



WHITE PAPER



What Law Firms Need from Their Business Continuity Plans

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Until recently, many in the legal industry perceived business continuity planning as a nice-to-have rather than an urgent necessity. The coronavirus pandemic has destroyed that illusion, pointing out the critical importance of business continuity planning and technology's vital role in maintaining services despite considerable workplace disruption.

This white paper reviews the challenges of business continuity planning for law firms and the ways in which the COVID-19 outbreak has stretched the limits of traditional business continuity planning. It then breaks down the essential services that lawyers must provide to their clients—communicating with clients, closing deals, drafting documents, collaborating with their internal teams, and researching and strategizing—and discusses the ways that technology can help lawyers maintain those services.

Traditional Business Continuity Planning

The goal of business continuity planning is to avoid, respond to, and recover from any threats to the company or to its broader industry as well as the population or clientele it serves. Generally speaking, business continuity planning is intended to maintain the continuity of services through a temporary, localized disruption. Businesses generally plan for natural disasters like earthquakes, floods, or fires. They may also take into consideration key individuals' illness, death, or departure from the company.

The more stabilizing forces or redundancies a business can build in, the better it is able to carry on in the face of a crisis. In recent years,



those stabilizers have often taken the form of technology that allows remote work and instantaneous long-distance communication.

But in the legal setting, few law firms have invested in business continuity plans. Law firms seem to struggle with business continuity planning for several reasons:

- law firms not only need to plan for their own business continuity but also must advise and counsel their clients about what they should be doing;
- the legal industry has historically been reluctant to adopt advanced technology; and
- law firms tend to rely on in-office amenities like high-volume office equipment, assistants, on-site IT staff, and open-door policies with senior attorneys.

When the coronavirus pandemic struck, most law firms didn't have formal business continuity plans in place. According to the 2019 ABA Legal Technology Survey Report, only 41 percent of lawyers reported that their firms had any kind of business continuity plan. The larger the firm, the better it did; 62 percent of firms with between 100 and 499 lawyers and 86 percent of firms with 500 or more lawyers had dedicated business continuity plans.

But even those lawyers and law firms that had thought ahead about maintaining their services during a crisis probably didn't have a plan in place that accounted for everything that has occurred this year.

How the Coronavirus Crisis Differs

The current pandemic is an extraordinary challenge for several reasons.

1. Most crisis planning involves a reasonably temporary situation. However devastating a natural disaster may be, it typically begins and ends within a fairly brief window. The COVID-19 crisis, by contrast, has no definite end date in sight. While most business continuity planning involves temporary measures, dealing with the coronavirus involves a sense of free-floating anxiety about when the crisis will end. Adding to that, many of the changes occurring now are likely to remain in place even after the pandemic passes.
2. Disasters usually occur on a limited geographic scale. A major earthquake or hurricane may devastate a region of the country, but most of the world continues to function normally. Companies can relocate a portion of their operations, reassign staff, or shuffle resources to cover the gap. However, the coronavirus outbreak is fully globalized. Much of the world is under some

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form of social distancing lockdown; nowhere is entirely "normal." That has put intense pressure on global technology resources.

3. Crises usually bring people together to support one another. Communities typically unite to overcome difficult times. Now, while we all need that support and camaraderie, our required social distancing has deprived us of connection. This separation has left many feeling depressed and unproductive.

Given these unique circumstances, law firms weren't the only ones who were unprepared to deal with the current pandemic. Clients have sought advice from their lawyers in droves. Meanwhile, law offices have temporarily closed from coast to coast, sending attorneys and support staff home to attempt remote work. Face-to-face meetings, conferences, and events have been canceled for the foreseeable future. Lawyers have had to learn—overnight—how to do without standard amenities, such as these:

- private offices with company-provided technology, secure networks, and filing systems;
- in-person conversations with clients, assistants, IT staff, colleagues, mentors, and senior attorneys;
- paper, whether for researching, drafting, or closing deals with wet signatures, and the accompanying high-volume office equipment needed to handle it.

On the bright side, lawyers and their clients are all facing similar struggles together, leading to a sense of camaraderie. Both are trying to work from unfamiliar and less supportive environments while juggling unprecedented challenges around childcare, home education, isolation, and uncertainty.

Firms that rise to the challenge will shine during the current pandemic and will be well prepared to deal with any future crisis. The keys are to focus on the essential elements of their work and leverage technology to fulfill those core functions.

The Essential Components of Legal Work

No matter what happens globally, regionally, or locally, lawyers have continuing legal and ethical obligations to their clients. They must communicate with, advise, and counsel their clients; keep their deals moving toward closure; draft documents; collaborate internally with their teams; and conduct the research and analysis that underlies their strategic recommendations.

The more a lawyer or law firm is beholden to a specific location and its amenities to deliver on these essential services, the less flexible and resilient it is, both on a day-to-day basis and, especially, in times of crisis. Technology can help lawyers do their work, free from constraints of physical location or time. As Nina Gratrack, Head of IT Services at international law firm Watson Farley & Williams, said, "I am seeing an unprecedented amount of activity and engagement with technology; at this time, I'm looking to deliver a project that would have taken 12 months in 12 days. Although we talk about agile working, this shift is driving digital transformation in a way that we could not have anticipated."

As a prerequisite to their specific work, lawyers need basic IT equipment—laptops, Wi-Fi access, VPNs, software access, and more—as well as communication and productivity tools. Thankfully, most lawyers now have laptops, though they are likely to need support to use them effectively from home. Like other businesses, law firms must tackle serious concerns about their IT infrastructure capabilities, their cybersecurity from remote locations, their ability to maintain data privacy, and more. But law firms must also listen to their lawyers, ensuring that they have the specialized technology required for their unique needs. Further, lawyers must feel comfortable using that technology to replicate—as much as possible—their in-office workflows and should set up communication and workflow streams that enable them to collaborate quickly and easily with their colleagues.

1. Lawyers must be able to communicate with their clients while maintaining security and confidentiality.

The core function of a lawyer is to advise and counsel clients and protect their interests. If lawyers cannot communicate with their clients, their other efforts are wasted. But during this crisis, clients need more than just legal counsel; they need the opportunity to fully share their concerns. Listening to clients has never been more important. This provides an opportunity for lawyers to build enduring trust by taking the time to really understand their clients' concerns, issues, and needs. Lawyers should be proactive about keeping in touch, not only to keep their clients apprised about their deals and cases but also to reassure them that at least part of their life is proceeding as normal.

Lawyers should help their clients identify key relationships that need to be preserved and maintained for the future success of their

business. They should explore and discuss how clients can maintain relationships over the long term rather than terminating contracts to deal with the crisis. They should also evaluate and communicate about how clients can leverage options from federal stimulus bills to maintain their own business continuity. Lawyers can offer critical assistance in finding ways for businesses to conserve their cash flow without harming their reputations or future operations. Even virtual face-to-face meetings with whiteboarding sessions are still possible—and can allow lawyers to better gauge client response and receptiveness—by leveraging collaboration and communication tools to connect with their clients.

Project management tools can help lawyers map out business milestones and identify the key action items for clients to pursue with each option. For example, if an investment transaction is put on hold, clients will want to know when they should add additional cash flow restrictions or what they should share with current investors to pursue smaller internal rounds. For clients navigating exit strategies, lawyers can leverage collaboration technologies to better assess options and identify next steps together in real time.

The current crisis also affords lawyers an opportunity to reverse an unfortunate tendency many have: the overemphasis of emails in lieu of actual two-way conversation. Clients do not want to read lengthy memos. They want concise answers to their real concerns—which may or may not be reflected in the question they asked. By calling or video chatting, lawyers can connect with their clients on a more human level, deepening their relationships and using those exchanges to drill down into the client's presenting question. Instead of just answering the presenting question, lawyers can truly add value by understanding how clients intend to use the information provided. Lawyers can then offer the equivalent of an

executive summary instead of pages of analysis underlying their conclusion.

One caveat: the pandemic is no excuse for neglecting security or confidentiality. Lawyers must still ensure that their emails are thoroughly cleaned of confidential and sensitive metadata and that they are sending emails—and other communications—securely.

2. Lawyers need to keep deals moving.

Businesses are currently facing incredible challenges as revenue slows and the world becomes more conservative about spending. Current restrictions on travel—coupled with substantial market fluctuations—have caused many projects to be delayed, postponed, or canceled completely. Coronavirus has already derailed countless transactions and business deals, such as the delay of a \$1 billion San Francisco development sale and the suspension of numerous IPOs. The pandemic has cast into doubt critical investments that previously seemed certain, deals projected to close imminently, ongoing payroll obligations, vendor relationships, and contracts. Some businesses will doubtless fail. Deals will fall through. Critical investments will be delayed.

Yet lawyers can minimize those impacts by helping clients stay organized and on track. Traditional transactions are slow, tedious, and overwhelmingly paper-based—none of which are viable options in the age of the coronavirus. When deals get put on hold, it becomes nearly impossible to comb through emails and notes of conversations to find an accurate picture of where the transaction left off. Physical signatures require in-person contact with paper packets and often with the couriers who deliver them, increasing the risk of virus exposure, reversing efforts at social distancing, and interrupting required quarantine or seclusion periods for those who may have been exposed.

Typical signature packet assembly also requires high-volume printers and scanners—equipment that lawyers simply don't have at home.

Digital transaction management tools allow lawyers to overcome these challenges. By freeing transactions from paper, lawyers can close deals faster, obviate the need for paper signature packets, and create electronic closing books. This allows clients to finish their transactions on schedule while avoiding any potential exposures associated with traditional closing measures.

3. Lawyers need to be able to efficiently draft high-quality documents.

With people around the world being asked—or, often, ordered—to stay home whenever possible, law firm leaders must enable their staff to work remotely and on their own time. Fortunately, modern document management technology allows lawyers and assistants to access documents and client files in the cloud and effectively continue serving clients from home. Because legal documents are rarely created in a vacuum, simple review and document-comparison tools also enable colleagues to continue collaborating on documents despite the physical and temporal separations of home-based work. This on-demand collaboration also allows clients and lawyers to minimize the disruption of frequent check-in interactions. This allows all parties to save their meeting times for high-value discussions.

At the same time, intuitive document automation tools allow attorneys to more rapidly and autonomously complete multiple aspects of document creation, proofreading, and comparison, preventing attorneys from wasting time on tedious and repetitive manual processes. These easy-to-use platforms mean attorneys can work when they need to without calling on support staff or their IT desk.

4. Lawyers need to collaborate asynchronously with their internal teams.

Under the traditional law firm model, if lawyers weren't together physically with their colleagues, mentors, administrative assistants, and IT support staff, they couldn't work together. Much of the day-to-day work done at law firms uses tools and approaches that were built for a bygone era, and many firms have not fully modernized processes that were put in place years or even decades ago. In fact, lawyers have grown so accustomed to working only in their offices that they've become overly reliant on high-volume printers and scanners, operated by administrative assistants, along with dual screens, bulky outdated computers, and an IT staff just down the hall who can help them troubleshoot issues.

But physical distance need not be an obstacle to ongoing collaboration. Firms can and should capitalize on this opportunity to review the way that they have traditionally done things and create new avenues for communication. Between collaboration tools like Slack, video conferencing technologies like Zoom, and the good old telephone, there are more ways than ever for teams to stay in touch. Additionally, cloud-based document management tools allow teams to work together on documents even when their locations—and their schedules—are entirely different.

5. Lawyers must be able to conduct research and analyze the law to strategize effectively.

All of the aforementioned work relies on attorneys being able to access research resources and have the time and space to think through what rapidly evolving laws and regulations mean for their clients and their businesses. This, of course, is the foundation for legal work, and—at-home spouses, children, and pets notwithstanding—it is still

available to most lawyers, even outside of their familiar office settings.

How the Legal Industry Can Learn from This Crisis

If we as an industry can master business continuity planning in the face of a widespread health crisis that has brought much of modern life to a standstill, we will be far better prepared for future threats. No one wanted to be forced to implement change in the wake of a pandemic, but it has afforded us an unprecedented opportunity to reinvent our workflows and come to terms with the benefits of technology. A managing partner at one law firm in Zurich put it this way:

It's a new experience for all of us, but we have accommodated it pretty well and we've done so very quickly. We've been forced to use digital and online capabilities, primarily in conferencing, which we've historically struggled to implement and adopt, because people prefer to work the way we have for the last 30 years. So, we've been able to attain the benefit of an extreme boost in accommodating remote working styles and interacting with people online, collaborating across borders without traveling. We believe these are all skills that will be essential sooner or later based on how we function as a society, not just related to coronavirus but also to other environmental problems. We obviously would have preferred to experience this under better circumstances.

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Reducing manual, location-based processes that require in-person interaction, paper, or high-volume office equipment will help law firms weather the current crisis and will set them up to future-proof their operations and attract a more productive and effective workforce. By decreasing lawyers' reliance on outdated systems and implementing modern technology, law firms can and will rise above the current crisis and continue effectively serving their clients.



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