

# RUNNING THE FULLY REMOTE LAW FIRM

## THE COMMAND POST

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Law & Compliance

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**The COVID-19 pandemic created a paradigm shift in the way law office workers relate to their work. Although such devices as flextime and other alternative shift arrangements were offered by many law firms prior to the pandemic, the shutting down of onsite operations—or at least the switch to sparsely-staffed offices on any given day—forced law office management to rethink how the production of legal services was going to continue given the new reality.** Now, almost three years after the first outbreak of COVID-19 in the U.S., although restrictions have been lifted in the majority of locales, many workers have become used to the idea of remote work—so used to it in fact—that some are quite resistant to returning to the office. Law firms, like other professions, are coming to grips with this new employment model and are developing mechanisms to make it all work.

## Back to Work... But with a Twist

As the end of 2022 approaches, most U.S. and overseas law firms have ramped up their flexible work policies to accommodate the preference of many employees to spend more of their work-week working from home. Firms are now asking their lawyers, as well as other staff, to work three days a week in the office and two days remotely. However, that work schedule varies between lawyers and support staff and between Western versus Asian offices. A 2021 survey conducted by a legal tech company found that over a third of U.S. and UK law firms reshuffled the scheduling of their support staff to arrive at the **‘three days in, two days out’** scheme for their operations; however, at the same time, only four percent of Asia-Pacific law firms allowed for such a setup. Support staff was expected to be in the office for the majority of the week’s schedule.

But regardless of location, at many firms, the tone is set by the partners: if partner hours are dominated by in-office presence, their associates and support staff may very well be ‘expected’ to do the same.

## The Challenge of Client Acceptance

While the pandemic was at its peak, and all citizens, lawyers and

clients alike, were ‘all in the same boat’, clients were understanding of the fact that interfacing with lawyers and their staff by necessity had to be done by way of remote access. However, with the return to normalcy, many clients once again expect to have in-person face time with their law firms and not merely virtual contact. Somehow, client trust and confidence in their lawyer’s ability to professionally handle their legal affairs gets diminished when all business is conducted solely or primarily over the internet. Never mind that prior to the pandemic, the majority of lawyer-client contact time may have been over the phone; the continuing reliance on Zoom meetings and other such platforms can inadvertently send the message that ‘you’re not fully back at work yet.’

Most observers predict that, over the long run, such concerns will dissipate as the remote provision of services takes hold across practically all professions. However, law firms must be mindful of the fact that this disruptor to their long-established confidence-building with their clients exists, and they must therefore be considerably more proactive in cultivating that level of trust.

Particular attention must be paid to the requirements of the Big Fish client. Whereas smaller businesses might not be in a position to

**“THE LEGAL PROFESSION IS A PROFESSION OF GIVING CONFIDENCE TO CLIENTS. THOSE THINGS DO WELL WITH PHYSICAL MEETINGS AND PHYSICAL CONTACT. I FEEL THAT CLIENTS WILL STILL NEED HAND-HOLDING.”**

**— Hanim Hamzah,  
Co-Chair, IBA Law Firm Management Committee;  
Regional Managing Partner, ZICO Law**

dictate to their law firm what the in-office accessibility should be, major global clients may very well condition their ongoing relationship upon certain standards that they expect from their law firm—including their lawyers working from an office.

## Technology Fills the Gap

Being technology-reliant, remote access for both employees and clients must function at 100% efficiency. The inability to access files when needed or to conduct online filing from home can, of course, greatly impair firm productivity. From the client side, a dropped shared-platform session or a poor, lagging connection will result in client frustration rather than satisfaction. Accordingly, technology is one area where the remote office arrangement cannot be lax. Firms relying on remote access by both staff and clients must be mindful of the fact that by investing in world-class connectivity technology, their firm will stand out from the pack and maintain the reputation that was cultivated over the years from pre-pandemic times.

## Going Fully Remote

Although the hybrid arrangement described above has been the most common deviation from the traditional, in-office work arrangement to come out of the pandemic, other business models have also been developed. The 'virtual law office' formula has taken hold at a number of offices, whereby all lawyers and their support staff work remotely. The forerunner of this model was the UK law firm Keystone which switched to a mostly work-from-home scenario 20 years ago. Keystone's founder and CEO, James Knight, noted that today, there is no pressure on the firm's remote employees to come into the office and that there has always been a strong demand from lawyers and other staff who like the idea of true remote work rather than mere flexibility.

## Practical Considerations

The fully-remote work arrangements can benefit both the employees and the firm. Employees avoid what is, for many, a dreaded daily commute, and law firms can greatly expand their staff—both legal talent and support teams—without having to invest in expanded office space and certain other in-office expenditures. Obviously, the technology investment, as noted above, will, in all cases, need to be considered.

Among other practical considerations is the need to rigorously maintain data security. Just because the law firm has invested heavily in cybersecurity for its various servers and apps does not mean that every home internet system will automatically be secured by those measures. In fact, it is the home internet connection that can be the—very—weak link in an otherwise secured system. To prevent vulnerability in this regard, law firms can undertake to equip their home workers with firm-issued equipment accessible via the employee's fingerprint only and supply the employee's residence with a dedicated internet connection or at least a third-party virtual private network (VPN). In addition, every firm should have in place a policy under which no unauthorized person may use the firm's equipment or firm-funded internet service. Furthermore, even if such measures as firm-supplied internet connections are not feasible for whatever reason, at a minimum, the employee and other household members should consent to the firm's IT department monitoring the home system for malware and other vulnerabilities.



## Still an Employee?

Occasionally, law firms may wish to classify their work-from-home workers as independent contractors rather than as employees, perhaps thinking that such a move will reduce payroll and other costs. However, the remote location of the worker will, in almost all cases, not frustrate the 'direction and control' test used by most jurisdictions to distinguish true independent contractors from employees.

If the expansion of a firm's remotely working legal or support staff is to another state, special consideration should be given as to what conflict of laws might arise as to labor laws, non-competition clauses, and other employment issues.

## Remote is Here to Stay

A study conducted in July 2022 found that of over 13,000 workers surveyed, 40% cited workplace flexibility as a prime motivating factor for staying with a firm, coming in a close second to salary considerations. Online searches for remote work have jumped by over 750% since the COVID-19 pandemic, and despite the presumed end of the pandemic, the demand for remote work arrangements shows no sign of abating. Clearly, law firms must get on board with the 'new normal' in order to attract and keep high-quality legal talent.

## Executive Summary

### 1. The Issue

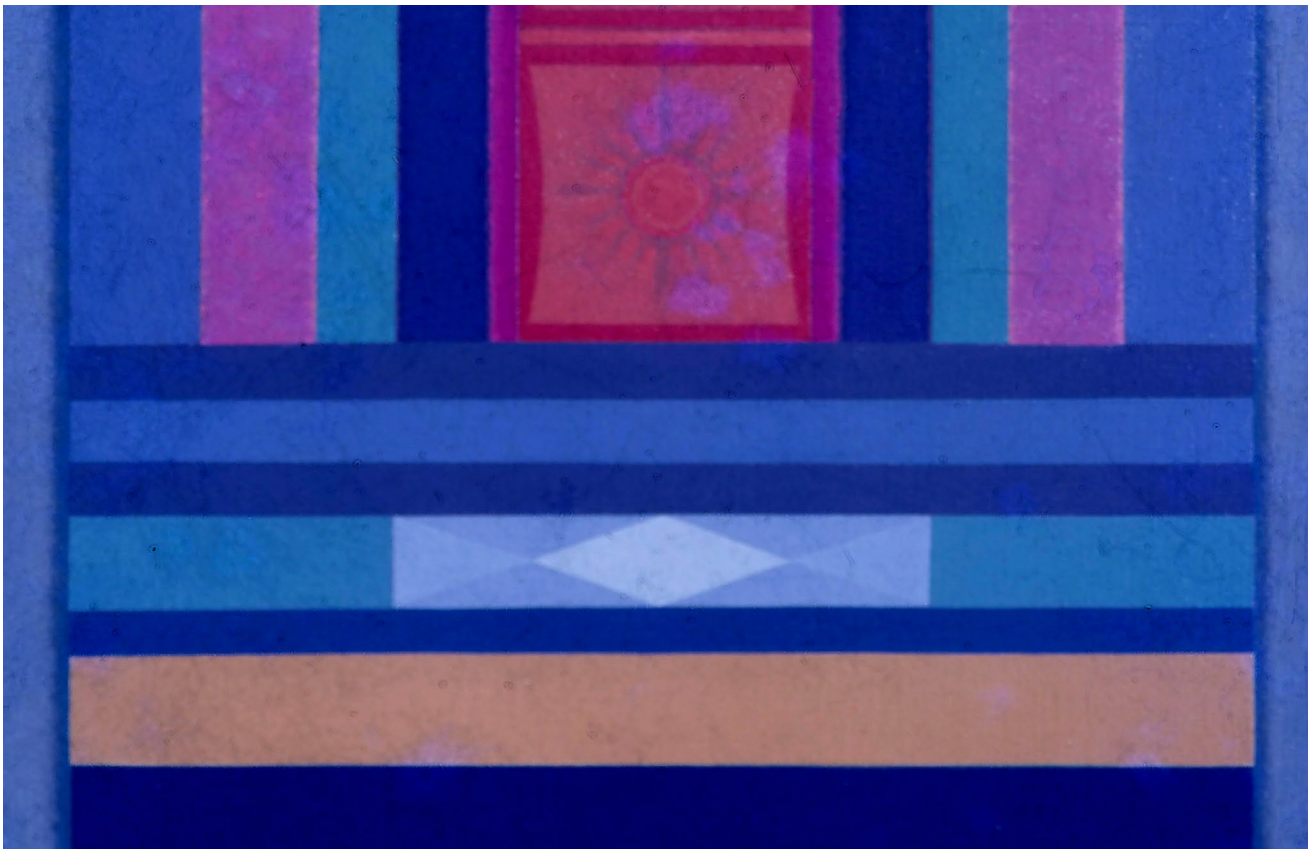
How to address the switch to remote work environments in the post-pandemic era?

### 2. The Gravamen

Employees worldwide have gotten used to the remote work employment model, and law firms must respond accordingly.

### 3. The Path Forward

A host of considerations must be examined by law firms that are going either partially or fully remote, and client satisfaction should be the top among them.



## Action Items:

### 1 Grasp The Opportunity:

The advent of widespread demand for remote work by both lawyers and support staff presents an enormous opportunity for firm growth with less infrastructure investment than traditional expansion.

### 2 Facetime Balance:

Although the remote work scenario may be most advantageous to both employees and the firm, planning for such an arrangement must take into consideration how your firm's clients will respond to the move to greater virtual contact.

### 3 Cybersecurity:

Remote work environments risk greater cybersecurity vulnerabilities, and your firm's IT department must prevent or at least mitigate this risk by enhancing both policies and technology to assure maximum client confidentiality.

### 4 Interstate Employment:

Beware the implications as to labor and employment laws and practices that might apply when hiring out-of-state remote employees.

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## Further Readings

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1. <https://www.ibanet.org/Law-firms-in-the-era-of-remote-working>
2. <https://www.lowenstein.com/news-insights/publications/articles/legal-and-practical-considerations-for-remote-employees-julie-werner-and-lauren-hollender>
3. <https://harperjames.co.uk/news/building-a-remote-and-flexible-law-firm/>
4. <https://www.airswift.com/blog/remote-working-strategy>
5. <https://growpath.com/remote-working-tips-for-law-firms/>
6. <https://lexworkplace.com/how-to-work-remotely-as-a-law-firm/>



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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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