



Best Practices for Law Firms During a Pandemic

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The COVID-19 pandemic continues to disrupt all aspects of everyday life. As the virus spreads throughout the United States and around the globe, the number of those infected will rise, as will the death rate. Governments have issued quarantines and shelter-in-place orders in an effort to combat the pandemic, and, as a result, several businesses, including law firms, have closed offices temporarily and instituted work from home measures for lawyers and support staff.

In this challenging environment with circumstances changing on a continuous basis, law firms must remember the fiduciary duties owed to clients and their ethical duties as defined by rules of professional conduct in the relevant jurisdiction. Law firms may limit their exposure

to professional liability and other claims by identifying and responding to key issues that may arise during this crisis.

Client Communications

During these stressful times, clients may require more reassurance from their lawyers than usual, which may lead to an increased need for communication between lawyers and clients. In addition to promptly complying with reasonable requests for information, lawyers also must keep clients reasonably informed about the status of their matters. If law firms have closed their physical law offices on a temporary basis, such information should be communicated to clients, including any updated contact information for the law firm. Law firms may be required to ensure that phone numbers and voicemail

messages are routed to the appropriate law firm personnel working remotely. The same concern applies to regular and certified mail as well as packages sent to the law firm's office.

Security in Remote Working Situations

Attorneys must be vigilant in maintaining the security and confidentiality of data/client files while telecommuting. Working remotely presents certain cybersecurity risks such as accessing/sending information through unsecure Wi-Fi networks, use of unsecure personal devices, phishing attacks, and many others. Recent media reports indicate a surge in cybercrimes against law firms as criminals attempt to exploit any cybersecurity vulnerabilities with so many lawyers working remotely. It

is important to follow firm security guidelines and policies, and review data breach response plans to ensure that each practice setting is prepared and able to respond quickly to any incident.¹ Moreover, law firms that lack cyber insurance should consider obtaining such coverage. Finally, while working remotely, a lawyer may be surrounded by family and friends who are in close proximity to the lawyer's work computer and client files. Lawyers must establish and implement safeguards to protect any unauthorized or inadvertent disclosure of client information, whether in electronic or physical form.

Keeping Abreast of Changing Rules, Regulations, and Laws

COVID-19 has temporarily modified how we practice—from courthouse closures, to the extension of certain filing deadlines, and to changes in various regulations in certain practice areas. During this time, it is important to keep abreast of changes to local, state, federal, and international rules that may have an impact upon client matters and legal rights. Lawyers also should inform clients regarding changes to a law or a temporary court closure that may affect their case or matter and provide guidance on how the clients may best achieve their objectives in view of these changes.

Calendaring/Docketing/E-Filing

Law firm leadership must ensure that the firm's calendaring system is current and can be updated from remote work locations. Maintaining a back-up hard copy calendaring system is recommended. Leadership should assess all upcoming jurisdictional deadlines for the next 60 days and either make or confirm assignments in writing to comply with such deadlines.

Many federal and state courts have closed temporarily, leading to confusion about filing deadlines, statutes of limitation and repose, service of process, and other issues. Lawyers should continuously check emails from and websites of relevant courts and bar associations for the most recent updates and instructions.

Most courts have mandatory e-filing requirements. Law firm leadership must ensure that all relevant personnel have the ability to e-file

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from their remote work locations. Subordinate lawyers and support staff members should test their computer systems to confirm their ability to e-file.

Financial Concerns for Law Firms

The pandemic's disruption to the business community may potentially lead to reduced work and less revenue for many law firms. Some law firms may be tempted to sue clients for outstanding fees and legal expenses to increase their accounts receivable during these harsh economic times. Lawyers should weigh the financial benefits against the risks of any collection action resulting in a complaint of legal malpractice against the law firm.²

In some cases, law firms may be required to cease some or all operations for a protracted time period while responding to complications related to this pandemic. Such a scenario raises

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Lawyers should decline representations for matters in unfamiliar areas of practice unless they are committed to dedicating the time and resources necessary to develop the expertise required to provide competent representation.


more issues than can be addressed in this article.³ Law firms that lack business interruption coverage also should consider obtaining such coverage. Finally, some lawyers may be tempted to dabble in practice areas in which they have no experience. A lawyer's failure to know the law may lead to claims and disciplinary complaints. Lawyers should decline representations for matters in unfamiliar areas of practice unless they are committed to dedicating the time and resources necessary to develop the expertise required to provide competent representation.

Attorney and Support Staff Well-Being

The anxiety of a public health crisis, the isolation and lack of time boundaries that come with working remotely, and the juggling of increased family obligations only serves to heighten the already existing mental health and substance use problems facing the legal profession. There are many resources to help attorneys navigate through and cope with the stress and demands of

this challenging time.⁴ If the law firm has an affiliation with an Employee Assistance Program, it should remind its lawyers and support staff of that resource. Law firm leadership should instruct all lawyers and employees to follow all Centers for Disease Control and Prevention guidelines with respect to the pandemic, and to seek medical attention when needed.

Conclusion

The altered business environment caused by the COVID-19 pandemic presents new challenges for law firms. By adopting the guidance noted above, law firms may manage the professional liability risks and emerge in a better position to serve their clients and maintain their law practices. 

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NOTES

1. For more information on best practices and how to handle a cyber event, see CNA's *For Your Eyes Only: Securing Lawyer-Client Communications*, and *Safe and Secure: Cyber Security Practices for Law Firms*, www.cna.com/lplriskcontrol.
2. See CNA's *Taking Stock of a Potential Fee Collection Suit*, www.cna.com/lplriskcontrol.
3. For further information, see CNA's *The Big Picture: Enterprise Risk Management for Law Firms*, www.cna.com/lplriskcontrol.
4. See CNA, *Making Lawyer Well-Being a Priority in the Daily Practice of Law*, www.cna.com/lplriskcontrol; ABA, *Mental Health Resources for the Legal Profession During COVID-19*, www.americanbar.org/groups/lawyer_assistance/resources/covid-19--mental-health-resources.

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