



REMOTE
LAWYERING
IN
FAMILY
LAW
CASES

Phone lines steadily ring. E-mails flow into inboxes. Faxes – yes, faxes – transmit into firms. All these communication forms largely revolve around one topic: the Coronavirus Disease of 2019 (COVID-19). In the area of family law, clients face a new reality not even the most experienced family law attorneys accounted for in custody stipulations. This is why we as lawyers must now truly demonstrate our effectiveness as advocates, negotiators and problem solvers. Our clients need us to take decisive action and provide real-life guidance on how best families should deal with life during COVID-19. This article provides you with fresh ideas regarding law firm operations, a reminder of the most important document in family law cases and procedures for handling telephonic and video court hearings. As Iowa lawyers, we are in this together.

THRIVING WHILE YOU WORK REMOTELY

Generally, I only like change in my life when I am the creator and dictator of the change. In those instances, change is great! Here, during COVID-19,

embrace change from the outset. Seek advice and ideas from colleagues and staff members knowing that advice and those ideas will likely make you uncomfortable. Often, those ideas will seem wildly different from how you currently handle matters, but the staff ideas will likely allow you to increase efficiency. Seriously consider each idea everyone in your firm – and this article – provides. If you remain in a static position unwilling to change, your chances of success during COVID-19 will dwindle.

For many attorneys and law firms, the idea of working outside the office for an extended period is daunting. In 2018, over 26 million Americans (about 16 percent of the total workforce) worked remotely. (Zara Greenbaum, *The future of remote work*, *Monitor on Psychology* (October 2019), <http://www.apa.org/monitor/2019/10/cover-remote-work>.)

While most Iowa firms are slow to embrace full-time remote work capabilities, COVID-19 demonstrates the need to rethink traditional wisdom of working together in one physical location. With the right mindset and tools, your law firm has a true opportunity to thrive.

The very first step is to evaluate your individual and law firm needs. Think about what you do on a regular day and what your staff members do on a regular day. For a lot of us, this is not always easy. Trusted non-lawyer staff members make our lives easier and run efficiently. Speak with your attorneys and staff members. Ask them what they do each day. Turn their feedback into a to-do list so you can assess what technology each person requires. This will include laptops, traditional or cloud-based software for file access and accounting, internet connectivity, telephone access and mail delivery. Close attention to these needs will pay dividends in the long run, as none of us wish to miss a deadline or client call because we failed to think through our firm's basic needs.

Once you know your own needs, your staff's needs and your firm's needs, you are ready for the next step to success. Send every member of your firm an e-mail with clear and detailed instructions for moving forward. (Teresa Match, *How to Work Remotely as a Lawyer: A Guide*, *Clio Blog*, <http://www.clio.com/blog/working-remotely-a-lawyer>.)

Whether it is a single e-mail to the entire firm or individual e-mails to teams, the e-mail must set exact parameters for remote work. These details must include how your firm will communicate with the outside world, what technology the firm will utilize, hours everyone should begin working and if it is okay to ever enter the physical law firm building and for what purposes. (See *id.*) No detail is too great, but every absence of a detail is simply a barrier to your firm's achievements.

Working remotely or from our offices, clients want to find us. One of the most stressful parts of being a family law litigant is not knowing how to reach attorneys. Some of us perform better with written communications such as e-mails. Others prefer in-person meetings through every step of each case. This is why we must provide clear information regarding whether we are working in-office or remote, how we will communicate with clients and when we will be available. (See *id.*) A simple e-mail to existing clients regarding the aforementioned actions provides clients with the comfort of continuity no matter the circumstances. For potential clients, a voicemail greeting regarding the same information works wonders. Since a lot of potential clients hear about us and then review our websites, you should also provide a short notice with the same information you provide to existing clients.

Family law clients often enjoy face-to-face meetings. This allows for clear communication. E-mails seem informal, calls do not allow clients to gauge the seriousness of our demeanors and letters sent through the mail are almost a relic of the past. We should seriously consider the use of virtual meetings using cameras. Some of the most productive meetings I have involve looking my clients in the eyes so I can provide instant feedback to their questions and concerns. Smart phones, laptops, tablets and other devices routinely have built-in cameras, microphones and speakers. While I do not suggest we provide personal cellular telephone numbers to all clients, I do suggest we utilize existing technology. Just last week fellow lawyers and clients all contacted me through GoToMeeting and Zoom. This allowed for instant communication, satisfied our desires to see each other in real-time and kept conversations productive. My rescue dog Lyla even made several appearances when my meetings did not conflict with her naptimes.

TOUGH QUESTIONS DURING TOUGH TIMES

Lawyers spend hours crafting the perfect template for future family law clients. If you ask me whether we should use your stipulation or my stipulation, you know the answer. Even with these beautifully crafted stipulations, we clearly failed to account for national health concerns. That leaves us working with what we have, which is actually a lot.

Over the last month, clients called with questions. Some asked what to do when a parent absconded with the minor children during the early days of COVID-19. Others wondered if they could withhold the children because their former spouse claimed COVID-19 was no worse than the flu. Some clients feared the judicial system would close entirely. To clients, these are not excessive worries, but serious concerns.

Remind your clients the most powerful antidote to a disobedient parent is their decree of dissolution of marriage. This is the most important document governing all parties' behavior. Each decree has – or should have! – specific times when each parent maintains custody of the children. The times include weekdays, weekends, holidays when school is or is not in session, et cetera. Further, these decrees establish child support, spousal support and reimbursement provisions. To aid clients in this time of crisis, read through the decree with them. Sometimes our writings prevent non-lawyers from fully understanding what an existing decree means. Clarity now is key to keeping our clients and their families calm.

MAY IT PLEASE THE COURT

Iowa Supreme Court Chief Justice Susan Christensen entered clear orders regarding the operation of the courts during COVID-19. In what gave me a sigh of relief were her words, "The Iowa Judicial Branch remains committed to conducting business as necessary during these times of crisis." (Iowa Supreme Court Chief Justice Susan Christensen. Order, In the Matter of Ongoing Provisions For Coronavirus/ COVID-19 Impact On Court Services, March 17, 2020.) There is nothing quite like continuity and comfort during a time of need. For family law attorneys, our court system remains committed.

At the time I wrote this article, I participated in three telephonic hearings in district court. The court staff members, judges and opposing counsel

made each hearing run smoothly, efficiently and without panic. I am impressed by the quick adaption of our courts from in-person hearings to telephonic hearings where lawyers have a penchant for talking over each other.

For these telephonic and video hearings to remain successful, preparation is key. Absent a court order with deadlines, you should coordinate with opposing counsel regarding when you will both file exhibits. Best practice entails doing so before the day of the hearing so the court has ample opportunity to review potential exhibits. Test your communication methods before the hearing. The day before my first multi-line telephonic hearing, I kindly asked my younger siblings to see if I really knew how to use the multi-conference phone system. Of course, they heckled me just to be sure I was ready for the judge. Next, remind your clients to wait a few seconds before speaking during questioning and practice with them over the phone before the actual hearing. Do your practice run-through with exhibits to avoid unnecessary delays. These pre-hearing steps will save you time and stress during the actual hearing.

LAST WORDS

Give your clients, the court, your staff and yourself some slack. Not every step you take will be successful. The only thing you can do now is prepare your firm's plans and immediately implement each plan knowing those plans will require changes. Remember this: We are Iowa lawyers. We are in this together.



Tyler Coe is an attorney with Whitfield & Eddy Law in Des Moines. His practices includes divorce and family law matters regarding mid-to-high asset property disputes in divorces and high-conflict child custody cases. When Coe is not in the office, he spends his time dotting over Lyla his Beagle. If you find this article helpful or wish to discuss the topics, contact Coe at coe@whitfieldlaw.com or 515-246-5523.