

TRANSCRIPT

Mary: Welcome to today's episode of Vandenack Weaver, Legal Visionaries a weekly podcast discussing updated legal news, evolving methods of providing legal service and law practice issues. My name is Mary Vandenack founder and managing partner at Vandenack Weaver LLC. I'll be your host as we talk to experts from around the country about closely held business, tax, trust and estates, legal technology, law firm leadership, and wellbeing.

Mary: Today's episode is on remote practice and changes since the pandemic that should stay. My guest is Reid Trautz, Senior Director of the Practice and Professionalism Center at the American Immigration Lawyers Association. Reid has written and spoken frequently on remote practice in different contexts. This has become more common since the pandemic. So, I asked Reid to join us and to share some of his tips for remote practice. Thanks for joining us today, Reid

Reid: And thanks for the invitation to be here.

Mary: You've been a great advocate for strategies for effective remote practice. Can you share some thoughts on best practices for setting up remote work systems?

Reid: Sure. You know many of us, to one degree or another become remote in our practices, right? And we've got about a year maybe a year and a half under our belt so far of doing it. We first have to understand that this is all new, that we are essentially all still let's say in elementary school while we're learning this right? That we need to continue to learn and evolve with what we're doing and that's great reason to have this podcast today is to continue that learning. So, we get better and better over time. Because remote practice is not going to go away. The second thing I think I would do is that it's important to have all your computer programs and your office workflow systems working together efficiently and seamlessly. We made some changes. All of us did in we added video conferencing. We added some workflow platforms like Teams or Slack and we need to make sure that those are all working together as best that they can. We need to take some time to make sure that that we've looked at those systems that we have people trained on those systems so that the workflow works for us now that we're remote at least some of the time.

Mary: So, the use of video conferencing has become far more common. And even in breathers from the pandemic, a lot of clients are choosing video conference and it really kind of changes the way you need to conduct the conference. Can you share some tips on best practices for video conferencing?

Reid: Well, the first thing I would say Mary is using the camera. I am surprised how many times I log into a meeting that's video and the other person isn't using the camera or other people aren't. Now there are some occasions where that works but I would say use it every time. And you know why? It's because so much of communication is non-verbal and experts have long agreed about this. They you know we know that face to face interaction really is the best communication outcome because we can see non-verbal things, we can see people's faces. We can see what's going on. We can see if they're paying attention, right? And so, we ought to have the camera on. In fact, we ought to be using video conferencing for our phone calls because it just creates better understanding which leads to better working relationships. And we need to do that in that attorney client environment.

Reid: So I would also say well I'm sorry Mary but let me also say that we've got to be able to use the productivity tools that are built into the video conferencing platforms. Whichever one you use, we have to use screen sharing. I mean we can go over a document with a client and walk through it right with them live rather than sending it to them by email and having them mark it up and now Zoom and others are allowing other products to use their platform so that we can bring in other types of tools. One I've been using lately is Miro which helps you really sort of brainstorm and put together or ideas and allows that right on the Zoom platform. So, these are all things that we should be doing with video conferencing while keeping in mind that not all clients are tech savvy right? More and more people are they're getting better at it but maybe we create some videos to help our clients better use the technology and the video conferencing. So, they too can get the advantage of better communication and better relationship building.

Mary: So we've gone in some of that having a person in our office call and assist a client in getting on the zoom conference that just kind of gives them a help. It's kind of an interesting phenomenon because it doesn't seem that complicated to click on the link. Right? But for a lot of people that really is an issue, and we just have to acknowledge it and say but I just want to follow up on one of the comments because I'd be one of those who really started

to suffer from what's been getting or to a Zoom fatigue. So, my theory had been, and I just want to hear because you're saying even some of the calls that we have used are maybe better served by using video conferencing. I had kind of been going with a thought that to avoid the Zoom fatigue if a phone call worked for the last 20 years than maybe I to just stay with a phone call but your thought is when I'm doing that I'm missing the non-verbal communication and such. Right?

Reid: Right. Especially for those important phone calls where you're, you know delivering bad news to the client or you're having you need to really get their feelings about something right. You you're giving them a choice and you want to see; I think we're better served by going to video. Now it doesn't mean that every single time we must do that if we're calling to schedule a meeting or do something no, we don't have to we can use the phone. But I think to the extent that we get used to using video conferencing as a tool we're going to see that that helps replace the face to face meetings that most of us have now reduced or eliminated.

Mary: Well we've also found that it reduces the time of the meetings because people tend to focus and get off and on. Right? And so, knowing that clients a lot of times hate our bills if they're hourly we kind of like to point out that the zoom conferences end up being a little more efficient and cost effective. During the pandemic the internal communications even for lawyers you know there's like I you know worked have worked remotely and from wherever forever. Right? But then you're still used to having staff back at the office that you can call and say wow you know what can you like scan that letter or whatever that came in or something that personally all ours is scanned but whatever you might call the office back for looking for support. And we saw that in dealing with other not just lawyers but other types of companies where they suddenly went remote and where their team had been next to each other inside they struggled a little with the internal communication. So, what's the solution for internal communication?

Reid: Well, I think what has been successful for most firms and been successful for my team as well. And that is I think you have to pick a workflow platform such as you know Microsoft Teams or Slack or you know similar type of product and train staff to use that one platform to communicate right. So that they are connected together in one place. Try to get away from email which is much more inefficient and use these platforms not just for their chat feature or you know kind of instant messaging you know during the day I

need this you know but also so you can share documents or what I like about Microsoft teams is you can just click a button and instantly have a video chat with that person that you're maybe having a text chat with right then so that you can clarify right now what's going on and get it resolved and get it done. And I think that's we need to continue to you know as I say select that train on it. And then also Microsoft and all the products are continuing to evolve. We must look at what else they've added that we're maybe not using and integrate those into our workflow because all these products are getting better.

Mary: And we're excited that we're going to have Ben Schorr from Microsoft on a podcast episode though to fill us in on what they're doing with those tools very soon. I know one of the things that we did is because there became so many forms of communication, right? I was especially when we were remote, and we're located in Nebraska. So, we weren't remote very long and we were considered an essential service. So, we always had somebody in the office. So not as impacted as other places in the country but the internal communications suddenly you're having texts you're having emails you're having things come over chat. So, what we did is designate Teams is our internal communication tool. Zoom is our video conferencing tool with clients. And then email is our communication clients as well as opposed to you know partly like making sure everybody saves things and all that. But so, what are your thoughts on the client communication? What works best in the remote context?

Reid: You know I like the setup that you just described there. I think that is the type of thing that works for a lot of people but what I like to start with is what do the clients want? And they really want responsiveness, and they want transparency so that they feel comfortable. They feel like their legal problem is getting solved and that they're seeing some action being taken so they may not be able to come to the office, but we can still let them see going on. Right. So that's why I like video calls with clients again not for every little thing but for the bigger calls that we have with them. We also should be looking at, if we haven't already, setting up secure client portals for each client so they can access information right. A lot of times clients will call in and say well what about this?

Reid: Or I need a copy of that. Or you know what's the status of this. If we have a secure client portal where they can log in and get that information where they can learn more about their case that's helpful. And if your firm

doesn't have that system right now you should set that up. If it's in some of it may be in your case management product your case management software but there are other products out to help you do that just look up client portals. I mean that is going to be a more growing method of communication with clients. I know I use it. My CPA is set one of those up with me so I can get my documents. I don't have to always call them. It's an efficiency tool as well as a communications tool.

Mary: And most of the portals send notifications when somebody uploads you know we've had portals forever but a lot of times they weren't getting used. The volume of use of the portals is kind of a geek about that type of stuff was excited to get constant notifications that people were using the portals this year. And so, hope that continues because I think it's just a much easier more efficient way to connect and everything's in one place and we have some different types of portals.

Mary: Let's continue our episode. Well I was interested, Reid, to find out that a lot of law firms across the country haven't gone paperless yet. And so, when they went remote, they were still trying to figure out how to deal with paperless with you know with paper. So, what about accessing documents for the law firm that hasn't achieved the paperless yet?

Reid: Yeah, I think this really did for those firms that hadn't gone down this road that hadn't made any real moves over the last 10 or more years to become paperless. They've have found this remote work during a pandemic much more difficult but I do know several firms that you know they realize now and they're working towards that. And I think every firm should be working towards a more paperless office but if they haven't, the solution that I've seen is they'll have at least one staff member in the office and they'll rotate someone in there every day or every other day kind of thing so that they can be there to access documents, to locate things, scan them if needed and get them out. I know it's very unproductive and that's what people are finding but it is the bridge to while they're working on you know of going paperless you know how do they scan the files? Where do they store them? How do they name them? Those are all the things that they should be investing their time in right now because remote work isn't going to go away even as the pandemic hopefully subsides, we are going to continue to see this to remote work and employer employees are going to want to continue to work remotely. And I think we need to make sure our firms are better prepared over the coming year for this.

Mary: I have a strange group at my office because we offered everybody the chance to work remote and everybody declined but I know that's not the common thing. I've just decided we must just have such a great office environment that they want to come in or we must bring enough donuts or something <laugh> but, no, I was actually really surprised because I've been hearing from my you know business clients that a lot of them are taking certain people permanently remote or they're doing schedules where people come in two days but you know where we are it's pretty easy there's you don't have long commutes and things like that. So that might be part of it. One of the things about remote work is it raises some ethical issues and I know I've been on Zoom meetings where somebody's in their home and you know then you'll see somebody walk through that you know isn't part of the conversation and you're like "oh wow. does that person have the are they allowed to hear this conversation or you're sending employees?" You're not sure who's in their homes while they're on Zoom calls in their living room or on their porch. So, let's talk a little bit about the ethical exposures that remote work raises and to deal with that.

Reid: Sure. And I think there are there are three major ones that every firm needs to make sure that they have addressed. One is the confidentiality issue that you talked about, right? Not only who's walking through the room during meetings but who else has access to that computer at home? Right. What else is going on in that computer? Is it you know is it locked down? Is it password protected? When not in you know firm use so there needs to be technology policies for staff. If the firm had technology policies already, they need to revise them if not they need to put them in place. And I also suggest having a brief confidentiality agreement with each staff member that they sign that says they have they're following the technology policies you know in the firm for you know keeping other people off that computer or somehow segregating it.

Reid: And the firms can take steps too. You know, a number of firms are using products like go to my PC so that the person logs in through the web browser to access their computer back at all office that no information is stored on that home computer. So there's a number of things I encourage firms to look at that. The second thing is cybersecurity which is obviously related to confidentiality but to make sure that the cybersecurity plan that the firm has in place is still intact when you have a distributed workforce. When people are working remotely what are the issues that you need to

address? And that's best to work with your IT staffs the people that you may have contracted to help you with your IT works to make sure that you're protected.

Reid: But I think the third thing I think this may be the most important is the ethical requirement of staff oversight we have in our rules you know generally designated in the model rules as rules 5.1 through 5.3 these are the vicarious liability rules. They require certain people in the firm lawyers to oversee subordinate lawyers but also requires any lawyer. Who's working with staff to you know oversee the staff as well. Are the non-lawyer staff doing the work? Are they remaining ethical? And you know when oversight really presumes that you're seeing them and when we remote work, we don't have that capability anymore. So, we must create methods to replace that oversight because we're not walking by their desk and seeing what's happening. We need to replace it with things that give us that sense of oversight that we are watching what they're doing.

Reid: And so just three real quick things because this is important. This is one of the areas where we are still learning how to do this. One is to host monthly staff meetings to discuss firm operations and to reinforce current procedures and policies and asking you know if problems have arisen to surface those problems and try to solve them. Number two is to ask staff to self-report mistakes to supervising attorneys, right? If they have inadvertently let something go out, if they've done something that breaches confidence if someone has accessed their computer and they're not sure what happened they need to get that to the attorney in the firm who can then surface that further. It's not about assessing blame but it's to avert a problem before it gets out of control. So, make sure you have this conversation with staff that it's really supposed to keep everybody safe in a step forward not to blame. And the final thing is to just simply ask as lawyers from time to time ask non-lawyer staff or subordinate staff how are things going? Are there any problems I should know about just sprinkle these questions in as part of your meetings and part of other things and you may think it's kind of silly at first but you need to be replacing observation with this kind of discussion and engagement. And I think all those will help lawyers feel more comfortable with oversight of their staff.

Mary: And one of the things we did Reid that was we decided even as we became non remote that it was such an effective tool in terms of overall coordination is that we're keeping it in place. So, what we did is we gave

each we created teams and now I'm not talking about the program, but we created internal teams and would have a lawyer responsible for associate paralegal staff. And what we asked them to do had a first thing in the morning huddle a midday huddle and an end of the day huddle. And then we had each person on each team submit to the group leader their work plan for the day so that you know group leader would coordinate what everybody was doing and actually get on the line have a team's meeting with them to like connect and then you know any concerns.

Mary: And because one of the issues that did come up on a regular basis was somebody was having trouble with technology type issues. And then you start to run into the shadow IT problem, right? When because they can't get things to work. So, we use that. That was such a great thing. We're like we're going to keep that going on when we're back in the office because we're just doing a better job of in serving clients which actually brings me to my next question is how can law firms create a positive remote experience for clients and for employees? Cause I think that's hugely important, and you and I have done a podcast where we've talked about futures issues, and I think we're both passionate about that. And I think for this positive client experience in that context as well as for employees because we want to be able to keep people really matters. So, can you speak to your vision on that?

Reid: Yes. As for clients, I again I think that the keys are responsiveness and transparency, right? But that doesn't always mean that a human is responding. So, when we look at refreshing our existing systems and processes within our firm, we can automate some of that client interaction so that they are getting responsive reactions that can help move their case forward. But it's happening with automation it's happening with client portals it's happening so that they feel like things are moving on in their case. And that gets back to the one of the first things to do is to look at your office systems and make them make you know change them as needed. But for employees I would say a couple of things. We've moved remotely but we haven't yet all decided what is a workday yet right.

Reid: Is it still nine to five? Can I take a break during the day and go exercise and add that on to the end of my day because I don't have to commute anymore? You know it's not I leave after breakfast and get home before dinner kind of thing. What does that look like? And I think encouraging a discussion on that within a deciding can we add these wellness activities to our day? Those are things we ought to do. We must make sure that our

employees have as optimal a home office as possible. We're long enough into this. They shouldn't be working at the dining room with a dining room chair you know, there doesn't mean we have to build an office but can we do things from a firm perspective to get them an office chair and to do some you know different things that would make that more you know a more optimal office.

Reid: Can we encourage a weekly routine for everyone? You know you just mentioned Mary a daily routine where you have huddles throughout the day. You know those kinds of things help people right? To feel more comfortable what routines are we creating for the benefit of people we want to make sure that even though we're not all together we're still rewarding achievements publicly. We're celebrating successes even though you may not be there when you know the new client finally signs an off and everything's done but everybody's worked on it. We need to celebrate those with a virtual meeting or thing that really engages people and let them know they're valued. and as I mentioned earlier as we've talked about just making sure that you're checking in with staff from time to time as a regular check-in or just an ad hoc basis so that they know that they are both appreciated but also, that you are there for them to answer any questions. They may have to help them get their work done.

Mary: And one of the challenges that we've really found and had to address is just making sure that client communications do remain protected. We've talked about it a little bit throughout this discussion, but do you have any thoughts on how we can really protect communications?

Reid: I think the best way to do it is to try not to send anything via email. I think email is relatively secure but it's also difficult to maintain all the attachments and all the messages. That's why I like working in one of those workflow platforms like Teams or Slack. I think that's the best way to maintain confidentiality and a level of productivity.

Mary: And personally, I think some of the changes from the pandemic are kind of exciting in the sense that we have an opportunity here to have, law firms have historically Hey this is the billable hour requirement. You come into the office in these hours all these things we've talked about but maybe we can really do a better job with retention and developing some diversity and things like that. And law firms if we can look at how people work

differently and how we have our law firm cultures structured do you have a vision for what a law firm might look like that involves regular remote work?

Reid: Yeah. I've spent much of the last several years looking at the future looking at innovation looking at how the forces in the market are going to change the practice of law in order to be able to help lawyers. In my case specifically immigration lawyers keep up with these. I've been looking at the ethics opinions that have come out during the pandemic about where lawyers can practice. I've been watching the lawyer regulation changes that are taking place in various US states and Canadian provinces. I've been reading studies about workplace changes and people who are willing to quit their job before they go back to a five-day work week in the office. And I believe the practice is going to continue to evolve. I think we may, if I can say back slide a bit into the way we did things before but I think remote work is here to stay and I think that's going to be helped by the growth of freelance workers.

Reid: I think we're going to see a lot of people who say I don't want to go back to the office full time but I'm willing to work freelance from my home. And we're seeing more and more platforms that allow lawyers specially to hire contract lawyers contract paralegals and take into of talent beyond our geographic our current geographic market. So, with that we'll have more virtual workers we'll have less need for office space. I think we'll always need office space but will need less and better technology will continue to evolve. We need to take advantage of that. All these forces were accelerated during this pandemic. And I think for firms that are looking to the future they're going to take advantage of this acceleration and continue to forward over the next two to five years.

Mary: Well Reid thanks so much for joining me today. I really appreciate it. That's all for now. Thanks for listening to this week's episode and stay tuned for our week.