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**Steve Leimberg's Estate Planning
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**Subject: Mary Vandenack, Martin Shenkman & Jonathan Blattmachr
on Managing the Remote Law Practice and Other Practical
Administrative Considerations during Coronavirus**

“By this time, most of us have been working entirely or primarily remotely for at least a couple weeks. While we were hoping the remote work was short-term, social distancing guidelines have been expanded for much of the country. Developing effective remote practice strategies has become a matter of business survival. But remote working in the current coronavirus environment requires more than merely accessing your firm network or cloud-based document management system or hosting web meetings. This newsletter will explore both technical and practical, even mundane, steps and tips, that may be useful to practitioners in this trying time.”

We close the week with timely commentary by **Mary E. Vandenack, Martin Shenkman** and **Jonathan Blattmachr** that examines the issues raised by managing a remote law practice.

Mary E. Vandenack is founding and managing member of **Vandenack Weaver LLC** in Omaha, Nebraska. Mary is a highly regarded practitioner in the areas of tax, benefits, private wealth planning, asset protection planning, executive compensation, equity fund development, business and business succession planning, tax dispute resolution, and tax-exempt entities. Mary’s practice serves businesses and business owners, executives, real estate developers and investors, health care providers, companies in the financial industry, and tax-exempt organizations. Mary is a member of the American Bar Association Real Property Trust and Estate Section where she serves as Co-Chair of the Futures Task Force, Co-Chair of the Law Practice Group and on the Planning Committee. Mary is a member of the American Bar Association Law Practice Division where she currently serves as Editor-in-Chief of Law Practice Magazine. Mary was named to ABA LTRC 2018 Distinguished Women of Legal Tech, received the James Keane Award for e-lawyering in 2015, and serves on ABA

Standing Committee on Information and Technology Systems. Mary is a frequent writer and speaker on tax, benefits, asset protection planning, and estate planning topics as well as on practice management topics including improving the delivery of legal services, technology in the practice of law and process automation.

Martin M. Shenkman, CPA, MBA, PFS, AEP, JD is an attorney in private practice in Fort Lee, New Jersey and New York City who concentrates on estate and closely held business planning, tax planning, and estate administration. He is the author of 42 books and more than 1,200 articles. He is a member of the NAEPC Board of Directors (Emeritus), on the Board of the American Brain Foundation, and the American Cancer Society's National Professional Advisor Network.

Jonathan G. Blattmachr is the **Director of Estate Planning** for **Peak Trust Company** (formerly the Alaska Trust Company) which has offices in Alaska and Nevada, a principal of Pioneer Wealth Partners, LLC, and co-developer, with Michael L. Graham, Esq., of Dallas, Texas, of Wealth Transfer Planning, a computer system produced by Interactive Legal that provides artificial intelligence advice and automated document assembly systems for practitioners and a director of Pioneer Wealth Partners, LLC, a wealth management firm in New York City.

Here is their commentary:

EXECUTIVE SUMMARY:

By this time, most of us have been working entirely or primarily remotely for at least a couple weeks. While we were hoping the remote work was short-term, social distancing guidelines have been expanded for much of the country. Developing effective remote practice strategies has become a matter of business survival. But remote working in the current coronavirus environment requires more than merely accessing your firm network or cloud-based document management system or hosting web meetings. This newsletter will explore both technical and practical, even mundane, steps and tips, that may be useful to practitioners in this trying time.

FACTS:

Just a few weeks ago, we might have thought that working from home was going to be short-term. On a short-term basis, we may have been accepting limitations and challenges in the remote work environment that are causing more difficult problems now. Business survival becomes a matter of identifying and overcoming the challenges of the remote work structure. Also, the difficult time period we are all experiencing now will likely forever change the practice of estate planning and law generally. There will likely be a greater shift toward remote work in the future.

COMMENT:

Home Office Space

An obvious priority is to identify a physical space that is conducive to work. Conventional wisdom is as follows.

If it is possible, the best home office space is a room dedicated to being your office. When you walk in, you start working. When you leave, you are taking a break or finished for the day. If a dedicated room is not a possibility, then seek to create a separate area that is your workspace. If possible, have a desk that accommodates your work style. Keep the desk in a way that facilitates work. Avoid having personal mail, bills and other distractions on the desk that you are using for work. Have a comfortable chair and a place to switch to work standing when you can.

But alas, there are those of us who take a less than conventional approach. Given the state of wireless technology the renegades amongst us might prefer to work in a comfortable couch or armchair using a laptop and printing or scanning to equipment out of view in a work closet.

The bottom line is each of us has to find an arrangement that makes us the most productive in a remote working environment. Experiment with the options available until you identify the approach that fits your style is likely best. And it may be that different work will be best done in different areas of your home.

Your Internet Connection

Remote work requires a reliable and fast internet connection. Many remote lawyers have had significant challenges with internet connections over the last few weeks, particularly if there are others at home with devices connected.

The following post covers speed and stability of internet connection: <https://medium.com/@mfornasa/remote-working-is-your-internet-connection-good-enough-7e5c8d4f59b2>.

Check into internet options with your provider (or an alternate provider if that is an option). If there is an upgrade option that provides more speed and stability, the investment in the upgrade will likely improve your remote work efforts.

Avoid relying on public Wi-Fi for remote work. Doing so creates significant cybersecurity issues. Attorneys are responsible for securing client communications and safeguarding information. An excellent article on cybersecurity issues for lawyers is:

https://www.americanbar.org/groups/law_practice/publications/techreport/A/BATECHREPORT2018/2018Cybersecurity/

In fact, it may be preferable never to use public Wi-Fi. Certainly now, while we are all in a state of home isolation, public Wi-Fi may not be an option for many or most of us. If you do have access to public Wi-Fi and use it, make the public network private: <https://support.microsoft.com/en-us/help/4043043/windows-10-make-network-public-private>.

Another thought to consider is to have a backup option should there be an issue. If you don't have a Wi-Fi hotspot, you can easily obtain one from your phone company. Also, most smart phones can double as a Wi-Fi hotspot. Just be mindful of data limitations in that, if you reach someone, the phone company may throttle down the speed of your access making work nearly impossible. So, a smart phone or Wi-Fi hotspot may be a great backup, but it too has its limitations.

Computer Hardware

If you have been working with two or more screens in the office and are trying to get by on a tablet or small laptop working at home, you may be getting frustrated. It's a useful skill to be able to work effectively on a laptop but, if it's very frustrating, consider moving your office computer home. You

can also create a second screen for yourself using a second laptop, tablet or your phone. Also, look into using a docking station so that you are not doubling up unnecessarily on computers.

But just as discussed above with respect to a formal home office or a comfy armchair, each practitioner has to identify the approach that works best for him or her. For those not comfortable with a laptop, removing a work desktop that's integrated into a work environment may be quite difficult. It may be possible and quite inexpensive to buy a desktop computer to install at home and merely use it for a connection to your office or to your firm's cloud-based document management system. While some may be comfortable working on a tablet, for many that may prove difficult. A compromise solution for those desirous of working on a tablet is to buy an external keyboard that can be attached to the tablet to make typing easier.

In all events, working in a remote environment requires that great thought and caution has to be given to security. For many, the simplest and safest approach is to download nothing onto the remote computer and work entirely in a remote environment. This can be done generally in one of two ways. First, if your entire office database is cloud-based, you can access that cloud-based service and work in that environment. For others that are not fully cloud based, you can use any one of the several software products available that can securely permit you to remote into your office desktop. These are discussed further below.

The nature of the environment in which you work may also dictate how you address the comment above concerning computer monitors. If you use a cloud-based environment, you may wish to have several applications open at a time and therefore having a second monitor may be incredibly helpful and efficient. However, if you're remotng into your office desktop, you may find it awkward to switch screens on a laptop to a multi-screen office set up. In those instances, it may be easier to disable one of your office monitors remotely work on a single screen at your office that coordinates more readily with a single screen on your laptop. These decisions are also interconnected with the work environment that you establish as discussed in the preceding section. If you have a dedicated office and a large desk area available to work in your home remotely having multiple screens rather than a larger computer may be convenient. In contrast, if you are a La-Z-Boy kind of remote worker, you may just prefer a simple laptop.

The theme to all of this is to find the arrangement that's most comfortable for you. Be careful of simply forcing yourself to conform to the recommendations of the firm IT department that may not have the flexibility for each professional to adapt to his or her own remote style.

Paper, Paper-Less and Paperless Remote Environments

First, let's describe the terminology. A paper environment consists of yellow pads, printed trust documents, Redwelds and file folders.

The reality, if we can be honest, is many practitioners still function primarily in a paper environment. This occurs even when their firms claim to be paperless. There is no shortage of practitioners who still have administrative staff print out all their documents, organize traditional read welds and file folders and so forth. In fact, when one of the authors was discussing with a colleague and friend how remote work was going, the comment back was that it was a bit frustrating and difficult as he had to have a courier come from the office to his home at least once a week, if not more frequently, picking up Redwelds and returning them to the part-time staff at the office to retrieve and process. Also, a courier retrieved new matter files from the office and brought them to the attorney's home to work on in the remote home location. This arrangement is incredibly inefficient and frankly problematic with the requirements for home isolation. It may be impractical to resolve or address this in the current environment but certainly the current circumstances point out why a significant shift towards a paperless environment in the future is critical to practice in future emergencies.

A paperless environment is a purely electronic environment with no paper documentation whatsoever. However, this is a misnomer because, even in a fully paperless environment, wills and other documents are signed in paper even if immediately scanned. It may be possible that the difficulties and challenges created to have documents remotely witnessed and signed in the current environment may serve as a catalyst for a much more significant shift in the law to permit truly electronic wills with remote witnessing and notarization. Should that occur, perhaps more realistically, when that occurs, we can then have a truly paperless environment.

A "paper – less" environment (that is, one with less paper) is in between the paper and paperless environments illustrated above. A paper – less

environment is what those in a paper environment should strive to move towards if they make the inevitable transition towards a paperless environment (or one that is at least as paperless is feasible). For example, in a paper – less environment all documents can be scanned and available through the firm’s document management system but physical “temporary Redwelds” might be created to hold paper documents to assist in the transition from a fully paper to a completely paperless manner of operation. Thus, every document in the temporary Redwelds will be scanned but it would provide practitioners still more comfortable in a paper environment to review and handle physical documents that they are more comfortable with.

One of the keys to moving to paperless is to design your document management system, whether using windows folders, an online service, or a document management system, so that you can find things the same way you do using paper. One of the authors took several 70 plus attorneys paperless by demonstrating that you can design the paperless system in a way that, if you really need to, you can print out the file in exactly the same way you used to maintain it.

Most lawyers use a Redweld for a “matter” such as “General Company” and then use files inside the Redweld for subtopics. With any document management system or electronic storage system, you can create underlying folders that are exactly the same as your hard copy folders. If you really need to, you can print them out – but if done right, it is highly unlikely that you will ever do so.

Once you become paperless, the days of paying a staff person to find a lost document are over. One of the authors has been paperless since 2005, and another since 2011, and we both can assure you that there hasn’t been a lost document since. Better yet, the efficiencies have proven incredible. Once you get comfortable in a paperless (or if you need paperless) environment you’ll find you can focus more of your time and energy, and especially that of support staff, on more interesting and productive work.

Clients will be more satisfied, particularly today, if you can readily provide documents electronically. A well-organized electronic file allows each member of your team to have access to the same documents, anywhere and anytime, which reduces mistakes, redundancies, inefficiencies and cost.

A simple way to start is to make a commitment to making each file you are touching remotely paperless right now. Organize electronic folders that match what you used to carry around. Never use the term “Miscellaneous” or “General.” Develop a consistent list of matter names, file names, and document types. Then, when you search, you will always be able to find your files. Consider purchasing a separate scanner that you can use at home. A resource that provides some information on technology options is <https://buyersguide.americanbar.org/>. Use the current remote work difficulties to accelerate your practice toward the paperless environment a modern office should exhibit.

While the authors are significant advocates of being paperless, if all else fails, print a few things out. This will require that practitioners working at home have a printer and appropriate supplies (copy paper, ink replacement cartridges etc.). Because this all happened so quickly some practitioners may not have the appropriate equipment and supplies in their home or other remote office. This can inexpensively and easily be remedied with an online purchase to have a simple all-in-one printer, scanner, copier shipped directly to the professional’s home. However, if you are going to do more significant work, consider a stand-alone faster and better-quality scanner, and perhaps a more powerful printer if you have the room for it. For those used to working in a paper environment in their office, the modest additional investment for better equipment may make this process less frustrating.

The bottom line again is each practitioner has to identify the approach that is most efficient and effective for the remote environment and practice style for him or her.

Home Office and Equipment for Employees Working Remotely

Many lawyers rely on associates, paralegals and/or legal assistants to support their practice. Associates and support staff may not have the same capability and equipment to work at home as they do in the office. Furthermore, practitioners cannot have the same access to support staff as they did in a physical environment.

Engage in discussion with valued staff members as to what and how they can work effectively from home. Recommend that they create a space that allows them to work an expected number of hours without distraction.

If a staff member does not have equipment, consider sending equipment from the office to them; however, require the employee to sign an agreement as to how the equipment will be used and that it will be returned when requested and in the same condition. Prohibit personal use and access to law firm equipment by family members.

Do find a way to ensure that staff members have the equipment they need to work effectively. In some instances, it will be preferable to provide a work laptop professionals and staff that has the appropriate software installed as well as the virus protection encryption and other safeguards. This might be done even if the procedure is created to solely work in a cloud environment so that no client sensitive materials, or any practice materials for that matter, are stored on the laptop. In other instances, it may be feasible to permit staff to use any computer they wish so long as they use a protective portal to access the office network.

It may be more cost-effective for some equipment, for example a printer, copier, or scanner, to simply purchase inexpensive equipment for the employee to own.

Do keep both confidentiality and security issues in mind as you work with staff members on their in-home set-ups.

Train Yourself to Become Effective at Home

The conventional approach to efficient remote working is to create a structure as similar as possible to that in your office environment. For some, establishing set hours for work at home may be beneficial. If you don't do so, you may find yourself working more at home than you did before. Others may be more readily distracted working at home. Create a daily work plan at the beginning of each workday. Review the work plan at the end of the day.

But again, as with so many of the remote work and technology issues discussed in this article, you have to find the approach that works for your style. For us renegades in the profession working at 5 AM and taking a

break at 10 AM when no calls are scheduled to jog, and treating each day as it comes, may be unconventional, but more efficient for our style.

Don't Just Cope with Remote Working, Grow Skills for the Future

For many of you, the remote electronic work environment is frustrating and inefficient. Don't fight it, embrace it!

Remote work, Web meetings, a paperless environment, and one day electronic wills signed remotely, will be the norm. You can struggle through trying to work in the current mandatory remote environment or you can embrace the challenge and use it to prepare yourself and your practice for the future. Use the time working at home to develop your technology skills. Rather than simply "getting by," consider the work at home phase to be an opportunity to advance your law firm into the realm of delivering legal services more efficiently and effectively with technology. Each week or two, select an area of technology to tackle and become more proficient at. If you are still cutting and pasting from other client documents (please tell us you are not), then create documents that can be automated as you go. On a simple level, you can create templates in word with simple drop-down menus. In a more robust level, you should realize that document generation software will be a more efficient and safer means to practice. Depending on the size of your firm, it may or may not be advantageous to undertake a change manual drafting using firm standard forms to document generation during this difficult time.

If document automation is daunting, at least commit to learning how to use Quickparts and Quicksteps in Office Word and Outlook. Quickparts allows you to create a library for messages you send regularly or paragraphs you type often. Check out: <https://support.microsoft.com/en-ie/office/quick-parts-4ffef7c5-7596-4e95-9faf-41c771847a7b>.

Quicksteps allows you to save the steps that you do on a regular basis. For example, if you often open an email to three particular people, Quicksteps can memorize the steps.

However, if you're experiencing downtime because of client cancellations, and a slowdown of new client matters, this may be the ideal opportunity to use that downtime to become comfortable with the new more efficient means of working. If that becomes the case, contact small handful of estate

planning document generation software companies and explore their strengths and weaknesses, decide and perhaps at least experiment with if not subscribe to one and start tackling the transition process.

Managing Your Work at Home Employees

An effective team makes all the difference in an estate planning or other legal practice. Keeping that team working effectively is one of the challenges of working remotely. While you may be experienced working remotely, working out of the office is new to a lot of associates and staff. You must commit to actively managing the remote work.

- Require each employee to provide a work schedule and have them keep that schedule. At the beginning of each day, all team members should provide a work plan. The work plan should identify what they plan to work on and an estimate of the time that will be consumed. For this to be effective, you must review and comment on the work plan. Provide your employees with priorities. Adjust time estimates.
- Have regular check-ins. Start the day with a team huddle. Huddle again immediately after lunch and at the end of the day.
- Create continuous connectivity of your team with a tool that provides for instant messaging. You need to be accessible. Your team needs to be accessible.

Microsoft Teams is an excellent tool for staying connected with your team during the day. The program is a part of various versions of Microsoft Office 365. Microsoft is currently making Teams available for free.

<https://products.office.com/en-us/microsoft-teams/work-remotely>. In Microsoft Teams, you can create Teams and channels. A team is typically a larger group. A channel is a subgroup. You might have a Team for Tax, Trust and Estate group (a large group), and a channel for a particular project (a smaller working group). Via Teams, you can instantly connect to your team or any part of the team with video, call or chat. If you have Office 365, you can schedule team meetings on the calendar. Everyone can simply join the meeting.

You can also use Skype or meeting platforms such as GoToMeeting, but Teams has the built-in security of Office 365. One author uses Teams internally and other products for external meetings. Another uses GoToMeeting for both.

Trust comes from having a system of accountability and seeing that accountability exists. Most document management systems and practice management systems have tools to create reports showing “touches” to the system during the day. You may not have time to run such reports every day, but you might do so often enough that everyone knows there are various ways that they will be held accountable.

If you have associates and staff track billable hours and office time, monitor the time to be sure that time per project isn't more when working remotely than in office. When someone is new to working remotely, you may see double or more the hours on a project done working remotely than when in the office. Check time consumption daily. If there is a mismatch between what you saw in the office compared to working at home, address it immediately. Endeavor to identify what the cause of the inefficiencies is. Is the staff merely being inefficient to take advantage of not being personally managed? Are staff members or professionals struggling with the frustration of working in a different manner than they are used to? If the source can be identified, it should and can be addressed early on.

Have remote work practice sessions so that you and those that work with you can develop their skills at working remotely. Prepare documents with tips on using tools that improve remote practice. Sign up for training sessions as a group.

The approach to managing the remote work environment will vary depending on the size of the firm, the nature of the work, how work was handled in the office before remote work became essential, and the extent to which remote work was used before the current situation. For small practices, might be sufficient to merely initiate a web meeting, call to cell phone or merely emails to monitor the progress of different projects.

Stay Connected with Current Clients

For those of us who go to lunch or events with clients, it may be awhile before we are doing that again. Others of us never focused on client lunches or outside activities for client communications but had other approaches. Regardless of the style you used, it is important to find ways to stay connected. In fact, it may be more important during this trying and difficult time than ever to stay in touch with clients.

First, from a completely human perspective, check in on those you know. Most of us doing estate planning are likely to have a lot of people we know who are part of the vulnerable population. Check in simply to check in. There are clients who are used to being able to get in the car or order an Uber and run to the store to pick up the ingredients for dinner tonight. All of our lives have changed. It is extremely difficult.

Know that everyone is worried about dying from COVID-19 or having someone they love to die from it. They are also worried about having something else go wrong and not being able to take care of it. Really smart people are asking the same question ten times and not realizing it has been asked and answered. Things aren't normal so don't pretend they are. On the other hand, have some non-COVID-19 conversations.

Be present on LinkedIn. Post information that will assist those you work with. Avoid just reposting the same information that everyone else is posting – unless it is likely that your network hasn't seen the information. Think about your client base. Provide information that is particularly relevant to those you represent and let your posts reflect that thought. Be known for providing accurate information and making it personal.

If you have a firm newsletter, use that in the current environment to stay in touch with clients and provide relevant information. Everyone's inboxes are full of emails from many other advisors suggesting that they care and are concerned and there to help but, instead of your general wishes, provide useful actionable information. If you don't have a firm newsletter, using email contact service such as constant contact or MailChimp, which are very cost-effective and represent a simple way to blast emails to your entire database with planning ideas suggestions and so forth.

Use your bills as a form of communication. If you send out paper bills, attach a short memo or article if you publish on planning for current events. If you email bills to clients, attach a short article, memo or letter with relevant planning ideas. Clients will appreciate receiving intelligent actionable advice during this very difficult time.

We have all had clients forward us materials published by organizations that they are involved in. Often, the information is inaccurate. Provide accurate and relevant email.

Example: One of the authors was once told by a client that the reason he hired the author was because instead of sending a generic newsletter to someone he knew expecting the client to figure out how new laws affected him, the author sent a personalized note explaining that the LLC laws had changed and that he should take certain actions. To the extent we are trying to rapidly disseminate information, sending generic communications is almost required. After you do so, back up and figure out which of your clients are most impacted and follow up with a personal email or call.

Attire for Web Meetings

OK, why is anyone even discussing this? Because even us electronic road warriors occasionally slip up and turn on our web meeting video cams while wearing workout clothes or PJs! No one (tell me you're not the only one!) wears a suit and tie while working at home. But if you turn on your web cam on a GoToMeeting video web conference, you might want to project a professional image. Casual dress-down attire is fine, but just be mindful of what you wear.¹

Consider where on your laptop your camera is located. If it is located beneath the screen it will look up often leaving you looking less flattering than you really are, and, perhaps, creating the look of an expanded mid-section. Here's a tip, if you have your laptop, have it sit at a table or desk for web meetings and webinars when you will use a web camera. If not, put a fat book underneath your laptop and experiment with the angle before starting the meeting.

Another appearance factor is the videoconferencing background. If you don't have an appropriate view in your remote work environment, check into the virtual backgrounds offered by videoconferencing software.

By the way, just as we predict that remote working will generally get a tremendous long-term boost and the reality of electronic wills should be accelerated by the current events, we also believe that more casual work environments will evolve. The post-coronavirus office is more likely to be smaller because staff will rotate and more of us will work, at least part of each week, remotely. Casual Friday's may give rise to casual generally.

Go Paperless in Client Communications

Most people are afraid to open hard copy mail right now for fear that COVID-19 will live on the mailing. There is merit to this as some of the studies have suggested the virus can survive for many days on paper. Some may suggest transitioning all communications to electronic formats. In other instances, a hybrid approach may be preferable. Many of our clients still prefer hardcopy paper. It may not be that difficult to offer clients both. Some firms have instituted arrangements whereby a very limited number of administrative staff work in separate areas of the office on alternate days to process physical mailings and other tasks to support professional staff working remotely. Keep in mind that, even if this is viable in the current environment, it may not be viable in a future emergency such as a hurricane flood or other problem. So, consideration might be given to how a truly remote work environment can be created before the next emergency arises. To the extent that anything is sent on paper, verify with the client that the client wants to receive the paper and explain your safety measures in sending it.

For one on one client communications, use email. For communications to a group of clients, use email services such as Mailchimp or Constant Contact.

If you are still sending hard copy bills, go electronic. If you have clients of any age who are not effective email users, call and guide such clients on how to print their bill if they must. Better yet, go over the bill with them verbally and guide them as to how to pay the bill online.

There is a practical aspect to making remote work efficient in client communications electronically. If the norm or working in an office environment was to dictate a letter, have it typed, printed on letterhead, signed, and scanned into the files, but the physical letter is actually mailed to the client, perhaps the entire process needs to be rethought. In a remote environment, having an administrative staff member create a draft of the letter from dictations is likely not feasible. There is readily available inexpensive software, such as Dragon, that can cost-effectively be used to type letters, communications, memorandum and other documents nearly as quickly as the attorney can dictate.

In lieu of physically printing a letter on letterhead, create electronic letterhead. Creating electronic letter head in Word is quite easy. See

https://www.creighton.edu/fileadmin/user/UCOM/docs/ElectronicLetterhead_Instructions.pdf.

If that seems beyond you, you can always scan your letterhead, convert it to PDF to Word, and create a letter template that can be used without printing and scanning. A letter can simply be typed dictated using Dragon or another software product, onto the template and once finished convert it into a PDF, and email to the client. If the scanned converted letterhead does not have the crisp professional feel that you believe your physical letterhead had consider making part of the standard form letter template a statement to appear underneath the letterhead similar to the following: **“*Temporary letterhead used while working remotely during coronavirus pandemic.”**

Signature lines can be addressed in a variety of ways. You can create an electronic signature by using your finger or stylus on a touchscreen, by uploading an image of your signature, using your cursor to draw one, or use a word font that looks similar to your signature. Here is some guidance for using various types of signatures in Word. https://support.office.com/en-us/article/add-or-remove-a-digital-signature-in-office-files-70d26dc9-be10-46f1-8efa-719c8b3f1a2d#_toc311526846

If a signature file seems challenging, you can always simply use a “/S/ Your Name” in lieu of an actual signature. Because this will appear different in terms of both the letterhead and signature and might even include in the standard letter template an explanation that this approach is being used because of the practicalities of working remotely during the coronavirus pandemic. Consider the following sample language that could appear below the signature line on each letter: **“*Letter not signed due to working remotely during Coronavirus Pandemic.”**

You might even consider adding a few short standard paragraphs to letters sent out electronically and prepared in the manner described above during this difficult. Consider the following samples that you could adapt as you deem appropriate: **“We are sending this communication only by email as we are working remotely and cannot readily print to send hard copies by regular mail. Should this be an inconvenience, please let us know and we will try to send a printed copy to you by regular mail or Federal Express. During this difficult period, we remain reachable by email or mail. My cell phone is listed above. We can arrange web meetings at your convenience. That provides a great way for meeting without the risks of closer contact. If**

you are not familiar with or comfortable with a web meeting, we'll talk you through it. Let us know how we can help.”

Email Footers

You might consider adding to the standard Email footer your practice uses a special statement to address the current difficult circumstances. Following is a sample that you may wish to adapt for your practice. The goal is first and foremost to let clients and others know you are working and available as readily as you were before the pandemic. It reinforces that you are ready willing and desirous to help them during this difficult time. And finally, it encourages clients to communicate back to you electronically to minimize the difficulties of your staff retrieving and forwarding physical mail in this remote environment we all find ourselves in.

Our firm is working remotely due to the coronavirus. Email is checked regularly, and our phone is answered. We can readily offer web meetings and discuss remote signing of documents if necessary. If possible, please send all communications and documents via email instead of by regular (snail) mail. We can provide you a secure portal through ShareFile if that would be helpful (e.g. for large or confidential files). Let us know how we can help.

Phone Systems

Many phone systems can easily be adapted to automatically transfer phone calls to a particular professional's extension or to that person's personal cell phone. Some firms have simply rerouted the main number to an administrative person's home and provided the equipment for them to work remotely. This may already be in place as part of the disaster plan. Even if not there may be simple solutions checked the programming and capabilities of your phone system if you have not Artie done so. If you use Internet-based phones, for example Vonage, each phone has its own IP address and can simply be taken to the professional's home or other remote work location plugged into the Internet and it should function as if it were in the office.

An alternate to consider is to transition to a service like Dialpad. Dialpad is a phone that runs on your computer. It is referred to as a “softphone”.

Dialpad is among the products that are a virtual PBX. You can create extensions for everyone in your office. There are a variety of options in this market but for lawyers, Dialpad offers a feature referred to as “Voice Intelligence”. After a call, you can receive both a transcript of the call and a list of action items.

Videoconferencing – To Zoom or Not to Zoom

The use of videoconferencing has skyrocketed in the last few weeks. The number of thoughts and comments should be considered as you transition to video or web conferencing. First, many clients will be uncomfortable and are not familiar with this approach. In those instances, it may be necessary to offer for a staff member from the firm to call the client and walk them through the steps. While all these programs are relatively simple and intuitive, technically challenged clients may not find them so. You may also entice clients to participate in web meetings by explaining some of the advantages. It’s not only that there may be no alternative in the current social isolation environment, but there are potentially valuable benefits. At least one of the authors has found it more efficient to review documents during a web meeting than in an in-person meeting for many years. Reviewing a trust in an online meeting is more efficient because the social niceties of greeting the client and your office tending to coffee, beverages and so on and the chit chat that accompanies the meeting simply don’t occur. A web review could take 50% of the time than an in-person review might take. Another benefit of using a web-based meeting is that many of the web meeting services easily and for no incremental cost permit recording of the meeting. If the client wants a follow-up memorandum, that recording can easily be transcribed by using a transcription feature embedded in the web meeting software, or if that’s not available, emailing the recording to one of the online services such as Scribie or Temi to have the transcription created is a nominal cost. The transcription of the meeting, albeit with many typos and misinterpreted words, can still greatly cut the professional time necessary to craft a follow-up memorandum. Clients will appreciate the savings and efficiency of the process.

The two most popular programs are Zoom and GoToMeeting. One comparison is the following: <https://zapier.com/blog/zoom-vs-gotomeeting/>.

Because videoconferencing is the tool that is being used for most meetings in the current remote environment, attention simply has to be given to the security and privacy issues that are posed by the tools.

There are two significant issues regarding videoconferencing. The first is how to protect client data from being compromised by your use of videoconferencing software. You must check in with your IT provider as to where and how you should use videoconferencing. For example, one of our authors has a system structured with a server on the cloud and Microsoft 365 (previously Office 365). When users are “in the zone” (on the cloud), they must be careful not to run a variety of tools inside the zone that could create any form of risk of virus or compromise of client data.

The second issue is whether the videoconferencing software is resulting in violation of consumer privacy. If videoconferencing software is collecting and using personal information of users, using such software for client conferences has the potential to create confidentiality and other ethical issues for attorneys using the software. Some lawyers have indicated that they are unconcerned about the privacy issue if they are using zoom for a litigation hearing that would be open to the public. The authors question whether that overlooks the lawyer’s duty to safeguard client information if we are knowingly using a tool that we know may be collecting client information and using the same.

A group of Leimberg commentators have been gathering and sharing information on privacy and security issues related to videoconferencing software over the past week.

Here is what we know:

GoToMeeting complies with HIPAA Privacy and Security rules.

<https://www.gotomeeting.com/meeting/resources/hipaa-compliant-video-conferencing>

An excellent whitepaper on security and GoToMeeting can be found at:

https://logmeincdn.azureedge.net/gotomeetingmedia/-/media/pdfs/ucc_security_white_paper_snapshot_v2.pdf.

If you are using GoToMeeting, here are some tips to stay secure:

<https://blog.gotomeeting.com/5-best-practices-staying-secure-gotomeeting/>

While Zoom seems to be more popular than GoToMeeting (most consider the software more user friendly), Zoom seems to raise more security issues than most lawyers may be comfortable with. A class action lawsuit has been filed against Zoom alleging privacy violations. *Cullen v. Zoom Video Communications Inc.* [5:20-cv-02155](#), in the [U.S. District Court for the Northern District of California](#). If you are using Zoom, review this article for tips on improving security:

<https://www.popularmechanics.com/technology/security/a31982009/is-zoom-safe/>. [Zoom has received significant criticism on privacy and security issues and the company seems to be responding by seeking to improve these issues.](#)

As to ease of use, one author having worked with the GoTo products for many years, believes they are pretty easy to use and most clients have not had difficulties adapting and, when they have a 5 minute “walk through” by a staff member, it is sufficient.

Webinars

if you are using web-based meetings, it is a simple extension conceptually to offer webinars to clients, colleagues, and others in order to expand the base of prospects and people to whom you communicate with as well as to offer valuable educational training to current and former clients. All this can showcase your skills, grow your network, and provide a valuable means of staying in contact with clients.

There are number of such services such as WebEx, GoToMeeting and others. As but one example of these services, GoToMeeting and GoToWebinar can be purchased as a package and use very similar interfaces. So even if you don't feel you are very tech savvy, it's not a very difficult leap from the web meeting to doing webinars.

Webinars can be easily recorded. Those recordings can be posted to your firm website and written up with links on LinkedIn and Facebook to further promote your practice.

Consider adding a disclaimer to every webinar PowerPoint and determine whether you may have to (or if not perhaps should) indicate on any promotions whether the promotion of an upcoming webinar should be explicitly identified as constituting “attorney advertising.”

Keeping Your Practice Viable in the Current Environment

Estate planning, business succession planning, and tax work will continue; however, client mindsets are different right now. Focus on priorities such as having health care directives in place. Check in on disposition provisions, appointments of trustees, trust directors and trust advisors. If the client has minor children, ensure an appropriate guardian has been named. Do proactively advise clients as to how they may be affected by tax changes. Some clients may be able to amend prior returns, carry back an NOL and obtain a tax refund to assist cash flow.

Create an estate planning review process to provide existing and new clients some comfort about the state of their plan and to identify matters that might need to be addressed. You can create an automated document (using Hot Docs, Form Tool or document automation in your practice management system) that summarizes all the client estate planning tools. Provide that document and a review and discussion for a flat fee. If everything is in order, the client will know that is the case. If changes are required, outline them and quote a fee. Be careful not to take on too many at a time. Estate plan updates are important to a lot of people right now.

Communicate with clients the importance of a review meeting. Perhaps you might adapt the sample letter below to use in your practice:

Dear Client-Name:

We understand that you are concerned about the potential health impact of the coronavirus on yourself and your loved ones.

While health issues are of no doubt of paramount importance for you, we did want to take this opportunity to be certain that you were aware of certain legal, tax, financial and other implications that you might also choose to react to.

Living wills, do not resuscitate orders and other healthcare related documents may be crucial to review for several reasons. Many of these documents missed, and especially standard forms obtained online or elsewhere, may contain language that could be completely contrary to what you might wish to have done during the coronavirus. Some of these documents may prohibit intubation under all circumstances. If you are not presently in a terminal condition and contract coronavirus, since it is a lower respiratory tract infection with symptoms felt in the chest and lungs, it is possible that you would need to be intubated to survive it. Many people who sign such prohibitive forms have in mind an extended stay in a hospital connected to an array of tubes being artificially kept alive.

Many of our staff will be working remotely from home in order to limit social contacts as recommended by the CDC. We will still be reachable at your convenience by email and our office phones will be monitored regularly. Many of our staff have provided their cell phone numbers on email footers and can be reached in that fashion.

The stock market has been adversely impacted. The impact on businesses, especially closely held businesses, could be dramatic and negative for many, although the actual impact will vary significantly by the type and nature of business. These changes might suggest revisiting retirement plans, estate plans, financial models, business succession plans, and much more. We certainly don't mean to capitalize on the adversity we are all experiencing, but we do want to let you know that we are here to help should you need it.

The present uncertainty creates what could be an invaluable opportunity to pursue estate tax minimization strategies. While again worries of health and financial security matters should be paramount and we feel apologetic to be bringing up this matter, we would be remiss not to do so.

Should there be a Democratic victory in 2020 the proposals of a much harsher estate tax, and a capital gains tax on death (or carryover basis), may dramatically change the planning environment. While you may prefer to wait for the coronavirus to resolve, that delay may preclude you from being able to take valuable actions.

During this difficult time, we hope that you and your family stay safe and healthy. Please let us know if there is anything we can do to advise or assist.

*Sincerely yours,
Doe & Doe, PLLC*

The reality is that many clients neglect to review let alone update their documents for years if not decades. Although the current circumstances are tragic and challenging, the unfortunate reality is it may require something of this magnitude to make many clients focus on the importance of reviewing the status of their documents. One of the priorities for many clients is to review provisions in their healthcare proxies and HIPAA releases to address remote authorization of medical decisions. With the contagious nature of coronavirus, it will be difficult if not impossible for the agent to be in the hospital to personally speak with physicians or to sign documents authorizing a course of action. Thus, remote authorization of medical decision-making will be necessary. Consider the following sample clause that you may adapt for use in these documents:

“I expressly authorize my Agent to communicate decisions to any medical provider verbally, in person, by telephone, via email, via web conference including but not limited such services as Skype, FaceTime, or in any other manner appropriate to the circumstances. Further, I expressly hold harmless any medical provider for relying on such communications by my Agent. The express purpose of this provision is to foster decision making by my Agent in remote or indirect manners that may be necessary or advisable given whatever circumstances accompany such decision making.”

Many clients are modifying their documents to reflect specific coronavirus concerns. For example, clients may want to specify whether they should be put on or removed from a ventilator if they are being treated for coronavirus.

It is possible that some clients have existing documents that appoint guardians for children who are now so old that they have their own children. Many clients will have lost touch with the people named in various

fiduciary capacities and need to update those provisions. Current low interest rates, low asset values, and the likelihood of significantly increased taxes to pay for the government bailouts might make this a very opportune time to engage in estate tax planning. While this is clearly a valuable time for estate tax minimization planning, it will be difficult to guide many clients to take those steps now.

The CARES Act created tax planning opportunities for clients. Think through your clients and communicate with those you know have tax planning opportunities. Follow up any mass email communication with personalized touches on affected clients. Consider offering flat fee consultations on various issues that impact your clients.

Make a Positive Difference in Your Community During This Time

We are hearing many stories like the following: A client of one of us received a mailing from his gym. He was given the choice to suspend his membership fees until the gym reopens or continuing to pay half the usual price. The gym indicated that members who continued to pay would be provided some benefit when the gym reopened but also noted that all fees would be used to keep hourly employees employed. The client said “Of course I am going to keep paying the half fee to support that. Supporting others through this time matters.”

HOPE THIS HELPS YOU HELP OTHERS MAKE A *POSITIVE* DIFFERENCE!

Mary Vandenack
Marty Shenkman
Jonathan Blattmachr

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CITATIONS:

ⁱ See Bolado, "Put On A Shirt For Video Hearings, Judge Tells Attys," LAW 360 (4/15/10).