

Remote Law Practice?

Are there any issues with this? Where the attorney and clients don't physically meet, and do everything through email, phone, and video conferencing. I'm thinking along the lines of say, immigration law or estate planning, anything outside of actual litigation.

Would such a remote law practice have any ethical issues?

Considering I have been doing this for 16+ years, I sure hope not!

Jonathan Stein, California

I rarely meet clients, only if we actually have to be in court or a hearing. Everything is by mail, email, phone

Erin M. Schmidt, Ohio

There are no ethical issues per se. I suspect that the only communications I have had with the majority of my clients in the past few years have been by email. I had two new literary clients call me this week to speak by telephone, and I noticed that this was unusual for my practice.

Bert Krages, Oregon

I have practiced "remotely" (i.e. without a physical office other than an office in my house) for the last 11+ years. Over the past few months, I've actually seen more of my client's faces because suddenly everyone wants a video call. I rarely, if ever, meet clients in person, so the pandemic really hasn't changed my practice at all.

There is no requirement of face-to-face communication with a client.

However, when working remotely you do need to think through data privacy and security issues, particularly if you are hosting client information in the cloud. And you also have to make sure that you ARE communicating, even if such communication is not in person.

Kevin Grierson, Virginia

I too have many, many clients that I never meet in person and many I never see either. I've had no real issues. 99% of the matters involve phone calls and emails. For my practice, many of my clients are out of state, or fairly far away. In fact, I have one in California and one in Oregon. I've had several overseas - as far away as Afghanistan. I've just never had any issues with it.

I sometimes have to travel though and finally meet the clients. Some do get nervous if meetings are done over the phone so I may travel but I caution them that I do charge for travel time, but it's 1/2 price. I have a lot of clients in DC and I don't charge for travel to DC because that's where the market for my services is. Plus, I have a free place to stay.

I also use Regus offices. For \$15/month I have an office anywhere in the country if I need it. I use the Bethesda, MD Regus office a lot and they know me up there pretty well. But if I need to take a depo in Denver, I just reserve a room with them. I find it best to take my office basically with me (i.e. this computer), and just go to the local Regus and set up shop there for a week. I tried a case in Dallas, TX just like that. Was able to work remotely from there on all of my cases that week. Lots of fun. I've even thought about just being mobile and work remotely from strange places and travel around the country while doing so. Might be fun.

Sterling L. DeRamus, Alabama

There might be an issue if you are in a different state than where you want to practice, but that varies by state. For example, I am licensed in both Nebraska and New York. My office is in Nebraska. By New York law, I cannot practice in New York unless I have a physical office. Though, if I had a physical office in New York, I suppose I could probably practice remotely.

Bradley H. Supernaw, Nebraska

Erin -- Would you now consider Zoom video calls with clients? (I assume the answer is yes, but I ask because this period has possibly expanded the "acceptable" ways we interact with others.)

Clayton T. Robertson, California

Many of my clients both in the past and present are not that great with technology.

I can certainly do video calls (and have done a few in the past)

Erin M. Schmidt

I do it all the time. Have never met many of my clients. Always, not just since COVID.

Shell Bleiweiss, Illinois

I rarely meet my clients who are all over the country and the world, but make an effort to see the creative ones in their own work spaces, because that teaches me a lot about them and their mindset. I do encourage phone calls because that creates more of a personal connection and trust with the client.

Sterling mused about a truly mobile office; apparently there are attorneys who live and practice on boats and in RVs - I first heard about them on this Listserve! I am researching and streamlining my practice towards the latter, because then I can take my race car with me and see my kids more often, but it takes a lot of research to make a big change like that.

Flann Lippincott, New Jersey

I've been doing this for 6 years. If I need to meet a client, there are places to meet.

Barry Kaufman, Florida

Here's a potential wrinkle some of us might run into. How do you know the clients are who they say they are?

For many purposes it won't directly matter - you can draw up a contract for Barney Rubble as easily as you can for John Smith - it's just a name. For bankruptcy purposes, our trustees holding telephonic meetings have asked Debtor's counsel if

they have met with their clients and verified the license matches the person in front of them. Theoretically this could also be done via Zoom or other videoconferencing. Since the trustee cannot visually compare the license to the Debtor appearing telephonically, they are relying on counsel as officers of the court to provide that verification.

Corrine Bielejeski, California

Often times we are using other documents that verify. In a SSA practice, for example, SSA will tell me if the name, DOB, and SSA do not match. Plus, I am getting medical records that have info in it and often somewhat of physical description (age, height, weight and so forth). Also, sometimes pictures.

Of you do have this issue, it is fairly easy to have your client take a picture of their ID and text, email, fax it to you

Erin M. Schmidt

Good point Corrine, and something that I keep in mind. Most of my clients come from client referrals, or a few attorneys who know me. If the client is a business then I check on that. I also check their address; but frankly in my practice I see no reason for a client to pretend they are someone else.

Flann Lippincott

I've begun Zoom calls, if nothing else but to reassure clients about an upcoming hearing. Seems to settle their emotions about court.

I have only had a downtown office for 20 years but since March have practiced from home. Just as busy, more clients. I'm learning.

Reta McKannan, Alabama

I am working on becoming more remote for estate planning. Most of my clients are elderly and many don't use zoom. Some all emails go to a child. So at some point I need to meet my client. I feel like I need to have some face to face with every client. How do you do an estate plan without ever meeting your client? I often gather

information from the third party or one spouse and feel the need to see the person and the nonverbal communication is there a way to solve this?

Martha Jo Patterson, California

You can do that just be minimizing the number of times to meet with the client. For example, you likely need to meet to sign documents, but is it necessary to meet to do the info gathering on every client?

Of course, some you will especially if there is concern that children or someone may be influencing the client inappropriately,

Erin M. Schmidt

That is what I am starting to do.

Martha Jo Patterson

In Ohio, with executing a will the witnesses must be in the presence of the testator to see him/her sign, and the testator must physically watch the witnesses then sign. Can't Zoom a will execution in Ohio. *Whitacre v Crowe*, 2012-Ohio-2981 App. 9 Dist. 2012.

Julie Mills, Ohio

In person witnesses and notary required in California too. Jonathan how do you handle your signings?

Martha Jo Patterson

I thought Ohio allows remote Notarization but won't work for will?

Nicholas I. Fuerst, Arizona

Remote notarization does not solve the problem with a valid will execution requiring witnesses to be "in the presence" of the testator.

Deborah Matthews, Virginia

Nicholas—yes, I was only considering Will signings. Remote notarizing is permissible in Ohio.

Julie Mills

Vermont has enacted emergency legislation to allow remote notarization and witnessing of wills and durable powers of attorney. The rules aren't perfect - but they are only temporary. I'm in hopes that when we (the bar and the legislature) have some time, we can thoughtfully come up with legislation that will allow it in general. I think it could open up remote practice quite a bit.

I'm always hesitant to just send documents off with instructions on how to sign.

Michael D. Caccavo, Vermont

Ohio's bill has stalled. For now, it's "Porch Signings."

Julie Mills

Although I generally don't worry about a potential client pretending to be someone else, we do have fairly thorough "know your client" rules. For example, with small companies we generally attempt to determine the principals, and run the names of both the company and the individuals through the OFAC Sanctions Search to make sure we are not assisting someone who is not authorized to do business in the US.

Kevin Grierson

That's my worry about a remote law practice for estate planning. How can you determine if the person is who they say they are? How can you determine whether or not the person has legal capacity?

Would videoconference be "good enough"?

Oscar Acuna

Yeah, I think it would be difficult to do T&E work without meeting your clients at least occasionally. Of course, you don't need an actual office to meet clients. You could go to them in their homes. You could also keep a Regus or similar type office so you have a conference room when you need one. Our firm's brick and mortar locations are all Regus offices.

Kevin Grierson

I've been doing it for 20 years and moving around the world. You want the client to know, to avoid giving a wrong impression.

You need a client base comfortable with working through tech, rather than in person.

I did international business transactions, immigration, government contracting, and even litigation, provided it's the paper shuffling kind.

I've rep'd clients in federal administrative litigation.

Feel free to email me off line if you would like to discuss the ins and outs of a remote (and even portable) law practice.

Vonda Wolcott

I'll admit I'm an old timer. Would not think of operating a practice out of anywhere other than an established office. I do think a lot depends on the type of law and the age of your clients. Mine is primarily estate planning, probate, real estate and elder law. I feel it is very important to meet with clients in a professional setting. I also think control is an important issue, and should not be turned over to clients. The idea of meeting with clients in a restaurant or at their home bothers me greatly. When I have met with clients in their home, I notice they are much more in charge. Yes, I use

email, modern electronics, computers and related items. But there is nothing like meeting in person with clients at my office

Jim Winiarski

Is there any reason that video conference wouldn't be equivalent to, rather than just "good enough," for determining whether a client is who they say they are? You could use the same methods to determine their identity - collect whatever information you need, check a state ID, etc. - over video that you could in person. Using video for determining competency might be less equivalent.

To the general question, my practice is 99% remote since COVID. The 1% is because the post office isn't forwarding my mail like they should be so I still need to go into the office to check it. I was trying to move it that way anyway and was about 60% of the way there already. Personally, I expect COVID to be a persistent if perhaps seasonal problem until there's widespread vaccination and plan to social distance as appropriate until then, but even if COVID is solved tomorrow I'm planning on staying remote for a lot of other reasons. There's a lot of benefits to being remote first, and I don't think there's much benefit to my particular practice in meeting clients in person. I might lose some clients who really, really want face to face time with their lawyer, but I'm ok with that.

Noel French, Michigan

My experience isn't typical, for several reasons, but here goes:

I moved my office home in 2008, so I've been comfortable working from home for some time. I renovated the second bedroom, which already was a home office for my husband, into one that would accommodate both of us, with sufficient cabinet and drawer space, and a special adjustable desk for me, because I work mostly standing up. I had already gone mostly paperless, scanning everything that came in, and maintaining pdf files of whatever I created in addition to the native file format, keeping very little on paper. So over the years, I am left with about 2 small cartons of legacy paper files and one drawer of remaining paper files that are being reduced as time goes by and my need to keep them drops. Normally, after every tax date, a shredding truck comes to my building and there is a shredding event, but of course, that hasn't happened this year. BTW, my beloved husband of over 31 years died the following year, so I've now had that office and my home all to myself for a long time

now. During this CV-19 time, I take zoom meetings from about 4 different locations in my home.

My correspondence with clients and OC has been by email, including document exchange. I rarely meet clients, even in better times, except for real estate closings and will document executions. I actually had a real estate closing after the PA lock-down, but I did not attend; I represented the buyer and had ordered title insurance through a trusted title agent, who took care of the settlement and closing documents executions. I have yet to meet the buyer, with whom I've had long and warm conversations and emails.

Many of my clients, including EP clients are close to my age (did I mention that I'm 79?), and haven't been technology averse at all. All other clients come to me through email or telephone. I haven't had any EP clients since CV-19, so haven't had to deal with execution of documents, but have heard from fellow practitioners of very creative driveway executions with the attorney and her paralegal/notary in one car, some witnesses in another, windows open, and the clients seated up the driveway, everyone in sight and hearing of one another, documents having been sent in advance by email and printed out for each to review in advance, and signature pages in hand to be signed by each and then collected for wet notarization, etc.

Luckily, in December I bought a totally new computer all-in-one system with a built-in camera and 21" wide (24" diagonal) screen, large SSD, so it's fast and has great audio and video, and I have a fairly good internet connection - I hope I'm not jinxing myself. As a solo since 1987, I've worked hard at maintaining bar activities and networks, because being a solo is a lonely practice, otherwise. I also mentor public interest lawyers in my practice area at some of the local agencies and law school clinics.

Since I'm "elderly", I am semi-retired, and a member of an organization called Fit in The City (FitC) that has all kinds of social, fitness, wellness and cultural activities. Since the PA lockdown, it has moved entirely to zoom. I really like the social aspects of "seeing" people on zoom at these meetings as well as the Bar Association meeting on zoom, and have also used zoom for dinner with friends.

As a side-bar, some of my family has also had zoom mini-seders on Passover, one family member sadly lost her brother and his funeral was conducted on zoom, with more than 100 people participating.

I also second the suggestion for the ABA Technology Committee and the Senior publications, all of which give great suggestions and support.

The volume of email and filing it has been getting ahead of me, though.

It's really important to maintain outside contacts and to take breaks while WFH, and to take care of yourself. This response has really gone far afield of remote work, but remote work is more than just remote and work.

Miriam N. Jacobson, Pennsylvania

Miriam, so sorry to hear about the loss of your husband. Age doesn't matter; it's just not easy.

Your description of your practice, and your non-practice life, are inspiring. Keep up the great work.

Wendy Lascher, California

Kevin brought up an interesting point earlier this week that I've been meaning to follow up on... what do other folks who handle civil matters do to "know your client"? (I realize that for criminal or family law matters, things like asset searches may be much more common.) Thanks, Amy

Amy A. Breyer, California

Facetime. Zoom. (Skype in the old days) I also make sure I get a copy of their California Driver's License, but that is part of handling PI cases.

And their insurance card.

But, beyond that, and not just for knowing my client, I google their names, run them through Facebook, Twitter, Instagram, and then run their phone number and email address through Google. You would be surprised what you can find out about a person - and maybe you don't want them as a client.

Jonathan Stein