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## So You Want To Practice From Tahiti

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Slaving away at a high-powered midtown law firm for a few years can lead even the most ambitious attorney to fantasize about breaking away from the confines of a conventional law practice. As a result, a growing number of lawyers are exploring the option of handling part of their workload remotely, in the hopes of practicing law in a more flexible, comfortable and overall enjoyable manner.

Some of the more adventurous of these attorneys may even consider transitioning their entire practice to a remote location, as the prospect of redlining transaction documents while barefoot at the pool, or better yet while on a six-month cruise of the Caribbean, can be rather alluring.

While the latter example may seem extreme, I have been running my own New York solo practice for the past three and a half years from halfway across the globe, and along the way have acquired the know-how and confidence to believe that such a goal is readily attainable.

So how can an attorney take the plunge to successfully launch and effectively maintain a remote practice? What are some of the key factors to consider and potential pitfalls to avoid? This short article will try to address the most salient aspects.

One caveat before we go any further: This article has been written primarily for an audience of transactional lawyers. I do know several litigators who run their practices remotely but I do not have intimate knowledge of the logistics involved in such an undertaking.

While my own experience is limited to being a solo attorney of a transactional practice focusing on corporate and intellectual property law, I see no reason why the basic principles discussed in this article cannot apply to most transactional practices.

### Where to Start

The first thing you need in order to set up a remote practice is a winning business model.

If you are building a practice from scratch, you must have compelling reasons for clients to retain your services. Many clients (except for those working remotely themselves) still value face time, and will want to meet with an attorney in person before engaging him or her, so you may have to be flexible about working remotely part-time (at least initially).

There is no reason for this to be an obstacle, though. Starting a remote practice need not be an all or nothing proposition. If, however, you will not be readily available to meet clients in person, you will need to think carefully about what value you can offer them to compensate for a lack of face time.

If you are a seasoned attorney with your own book of loyal clients and you do not need to prospect from scratch, transitioning clients to a remote model should be an easier undertaking, as most clients will already be comfortable with you and your services and will not put such an emphasis on face time.

Whether starting a new practice or transitioning an existing one, clients will expect your availability and responsiveness to be equal to that of a conventional practice, so working remotely will not mean that you can work any less diligently. And the technology you use (to be discussed below) will have to be top rate, so clients will forget that you may be speaking to them from halfway around the world.

A business model followed by many remote attorneys is to charge clients reduced rates that reflect the lower establishment and overhead costs of their practices.

For example, a significant upside of my practice is the opportunity for clients to receive quality work at a significantly reduced hourly rate (i.e., get the Madison Avenue attorney at Main Street prices). My experience has been that most clients are happy to forego regular face time if they are getting quality, responsiveness and good value.

Indeed, there now are a growing number of law firms comprised of U.S. practitioners located abroad and operating remotely. These firms use the allure of highly pedigreed and experienced U.S. attorneys at discounted rates to attract and retain a loyal client base. It seems likely that in coming years firms of remote attorneys will play a greater role as their benefits become increasingly known.

Another increasingly common model is for attorneys working remotely to be associated with a U.S. firm either directly (usually as an associate or of counsel) or as an independent contractor. Firms can benefit significantly from costs and other savings by using the services of attorneys located abroad.

A feature of my business model is collaborating with several U.S. based law firms that not only refer work to me but also use me as a contractor, either for specific clients or on a per-project basis. These firms are happy to pay me my reduced hourly rate and keep the mark-up they charge to their clients (which can be rather significant).

There are many ways to structure these types of arrangements with firms, but keep in mind (particularly if the remote practitioner will be interacting directly with the firm's clients) that it is of utmost importance (i) to provide full disclosure to clients about specifically how they will be serviced, and (ii) for the contracting firm to trust the remote practitioner to not only provide quality services on its behalf but also to interact with the firm's clients in an effective and productive manner (and obviously not to poach such clients).

As with any new business, legal and tax considerations will be a major factor in structuring the form in which you practice. If you will be operating remotely from abroad (or even from just another state), then you first should seek advice from competent tax and accounting advisors before deciding how to structure and conduct your practice. Particularly if you will be based overseas, it is essential that you engage consultants fully knowledgeable as to your potential tax exposure both by the U.S. and the foreign jurisdiction from which you will be operating.

Furthermore, you must carefully investigate all applicable local requirements for practicing law in a remote location. Many U.S. jurisdictions require local bar membership before one can conduct a practice located there. As regards remote practice from a foreign location, local requirements need to be checked.

In a fair number of instances, foreign lawyers are not required to secure local bar licensing/membership as a condition of practicing U.S. law for clients located outside of that country. Some jurisdictions also permit a lawyer to deal with its residents, but solely as regards matters pertaining to U.S. law. Each situation is unique and must be looked into carefully before you launch your remote practice.

### **Physical and Virtual Address**

It may be beneficial to have a home base in your jurisdiction of practice, even if you use it just to receive mail, deliveries and the like.

There are various companies that will be happy to act as your "virtual" office and forward mail, messages, etc., and where you can hold meetings when you do come to town. However, depending on the nature of your transactional practice, you may not have a need for a virtual office.

Almost all of the closings I handle take place online (i.e., via an exchange of execution documents and other signature pages by e-mail), but if you are operating from outside of the United States it obviously is helpful to have a local address at which follow-up hard copies can be received, organized and stored.

Keep in mind that there are certain jurisdictions that present various obstacles for remote practitioners. New Jersey, for instance, requires that attorneys who practice New Jersey law maintain a "bona fide" (rather than a virtual) office and have an operating and attorney trust and business account in that state. The requirement for "bona fide" office prohibits time-sharing arrangements by appointment and requires that the office be a place where clients are met, files are kept, mail is received and the attorney (or a responsible person acting on the attorney's behalf) is present.

One of the most important needs of a remote practice is its online address—the firm website. This is how most people who will want to learn about you and your practice will get a first impression of you.

For a remote practitioner, who may not come into regular contact with prospective or new clients, the image projected on a website is even more important. The website should have compelling content (articles, alerts, etc.) but at the same time be concise, as no client wants to read lots of text about practice groups. It also helps to be creative: Hasn't everyone seen enough lawyer websites with gavels, scales and pillars?

Keep in mind that while having a website is a must, there is no reason for it to be a big expense since there is a large supply of inexpensive talent out there. My firm website is simple but does the job, and cost only a few hundred dollars.

In addition to your website, having an overall professional and consistent online presence is important. Most attorneys don't have a lot of free time to actively blog or participate in networking websites, but I do find that LinkedIn is a helpful place to connect with clients and colleagues. Martindale also has a lawyer networking resource that several attorneys find helpful.

But be careful if you're going to use Facebook and similar social networking sites that are not necessarily geared to professionals in order to promote your practice. Certain profile details or comments can reflect poorly on you as a professional, so think twice about what you post.

## **Technology**

A remote practice obviously relies heavily on technology, but you hardly need to be a tech whiz in order to select and utilize the right package for your practice. The learning curve is less steep

than most people think, and the technology much less intimidating. And the good news is that all of the basic needs of a remote practice can be readily obtained at very reasonable rates.

Since the efficient use of the right kinds of technology is a remote practitioner's most critical resource, before selecting your tools of the trade you should consult with technology/security experts about how best to address your needs, including issues like data storage and retention. At a minimum, ensure that your security protocols are not any less stringent than those of conventional firms of your size and caliber.

Prior to deciding how to structure my practice, I consulted with two legal technology/security firms in New York about various issues regarding running a remote practice. One of my biggest concerns was how client communications and deal documents should be transferred and stored, and consulting these experts proved very helpful.

There are secure, efficient and relatively inexpensive solutions for addressing these issues (including the ability to back up all documents real-time in various locations). I use multiple solutions for redundant protection, and operate what is essentially a paperless office. Other than for critical documents (such as closing binders, stock certificates, signature pages and of course engagement letters), I keep very few documents in paper form but rather have instant access to all documents (and e-mails) in several secure locations.

Perhaps the most important piece of technology for a remote practice is reliable access to quality phone service. A remotely run practice will only work if it is run as a seamless operation, and since a significant proportion of your communications will occur by phone this means that you need to sound to your clients as if you're next door, irrespective of where you are physically located.

You must spend time investigating phone solutions and testing various different types of systems and vendors before deciding which service to use. If things don't work as anticipated, you should not hesitate to switch companies rather than endure less than ideal service. However, to avoid getting stuck (and having to reprint business cards and other promotional materials), make sure before you decide on a phone number that is portable to another vendor in case things don't work out. The technology of most industry leading systems has improved markedly over the past few years, and a standard VOIP (Voice Over Internet Protocol) system works very well for me.

Specialized software is the solution to the other needs of a remote practice. There are many types of software on the market to support a transactional practice, and many can be purchased at extremely reasonable prices.

I have a wonderful billing program (that also checks for client conflicts) and a document redlining program (which also contains a metadata stripping feature for all outgoing e-mail attachments). Both of these programs have robust functionality, are extremely reliable, and cost just a few hundred dollars. There is no need to spend a lot of money to get the right software for your practice, but you do have to do your research and be a discerning consumer.

As for e-mail, I suggest using a remote server that enables you to access all of your e-mail correspondence from any web-accessible computer. Having this capability is very important if you will be traveling consistently or if you want to access your e-mails from multiple computers (i.e., both your desktop and laptop). You can purchase your own server as well, though keep in mind that if you do so you will have additional concerns to worry about such as storage, maintenance and responding to unanticipated downtime.

Whether you have your own server or not, it is inevitable that you will encounter system and other software problems at some time. Since a remote practice is so reliant on technology, it is critical that you have a reliable tech support expert with whom you can consult when things go wrong.

If you are in an isolated area then getting tech support will be more of a challenge. However, there are several services that enable support to be provided by a technician servicing your computer remotely (what else?) to fix even major problems, including those that require the downloading of new applications or other software. Of course, the ability to utilize such a service assumes that your computer will be accessible via a broadband connection.

## **Working Hours**

Running a seamless remote operation also means that your hours of operation need to jive with those of your clients, even if your local schedule does not.

My local time varies between being six and seven hours ahead of Eastern Time, and since all of my clients reside in North America I work relatively late hours in order to make their experience seamless. And I try my best not to leave my office earlier than 7 p.m. Eastern Time (which varies between 1 a.m. and 2 a.m. local time).

Pulling such late hours may seem like a big sacrifice, but the truth is that I (i) put in no more time than I did while I was practicing in New York, (ii) have mornings free to do what I like, and (iii) am able to take a New York lunch break at 12 p.m. Eastern Time every day to have dinner with my family.

The bottom line is that I strongly believe that a remote practice will face an uphill battle to survive unless the client experience is seamless, and if I want this to work (which of course I do), then working unusual hours is my trade off.

I also make a concerted effort to get clients to stop asking, "So what time is it over there?" and to ingrain in their minds that I am no less available than if I were in New York. It helps sometimes to do this by introducing an element of humor. I tell clients that all of my clocks are on New York time (it's the truth), that I have bright lights for late office hours (ditto) and that I even have played background audio of traffic noise to make me feel at home in the big city (ditto again).

## **Billing**

Part of making a remote practice seamless for clients includes making payment of your bills straightforward and easy.

For only a few hundred dollars you can purchase robust, reliable and extremely simple billing software, and for a small annual fee you can get fantastic customer support that is worth every penny. I send client invoices each month by e-mail (as a pdf) and have clients send checks straight to my attorney bank account in New York. Retainers are also sent to me in this manner and are of course kept in a separate escrow account. I monitor and control all banking online.

## **Professional Networking**

One of the biggest disadvantages of working remotely is the inability to just stroll into a colleague's office and discuss a pressing question or otherwise brainstorm an issue together.

Collaborating with colleagues remotely will certainly feel different, but it can still be done effectively. It may take a bit longer to get a response (not everyone answers e-mails or is available by phone immediately, though of course not everyone is available in their office when you decide to enter), but overall I have found former and current colleagues to be very responsive and accommodating.

## **Overcoming Inherent Weaknesses**

One of the most significant inherent weaknesses of a remote practice is the inability to have direct personal contact with clients on a consistent basis. While face time may not be a big issue for some clients, for others it will be a make or break proposition.

There is no doubt that it is a big advantage to have a chance to meet with clients in person, especially while forming a relationship with a new one. But surprisingly I have found that even

this obstacle can be overcome if the overall benefit of what you offer clients is compelling enough.

This is the key to running a successful remote practice: Your business model must present enough of an upside to clients so that when they weigh the total package of the services you offer against the lack of consistent face time, the upside will prevail. And once clients are used to you, the issue of face time will be less important. That said, it is of course important to periodically meet with clients (and new clients), though it may surprise you to learn that I have been able to whittle in-person meetings down to only once a year.

## **Conclusion**

Launching and maintaining a successful remote practice is increasingly becoming a viable option for attorneys seeking to practice in a more flexible and rewarding manner. Technology continues to advance and provide better and more cost effective options for remote practitioners, and clients are becoming more and more comfortable with the idea of using legal services handled remotely.

The bar to entry is relatively low, so focus on developing an effective plan and then go for it. Chances are you will be very happy that you did.

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