer have a technophobe lawyer who insists on inefficient communication methods simply because that is how lawyers have always communicated. Not long ago, their lawyer was intimidated by technology, but she has evolved as a result of the pandemic. Now their lawyer is more accessible, more efficient, and more engaged.

Many things are sure to change in our world when this horrific virus eventually subsides. And a pandemic has to be the worst possible reason for any industry to have to evolve. Nevertheless, the changes that the legal industry has embraced out of necessity are changes that will have long-term positive impacts on the practice of law and delivery of legal services. Whatever normal looks like for the world once Corona is tamed, legal consumers should expect a new, and better “normal” with their lawyer and law firm.