



OFFICE OPTIONAL

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A few years ago I had the pleasure of sharing a podium with attorney Jacob Gurwitz. Jacob is a partner at Feeney & Gurwitz LLC in Reading. At the time we shared the podium, he was Chair of the PBA Young Lawyers Division. We spoke to YLD members about starting a practice. Jacob was passionate about home-based offices and minimal overhead as keys to success for attorneys starting their practice.

Jacob's suggestion was a sound one.¹ In fact, studies² have shown that as high as 69% of U.S. entrepreneurs start their businesses at home. Sure, you say, that may apply to other forms of business, but not to a law firm. In point of fact, there's quite a debate about whether a lawyer can be successful without a traditional "brick and mortar" law office. Few lawyers are neutral on the topic; strong feelings prevail at both ends of the spectrum.

The primary determinant of whether a home-based practice is feasible is the area(s) of practice. For example, a lawyer who does appellate work, contract work for other attorneys, or intellectual property, will find a home-based practice entirely feasible. On the other hand, a lawyer who does family law or criminal law, will find that a traditional office is more practical.

Keeping overhead at a minimum is a primary motivator for starting a practice at home. However, if the area(s) of practice do not lend themselves well to a home-based practice, a lawyer should plan to move to a traditional office space six months to a year after establishment. Or utilize a hybrid environment.

Hybridized environments make use of the best of both worlds. In larger metropolitan areas, one can easily locate flexible workplace solution providers. Solutions can range from a fully appointed office, with telephone, reception and secretarial services provided, to rental of a conference room as needed. In both large and small communities it is relatively easy to find a law firm willing to allow occasional use of its conference room and/or a spare office, for a modest charge.

Aside from keeping initial capital requirement and ongoing overhead low, why else would someone want to work in a home-based practice?

The first thing which comes to mind for me personally is the elimination of everything associated with commuting to work. According to the U.S. Census Bureau, the average commute time is 25.4 minutes. However, over 8% of workers commute an hour or more each day.

But that doesn't tell the real story for workers in PA.³ Surprisingly, Pike County has the highest average commute time of 42.1 minutes each way, followed by Monroe at 39.6 minutes. Philadelphia ranks 9th out of the 10 U.S. cities with the longest commute times.⁴ Philadelphia has .8% of workers classified as mega commuters, meaning that they travel not less than 90 minutes each way to and from work. Sheesh!

Not only does the sum of commute time each week detract heavily from relaxation and family time, but it is expensive. Public transit keeps increasing in price. And it makes one a slave to the transit schedule. If you're inclined to finish your work before leaving the office, public transit will be too constraining. Driving oneself provides greater flexibility for departure time at the end of the day. On the other hand, parking is costly, the cost of gas has skyrocketed, and navigating rush hour can be nerve-racking. Especially objectionable is the thought of commuting in inclement weather; something we get more than our fair share of in PA.

One last observation about commuting which I find particularly objectionable is the expansion of rush hour. I've had the pleasure of visiting more towns in PA than most. What constitutes rush hour in Latrobe or Sunbury wouldn't be considered rush hour to most. Most of you experience a rush hour which includes 2 or even 2.5 hours before and after work. Unless you want to hunker down at the office for a couple extra hours each evening, or arrive fashionably late each morning, you're going to have to deal with the extra time and stress of rush hour.

Another advantage of a home-based practice which rarely gets considered is the reduced required investment in one's wardrobe. When you work in a traditional office, you need sufficient wardrobe to look differently attired each workday. This is less costly for men, where a change of shirt and tie is sufficient, than for women, who usually have to change each article of clothing each workday. When you venture out to meet with people from a home-based office, you are not seeing the same people each day. Therefore, you can wear the same clothes —properly laundered of course — several times in the same week. My wardrobe costs decreased by 75% when I moved to a home-based office environment.

I would be remiss if I did not point out that just because you *can* operate as a



home-based practice, it doesn't mean you *should*. Some lawyers don't work well in isolation. They need a fair degree of interaction with others to be effective and/or happy at work. For others, a well-appointed office with a view more than outweighs any advantages a home-based practice could provide.

Working in a home-based environment requires a higher degree of computer literacy, and staff-independence. That doesn't necessarily mean that one cannot have staff. But depending on space layout, you may only be able to get assistance on a remote or virtual basis.

For those of you who have never worked in a home-based office, you may think that it offers an ideal distraction-proof environment. That's not true. In fact, a home-based environment requires a higher degree of focus to stay on track than in a traditional office. It's just too easy to put in a load of laundry, play with the dog, have a snack, take a walk in the garden, do a smidge of cleaning, or perform hundreds of other distracting activities throughout the day.

If small children are in the home, additional challenges exist. A full or part-time childcare provider may be necessary in order to get sufficient hours devoted to work. However, if you are fortunate to have a spouse who works a different time schedule, it may be possible to avoid a childcare provider altogether. Alternatively, it may be necessary to expand one's workday to include very early morning or very late evening hours.

Not all homes are well-suited to having a proper office. There are plenty of businesses which can operate off a corner of the dining room table. A law practice isn't one of them.

A proper office must afford complete confidentiality for client files. Obviously, paper-based files must be kept from prying eyes. More importantly, however, digital files must be kept secure. That means that your computer must not be used by others in the household, especially children with internet access. Why? Children typically go to file-sharing sites and download music, videos, and other items. Most of these sites are riddled with viruses and Trojans. If your computer gets infected — and it will — you may find that confidential client documents, in whole or in part, are randomly sent to some or all of the people in your electronic address book.

If you're going to meet with clients in your home office, you should ideally have a separate office door, so that clients do not have to walk through your home. Having off-street parking is also important for visiting clients. If you have neither,



then you might consider what I call concierge service for your clients; when a meeting is required, you go to them.

You have to consider whether you have both adequate and suitable space in your home for an office. You will need room for furniture, file cabinets, supplies, and equipment. You will need adequate lighting, temperature control, electrical service, and air quality. You need sufficient sound-proofing so that when you are on the telephone with a client they don't hear barking dogs, doorbells, or screaming children. More importantly, you need to be able to create a psychological separation of work space and home space. Separating work and home life is one of the most challenging and important considerations for a home-based lawyer.

A home-based practice may be the only viable option for newly minted attorneys and attorneys who have lost employment due to the recession. The question is whether or not one can do more than "get by" in a home-based practice. Too often, marketing takes a back seat for home-based practitioners. They become less visible than their counterparts. Relying solely and passively on word-of-mouth referrals too often results in a dwindling of the practice in just a few years.

A strong web site is a must. And don't forget to use your domain name for branded email. Nothing says unprofessional and unsophisticated like an email address of AOL, Gmail etc.

Strategic use of social media will provide additional visibility and networking opportunities. Home-based attorneys should consistently create written action plans in order to sufficiently attend networking opportunities with referral sources and potential clients.

Where equipment is concerned, there are a few areas where you should not scrimp. You need a good quality internet connection. If you are using web-based software for case management, billing, document management, back-up, or any combination thereof, you need reliable and adequate bandwidth and speed.

You also need a dedicated business telephone number. Remember that clients and vendors will redial from your caller ID. Using your home phone for business calls can result in a business call coming to your home phone, where it might be picked up by a child. Or, you may be awakened at 4 a.m. by a concerned client who expected to reach office voicemail. It's a situation which is awkward and embarrassing for you both.

VoIP will provide some functional advantages which a standard landline and phone cannot, but be sure you use a quality commercial VoIP provider, and not a

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home-service provider. There's a big difference between Ring Central (business-grade VoIP) and Vonage (home-grade VoIP).

Depending on your clientele, you may want to utilize the services of a good remote virtual receptionist, who will screen calls and announce them. A remote receptionist uses communication technology to seamlessly connect calls to wherever a virtual lawyer happens to be—at home or on vacation on the other side of the world, and the caller never has a clue that the remote receptionist isn't working just outside the attorney's office.

You most definitely will need to subscribe to a virtual fax service, so that all inbound fax arrive in your inbox. You will also need a good quality Smartphone, so that you are never out of touch with your inbox or the internet.

Lastly, you will need a high-quality printer, copier, and scanner. I have consistently found that the cheapest solution is to lease/purchase a multi-function which is rated far more heavy-duty than any of the individual components you would need if obtained separately. High-end multi-function equipment is surprisingly cheap when leased, and it provides greater reliability and functionality than separate low-end units. Plus there is only one set of supplies, and only one machine to service. Most leases include supplies.

To this point, I have focused on home-based practices. However, there are two other “office optional” areas to explore. The first is the Virtual Law Office (“VLO”).⁵ Many successful lawyers working out of home offices have teamed up with other like-minded attorneys (and staff) to create a law practice which has no brick and mortar location. Cloud computing plays a key role in keeping communications and information flowing. Typically document storage, case management, time recording and billing all take place in the cloud. Similarly, a VoIP telephone system connects all members of the firm as though they were in one physical location. VLOs provide the ability for geographically diverse attorneys and staff to seamlessly practice together.

The larger the VLO becomes, the more complex it will be to maintain its effectiveness and structure. Something as simple as ensuring client confidentiality becomes exponentially complex when there are multiple home-based offices, with different challenges in each environment. Similarly, business liability issues become more complex. What is your exposure if a staff member is injured while performing their job, because of unsafe conditions in their home office?



Lastly, we come to the area of telecommuting. An entire article could be written about this topic alone. Typically, a telecommuter is one who works regularly, but not exclusively, from home. Telecommuting is said to boost productivity, decrease absenteeism, and increase employee retention.

Telecommuting is growing. The annual survey last year by the Society for Human Resource Management found a greater increase in the number of companies planning to offer telecommuting in 2014 than those offering just about any other new benefit.⁶

Law firms have been slow to adopt telecommuting policies. We can largely blame that on the Baby Boomer generation, whose members have always felt a need to see “meat in the seat” to feel that work is being performed. So although most large firms have offered telecommuting as an option for a number of years, there was reluctance to take advantage of the opportunity, as it was perceived be harmful to one’s career. At for the most part, that was true. Fortunately, that has slowly turned around.

Telecommuting lends itself more to creative tasks. It’s been said that remote workers tend to be about 10% less productive than their in-office colleagues when they perform repetitive work. Whereas, productivity soars when telecommuters are performing creative tasks. Remote workers are about 20% more productive when they get to think outside the box.⁷

One of the problems inherent in telecommuting policies is oversight. How does one know whether there is a fair exchange of work for pay? In some instances it is relatively easy. For example, a remote receptionist has to cover phones for a certain number of hours, regardless of whether the phone rings. It’s easy to spot check to make sure the job is being done. An attorney’s compensation is usually based on billable hours spent on client matters. As long as the hours are reasonable, billable, and paid by the client, there is no reason to question efficacy.

But the reality is that for most jobs done remotely, it is difficult to determine successful performance. Productivity is what counts, not time and attendance.⁸ Effective management means determining how to assess the actual productivity.

The option to telecommute should not be an entitlement, but instead a benefit for workers to work remotely because of lifestyle needs. It should not be offered on a gender-disparate basis. Men should not fear requesting a telecommuting option more than women.



Telecommuting should never be about a desire to escape workplace scrutiny. Accordingly, it becomes vitally important to be crystal clear about expectations, and how performance will be measured, and rewarded.

The availability of high quality reliable internet connections for all but the most remote locations, coupled with solid cloud-based computing options, and reasonably-priced equipment for home offices, makes a variety of non-traditional work options available. As more attorneys and legal staff embrace and request these options, the associated stigmas are disappearing. And law firms are experiencing positive outcomes.

From a larger perspective, everyone benefits from less fuel consumption and pollution, and less congestion on the roads. Companies can lower office costs, employee turnover costs, and retain a higher caliber of employee. Workers are able to achieve better balance of work and home obligations, live a more enjoyable lifestyle, achieve significant savings in commuting and wardrobe expenses, and get more creative work done in less time. Yes, there are challenges to getting it “right.” Aren’t there always?

A version of this article originally appeared in the Sept/Oct 2014 issue of PA Lawyer..

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¹ How Much Does It Cost to Start a New Solo Law Firm?; AttorneyAtWork blog; July 17, 2012;
<http://www.attorneyatwork.com/how-much-does-it-cost-to-start-a-new-solo-law-firm/>

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³ Pennsylvania Average Commute Time by County; U.S. Census Bureau;
<http://www.indexmundi.com/facts/united-states/quick-facts/pennsylvania/average-commute-time#chart>

⁴ The Cities with the Most Extreme Commutes: Jenna Goudreau; March 5, 2013; Forbes;
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⁵ For two very different approaches to the virtual law firm read:

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⁶ It's Unclearly Defined, but Telecommuting Is Fast on the Rise; Marilyn K. Yee; March 7, 2014; The New York Times; http://www.nytimes.com/2014/03/08/your-money/when-working-in-your-pajamas-is-more-productive.html?_r=0

⁷ New Statistics on Telecommuting and the Workforce; Jennifer Parris; August 21, 2013; FlexJobs blog; <http://www.flexjobs.com/blog/post/new-statistics-on-telecommuting-and-the-workforce/>

⁸ Telecommuting Likely to Grow, Despite High-Profile Defections; Dinah Wisenberg Brin; July 24, 2013; Society for Human Resource Management; <http://www.shrm.org/hrdisciplines/technology/articles/pages/telecommuting-likely-to-grow-bans.aspx>

