



Setting Up Your Home Office Effectively and Securely: Part II

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This is the second in a two-part series of articles aimed at practitioners with home offices. When we wrote the first part, before any state had imposed a stay-at-home order in response to Covid-19, we aimed primarily at arbitrators, though we noted that “many of our suggestions could apply to any sole practitioner or even a member of a law firm who regularly works from home.” Almost overnight, that last category went from the exception to the near-universal rule because of the pandemic. Little did we know that our article could have such a broad potential audience!

Yet, as we write this second part, the tide seems to be gradually turning, with people slowly heading back to traditional offices. Still, it seems

likely—at least in the near term, if not permanently—that working from home will be much more common than it was at the start of 2020.

In the first part, we covered setting up your office, touching on your Internet and computer network as well as other issues relating to physical setup. In this part, we will cover operations and security, including passwords, document management and editing, billing, conflicts, and communications such as email and videoconferencing.

Passwords

As a first line of defense to protect confidential arbitration and client information, your passwords need to be difficult to crack. To create strong

passwords, use upper- and lower-case letters, numbers, and special characters. Shoot for unpredictability, and compose passwords that are as long as you can handle—aim for at least 10 characters (more is better). To check the strength of your passwords, use an online tool such as the one found at <http://password-checker.online-domain-tools.com/>. Do not use the same password for everything.

Meeting these requirements can seem challenging. The more passwords you have, and the stronger they are, the harder it will be to remember them all. And you’ll need to store them in a safe place, NOT on a post-it note stuck to your computer, a piece of paper in your wallet, or an unsecure file on your unlocked smartphone.

Because it is best to have multiple strong passwords, we recommend using a password manager, such as LastPass, 1Password, or Dashlane.¹ With a password manager, you need to remember only one strong password, and you get unique, super-strong passwords that you don't need to remember for every password login you have. The password manager will store all of your passwords in a secure vault that you can access from your browser or phone, which will make logging into websites easier and faster. It will also save you from getting locked out when you forget your password and make too many attempts to login. In short, a password manager will make your life easier and more secure—a win-win.

One more feature to consider is two-factor authentication—for example, receiving a text message from your bank that contains a one-time code required to complete your login. Enable two-factor authentication on any websites that handle sensitive information, including your email.

Document Management and Editing

Plan in advance how you will organize the documents you send and receive. You could use a folder structure on your computer for each arbitration; depending on which devices you use, it might be convenient to use cloud-based storage for your files so they are accessible regardless of whether you have your laptop with you. If you use cloud-based storage, be sure to verify the security protocols it uses, such as encryption of files in motion and at rest. And enable two-factor authentication if it is an option—and if it isn't, consider using another service.

Be sure to have your files regularly backed up. You could use an external hard drive, but a better option may be offsite back-up, in case of theft or property damage. The simplest way to do that is to use a secure cloud-based backup, such as IDrive or Backblaze.² Your files can be set to backup in real time or on a schedule, such as every night at a point when you are unlikely to be using your computer.

So far, we have been assuming that a “document” refers to something electronic. But you may prefer to read and/or edit hard copies; maybe you even draft in longhand. We are not going to tell you never to print or use hard copies, but we encourage you to take a long look at the widening gap between hard copies and electronic documents. Increasingly, electronic documents cannot be replaced by paper copies.

With electronic documents, you can search the text, navigate with bookmarks, jump to exhibits, and click links directly to video deposition excerpts. It is also easy to add notes and comments—in Word or a PDF editing program—to help you remember your conclusions and organize your thoughts. As a result, it is important for arbitrators and lawyers to become comfortable with using electronic documents. Everything is moving in the direction of electronic media, and ignoring the progress and enhancements may leave you behind, making your day-to-day tasks more difficult.

Finally, the way you edit documents received from others is also important. Do you work in Microsoft Word? You should, although there are free alternatives that may be acceptable options.³ Are you comfortable with “tracked” changes? Do you use

comment bubbles and know how to add replies? Do you know when and how to clean metadata before distributing a document to others? All of these issues will affect your ability to engage in the editing process effectively, such as editing panel orders or awards—or, if you are on the other side of the table, pleadings, briefs, discovery, and everything else.

Billing

Accounting and billing software such as TimeSolv or FreshBooks can help with the billing process end to end, from time tracking to invoicing to getting paid.⁴ If you have an accountant who prepares your taxes, be sure to check the compatibility of your billing software with any accounting software your accountant might use. On the simpler end of things, you might find that an Excel spreadsheet is all you need. But consider all of the other steps involved to be sure that keeping things simple in one area doesn't make things more complicated in another, such as when you are sending out bills.

No matter which system you set up, record your time daily and track your hours in real time. Using a timer built into your billing software can ensure you do not “lose” time. Process your billings on a regular schedule, such as the first day of the next month. Delays between when you perform the work and when you send out the bill can lead to settlement delays and perhaps even nonpayment. Some arbitrators issue only a few invoices over the life of an arbitration, such as an initial billing for the retainer, a second billing after the organizational meeting, a third billing before the evidentiary hearing, and a final billing at the conclusion of the matter. Communication is key—as long as you and the recipient

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of your invoices are on the same page, you should be set.

Think about the types and amount of information you need to include on each bill. Most of your clients will require, at a minimum, the date of the task(s) performed, the time devoted to the task(s), and a brief description of what you did. The first two elements are simple enough, although you need to know whether to bill in tenths of an hour, quarters of an hour, or some other unit depending on client or party requirements. But the third element can be a bit tricky. When writing the description of what you did, keep in mind that it could be seen by panel members if your bills are included in a fee petition or even by a reviewing court. As much as possible, then, you should avoid including confidential or privileged information. Determine whether block billing—that is, a single

time entry covering multiple tasks—is acceptable to your client, or whether each task should be a separate line item on the bill.

Conflicts and Disclosures

When you have only handled a small number of matters, you might feel you will have no trouble remembering them all when considering whether a new matter presents a conflict of interest or requires a disclosure. But memories are unreliable, and the number of matters will quickly grow to become too big to manage without a system. A missed conflict of interest or disclosure can be a major problem for you as a lawyer or arbitrator.

Some practitioners manage conflicts and disclosures by setting up a file to track both opportunities offered to them in which they received confidential information as well as

active and concluded matters in which they were retained. Others purchase commercially available products, including software and online products. An online search for “attorney conflict of interest software” will yield numerous options.

Communications

Using efficient, reliable, and secure methods of communicating with the outside world is critical for arbitrators and lawyers. We have organized communications into three categories: (1) email, (2) videoconferencing, and (3) everything else. We discuss each of those categories below.

Email. One of your primary ways of communicating with the outside world will be email. Your email should be secure, efficient, and reliable.

First, your email should be secure, so that your confidential information stays confidential. The *ARIAS•U.S. Practical Guide for Information Security in Arbitration* contains useful information in this regard, including encrypted email services and multi-step authentication.

Second, your email system should be efficient and well organized so that information relating to different matters, clients, and arbitrations can be properly segregated and easily retrievable. To this end, you may wish to organize your email into folders.⁵ Set up a dated master folder for each matter. Within each master folder, segregating emails into subfolders may be helpful.

One more thing: When organizing your emails, remember to include not only the emails you receive, but also the emails you send. Many

people store all of their sent emails in one giant “sent folder.” Don’t be one of those people. Get into the habit of organizing the emails you send into the same folders you use for the emails you receive.

Another critical element of a well-organized email system is a contact list. If you do not have an electronic contact list, start one soon. As you make new contacts, add them to your contact list. When you add new contacts (and when you send emails), it’s best always to use a contact file, such as a vCard or vcf, or to copy and paste the email address rather than type them in manually. While a tiny error in a traditional street address may make no difference, any error in an email address will likely lead to it not being delivered to its intended recipient—and there’s a decent chance, depending on the error, of it going to someone else, thereby potentially disclosing confidential information.

Videoconferencing. When we were planning this two-part article in January and February, we intended to recommend that every home office have videoconferencing capability. Then came Covid-19, and videoconferencing capability is now considered essential. We expect that to remain the case.

As we discussed in our first article, you should have a computer with a webcam and an Internet connection to enable you to participate in videoconferencing. In addition, you should have appropriate videoconferencing software. Some services, such as Zoom, Skype, and FreeConference, are free; though useful, they do come with limitations. For example, the free services sometimes have time caps, and they

may lack the level of security you need for a confidential arbitration or for data privacy requirements.

Fortunately, there are also services available for a relatively low fee (such as Webex Meet and Zoom Business) that offer more sophisticated features, higher levels of security, and longer conferences with more participants. Though you may not need to purchase your own software, you should become comfortable using the most common platforms. Most of the common programs have apps that can be downloaded to your computer. This facilitates ease of use when a videoconference begins.

There are also many software programs that integrate traditional telephone conference calls with video and screen-sharing capabilities. Many companies and law firms use these products (e.g., Microsoft Teams and LoopUp), which may require a local download of a file to allow the video to run.

Having the right videoconferencing equipment is only the beginning. You also need to give serious consideration to the placement of the camera, the lighting, and the background that will be visible to other participants. There are now numerous resources available online that address videoconferencing etiquette; even if you are now a videoconferencing pro, it’s worth your time to review some of these resources.⁶ And don’t forget, as we noted in part one of this article, to ensure your computer and webcam are in a secure and private space so that unauthorized persons cannot access confidential information.

Finally, you should be familiar with the unique challenges that videoconferencing creates in the context of virtual hearings. To address these issues, ARIAS•U.S. recently published guidelines for virtual arbitration hearings that we recommend reviewing.⁷

Everything else. We’ve covered email and videoconferencing, which we expect will be the communication workhorses for now. But we would be remiss if we did not discuss certain other types of communications.

The telephone remains an excellent tool for communication. You should have the ability to participate in teleconferences and, ideally, host them. The primary issues to consider will be security and whether you have a landline or a cell phone. Be sure you have a secure workspace so that others cannot hear your phone conversations. Whether you have a landline or a cell phone is a personal choice, but a landline might be desirable if your local cell phone reception is poor.

We recommend against using text messages for professional communications. Texts are not necessarily confidential—many people have their phones set to show text messages as visible “notifications” even when locked. And texting is, by its nature, a brief, immediate mode of communication, which makes it difficult to convey nuance. This is problematic for arbitrators and attorneys, who often must be precise in their communications.

Fax machines, once ubiquitous, now seem destined to end up as historical oddities alongside VCRs and BlackBerries. Few people use faxes now, and even fewer will in the future.

TECH CORNER

Any faxing you may need to do can be done through Internet faxing services. If you already have a fax machine and are attached to using it, make sure that you keep it in a secure physical location so that confidential faxes cannot be seen by persons who are not intended to see them.

Conclusion

As we noted at the end of Part I, our suggestions are meant as a thumbnail sketch of the issues, concerns, and tools available to you in setting up a home office. If we get you thinking about these issues, we will have accomplished our goal. While some of our suggestions should apply across the board—for example, the advice on password security is relevant to everyone, whether you have a home office or not—other issues may be more or less relevant depending on the nature of your practice.

Finally, we're interested in your feedback on this pair of articles. Are there areas we touched on that you'd like to read more about in a future article? Topics we didn't cover that you think are relevant? Please let us know. And if you have any follow-up questions, please feel free to contact any of us by email: dwinters@porterwright.com, aforeman@porterwright.com, or nasrib@gmail.com.

NOTES

1 There are many password managers available. The specific companies we identify here and elsewhere are meant to be examples—good examples, we think—but they are definitely not your only options. We encourage you to read online reviews and consider what features you need before deciding which program is right for you. One source of online reviews that we like is the Wirecutter (<https://www.nytimes.com/wirecutter/>).

2 See, for example, Alex McOmie, The best cloud storage of 2020 online: free, paid and business, May 22, 2020, Tom's Guide.

3 In 2018, Microsoft Office, which includes Word, had 87.5% of the market share. Schwartz, Samantha Ann. 2020. Microsoft created the office suite status quo. Can Google grow? *CIO Dive*, February 11.

4 Black, Nicole. 2018. Some choices for legal billing software that really pay off. *ABA Journal*, June 22. See also Legal Time and Billing Software, Lawyerist.com.

5 Or, depending on how your email system works (see, for example, Gmail), mark your emails with labels or some other tag or organization system. Though we will continue referring to folders for simplicity here, read “folder” as whatever organization system is available in your email program.

6 See, e.g., Bob Frisch and Cary Greene, What it Takes to Run a Great Virtual Meeting, *Harvard Business Review*, March 5, 2020.

7 See ARIAS•U.S. Virtual Arbitration Hearing Guidelines, May 2020.



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