



Mike Arias

ARIAS SANGUINETTI WANG & TORRIJOS



Alfredo Torrijos

ARIAS SANGUINETTI WANG & TORRIJOS

The new reality of law-firm technology

FROM REMOTE DEPOSITIONS TO VIRTUAL COURT PROCEEDINGS, COVID-19 HAS THRUST US ALL INTO THE FUTURE NOW

If the last five months have taught us anything, it's that our laptops are the new life's blood of our law firms. Imagine how many machines and devices the laptop has replaced – a camera (still and video), typewriter, scanner/photocopy machine, calculator...the list goes on. Never before have trial attorneys had more technology at our fingertips, and never before have we desperately needed it.

Managing a law firm and practicing law requires a modern application of technology, and every firm that has not already changed its practices accordingly is being left in the dust. As officers of trial lawyer associations, each of us has been on conference calls with trial lawyers nationwide on solutions to the new challenges we all face. Courts, plaintiff bars, defense bars and all of us are constantly adjusting to this new reality to make sure our clients are getting the best representation possible and justice is being done.

This is not just a glitch in the matrix though, it is a sea change; one that will be with the legal practice forever. While there were some attorneys and law firms that were early adopters of using video conferencing and such, this change will absolutely be permanent and so it is important we get these changes done right and done right now.

Managing a virtual law firm

Running a law firm has never been an easy job. In 2020, managing a law firm means something different than it ever has and while some of our "new normal" has stayed with all of us since March, new challenges constantly arise.

In June, an information services company that works with several law firms released a study (Kluwer, 2020) of 700 lawyers with some startling findings. While 83% of responding law firms expect

to see a greater use of tech to improve productivity, only 29% of firms believed they were prepared to understand tech solutions and 25% believed they were prepared to understand the benefits of tech to their firm.

It's a terrifying reality that an overwhelming majority of attorneys understand the *need* for technology, but such a small percentage believe they are ready to pivot to the new reality. However, as Desmond Tutu once wisely said "there is only one way to eat an elephant: a bite at a time."

People first

First of all, people are always the top priority. Our firm is spread out over multiple locations; and yet, the partnership constantly reminds each of us that it is the people that make up our firm. As such, whenever we adopt a new form of technology (which happened rapidly in March, April and May) we remind ourselves that we are there to support them. Whether firm leaders are making a decision to adopt new technology out of necessity or for efficiency's sake, the attorneys and staff at the firm have to be patiently trained to adopt the new skills they will need to use the technology properly.

It is very easy during these moments to think primarily about case load, adopting new practices, making sure tasks are being handled but to forget that people in the firm are the ones getting the work done. Should law firm leaders forget this fact, it will be quite easy to leave people behind and create a ripple effect that will impact everyone from the receptionist to the managing partner.

Trust the IT department

For many of us, the IT person or department is a sort of necessary evil. Not

every attorney is an early adopter of new technology, and in fact many rely on older ways of practicing law. There is nothing wrong with that, but in unprecedented times like these, it's important to listen to the guy or gal who helps you find that one email you got four years ago.

Knowledgeable IT personnel are up to date on best practices for such things as secure servers, the best camera for reliable Zoom calls and how to use your phone to scan in documents in a pinch. More importantly, your IT person will know the specific technology used at the firm and how to adopt the tech to your firm's existing technology and the firm's existing culture. Communicating with the IT team, asking questions and even letting those folks lead the way is a good first step to being prepared.

Securing your electronic office

A top priority for every firm is security. The news is filled daily with stories of hacks happening to even the most sophisticated companies. Just last month, Twitter itself and several high-profile accounts were hacked by a teenager.

So, determine the best way to provide security throughout the firm. That means more than just downloading McAfee for your desktop. Think about all of the files the attorneys and paralegals use at your firm:

- Important financial data
- Protective orders
- Social security numbers
- Names of children who may have suffered some form of abuse

The list goes on, and all of it requires a commitment to security. That means security on all of your devices as well – cell phones, laptops, tablets...all of it.

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Attorneys have a duty of confidentiality to worry about; so, while all businesses need to secure their files, lawyers have the additional burden of doing that as a part of the Rules of Professional Conduct.

It is important to remember security when working with online tools as well. Cloud computer services such as Google Drive, Dropbox, WeTransfer and Microsoft OneDrive all claim some form of data security but, should a document or piece of information fall into the wrong hands, lawyers and law firms will have a higher authority to answer to.

Video conferencing

By now, most attorneys are likely familiar with how Zoom works for video conferencing, but adopting video technology can work for more than just meetings.

Most courts, including Los Angeles Superior Court, are now able to host status conferences and hearings virtually and are actively encouraging attorneys to make use of video conferencing. With COVID-19 likely a part of all our lives well into next year, we expect this to radically change the judicial process forever.

Video conferencing is quickly becoming the default for conducting a mediation, arguing a motion, taking or defending a deposition, having team or even firm-wide meetings, or just catching up with co-counsel. And whether you are using Zoom, Facetime, Skype, Google Video or some other tool, security is still important.

Earlier in the year, there were stories of “Zoom bombs” where outsiders were able to attend – and, often, take over – Zoom meetings to which they had been uninvited. While Zoom claims it has addressed this issue, it is important to note that anyone at your firm using Zoom needs to make security a high priority.

One easy example is Zoom’s chat feature. While attorneys are on a Zoom call, they may use the chat feature to send a document, but if that Zoom call is not secure, then those attorneys may have just exposed sensitive client data to an unknown source.

Remote depositions

What was once an option, deposing witnesses by video conference when everyone agreed to it, is now the only option in many cases. Gone is the knee-jerk reaction by defense counsel to reject your request for a remote deposition. Now, for the most part, everyone has accepted the fact that remote depositions are here to stay. Technology has again proven its value in this area. Most court-reporting services have made the necessary adjustments and technology implementations to conduct a remote deposition. However, that is only a quarter of the equation. You must make sure the witness, the defense and *you* are prepared for the intricacies of a successful remote deposition.

Planning for and anticipating the impediments some witnesses and/or defense counsel may inject in your deposition plans is crucial. You will hear that the witness does not have Wi-Fi or the witness does not have a reliable computer; that the witness is concerned for their health and doesn’t want to go to their attorney’s office or to an office building. All of these issues can be easily resolved by simply using a court-reporting service that can establish a reliable location of the witness’s choice.

Many court reporters will ship laptops and hotspots to a witness’s location of choice – and will work directly with the witness to ensure that everything is in place well before the deposition is to commence. If the witness is represented, the same arrangements are made directly with counsel for the witness. Most, if not all, of the technology you will need can also be provided if you have not yet upgraded your own technology. The key for all of us is to get these depositions done so we can move our cases forward. Here again, adjusting and adapting to this new technology is key.

Using the right hardware the right way

Before March, few were thinking about how difficult it is to integrate MacBooks into court calls. However, now

it is a vital issue that could impact your practice and your clients. The decades-old “Mac vs. PC” has reared its ugly head again because not every court is using video technology that works on a Mac device. Attorneys should research this issue, as should every staff member.

As judges and court clerks become more comfortable with the newest technology, this will become the new normal. Judges will have video conferencing equipment on the bench, in their chambers and at home. Court clerks will have the same tech available to them for every motion, hearing, scheduling conference, you name it. Outside of an actual trial, and all of its proceedings, one can easily imagine courts moving to adopt technology in a far broader way than any attorney thought possible. There are even anecdotal accounts of judges stating they are willing to do bench trials via video conference.

Staff and attorneys working from home need to be properly equipped as well to meet this new reality. Attorneys should absolutely have video cameras attached to their computers as should every staff member. With in-person meetings a thing of the past (and hopefully the future at some point) every member of a firm will have to adjust. This may mean a further investment into providing resources to attorneys and staff to supply them with the technology they need to get the job done.

Internet speed

We were discussing how it is now very possible to live anywhere in the world and practice law globally because our world is now almost entirely virtual. However, this is only partially true. Attorneys can live anywhere in the world...where there is reliable high-speed internet. There have been nightmare stories of internet service crashing for entire neighborhoods and people parking their cars outside a Starbucks just to get internet connection on their laptops.

We have heard of, and been part of, virtual court proceedings (in LASC – LACourtConnect) where parties

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appearing before the court have either been unable to log in properly or experience poor sound or diminished screen appearance due to inadequate bandwidth. While many judges have been patient due to the recent implementation of this technology, that patience will be evaporating soon. More and more attorneys are realizing these remote appearances are becoming the preferred choice of judges and are becoming the standard.

Attorneys and staff need to make sure their internet speed can handle the workload, downloading massive discovery, and doing video conferencing all at the same time. All staff and attorneys also need to make sure they can work via Wi-Fi and hardwired (Ethernet cable) because the court's video conferencing works much better when the devices are plugged into a connection. Bandwidth is now the true test of any law firm's capabilities.

Managing staff

One important area to remember for anyone managing a law firm is time. Most law firm staff use time-keeping software. When everyone is in an office, it is easy to see someone coming into the office, going to lunch, leaving for the day, etc. However, without this capability most law firms have had to adjust quickly to the new working environment. Most of us

have tremendous staff members who are ethical, reliable and make our work possible. However, it is important to also remember for HR purposes that the software used in the past to monitor people's working time may not cut it. There are HR specialists who can help educate and inform as to best practices for time-keeping software in the new digital age.

Using this new technology to foster cohesiveness

Many of us believe that the teamwork, morale, and our ability to collaborate are keystones to a successful long-term practice. Our forced reliance on many of the new technologies has given us the opportunity to "see" and talk to our staff and attorneys more often and more efficiently. Internally, we have found weekly virtual firm meetings (we use Microsoft Teams) to wish a particular attorney or staff member a happy birthday, to welcome a new staff member, to share a recent accolade or to simply give an update has brought about an increased level of firm cohesiveness. While our firm may be larger than most, the number of people on these "team calls" shouldn't matter, as the result of more frequent communications can only benefit your firm's productivity and positivity.

Accept, adjust and accept

For many of us more "seasoned" (a nice word for old) attorneys, technology has advanced extremely fast over the last 10 years. Technology advancements and applications in the legal field are numerous and ongoing. Many of the adjustments we are making in light of COVID-19 are here to stay. To continue to be successful and to advance your client's interest in seeking justice, sooner than later, you too must make the adjustments, sooner than later!

Mike Arias is the founding and managing partner of Arias Sanguinetti Wang & Torrijos LLP. He is a Past-President of both the Consumer Attorneys of California (CAOC) and Consumer Attorneys Association of Los Angeles (CAALA). He is a member of ABOTA and has been honored by the Daily Journal as a Top 100 Attorney in California and Top 30 Plaintiff Attorney in California.

Alfredo Torrijos is a partner of Arias Sanguinetti Wang & Torrijos LLP. Mr. Torrijos prosecutes both individual and class actions in state and federal court, focusing on complex litigation matters in breach of contract, employment, consumer fraud, bad faith insurance, intellectual property and technology law. He has been recognized as a Super Lawyer every year since 2015.

