

Out-of-Office Attorney

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In both movies and real life, the practice of law is usually thought of as a conservative profession. Lawyers wear well-tailored suits, tote briefcases, have law offices either in or near the communities where they live, and spend their days meeting with clients and appearing in court.

Traditionally, lawyers practiced and lived in the jurisdictions where they were admitted to the Bar. Only fifteen years ago, the notion that lawyers could practice remotely would have sounded absurd. But now it's happening. Thanks to an explosion of technology, you can even practice law in Los Angeles and live, well, just about anywhere.

Consider my law firm as an example. Established in 2004, with offices in both New York City and Jerusalem, Schwell Wimpfheimer & Associates LLP ("SWA") is a full-service law firm

that provides top-quality legal services to clients ranging in size from among the largest Fortune 500 businesses to individuals and start-up companies. Although SWA's Israel-based attorneys travel back to the U.S. to meet with clients, conduct negotiations, and attend court conferences, most of the day-to-day work — drafting contracts, performing legal research, and conducting due diligence — is conducted 6,000 miles away right here from our Jerusalem office. That may sound like a bit of sleight of hand, but it happens to be quite straight forward with the help of e-discovery, telephonic court appearances, e-filing, Voice over Internet Protocol ("VoIP"), teleconferencing, BlackBerrys and other technology.

Probably the single most important development over the past decade which has given lawyers

the ability to work remotely is the fact that most information today is produced electronically. Just think about it. Fifteen years ago, if you walked into an attorney's office, the bookcases and file cabinets would have been piled high with redwelds and banker's boxes. Although lawyers today still have paper files in their offices, most of what we need — correspondence with clients, memos or briefs we are writing, or court documents — is stored right on our computers, which can store the equivalent of 40,000,000 pages of information.

Another development that has given lawyers more flexibility to work remotely is electronic research tools. As every lawyer knows, these days almost all research, whether it be related to the preparation of an SEC filing, responding to discovery requests,

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or the drafting of a will, can all be done electronically with the click of a mouse, using such online tools as Lexis or Westlaw. Although most attorneys (myself included) still enjoy going to a law library, in truth, with all the great research tools that are available at our fingertips, it is hardly ever necessary anymore.

Another dramatic technological advance that is beginning to make a substantial impact on the legal profession and which can also greatly benefit lawyers who work remotely is the telephonic court appearance. Telephonic court appearances are fast catching on in several states, including California, Florida, Maryland, Michigan, and New Jersey and have already saved clients millions of dollars in legal fees they otherwise would have had to pay their lawyers for driving to and from court. This is a welcome development, not just for those of us attorneys who live and practice overseas, but for any lawyer who is looking to spend more time working from home or in other non-traditional work settings.

E-filing is another capability that gives lawyers greater flexibility in terms of where they want to practice. In the past, a lawyer would send his or her clerk to the court to file papers or check on the status of a case. Nowadays of course it can all be done online. The fact that a lawyer who works remotely – whether from home or on another continent — has the

very same access to court documents as an attorney whose office is right across the street from the courthouse, is making geography more and more irrelevant in the practice of law.

Finally, with all the tremendous advances in communications technology, including VoIP, teleconferencing, Skype, and BlackBerrys, lawyers who work remotely are every bit as accessible to their clients as an attorney who works close by. For instance, with VoIP, clients can call my office in Jerusalem simply by dialing a U.S. phone number. Plus, with teleconferencing, lawyers at our firm can hold virtual meetings with clients face-to-face on the video screen. Although sometimes it is still preferable to meet with clients in person, clients appreciate the tremendous cost-savings and convenience that teleconferencing can offer.

All these fairly recent technologies and more have helped to liberate lawyers to practice their profession in locations far removed from their clients. But here is the obvious question that concerns a client who considers hiring a lawyer who works in a different time zone: “Will I be shown the same standards of professional responsibility that I would receive from lawyers practicing within the U.S.?” Clients can rest assured that the American Bar Association (“ABA”), in noting that the “outsourcing trend is a salutary

one for our globalized economy,” has mandated that lawyers who practice from outside the U.S. have exactly the same obligations for professional conduct as lawyers in the U.S. See A.B.A. Ethics Opinion 08-451 (Aug. 5, 2008). Thus, whether an attorney is six miles away or six thousand miles away, he or she is subject to the same rules of professional responsibility, including the duty to maintain the confidentiality and security of client information (including electronically stored information), as if he or she were right next door.

Armed with a BlackBerry, VoIP, e-filing, online research sites, and more, lawyers today have the freedom to practice from any location in the world. It is a far cry from the way lawyers used to practice with their offices in the same communities or cities where they lived. As new technology is developed, the practice of law as we know it will continue to evolve, and it will be interesting and exciting to see what new opportunities lay in store for us down the road. ♦

Editor’s Note: *Melinda Spitzer is a member of the Litigation Practice Group at Schwell Wimpfheimer & Associates and has handled a wide range of commercial litigation matters in state and federal courts in areas such as contracts, intellectual property, trade secrets, and employment. You may contact Ms. Spitzer at: mospitzer@swalegal.com.*