

## The Lawyer's Mind: Work Anywhere

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This article was originally published in The Pennsylvania Lawyer

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*In the world of remote work, the key is not to prioritize what's on your schedule, but to schedule your priorities.*

*-Stephen Covey*

Over the summers of 1973 and 1974, I had the privilege of working as a laborer in the storied Homestead Works of U.S. Steel Corporation, the first business entity in the U.S. with a billion dollars in capitalization. These highly prized summer jobs for students paid as a base rate more than today's minimum wage. My father, Big Bobby to my Little Bobby, was a Pittsburgh robbery detective at the time who had been assigned to solve a crime against the superintendent of the Homestead Works. So, my dad sent me to the employment office in Homestead where I was immediately hired for the summer. This was called "knowing somebody" back in the day instead of networking. Big Bobby did not solve the crime. As a beneficiary of the misfortune of the superintendent, Little Bobby challenged the universality of the old adage that crime does not pay.

My entry to the workplace was as a full-time employee on probation for the first 30 days, delineated by a piece of masking tape across the mandatory hard hat. I was part of the unit covered under the collective bargaining agreement with union dues deducted after successful completion of probation. Summer hires were just like everybody else in our metatarsal boots and orange

helmets, working any of three shifts paid by the job classification, just like the career co-workers.

A key takeaway for me was that work was what you did 40 hours per week in a confined and unique environment separate and distinct from daily life. The workplace was world I entered and left via the City-Farm Lane gate five times a week. When I was there, I was fully present and engaged in my duties and in the collegiality that develops with co-workers despite cultural, political, religious and other profound differences. We arrived 45 minutes early to allow those leaving time to shower and dress and be at the gate five minutes before the whistle blew and the gate opened. When waiting to exit, we "hid" off to the side so that the supervisors did not issue write-ups for us not being at our posts. The open secret was that management did not look, and a pact was kept that allowed uninterrupted production. Looking back, I realized these few minutes were a mental transition period, a decompression "tunnel" where we moved from work to play, from work to real life. Once the whistle sounded, I never thought about what was happening at the mill until I crowded past the gate with the dozens of others at the start of my next shift.

Once I became a lawyer, that all changed, especially in 1979 when I opened my solo practice within two years

of bar admission. Thoughts of cases and work projects intruded into my mind at odd times, including the occasional dream or waking moment. It took discipline to compartmentalize to attempt to be 100% present in the evenings and weekends. Of course, there were activities, including eating, drinking, sports, movies, and card and board games that created unintentional force fields or thought barriers of separation to shield me from work. When I left the office empty-handed without files, just like the mill, nothing followed me home. Unless someone called me at home. That was an understood no-no unless I gave prior authorization, which was rarely granted. Now it was up to me to control my own thoughts to avoid wandering to my cases.

Of course, this dichotomy between working only at the office and working after normal business hours is a relic of the crush of technology. First fax machines, then computers with modems that could reach into the home, then cellphones and now, the ubiquitous smartphone. Sometimes I wonder why they are called “smart.” Is that a mockery or an irony played on the users?

So, now we can work anytime, anywhere. Many lawyers can perform many of their job responsibilities rarely being in the same room with another human being.

*Talent wins games, but teamwork and intelligence win championships.*  
-Michael Jordan

### **Working Remotely**

Almost all law firms, legal departments, government agencies and solo practitioners have converted to a hybrid model of working partially from home or while traveling. Social scientists call this Digital Nomadism. It’s most effective with a laptop and remote file access, but also smartphones, tablets and guest access to devices and networks. I doubt there is a lawyer or support professional who has not squeezed in a few hours of work while on the road for leisure or as an extension to travel or other obligations. I have conducted numerous arbitration hearings, mediation sessions and meetings with counsel where participants are in coffee shops, automobiles or on hotel balconies overlooking bodies of

water. It is all fine with me provided the visuals, access to document sharing, and audio are effective and the disruptions minimal. Recent research indicates that hybrid working represents the “best of both worlds,” offering workers greater work-life balance without the concern of being isolated from colleagues. See Choudhury, Prithwiraj, Tarun Khanna, Christos A. Makridis and Kyle Schirmann. “Is Hybrid Work the Best of Both Worlds? Evidence from a Field Experiment.” Harvard Business School Working Paper, No. 22-063, March 2022. A report on a survey of over 2,000 lawyers conducted by the American Bar Association summarized the results:

Significantly, the overwhelming majority of lawyers reported that working remotely did not adversely impact the quality of their work, productivity, or billable hours. Remote work brought other advantages as well, such as an increased ability to balance work and family obligations, especially for women lawyers. On the other hand, for many lawyers, remote work increased their feeling of social isolation and decreased the quality of their relationships with co-workers.

See Liebenberg, R. and Scharf, S., “Where Does the Legal Profession Go From Here?” ABA Practice Forward Report, 2022.

These findings do not surprise me and are consistent with the social science research that has been the subject of many of my prior articles.

*It is our attitude at the beginning of a difficult task which, more than anything else, will affect its successful outcome.*

-William James

### **The Good, The Bad and The Ugly**

The existential quest for lawyers is what work works best. This may differ between practice areas and organizations, but what is universal is that knowledge workers love to work remotely. The benefits are obvious and numerous:

- Avoids the time, expense and stress of commuting, especially during inclement

weather or disruptions, such as detours or heavy traffic.

- Offers flexibility of when at the computer screen, reviewing written materials, emailing, telephoning, or participating in remote meetings and activities.
- Eliminates the need to send or receive electronic communications synchronically.
- Allows for more informal and comfortable dress.
- Provides control of one's own work environment, including temperature and other factors without conflict or compromise with co-workers.
- Allows pacing — A modicum of discipline and impulse resistance goes a long way for efficiency.
- Provides flexibility for child rearing and dependent care.
- Provides the convenience to attend appointments, accept deliveries and build routine tasks into the home office workday.
- Decreases contact with annoying or negative people.
- Allows you to have your blankie or comfort clutch or pet nearby.

These are just a few of our favorite things!

There are bad and unattractive aspects of working remotely and interacting with other human beings primarily through a screen. The downsides include, but are not limited to:

- The loss of small talk, including before and after meetings.
- The impossibility of networking and expanding contacts by joining others for coffee, lunch or drinks after work.
- The restriction or absence of the warmth of connection and bonding, impeding the growth of friendships and empathetic reaching out to a distressed colleague.
- The nonexistence of chance encounters, including overhearing colleagues, that trigger

expanded communication, reflection or relationships.

- The lack of mentoring, which is critical to newer lawyers and staff.
- The limited visibility of excellent performance.
- That despite “open virtual door” policies and access to higher-ups, the difficulty for a new or junior employee to make that outreach vs. being present during a meeting, event or just strolling common areas.
- Loneliness and isolation.
- The real fatigue that comes from long virtual meetings or screentime.
- The limits or loss of facial expressions, gestures and body language in virtual communication.

My recommendation is to avoid negotiating all or part of a transaction electronically. My perspective, along with that of many of my colleagues, is that mediating solely by screen is often “mediation-lite,” even though cases do typically get resolved. Likewise, I prefer the traditional hearing process when serving as an arbitrator, particularly when the facts are contested and the evidence is primarily the oral testimony of the witnesses. My policy is to Zoom when all parties agree to work remotely, but if one party demands in-person processes, to accommodate that demand, which sometimes involves some remote participation.

*If you work for a living, why do you kill yourself working?*

*-Tuco, “The Good, the Bad and the Ugly”*

### **Making the Most of It**

One 2021 study recommended several ways to improve remote working, which I have supplemented with my experience and that of my colleagues:

- Have a designated, structured and well-equipped work area that ideally is used only while working, including reliable internet service and a back-up plan for power and other outages.
- Establish secure storage for client and sensitive documents and a remote access virtual private network (VPN) or secure cloud-based practice management system.

- Set up a professional-looking backdrop or background for virtual meetings.
- Control outsiders such as family members, pets, landscapers, housekeepers or repair technicians.
- Set boundaries to avoid the disruptions and temptations of being home or — the opposite — of working too much and periodic burnouts.
- Integrate physical breaks into the routine, especially walking outdoors. Focus and cognitive abilities decrease after about 75 minutes of uninterrupted screen time. A walk before or after work may help create a transition between work and home life.
- Build-in unplugged contemplative, reflective thinking time at appropriate places in the project workflow.
- Create communication protocols and expectations with colleagues.
- Monitor, track and compare productivity for days at home and the office, including accounting for commuting and other time gained or lost by combining other mandatory activities, chores or appointments based on where you worked that day. This can be via billable and nonbillable hours, invoicing or number of emails, texts or other deliverables.

Awareness of the pros and cons of remote work allows for the evolution of ways and means to be effective and at times of the day to achieve peak performance while being content with our chosen business.

*If you want to lift yourself up, lift up someone else.*

*-Booker T. Washington*

### What To Do

It is not optimal for lawyers to work remotely full time and rarely, if ever, be in the office with colleagues. My view is that it is devastating to the professional development of young lawyers who are not exposed to the culture of lawyering and the collegiality that naturally occurs between people working as a team. There is no definite research on the optimal balance for lawyers and it is likely to vary between organizations and practice areas. Anecdotally, it seems lawyers are working two or three days remotely, with organizations

mandating that all hands be on deck at least two days a week. My empirical view is that this is good and consistent with the evolving social science. People, including lawyers, learn by participation and through the observation of those who are more experienced. There are many teaching moments whenever lawyers gather formally or informally.

What is absent from the literature and science is the significance of participating in the activities of bar associations and sponsored extracurricular activities. This goes beyond participation in practice sections or committees to include social, charitable and community work done by groups of legal professionals. I formed a lifetime of professional and personal relationships with lawyers from randomly being assigned to an Allegheny County Bar Association (ACBA) softball league team. Attending conferences, CLEs, awards, celebrations, volunteering for educational and public service activities, and just being wherever with other lawyers is core to professional development and enhancing the ability or effectively represent clients. Performing public service, pro bono work or volunteering in humanitarian, charitable and civic causes makes one not only a better person, but a better lawyer.

*If you want to go fast, go alone. If you want to go far, go together.*

*-African proverb*

### Summary

Whenever possible, I attend the ACBA event honoring 50- and 60-year practitioners. As a “baby” lawyer, two years post-bar admission, I was skeptical when dragged to it my first time when I was an apprentice to a labor arbitrator who was an honoree. Cynically, I thought, “It ain’t ever gonna be me standing there,” because I was going to make my money and get out early to live a “real” life to the fullest. Just like my days at the steel mill, I was going to turn the work switch on and off at will. I would live dual lives, one as a lawyer and, well, a different one separate and distinct from my job. Nope, it did not happen. My good fortune, however, has been to integrate my work into a rewarding and enriching life of contentment. Well, time will only tell, but the odds are favorable that I will make it to November 2027, aided by the ability to work from anywhere.

### Takeaways

- Hybrid work is here to stay.
- Plan and revise your “work from anywhere” model.
- Recognize there is no easy-to-reach toggle switch between work and being off.
- Use remote work to promote contentment in our chosen business.

### Notes

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