

Article

How to Run a Successful Immigration Practice During COVID-19

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Just as immigration lawyers around the country started getting the hang of the ever-changing immigration policies and politics, such as navigating around the border wall debate, wildly increased Request for Evidence (RFE), higher denial rates of nonimmigrant petitions with minimal reasoning in the denial decisions, and becoming experts at explaining the unexplainable to clients, we are now facing the new reality of virus-related office quarantines, testing our adaptability in a new way.

While many sectors of the legal field have long become amenable to working remotely, immigration practitioners are limited in their abilities to do so, simply because the government still requires the majority of immigration proceedings be filed in hard-copy format. Add to that the reality of multiple forms and supporting documents required to be submitted in duplicate, with hard copy filing fee checks and the resulting need for courier or Express Mail services, and the picture of a paper-heavy practice with substantial administrative support needs — when run on significant scale — comes to light.

So, what's an immigration practitioner to do in times of COVID-19 social distancing, firm and client quarantines, and resulting limited access to physical offices? The following discussion and suggestions are based on business immigration experience and may have limited applicability to family immigration practitioners and immigration litigators, but, hopefully, our lessons learned to date will be of some help to a wide range of affected legal professionals in the immigration field and beyond.

Prioritization: In the uncertainty of office closures and limited access to facilities, the first order of the day is prioritization. Immigration Bar colleagues would agree that the latter is hard to accomplish, even on a relatively uneventful day in the office, and most of us are in the habit of “shooting from the hip.” The current conditions of life and practice necessitate careful planning and prioritization. As conscientious lawyers, we, of course, prefer to make a routine extension of stay filings for our client's employees several months in advance of the status expiration dates. But, under the current circumstances, we may need to make an urgent filing for an essential health care employee first and ahead of a routine submission. Prioritizing cases in writing helps visualize goals and makes it easy to share with office team members working remotely.

Client Communication: We work with clients closely and keep them updated on their cases on a regular basis, and this is particularly important today, especially if your prioritization efforts and limited access to office premises push their non-urgent projects for a later time. Most of our clients are operating under the same constraints we have unexpectedly found ourselves under, and many are in even worse predicaments due to the nature of their businesses. Discussing their needs and priorities is key before making your work plans final. While we cannot assume everybody will always be onboard with our plans and priorities, most clients (both businesses and individuals) are understanding and flexible, but only if the “cards are on the table.” Setting realistic expectations and not overpromising is key for the relationships and mutual trust preservation through these challenging times.

Team Organization: While most lawyers habitually perform at least some work remotely, some of the staff members (paralegals, legal assistants, and secretaries, among others) have not had to do this on a regular basis, or at all (note to self: practice team's work from home post-COVID to ensure everybody's skills sharpened by the ongoing crisis do not go dormant), so clear instructions, advance planning, and communication becomes particularly important. When having entire legal teams work offsite, be sure to appoint a colleague to run tally of all files taken off premises. Remind everyone of the importance of keeping files and client data confidential and ensuring data safety. Ensure availability of the necessary technology and — most importantly — reliable communication among the team via e-mail and Zoom, or other conferencing means. While texting for business is not advisable as a matter of regular practice, as records of these communications are harder to maintain, making texting available as means to quickly catch attention is worthwhile (note to self: do not get carried away with texting – nobody wants to develop a fear of mobile phones while under quarantine!).

Technology: While it is hard to find a “silver lining” in this crisis, one take away pertains to sharpening one's technical skills. As many attorneys (including this writer) tend to be low tech and proud of it, present experience shows that mastering our information technology capacities is a worthy pursuit. At times like these, the number of “help” requests to firm IT departments, if one's firm is fortunate to have one, increases exponentially. And many of our requests are of the nature that would make most of us blush if recited back in “the time of peace.” With this in mind, learning more about the capabilities of our portable technology and certain email and phone functions beyond the basics we use most often is advisable. Those of us who practice in a firm may want to expand home-office technology to include a reliable printer, scanner, and copier, since a computer alone may or may not satisfy all work-from-home needs.

Adaptability: Last, but not least, as legal professionals, we are a high-strung bunch that counts on being in control of our environment. As the present situation proves, this isn't always possible, and coming to terms with limitations may well be one of the biggest lessons learned. However, the lesson is not to give up, but to figure out what we can do and do it to the best of our ability.

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