



# How The Legal Industry is Navigating COVID-19

## COVID-19 is Changing Daily Life for Lawyers Across America

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A lot has changed since the last time America saw something even close to what she's in the middle of right now. Not the least of which is the legal industry and its influence on the cultural and economic landscape of our country. According to the ABA, when the Spanish Flu hit in 1918 there were around 122,000 attorneys practicing in the US, .12% of the population at the time. Today, there are almost 11 times that figure, but that is quadruple the percentage (.41%) of the population.

The law is a part of everything we do every single day, and that hasn't changed because of Covid-19. Whether it's the place in which we shelter, the job we now do (or in so many cases, can't do) from home, or the technology we lean on to help maintain our sanity, its influence is ever-present in American life. And like many other industries, it's having to navigate some pretty significant changes to how the job gets done.

In response to Shelter in Place (SIP) orders in 45 states at the time of this writing, court houses across the country have completely shut down. In many jurisdictions this means that filing demurrers, responding to discovery and filing post-trial motions have all been put off. Trial dates have been vacated and will need to be rescheduled. In San Francisco, the first jurisdiction in the country to issue SIP orders, the Superior Court has effectively closed their doors until June 1<sup>st</sup>.

Criminal trials there have been postponed 60 days, and unlawful detainer (eviction) cases have been stayed for 90 days. This is welcome news for tenants whose sources of income have completely dried up in the last four weeks, and who worry that their lack of available funds will outlast the eviction moratorium currently in place.

Family court, traffic court, probate matters, contract negotiations, mergers... the once loud hum of the court system has gone completely silent, able to perform only the most essential of services.

Yet some feel that the industry itself is exactly that, an essential service. The American Bar Association (ABA) recently stated as much in a [letter](#) to the Director of the Cybersecurity and Infrastructure Security Agency. "Lawyers help ensure that our nation's foundation of laws remains strong, especially as fast-changing orders, directives, and laws are issued" they argued. And in several states, they're being heard; Illinois, Indiana and California were among the first to add Legal Services to their list of essential services.

This is welcome news for law firms, especially those who have actually seen a spike in business. Tom Kerr, a specialist in alcohol regulatory work and partner at Strike Kerr & Johns in San Francisco, has been busier than ever. "Every day, states have been issuing emergency notices permitting restaurants to deliver alcohol. You can actually order cocktails in closed mason jars right now." But he also knows that, soon enough, the phones could just as quickly fall silent and he'll be relying on today's billings to keep the lights on.

For many law firms, this is the issue, and the ABA has some suggestions for firms that find themselves struggling [to keep that shingle hanging](#). Many are finding that existing clients aren't able to pay for services even if they can be performed, and are having to offer reduced or even waived retainers.

Meanwhile, finding new clients has been hindered by the fact that face-to-face meetings are on hold for the foreseeable future, which many attorneys rely on to establish rapport and gain new clients' trust.

On top of that, in many places commercial real estate isn't included in eviction moratoriums, so many attorneys are having to figure out how much longer they're able to maintain office space. It's no surprise that several firms have announced [significant layoffs and freezing of partner compensation](#).

It seems everything is on the table when it comes to cutting costs, and that includes insurance. If an attorney has to choose between insuring a practice that they have to fold, or using that money to keep their doors open, well... a lot of tough choices these days.

But some states are making it a little easier. In mid-March, the California Department of Insurance (DOI) issued a [notice](#) to all insurance carriers to "provide their insureds with

at least a 60-day grace period to pay insurance premiums so that insurance policies are not cancelled for nonpayment of premium.”

On March 30th, New York Governor Andrew Cuomo had an [Emergency Regulation](#) issued, stating that “insurers are prohibited from cancelling policies that are 60 days or less overdue.” And just this week, the California DOI went one step further and ordered all California insurers “to make an initial premium refund for the months of March and April to all adversely impacted California policyholders” where the overall risk of loss has been reduced due to the pandemic. This applies to multiple lines over coverage, including Commercial Lines.

But, while some states have been taking steps to protect consumers, the insurance industry itself has been taking some steps of its own.

A common exclusion found in Lawyers Professional Liability insurance (LPL) forms requires that a notary certifying a signature must witness that signature, usually in the physical presence of the signor, in order for there to be coverage. Since SIP orders have made physical presence difficult if not impossible, many non-admitted carriers are [taking steps to rectify the situation](#), and voluntarily modifying this exclusion.

One prominent LPL carrier offers to endorse their policies, with no additional premium, to require physical presence but also to allow for “compliance with applicable state law(s), administrative rule(s) and/or regulation(s) allowing commissioned notaries to perform notarial acts electronically.” It goes on to allow notarizations performed in compliance with the National Electronic Notarization Standard when no such laws/rules/regulations are in place. Firms that offer notarization services to their clients should contact their broker immediately to ensure that the language in their policy is amended in a similar fashion.

For certain, the world has changed in a multitude of ways over the last hundred years. And rest assured that once we’re through the next hundred days- we hope- there will be some pretty significant changes on the other side of that as well. For the legal industry, which some might say is one of the more reticent to change, this is no less true. “We have a downtown lease, a nice space,” says Kerr. “We were already talking about our next step, but this whole thing is going to change how we look at that even more. One hundred percent capacity every day is probably going to be a thing of the past.”

### **About the author**

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