

Brady: A post-Covid lawyer's take on the practice of law

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The legal profession has been notoriously slow to change. However, whether we like it or not, the practice of law has changed more in the last four years than it did in the 40 years prior.

The newest generation of lawyers graduated from college and started law school during the pandemic and have a unique perspective on where things are headed.

If there is one thing (maybe the only thing) all lawyers can agree on, the pandemic was an interesting time in history. Legal education, technology and billable hours are three areas in particular which have changed drastically.

Attorneys should embrace these changes, or at least be open to them. They will become part of and improve the practice of law.

Legal education

Law school is different today than it was just 10 years ago. While the brick-and-mortar schools continue to exist, the days of reading books and seeing or knowing every person in the building have changed.

While the amount of interaction with law school classmates in the future is still uncertain, it will still be important as law school classmates are an important part of an attorney's legal network.

My colleagues who graduated in the early 2000s learned to conduct legal research using the reporters during their first semester; during the second semester they learned to research using Boolean logic and online databases.

Later, law schools stopped using the reporter, and began teaching online research only. It will not be long before law schools are teaching students to use Boolean searches in the first semester, and an AI product to search in the second semester.

In person and online learning can co-exist. While there are advantages to in person learning and face-to-face interaction, people are more and more concerned about preserving their time than ever before. Some parts of law school and the practice of law are now done via Zoom or other platforms.

Technology

The practice of law can use a hybrid model as well. While a hearing on a motion for summary judgment or other oral argument can be conducted remotely, the collegiality between lawyers before and after the hearing is an important aspect of practice that is lost when not conducted in person.

On the other hand, a case management or status conference is likely just as effective when held on Zoom as it would be in person.

There are winners all around when that happens. The client is not charged for hours of attorney travel time for a conference that may last fifteen minutes, and the attorneys are able to spend their time providing the best legal services possible for their clients.

Finally, when calendaring case management deadlines, an attorney sitting at their computer can more easily review their calendar before agreeing to new deadlines. When it is efficient and effective to use technology, the practice of the law should allow it.

The use of AI is rapidly changing the world; the practice of law is no exception. Many attorneys have been skeptical of the use of AI in legal practice. But many companies are beginning to use AI in a way that is specifically geared towards lawyers.

Lexis+ AI uses trusted searching methods to draft responses and cites real cases (not the fake ones that ChatGPT created). I recently used a test question on a topic that I had researched a few weeks prior, something I spent a little over an hour on, and Lexis+ AI answered within a minute. The answer was very accurate.

AI can save a ton of upfront time on initial questions. While AI cannot yet find the very niche issues that may be critical to the case, it can help find a jumping point. Additionally, AI can accurately summarize deposition transcripts or medical records in minutes, something that would take an associate hours to complete.

Other products recognize how much time has been spent reading and responding to an email for more effective time capturing. Finally, some products follow case dockets and can automatically calendar new deadlines.

Many lawyers view AI products as a short cut that will make us dependent on AI and will leave errors in the legal practice. AI is far from drafting the perfect brief. However, it can write a first draft or a memorandum on a single issue in just minutes.

AI can reduce the amount of time spent on tedious work learning a new area of the law or drafting the background research in a memorandum. This leaves more time for lawyers to focus on the fun parts of the argument—picking apart the key case the opposing party relies on, negotiating creative settlements, or crafting arguments and distinctions based on the opposing party's document production.

Whether we like it or not, AI is here to stay, and it is better for attorneys to embrace it now and stay ahead of it.

Billable hours and remote work

Young people in all professions have fought long and hard for their ability to work from home and work less.

It is almost undeniable that the work-life balance of lawyers is among the worst of all professions. Most firms have a higher expectation in their billable hour requirements than other professions require as a whole.

In addition to high billable hour requirements, the legal profession requires hundreds of additional hours committed to firm service and internal networking, mentorship sessions, pro bono representations, training and professional development, and client development.

However, technology will continue to reduce the number of billable hours required to effectively practice law. Billable hours requirements have not changed much in the past 25 years, but lawyers will only continue to find the cases and propositions they are looking for faster with the use of AI. Associates today also will not have the billable hours that were spent traveling 20 years ago.

Back then, a realistic day for an associate could be driving to a status conference, an hour drive each way. The conference would last 30 minutes. When the associate returned to the office, they might do three hours of research, spend an hour and a half writing a memo summarizing the research, and finally check and respond to some emails for an hour. In all, an eight-hour billable day.

Today, an associate can attend the same status conference via Zoom, taking only 30 minutes. After the status conference the young lawyer can use efficient Boolean searching, faster internet, and AI to research the same issue, double checking citations and case law, in an hour. Efficient research also allows the associate to write a little faster, completing the memo in an hour. Again, the associate responds to and checks some emails, but it only takes a half hour. Today's associate did everything the associate 20 years ago did, before lunch.

Many firms are requiring attorneys to be back in the office. Associates can bill more time at home, because, at least in part, they save time on their commute and time getting ready and out the door. While there are advantages to remote work, there are many mentorship moments, natural collaboration, and networking that are not captured when attorneys are not in the office. Firms which allow a hybrid model still provide the organic "water cooler talk" but also allow an associate to work from home once or twice a week will be those that create the best balance.

In conclusion, the use of technology in the legal world is already beginning to change and will only continue to change the legal landscape. Lawyers now have the option to embrace it or watch it pass. •

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