

Tips for adjusting to new areas of practice and finding resilience in changing times

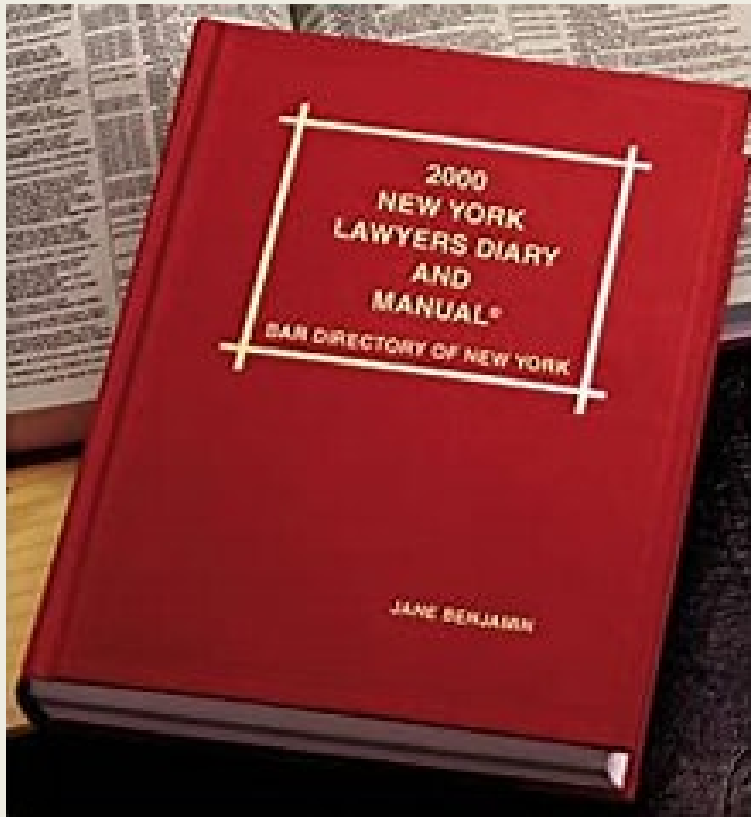
Virtual ways of conducting business:
what worked well, what plan to and
prefer to keep

Adjusting to new areas of
practice and finding resilience in
changing times

Easier than one may think

Technology has changed the legal practice, and in many ways, have eliminated costs.

The “Red Book” is no longer a necessity



All the directories are online

- Attorney search:
<https://iapps.courts.state.ny.us/attorneyservices/search?0>
- NYS Judges and clerks search: Each judicial district and court -
<https://www.nycourts.gov/courts/index.shtml>
- Federal courts:
<https://www.uscourts.gov/federal-court-finder/search>

You don't need a wall full of books, just a PC or laptop.





The New York State
Unified Court
System is leading
the way, in many
ways.



<http://ww2.nycourts.gov/lawlibraries/nycodesstatutes.shtml>

NY State Law, Cases & Legislation

Visit the [NY State Assembly](#) or the [NY State Senate](#) for links to the State Constitution, State Consolidated Laws, Unconsolidated Laws, and search the site for New York State chapter laws for the current year.

[Statutes](#) are the acts that are passed by the legislature and signed into law by the governor.

Legislative acts are moving through the legislature in the process of becoming law. Here you can access [Bills of the NY State Assembly](#) and [Bills of the NY State Senate](#). Regulations are rules with the power of law created by New York state government agencies that assist agencies in carrying out laws. You can access [current](#), [historical](#), and [proposed](#) rules.

You can also access and review [local town laws and codes](#).

Case law refers to decisions made by judges in court cases that interpret relevant law with regard to a case's specific circumstances and facts. You can access [all cases](#), [trial court cases](#), [appellate division cases](#), [Court of Appeals cases](#), and [trial and appellate court cases](#) on Google Scholar.

Dockets refer to court cases currently being heard by a judge and court; you can access the dockets of the [Court of Appeals](#) and [state trial courts](#).

<http://ww2.nycourts.gov/lawlibraries/nyofficesagencies.shtml>

- ***NY State Offices & Agencies***
- [New York state government](#)
- [Governor and executive branch](#)
- [New York state senate](#)
- [New York state assembly](#)
- [New York state court system](#)
- [New York City government](#)
- [New York county governments](#)

<https://www.nycourts.gov/reporter/Decisions.shtml>

New York Official Reports

Decisions

- The Law Reporting Bureau publishes in the New York Official Reports all state appellate court decisions and selected state trial court decisions, as well as Court of Appeals motion decisions. On this website, the LRB provides free access to Official Reports materials via two services: The *New York Slip Opinion Service* and the *New York Official Reports Service*.
- [New York Slip Opinion Service](#)
- The New York Slip Opinion Service provides free access to recently released decisions and motions prior to publication in the Official Reports, together with an electronic citation for each decision and motion. Trial court opinions selected for online publication only are also available, as well as motion decisions of the Appellate Division and Appellate Term of the Supreme Court. You may browse decisions or motions by selecting the link below or you may conduct a search using our [Advanced Search](#) feature.
- [New York Official Reports Service](#)
- The New York Official Reports Service provides free access to the text of all decisions published or abstracted in the Official Reports from January 1, 1956 through the latest Advance Sheet. You may navigate to and conduct a search of the Official Reports Service by selecting the link below. The New York Official Reports Service is powered by Thomson Reuters Westlaw

<http://ww2.nycourts.gov/lawlibraries/federalcaselaw.shtml>

Federal Law

- The [Constitution of the United States](#) is the foundational document that defines the United States government and citizens' rights.
- [United States Code](#)
- [Federal regulations](#) are rules with the power of law created by federal agencies that assist agencies in carrying out laws.
- The federal [rules of practice and procedure](#) govern the fundamental scope and operation of the federal courts.
- The [PACER Case Locator](#) is a national index for U.S. district, bankruptcy and appellate courts. The system serves as a search tool for PACER, and you may conduct nationwide searches to determine whether or not a party is involved in federal litigation.
- [Congress.gov](#) shows federal legislation on the way to becoming law.

For other decisions see also:

[US Supreme Court cases](#)

[First Circuit](#) (cases from January 2000 -)

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[Third Circuit](#) (cases from 1997 -)

[Fourth Circuit](#) (cases from January 1995 -)

[Fifth Circuit](#) (cases from December 1990 -)

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[Eighth Circuit](#) (cases from November 1995 -)

[Ninth Circuit](#) (cases from 1995 -)

[Tenth Circuit](#) (cases from 1995 -)

[Eleventh Circuit](#) (cases from January 1995 -)

[District of Columbia Circuit](#) (cases from January 1995 -)

[U.S. Court of Appeals for the Federal Circuit](#) (cases from May 2005 -)

<http://ww2.nycourts.gov/attorneys/clientattorneyrel.shtml>

Attorney-Client Relationship

The rules that lawyers are bound to follow when representing their clients, and information to help clients if they are having difficulties with their lawyer.

- [Client's Responsibilities](#)
- [Client's Rights](#)
- [Attorney-Client Fee Dispute Resolution Program](#)
- Lawyers' Fund for Client Protection:
[Site](#) and [Video](#) (Windows Media Player)
- [Letters of Engagement Rules](#)
- [Attorney Grievance Committee](#)
- [Retainer & Closing Statements](#)
- [Attorney's Affidavit in Agency and Private Placement Adoptions](#)
- [Attorney Rules of Professional Conduct \(Part 1200\)](#)
(as amended, May 1, 2013)

<https://www.nycourts.gov/forms/index.shtml>

FORMS

Search For Forms Button on website

Statewide Forms (Categories)

- [Attorney-Client Fee Dispute - Part 137](#)
- [Consumer Credit Forms](#)
- [**CRIMINAL**](#)
[Sealing a Conviction after 10 yrs.](#)
- [Marihuana: Destruction of Expunged Conviction Record](#)
- [**DIVORCE**](#)
- [**DOMESTIC VIOLENCE**](#)
- [EXTREME RISK PROTECTION ORDER](#)
- [**FAMILY**](#)
- [Foreclosure](#)
- [HIPAA](#)
- [NAME/SEX DESIGNATION CHANGE](#)
- [**SUPREME COURT**](#)
- [**SURROGATE'S COURT**](#)

Location Specific Forms

New York City:

[Civil](#) | [Criminal](#) | [Housing](#) | [Small Claims](#)

[Bronx County Supreme Court - Civil Division](#)

[Medical Malpractice Trial Scheduling Form](#)**Queens:**

[Supreme Court Civil Forms](#)**Long Island:**

Nassau County

[District Court](#) | [Supreme Court](#) | [Family Court](#)

Suffolk County

[Supreme Court - Referee Surplus Money Form](#)

[District Court - Civil Division](#)

Upstate:

[4th Judicial District](#)

Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Saratoga, Schenectady, St. Lawrence, Warren, & Washington Counties

[4th JD – Referee Surplus Money Form](#)

[6th Judicial District](#)

Broome, Chemung, Chenango, Cortland, Delaware, Madison, Otsego, Schuyler, Tioga, & Tompkins Counties

Appellate:

[Appellate 2nd Judicial Department](#)

[Appellate 3rd Judicial Department](#)

Most counties have their surrogate records at:
<https://websurrogates.nycourts.gov/Home/Welcome/?ReturnUrl=%2F>

Welcome to WebSurrogate

WebSurrogate provides information on estate proceedings and other filings within New York State Surrogate's Courts. WebSurrogate is a free service that allows you to search files, retrieve documents, and view historical records that are considered to be public information.

Available Search Options

- Name Search
- Find Surrogate's Court files by Party Name, narrow your search by date of death. View file history and associated documents.
- File Search
- Find Surrogate's Court files by file number. View file history and associated documents.
- Old Index Search *
- Find historical Surrogate's Court records (Old Indexes) by file number or file name. View images of available file records.
- Index Book Pages*
- Browse and view available images of pages from Surrogate's Court index books.
- Will Search *
- Find records for Wills Filed For Safekeeping with a Surrogate's Court by Testator name. View a list of matching Will records held at a Surrogate's Court. Wills Filed For Safekeeping are not available for public view.

***Not all Surrogate's Courts have these records available online.**

Some counties have their surrogate court records at:
<http://surrogate5th.courts.state.ny.us/Onbase/Login.aspx>



You've lost your job, or you didn't get a job to begin with. Or you simply want a change.

Your professional license gives you the option of making opportunities for yourself.

You don't need much besides a license
to practice law.

A PC or laptop. A free download of
Adobe reader. A printer. Paper. Pens.
Internet access. A telephone number.
A space to work in and meet clients.

Some lawyers have spouses with jobs that have insurance benefits, so they do not have to worry about obtaining health insurance.

If you don't have that arrangement:

New York State Bar Association

Apparently the NYSBA doesn't offer medical/health insurance anymore, but continues to offer other insurance plans, including individual vision/dental and professional liability.

<https://www.nysbainsurance.com/>

New York City Bar Association

Continues to offer individual health insurance,
along with other insurances.

<https://www.nycbar.org/member-and-career-services/member-resources/benefits-of-membership/insurance-programs>

American Bar Association

Offers all insurances, including individual health.

<https://www.abainsurance.com/>



New York State of Health

<https://nystateofhealth.ny.gov/apply>

Cost of plan is dependent on income.

Plans available depend on location.



Your local Chamber of Commerce
may also offer insurance plans

Starting your own solo practice

- Last Will and Testaments
- POAs, HCPs
- Real Estate transactions
- Chapter 7 bankruptcies
- Family or criminal court 18-B panel
- Family or criminal court appeals

Last Wills and Testaments

- Estates, Powers and Trusts Law
- § 3-2.1 Execution and attestation of wills; formal requirements
- Despite the fact that simple wills are simple, many people still want attorneys to create them. The requirement of two witnesses also keeps them coming to law offices. And also, a notary for the Affidavit of Attesting Witnesses.

POAs, HCPs

- New POA form as of June 13, 2021.
- Statutory form. Requires notary public and two witnesses.
- HCP and Living Wills. No statute.
- MOLST: Medical Orders for Life Sustaining Treatment.

<https://www.health.ny.gov/forms/doh-5003>

Real Estate Transactions

- Most local bars have a standard Contract of Sale that members use. Some variation in legal customs.
- Realtors have their own standard Contract of Sale that they use.
- In all cases, need time for attorney review.
- Most transactions are by Warranty Deed or Bargain and Sale Deed.

Real Estate Forms

- Real Property § 258. Short forms of deeds and mortgages.
- NYS RP-5217
- NYS TP-584
- NYS IT-2663 for nonresident Sellers.
- NYC has its own version of these transfer tax forms.

Chapter 7 Bankruptcies

- Also known as “liquidation” though most debtors have nothing for the Trustee to liquidate.
- <https://www.uscourts.gov/forms/bankruptcy-forms>
- Also check forms at specific district.
- 4 districts in NYS: Northern, Southern, Western and Eastern.

Exemptions

- Choice of Federal bankruptcy exemptions: 11 U.S.C. 522 or
- NYS Exemptions (which also apply outside of bankruptcy): CPLR 5202, 5205, 5206. Plus several under Social Services Law, Worker's Compensation, etc.
- Additional NYS Exemptions for bankruptcy: Debtor and Creditor Law 282, 283.
- For both, SSD, SSI, SSR and retirement benefits such as IRA and 401(K) protected.

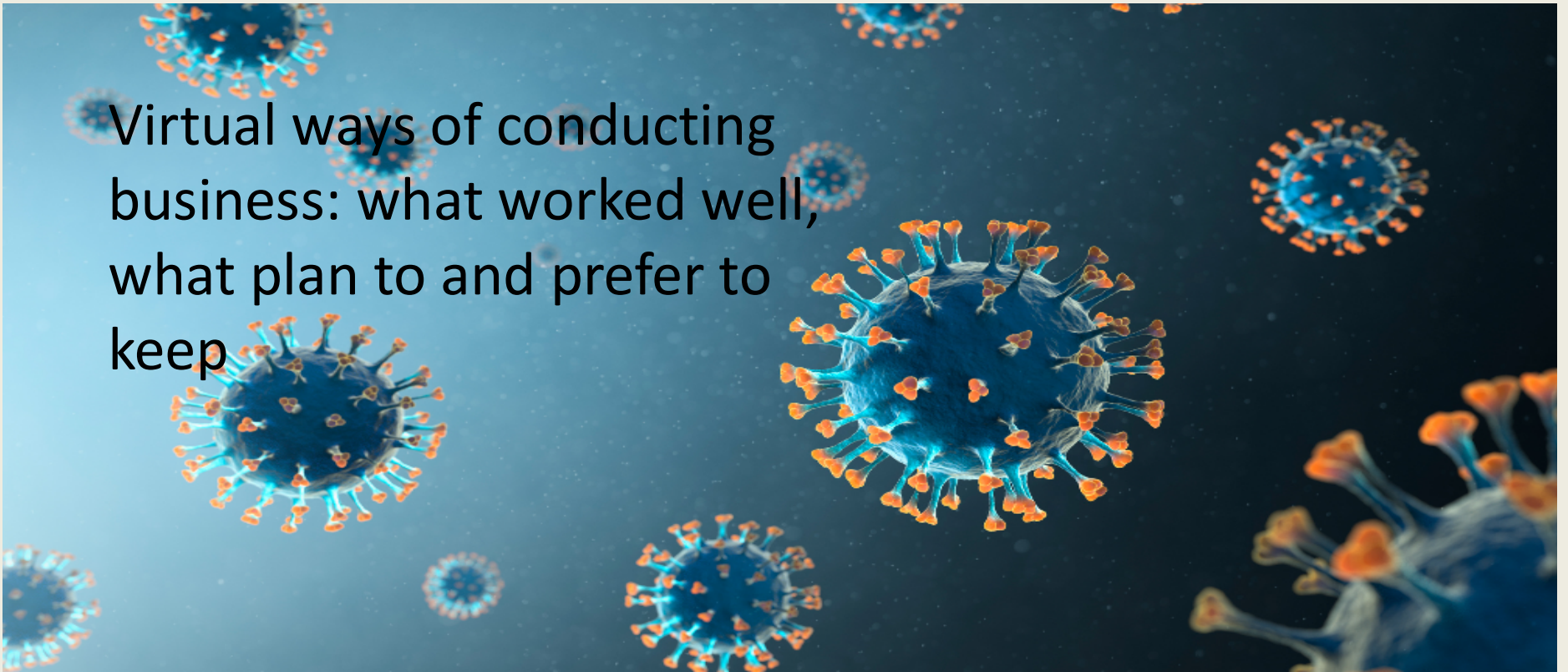
Taxes: Not only should you do your own income tax returns, but you can do other people's returns

Apply for a PTIN with the Internal Revenue Service:

<https://www.irs.gov/tax-professionals/ptin-requirements-for-tax-return-preparers>

Getting through the Pandemic

Virtual ways of conducting business: what worked well, what plan to and prefer to keep



Real estate closings
through the mail worked well
and I think that's a keeper.

PEARLS OF WISDOM FOR SOLO AND SMALL FIRMS

by Carol Malz, Esq.

May 2022

OFFICE SPACE

1. Overhead can doom your practice. Not just when you're starting out, but always. Be realistic. Be humble. In most areas, there is no zoning ordinance against home offices. You might just need to file paperwork with the code enforcer showing how parking will be addressed, what hours you will be open, etc., so that the code enforcer can check that you won't change the character of the neighborhood or impose noise or parking problems on your neighbors.
2. If you can't have a home office in which to meet clients, consider use of space options with other offices. Don't limit yourself to asking to use space at another attorney's office. There are other businesses that also have meeting space that they may be willing to let you use and pay for on an as-needed basis.

REFERRALS BY NETWORKING AND WORD OF MOUTH ARE MORE EFFECTIVE THAN YELLOW PAGE ADS

3. As another attorney once told me, and he had a successful practice for decades, you don't get clients by advertising in Yellow Pages, etc. You get clients by reputation. Do a good job and the word spreads. Handle a matter on referral from another attorney, and another may be referred to you.
4. If you want to do any advertising, consider community places: A calendar published by the local Police Benevolent Association, a poster published by the local school's girls soccer team, the playbill of your local theatre, etc. It can be as simple as providing your business card to be printed in them. Know that your payment is helping the local organization even if no client comes from it.
5. Volunteer. Be on a charity's board, help out in a soup kitchen, join your local NAACP. Do this because it's what you want to do, but know that it gets your name out there.
6. Join your local city or county bar association. Get to know the other attorneys and what areas they practice in. Hand out your business card and let them know what areas you are starting to practice in.
7. Get a local attorney to recommend you to be on an 18-B panel for family or criminal case assignments from the courts. While these assignments do not pay much, they do provide some income.

TIPS TO SAVE MONEY WITH RESEARCH AND CLE PROGRAMS

8. When I started my practice in New York, I called up Westlaw Publishing and asked about their publications for practicing in New York State. The salesperson told me there were three essentials for starting a practice, and I purchased them: The CPLR, Siegel's, and if I recall correctly, a book on evidence. Siegel's New York Practice (Thomson West publisher) is invaluable.

9. Be humble. Places like the Practicing Law Institute in New York City waive CLE fees if you submit a request based on your low income. CLE through WBASNY is also free or inexpensive.
10. Do as much CLE as you can. Learn about different areas of practices.
11. Part of keeping overhead low is using online databases that don't charge, such as official publications of New York State law: [NY State Law, Cases & Legislation | NYCOURTS.GOV](http://NYCOURTS.GOV)
12. Google Scholar is free and you can search both case law and scholarly publications.

WAYS TO LEARN NEW AREAS OF LAW AND/OR GAIN EXPERIENCE

13. Become familiar with every part of the NYS Unified Court System website, including the attorney directory and forms: [NYCOURTS.GOV - New York State Unified Court System](http://NYCOURTS.GOV)
14. Sit in on motion calendars. It's a great way to watch your colleagues argue their positions and see how the judge handles the courtroom. If you're able to obtain them, get copies of the motion papers so you're familiar with the cases ahead of time. This can be done on the federal level through PACER. You may come across an area of law that you'd like to practice in, if you aren't already.
15. Do searches at your county clerk office. See the papers filed by other attorneys in other cases. Learn format.

NOTARY LICENSE

16. Get your notary license. Lawyers just have to pay a fee with their application (no test required), which is submitted to the county clerk. Once you have a license, get a stamp made up (almost any printing place can do) without the expiration year printed on it (licenses expire after four years, so if you put on the expiration year, you'll have to get a new stamp when you get the renewed license). Also get a notary seal, available at the same place.

AND MOST OF ALL.....

17. Talk yourself through your fears. You're not the first person to feel that way.

Carol

COVID: ROADBLOCKS, PIVOTS & SUGGESTIONS FOR A SMALL FIRM OR SOLO PRACTITIONER

Operational Stability

Roadblocks

Reduced number of trials (NYC)

Negotiation power limited

New client business/acquisition

Lack of income stability

Pivots

Motions for SJ

Settlement packages

E-Filing

Suggestions

Credit line

PPP (Paycheck Protection Program)

Cut costs/modify agreements/renege leases (review new exclusions)

Long term firm strategy

Participate in professional networks

Pro Bono work

Mediator training

Client Expectations

Roadblocks

Adjournments of appearances (NYC)

Long adjournments of substantive motions (NYC)

Pivots

- Pro-actively connect with clients

- Updating web page with COVID policy

- Updating methods of communications

Suggestions

- Set clear expectations with clients

- ZOOM, Google Meets. Teams, electric signing

- Connect clients with new partners who have an expertise in a certain area

Work Life Balance

Roadblock

- Lack of physical separation of work from home

Pivot

- Creating self-care routine

Suggestions

- Creating an auto-response for e-mail outlining timelines for response



Best Practices for Remote Employees

Presented by:

Laura Wong-Pan, Esq.

Law Office of Laura Wong-Pan PLLC

May 3, 2022

Agenda

- ▶ Remote Work Trends
- ▶ Classifying Remote Workers (Employees vs Contractors)
- ▶ Best policies and practices for remote workers



Trends in Remote Work

Remote work was rare just a few years ago. Working from home was usually only available as a special arrangement to accommodate disabled employees or employees located in other cities.

of Chicago said they thought they were just as productive working from home compared to working in the office.

- * In fact, 30% of those respondents told researchers they were more productive and engaged working from home.

- * This same survey team calculated that commuting time was reduced by 62.4 million hours per day with aggregate time savings of over 9 billion hours starting from the middle of March 2020 to the middle of September 2020.

- * A report by Owl labs in 2021 found that 55% of respondents say they work more hours remotely than at the physical office. This same report found that only 36% of people believe the office is best suited for individual work.

- * 32% of those surveyed by Owl Labs said they would quit their job if they were not able to continue working remotely.

Classifying Remote Workers

Is my remote employee an independent contractor?

DOL Economic Realities Test: is worker truly in business for him/herself or is he/she economically dependent on employer for work?

IRS 20-Point Test: Behavioral Control / Financial Control / Relationship of the Parties

State Law Tests: Workers' Compensation / Unemployment Insurance / State Wage and Hour Laws

Best Practices and Policies for Remote Employees

Best practices

- ▶ Updating employee handbooks to accurately reflect the current remote working policies and procedures.
- ▶ Providing remote employees with training on your policies regarding remote work.
- ▶ Keeping an up-to-date log of all devices that are being used to work remotely to access the employer's network and confidential information, regardless of personal or company ownership.
- ▶ Ensuring that all devices that are being used to work remotely possess all necessary security protections (i.e., antivirus software, password protection, secure Wi-Fi network).

Best practices continued

- ▶ Establishing security measures for devices and networks such as multi-level authentication, password strength, and automatic log-off.
- ▶ Creating well-documented procedures for handling and protecting confidential and sensitive information.
- ▶ Designating a secure means for employee communication on work-related matters.
- ▶ Limiting after hours access to the network

Best practices continued

- ▶ Prohibiting employees from using certain unsecure programs and applications to communicate with other employees, collaborate on projects, or upload information (i.e., personal email address, unsecure Wi-Fi networks, or consumer cloud storage).
- ▶ Requiring all devices used for remote work to always be kept in a secure and private location and only be used by the employee.
- ▶ Establishing a secure printing arrangement for work-related documents (i.e., prohibiting the use of public printers but permitting the use of personal printers).
- ▶ Preparing a disposal procedure for confidential or sensitive business information (i.e., allowing employees to shred or dispose of documents at home or requiring employees to compile all documents which will be shredded and disposed of upon return to the office).

Best practices continued

- ▶ Requiring employees to shut down and secure their remote workstation at the end of the day.
- ▶ Creating a reporting procedure for missing devices or lost confidential information to a designated representative (i.e., Office Manager, Security Department, etc.).
- ▶ Designating a procedure for the return of company devices and the wiping of all company data on personal devices upon the termination or resignation of an employee.

Thank you for attending.

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WBASNY Wellness Committee Presentation

May 3, 2022

Managing Remote Employees of a Law Firm

12:00 to 12:02	Overview of how remote work has become more common for lawyers and lawfirms, including trend of lawyers giving up brick and mortar office
12:02 to 12:10	Addressing issues of remote employees, including employees versus contractors.
12:10 to 12:20	Best policies and practices for remote workers

Summary: Remote working policies and procedures should include, but are not limited to:

- Updating employee handbooks to accurately reflect the current remote working policies and procedures.
- Providing remote employees with training on the best practices for remote work security and any procedural safeguards the employer implements.
- Keeping an up-to-date log of all devices that are being used to work remotely to access the employer's network and confidential information, regardless of personal or company ownership. Devices may include laptops, monitors, desktops, printers, Wi-Fi networks, and external hard drives.
- Ensuring all devices that are being used to work remotely possess all necessary security protections (i.e., antivirus software, password protection, secure Wi-Fi network).
- Establishing security measures for devices and networks such as multi-level authentication, password strength, and automatic log-off.
- Creating well-documented procedures for handling and protecting confidential and sensitive information.
- Designating a secure means for employee communication on work-related matters.
- Limiting after hours access to the network
- Prohibiting employees from using certain unsecure programs and applications to communicate with other employees, collaborate on projects, or upload information (i.e., personal email address, unsecure Wi-Fi networks, or consumer cloud storage).
- Requiring all devices used for remote work to always be kept in a secure and private location and only be used by the employee.

- Establishing a secure printing arrangement for work-related documents (i.e., prohibiting the use of public printers but permitting the use of personal printers).
- Preparing a disposal procedure for confidential or sensitive business information (i.e., allowing employees to shred or dispose of documents at home or requiring employees to compile all documents which will be shredded and disposed of upon return to the office).
- Requiring employees to shut down and secure their remote workstation at the end of the day.
- Creating a reporting procedure for missing devices or lost confidential information to a designated representative (i.e., Office Manager, Security Department, etc.).
- Designating a procedure for the return of company devices and the wiping of all company data on personal devices upon the termination or resignation of an employee.

RESEARCH ARTICLE

Work from home—Work engagement amid COVID-19 lockdown and employee happiness

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Prolonged lockdown as a part of the community mitigation steps to control the spread of the corona virus has led to massive work reorganization throughout the world. Companies as well as individuals are attempting to adjust to this new world of work. Organizations have shifted substantial parts of their work for certain sets of jobs to a “work from home (WFH)” format. The aim of this study is to investigate the relationship between WFH work engagement and perceived employee happiness. WFH work engagement was hypothesized to be influenced by WFH autonomy, WFH convenience, and WFH psychosocial safety. All of the constructs were adapted from established scales. Convenience sampling was used for data collection as, under the circumstances, this was the only viable method. Partial least squares structural equation modelling was used for data analysis. Results from this study indicate that WFH work engagement was able to predict a 23.9% variance in perceived happiness, while exogenous constructs, such as WFH autonomy, WFH convenience, and WFH psychosocial safety, were able to predict a 25.2% variance in WFH work engagement. Further f^2 effect size (0.313) between WFH work engagement and happiness indicates high effect size. In order to assess the predictive relevance of the model, a blindfolding procedure was used to obtain Q^2 values. Q^2 values greater than zero indicate that the model has predictive relevance.

KEYWORDS

COVID-19, employee happiness, psychosocial safety, work engagement, work from home

1 | INTRODUCTION

The COVID-19 (coronavirus disease-19) has caused severe disruptions in workplaces throughout the world. As per International Labour Organization (ILO) estimates, in the first half of 2020, nearly 93% of workers were living in countries with some kind of workplace closure measures in place. Further, the outlook toward recovery in the second half, as predicted by ILO, is also uncertain (ILO Monitor: COVID-19 and the World of Work. Fifth Edition, 2020). Many organizations have adopted a “Work from Home (WFH)” approach to dealing with these circumstances. While for some workers, such as IT professionals, this sudden shift might not be a new experience; for others, it has been an entry into uncharted territory. Studies have shown that the category of work that can be shifted to home depends not only upon the

nature of the work but also on cross-country heterogeneity (Jean-Victor et al., 2020). Occupations related to hospitality and tourism have a more difficult time shifting into a WFH mode, while software development, banking, and financial services are the occupations that appear to be the easiest to adapt to a WFH situation (Jean-Victor et al., 2020).

Some studies suggest that a WFH arrangement provides freedom and flexibility to the employees to plan when, where, and how they work (Putnam & Mumby, 2016), leading to reduced commuting time and an increase in family time. Other studies suggest the downside of WFH include the loss of a sense of workplace belongingness leading to a reduction in productivity (Bertschek & Niebel, 2016), blurred lines between work and home (Giruge & Vanessa, 2020), increased care giving duties due to the closure of schools, and less than optimal time

to set up communication infrastructures at home (Hoffman et al., 2020). Earlier studies describe WFH as an interrole conflict between work and private life, in which pressures from both work and private life are incompatible (Chawla et al., 2020; Greenhaus & Beutell, 1985).

Whatever the case, the COVID-19 pandemic has surely changed the workplace forever. It also has brought into sharp focus the role of technology, particularly communication technology. It is safe to assume that in the future, communication technology will play an even more important role, with the reports and studies indicating that WFH is here to stay. TATA consultancy services, one of the leading Indian software companies, has already indicated that by 2025, only one-fourth of their employees will be coming to into the office (FEOnline, 2020). Also, some of the recent studies indicate that WFH is all set to be a part of work life. "If there is hysteresis as people learn new ways to work remotely and businesses reorganize, the pandemic-driven changes may portend more lasting effects on the organization of work" (Brynjolfsson et al., 2020, p. 24).

The sudden, massive, and disruptive changes brought about by the COVID-19 pandemic in the world of work presents an environment that is new to researchers and, therefore, requires careful investigation of its impact on various facets of work as well as on employees. In this regard, the aim of the present study is to investigate the relationship between WFH-related autonomy, convenience, safety, and work engagement. Besides, investigating the relationship between autonomy, convenience, safety, and work engagement, this study aims to explore the relationship between work engagement, arising from the WFH arrangement and employee happiness.

The choice of these three exogenous constructs was based partially on a review of the existing literature and partially based on the prevailing circumstances. Earlier studies have linked WFH autonomy with work engagement and innovative work behavior (De Spiegelaere et al., 2016; Golden, 2012; Kossek et al., 2006; Sewell & Taskin, 2015; Versey, 2015), and other studies have established a significant relationship between the convenience of working from home and engagement (Bloom et al., 2015; Lamotte, 2015). On the other hand, construct safety was conceptualized based on the prevailing pandemic conditions as well as literature review. Earlier studies have also linked psychosocial safety with work engagement (Idris et al., 2015; Yulita & Idris, 2017).

2 | REVIEW OF THE LITERATURE

2.1 | Autonomy and work engagement

Autonomy in the job or the degree of discretion that an employee has to decide about how and when to do a job, as well as what methods to adopt (Langfred, 2000), can be thought of as leading to work engagement—positive, affective-motivational, and work-related well-being (Bakker & Demerouti, 2007). A review of the literature showed a substantial number of studies that established a relationship between autonomy and work engagement. (Albrecht et al., 2013;

Christian et al., 2014; Halbesleben, 2010). However, the strength of the relationship between autonomy and work engagement is found to vary across studies. While some studies suggest a weak relationship between the two constructs (DeLange et al., 2008; Weigl et al., 2010), others point toward no relationship (Mauno et al., 2007). This variation in relationship between the two might be the result of differences in perception of autonomy or differences in the values that an individual attaches to autonomy (Carnevale & Hatak, 2020; Shin, 2004; Stiglbauer & Kovacs, 2018). One of the many reasons that entrepreneurs thrive is the value they place on autonomy (Prottas, 2008; van Gelderen, 2016).

The first question the researchers sought to answer was whether there is a significant positive or negative relationship between WFH autonomy and an employee's work engagement. Thus, the first hypothesis was:

Hypothesis H1. There is a significant positive relationship between WFH autonomy and employee work engagement.

2.1.1 | Work from home autonomy and employee work engagement

Earlier studies have indicated that organizations are increasingly promoting working from home to enable employees to integrate work and home roles (Greenhaus & Powell, 2003; Kalliath & Brough, 2008). It has also been reported in some of the studies that employees are willing to accept a lower salary in exchange for the convenience of working remotely (Mas & Pallais, 2017). The flexibility that a WFH format provides toward how and when to schedule the work around their home demands may lower employees' work-to-home conflicts (Golden, 2012; Kossek et al., 2006; Versey, 2015), reduce commute time, lower the frequency of work breaks, result in fewer reported sick days, and offer the convenience of a quieter work environment (Bloom et al., 2015). Contrary to these, other studies indicate that a WFH format, instead of leading to convenience, can be a source of conflict between work and home responsibilities (Schieman & Young, 2010; Voydanoff, 2005).

The time spent on commuting to and from the workplace represents not only a physical but also a psychological transition from home to work and vice-versa. Also time spent commuting does not belong to any of the domains in particular (Burch & Barnes-Farrell, 2020). Studies have indicated that employees' likelihood of being more irritable and susceptible to poor concentration and self-control at work or home are higher if they experience a strenuous ride to work or to home, respectively (Wiese et al., 2020). Studies also indicate a spill over between employees' work experiences on safety behavior during their commute. Employees are more likely to exhibit unsafe commuting behaviors as a result of work stress, as well as commuting stress (Burch & Barnes-Farrell, 2020).

The convenience of the WFH format is further facilitated by information and communications technology (ICT), due to its ability to

allow temporal and spatial mobility of certain types of work (Schlachter et al., 2018). Research also indicates that employees are more likely to adopt ICT if they perceive that they will be practically and technically supported (Bentley et al., 2016).

As mentioned, the convenience of the WFH format has some distinct advantages, such as reduced commute time, lower frequency of work breaks, fewer reported sick days, and a quieter work environment. All of these contribute toward enhanced employee productivity (Bloom et al., 2015). Besides employee's productivity, studies focusing on employee's engagement also stress the importance of taking into account the events in an employee's life outside of work (Lamotte, 2015).

Another question the researchers sought to answer was if a significant positive or negative relationship existed between WFH psychosocial safety and an employee's work engagement. Thus, the second hypothesis was:

Hypothesis H2. There is a significant positive relationship between WFH psychosocial safety and employee work engagement.

2.1.2 | WFH psychosocial safety and work engagement

Psychosocial safety refers to “freedom from psychological and social risk or harm” (Dollard & Bakker, 2010, p. 580). Psychosocial safety is predominantly viewed from the perspective of organizational climate and is referred to as “psychosocial safety climate (PSC).” PSC relates to “policies, practices, and procedures for the protection of workers' psychological health and safety” (Dollard & Bakker, 2010, p. 580). Studies have indicated a direct correlation between PSC levels, workers' psychological health, and work-related outcomes. Higher levels of PSC were found to be related to higher levels of work engagement (Idris et al., 2015; Yulita & Idris, 2017), as well as to lower emotional exhaustion (Idris et al., 2014; Yulita & Idris, 2017). Studies have also confirmed the moderating effect of PSC between job demands and fatigue, as well as job demands and engagement, suggesting that higher levels of perceived PSC may enhance recovery from daily fatigue (Garrick et al., 2014).

One of the community mitigating steps that most of the governments across the globe took was to encourage those who can work from home to do so (ILObrief, 2020). The measures have been put into place to ensure the safety and well-being of their citizens. While studies carried out earlier correlated workplace psychosocial safety with work engagement. An online search investigating the relationship between the two constructs, that is, psychosocial safety and work engagement during pandemics or during COVID-19, yielded no results.

A third question the researchers sought to answer was whether there was a significant positive or negative relationship between a WFH employee's work engagement, convenience, and sense of happiness. Thus, the third hypothesis was:

Hypothesis H3. There is a significant positive relationship between WFH employee work engagement, convenience, and happiness.

2.1.3 | WFH employee work engagement and employee happiness

Work engagement is usually referred to as a state that includes vigor, dedication, and absorption (Bakker & Demerouti, 2007). The term “vigor” relates to high-energy levels and mental suppleness while working. Dedication is characterized by strong involvement and the experience of a sense of significance, enthusiasm, pride, and challenges in one's work. Absorption refers to involvement in work with full concentration, whereby time passes quickly (Zyl et al., 2010). Engagement manifests itself when an employee feels an emotional and cognitive attachment to a work role (May et al., 2004). This feeling of attachment provides an opportunity for an employee to apply his/her signature strength to work (Peterson & Seligman, 2004), leading to a greater role fit and work engagement (May et al., 2004; Rothmann & Olivier, 2007).

Happiness relates to a state of mind in which an individual experiences a sense of joy, satisfaction, positive thinking, and a feeling that one's life is good, has meaning, and is worthwhile (Jalali & Heidari, 2016; Peterson & Seligman, 2004). Studies have suggested three routes to happiness, a pleasant life, a meaningful life, and the engaged or the good life. The study further states that these routes can be pursued simultaneously, but meaningfulness and engagement appear to be more under the control of an individual (Peterson et al., 2005).

2.2 | Research gap

The sudden and massive disruption brought about by the COVID-19 pandemic has led to a reorientation of work, and the WFH format has become the norm rather than the exception. Although a number of studies have been carried out investigating the relationship between work engagement and happiness, this study is an attempt to investigate the relationship of the WFH mode during the COVID-19 pandemic. Some of the recent studies suggest that as people adapt to and learn new ways of working remotely, the pandemic-driven changes may have more lasting effects on the organization of work (Brynjolfsson et al., 2020). While the worldwide pandemic has prompted numerous recent studies, there is a gap in the present literature because this crisis situation is unprecedented and has not yet abated, so much is still unknown and unknowable.

2.3 | Scope of the study

As more and more businesses reorganize and analyze the costs and benefits of working from home, there appears to be the distinct

possibility that in the near future, the world may see many jobs being switched to WFH mode. If such a situation arises, it will be of interest for organizations and academicians to investigate and understand the impact of such a job switch on employee's engagement with work and their overall happiness.

2.4 | Research objectives

The following research objectives for this study were:

1. To identify and highlight the relevant factors that influence WFH work engagement.
2. To investigate the relationship between WFH work engagement and happiness.

Proposed model for the study is represented in Figure 1.

2.5 | Research methodology

2.5.1 | Research design

The purpose of the research design was to operationalize the conceptual plan (Kumar, 2014) in order to make the research fruitful (Thamilarasan, 2015), and lead toward the attainment of research objectives (Aaker et al., 2000).

2.5.2 | Research approach

Since the study was carried out with specific objectives intended to arrive at a definite conclusion, a descriptive approach using cross-sectional survey was adopted (Bajpai, 2013; Pannerselvam, 2016).

2.5.3 | Data collection method

The study was based on primary data collected from employees belonging to the capability maturity model integration (CMMI) Level 4 or 5, IT sector companies from across the country (India). These companies have established processes and standards. Also, as reopening and return of employees to their respective places of work will be governed by government guidelines and regulations, as well as company policies, this study is limited to those employees who were working from home during the data collection period. The collection of data was carried out between April 2020 and July 2020.

2.5.4 | Variable identification and design of survey instrument

The survey instrument was comprised of 16 items corresponding to five constructs, namely WFH autonomy, WFH convenience, WFH psychosocial safety, WFH work engagement, and happiness. The constructs forming the survey instruments were derived from established measurement scales; the construct of autonomy was adapted from physician job satisfaction scale (Konrad et al., 1999; Lichtenstein, 1984). WFH convenience was adapted from "facilitating conditions" construct of the modified unified theory of acceptance and use of technology (UTAUT2) (Venkatesh et al., 2012). Two new items were added to the construct on the basis of the feedback obtained from the respondents, namely, "work from home is convenient as it saves on commuting time" and "working from home avoids cross reporting to superiors other than reporting superior."

UTAUT2 elaborates on the factors that assist in adoption of technology, and the construct facilitating conditions deal specifically with availability of infrastructural and other facilities that promote adoption of technology (Venkatesh et al., 2012). WFH psychosocial safety was adapted from the second version of the Copenhagen Psychosocial

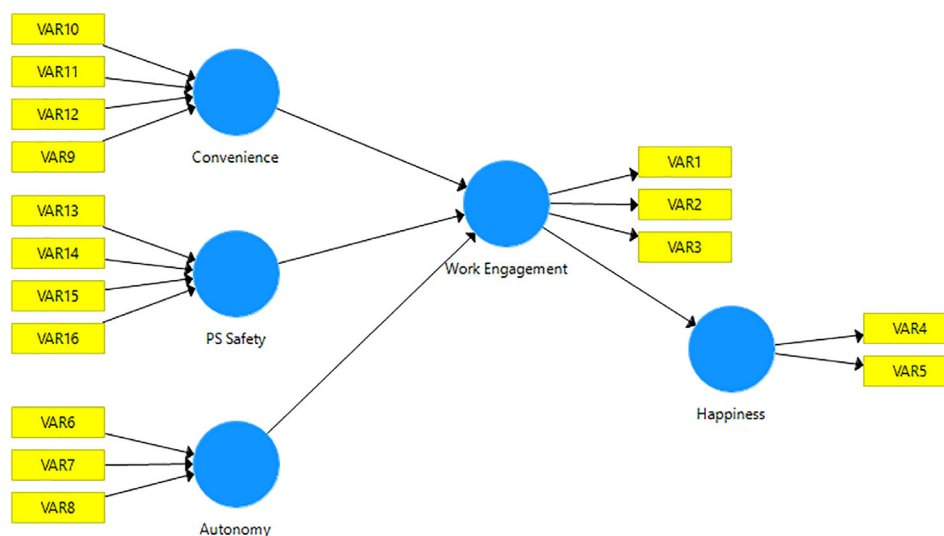


FIGURE 1 Hypothesized model

Questionnaire II (Pejtersen et al., 2010). The Copenhagen Psychosocial Questionnaire II (COPSOQ II) is an extension of COPSOQ I, which was a theory-based questionnaire intended to measure the psychosocial aspects of the work environment. COPSOQ has been translated into numerous languages, including Spanish, English, German, Chinese, etc. (Pejtersen et al., 2010). COPSOQ I has in fact been adopted as a standard for measuring the psychosocial work environment in Spain and Germany (Moncada et al., 2014; Nübling et al., 2006).

WFH work engagement was adapted from the Utrecht Work Engagement Scale (Seppälä et al., 2009) and happiness from the Oxford Happiness Scale (Hills & Argyle, 2002). The Oxford Happiness Scale is an extension of the Oxford Happiness Inventory (OHI), which was developed by the University of Oxford, Department of Experimental Psychology. The OHI has been reported to behave consistently across different cultures and countries, such as the United Kingdom (Furnham & Brewin, 1990; Joseph & Lewis, 1998), the United States (Valiant, 1993), etc. Oxford happiness questionnaire, which is an extension of the OHI, consists of single item scale. These items can be incorporated into large questionnaires in random order (Hills & Argyle, 2002).

2.5.5 | Sample design

The researchers assured the respondents in the study that strict confidentiality would be maintained. Sample size for the study was determined on the basis of the “10 times rule” (Hair et al., 2017), which prescribes the minimum sample size in case a data analysis is carried out using partial least squares structural equation modelling (PLS-SEM). As per the “10 times rule,” the minimum sample size is equal to 10 times the maximum number of arrows converging on any construct in the study. In the present study, the maximum number of arrows converging on a construct was four, so the minimum sample size required was 40. However, for the present study, data were collected from 440 respondents employed in the IT sector, who currently work from home.

2.5.6 | Sample technique

The data for the study were collected from across the country (India) using the snowball method of convenience sampling. The prevailing conditions made this mode of data collection the most advantageous and viable. This method ensures the safety of the respondents as well as the researchers, since venturing out of one's home is presently avoided. Besides safety, this method was convenient, time-saving, and cost-effective. Also, convenience sampling was acceptable in an area involving no prior research (Krishnaswami & Ranganatham, 2005). Further, the precondition that a sample should be a true representative of the population is rarely met, as the researchers are never sure of the respondents who have not been included in the sample. So, even if random sampling is used for collection of data, nonrespondents invalidate the logic of randomness.

Convenience sampling, which is considered one of the lesser methods of data collection, might be the only viable method under certain conditions, such as the conditions prevailing presently. As stated, earlier convenience sampling ensures the safety of the respondents as well as the researchers, is convenient, and is cost-effective. Also, analysis of the data using PLS-SEM does not require random sampling or the condition of normality to be met (Hair et al., 2017). However, in the past, studies have also combined convenience sampling with parametric testing using Amos (Chakraborty & Biswas, 2019).

2.6 | Data analysis and interpretation

2.6.1 | Demographic profile of respondents

A total of 440 responses were obtained out of which 57.3% were males and 42.7% were females. The demographic profile of the respondents is shown in Table 1.

2.6.2 | A review of the construct measures

PLS-SEM was used to understand the relationship between WFH work engagement and happiness. WFH work engagement was hypothesized to be influenced by WFH autonomy, WFH convenience, and WFH psychosocial safety. All of the constructs were adapted from established measurement scales. The construct of autonomy was adapted from the physician job satisfaction scale (Konrad et al., 1999; Lichtenstein, 1984). WFH convenience was adapted from the “facilitating conditions” construct of UTAUT2 (Venkatesh et al., 2012), and two new items were added to the construct on the basis of feedback obtained from the respondents, namely, “work from home is convenient as it saves on commuting time” and “Working from home avoids cross reporting to superiors other than reporting superior.”

WFH psychosocial safety was adapted from the second version of the Copenhagen Psychosocial Questionnaire (Pejtersen et al., 2010), WFH work engagement from the Utrecht Work Engagement Scale (Seppälä et al., 2009), and happiness from the Oxford Happiness Scale (Hills & Argyle, 2002). The exogenous constructs, WFH

TABLE 1 Descriptive statistics

	Frequency	Percent
Gender		
Male	252	57.3
Female	188	42.7
Experience (in years)		
10 and above	63	14.3
5–10	158	35.9
0–5	219	49.8

autonomy, WFH convenience, and WFH psychosocial safety, were measured formatively, while the endogenous constructs, WFH work engagement and happiness, were measured reflectively using a 5-point Likert scale.

2.7 | Estimation procedure and measurement model

2.7.1 | Formatively measured constructs

WFH autonomy, WFH convenience, and WFH psychosocial safety were measured formatively. Convergent validity, collinearity, and significance of outer weights/loadings were evaluated beforehand.

2.7.2 | Validity and item loadings

While evaluating the convergent validity of the formative measurement model, the researchers examined whether the formatively measured construct was highly correlated with the reflectively measured construct of the same construct (Hair et al., 2017). WFH autonomy was reflectively operationalized through, “WFH gives me the flexibility to plan my work,” global measure for WFH convenience was operationalized through, “work from home is convenient as I have the necessary resources available,” and WFH psychosocial safety was operationalized through, “WFH saves me from the obnoxious office banter,” respectively.

A path coefficient of 0.7 and above between the same construct measured formatively and reflectively is acceptable to establish convergent validity (Hair et al., 2017). Path coefficients for all of the formatively measured constructs were found to be higher than the acceptable value of 0.7. Similarly, items corresponding to all of the constructs had variance inflation factor (VIF) values of less than

five, except one of the items corresponding to WFH convenience, “working from home avoids cross reporting to superiors other than the reporting superior,” which was removed from the scale. All of the items had outer loadings greater than 0.5 (Hair et al., 2017). In PLS-SEM, the VIF values were less than five indicating the absence of collinearity and common method bias (Hair et al., 2017). Refer to Table 2 for validity statistics. All of the items with outer loadings of more than 0.5 were retained, even if outer weights for these were less than 0.5 (Hair et al., 2017).

2.7.3 | Reflectively measured constructs

Two constructs namely, WFH work engagement and happiness were measured reflectively. All the indicators in the reflective measurement model had loadings above the threshold level of 0.7. The average variance extracted for both the constructs was above the threshold value of 0.5 establishing convergent validity. Heterotrait–Monotrait ratio representing discriminant validity between the two constructs was below the threshold value of 0.9 as well. Composite reliability although on the higher side was below the unacceptable level of 0.95 (Hair et al., 2017). Cronbach's alpha for both the constructs was above the threshold level of 0.7. The statistical parameters of the reflectively measured constructs are presented in Table 3.

2.8 | Estimation procedure—structural model

The structural model comprises of three exogenous constructs that were measured formatively and two reflectively measured endogenous constructs.

The proposed model confirms the hypotheses that WFH autonomy, WFH convenience, and WFH psychosocial safety have significant effect on WFH work engagement. The path coefficients, total

Constructs and items	VIF values	Outer loadings	Convergent validity	
			Path coefficients	R ²
WFH autonomy			0.783	0.612
AUT1	3.823	0.883		
AUT2	3.626	0.885		
AUT3	3.401	0.839		
AUT4	3.423	0.879		
WFH psychosocial safety			0.846	0.715
PSS1	3.315	0.918		
PSS2	3.179	0.892		
PSS3	2.404	0.844		
PSS4	2.642	0.873		
WFH convenience			0.871	0.864
CON1	2.114	0.973		
CON2	2.114	0.864		

TABLE 2 Validity statistics—
Formatively measured constructs

TABLE 3 Reliability and validity: Reflectively measured constructs

Constructs	AVE	Composite reliability	Cronbach's alpha	HTMT ratio	Outer loadings
WFH work engagement (WE)	0.797	0.922	0.872		
Happiness (H)	0.813	0.912	0.813		
WE→H				0.556	
WE1 → WE					0.924
WE2 → WE					0.918
WE3 → WE					0.944
H1 → H					0.887
H2 → H					0.965

TABLE 4 Structural model statistics

	Original sample (O)	Sample mean (M)	Standard deviation (SD)	T statistics (O/SD)	p values	Significant/ nonsignificant (p < 0.05)
Path coefficients						
AUT - > WE	0.251	0.254	0.051	4.906	0.00	Significant
CON - > WE	0.18	0.18	0.036	5.056	0.00	Significant
PSS - > WE	0.239	0.246	0.045	5.304	0.00	Significant
WE - > H	0.488	0.492	0.037	13.254	0.00	Significant
Total indirect effects						
AUT - > H	0.123	0.124	0.025	4.994	0.00	Significant
CON - > H	0.088	0.089	0.02	4.429	0.00	Significant
PSS - > H	0.117	0.121	0.025	4.756	0.00	Significant
Specific indirect effects						
AUT - > WE - > H	0.123	0.124	0.025	4.994	0.00	Significant
CON - > WE - > H	0.088	0.089	0.02	4.429	0.00	Significant
PSS - > WE - > H	0.117	0.121	0.025	4.756	0.00	Significant
Total effects						
AUT - > H	0.123	0.124	0.025	4.994	0.00	Significant
AUT - > WE	0.251	0.254	0.051	4.906	0.00	Significant
CON - > H	0.088	0.089	0.02	4.429	0.00	Significant
CON - > WE	0.18	0.18	0.036	5.056	0.00	Significant
PSS - > H	0.117	0.121	0.025	4.756	0.00	Significant
PSS - > WE	0.239	0.246	0.045	5.304	0.00	Significant
WE - > H	0.488	0.492	0.037	13.254	0.00	Significant
f-square effect					Effect size	
WE - > H					0.313	Large effect
R square					R square-value	
WE					0.252	
H					0.239	
Q square					Effect size	
WE					0.194	Moderate effect
H					0.192	Moderate effect

effects, total indirect effects, and specific indirect effects of all of the exogenous constructs were significant at 95% level of significance. Table 4 represents the values corresponding to these parameters. The bias-corrected and accelerated (BCa) bootstrapping procedure was

used with 1000 subsamples and “no sign change” option (Hair et al., 2017). The variance R^2 explained by the model is one of the key criteria for evaluating the quality of the structural model. In the proposed model, WFH work engagement predicts 23.9% variance in the

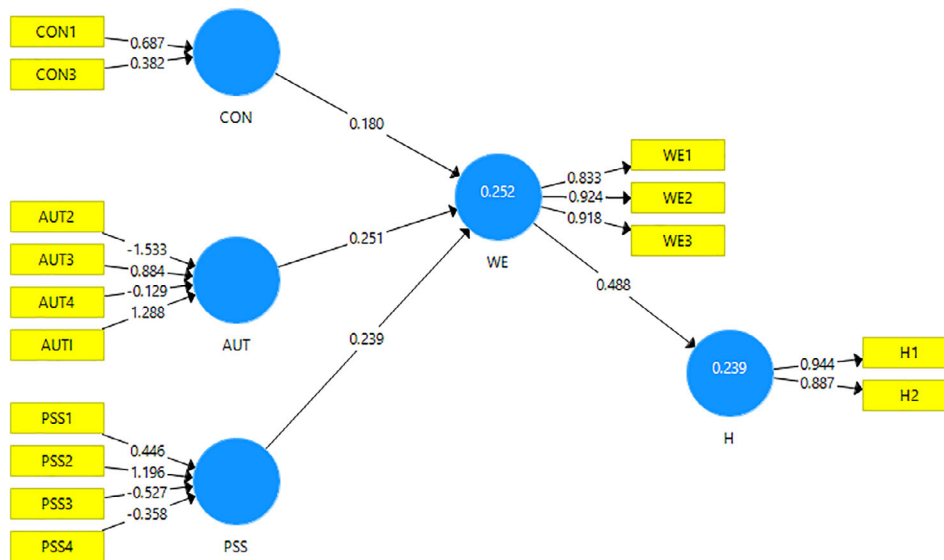


FIGURE 2 Final model

perception of happiness due to WFH work engagement. Further, WFH autonomy, WFH convenience, and WFH psychosocial safety as exogenous constructs predict 25.2% variance in WFH work engagement. In addition, f^2 effect size indicates that WFH work engagement has significant impact upon happiness. The final model depicted in Figure 2.

In order to assess the predictive relevance of the model, a blindfolding procedure was used to obtain Q^2 values ($Q^2_{WE} = 0.194$; $Q^2_H = 0.192$). Q^2 values of zero and above indicate that the model has predictive relevance (Hair et al., 2017).

2.9 | Research findings

The findings of the study that autonomy has significant impact upon work engagement are in consonance with earlier studies (Albrecht et al., 2013; Bakker & Demerouti, 2007; Christian et al., 2014; DeLange et al., 2008; Halbesleben, 2010; Weigl et al., 2010). While these studies examined the relationship between the two constructs at physical workplace, the present study is an attempt to examine this relationship in the WFH mode during the COVID-19 pandemic. The findings from the study indicate that people experience autonomy in their work while working remotely, in this case, working from home, and this perception in autonomy has a significant impact upon work engagement, thus Hypothesis H1 is accepted.

Psychosocial safety relates to “freedom from psychological and social risk or harm” (Dollard & Bakker, 2010 p 580). Most of the earlier studies examined psychosocial safety in terms of organizational climate and have established a significant relationship between psychosocial safety at work place with higher work engagement, as well as psychosocial well-being (Dollard & Bakker, 2010; Idris et al., 2014, 2015; Yulita & Idris, 2017). The novelty of this study lies in investigating psychosocial safety from a different point of view. The study examines perception toward psychosocial safety from the perspective of sense of safety arising when an employee feels safe about himself/

herself, his/her family, and the employee's family feels safe about the employee while he/she is working from home during COVID-19. The path coefficient between WFH psychosocial safety and WFH work engagement suggests a significant relationship between the two, thus Hypothesis H2 is accepted.

The study examines the convenience of working from home during COVID-19 in terms of saving in commuting time and availability of technical support. The study is in line with other studies that suggest that an employee is likely to exhibit an irritability or engage in negative behavior at work depending upon the commuting experience (Wiese et al., 2020). Also, some of the studies have pointed toward employees' willingness to accept lower salaries in lieu of working from home (Mas & Pallais Harvard University, 2019). Happiness has been defined as “a state of mind in which an individual experiences a sense of joy, satisfaction, and positive thinking and a feeling that one's life is good and carries meaning and is worthwhile” (Jalali & Heidari, 2016; Peterson & Seligman, 2004). Studies have suggested three routes to happiness, pleasant life, meaningful life, and the engaged or the good life. The study establishes that WFH work engagement during COVID-19 has a significant impact upon the employee's happiness. Some of the earlier studies too have suggested a significant relationship between employee engagement and happiness (Lalić et al., 2020). The findings from the present study suggest a significant relationship between WFH employee work engagement, convenience, and happiness, thus Hypothesis H3 is accepted. Overall, based on the findings of the study, all of the proposed hypotheses are accepted (Table 5).

2.10 | Practical implications

It is likely that employees and businesses who have adapted well to the WFH format will continue to employ this format in the future.. As such there is a distinct possibility that world of work as we had known pre-COVID 19 may no longer exist. Also, if we examine the exponential employment growth in “gig economy,” we will be able to conclude

TABLE 5 Structural model statistics and proposed hypotheses

Hypothesis	Status
H1—There will be significant relationship between WFH autonomy and work engagement.	Accepted
H2—There will be significant relationship between WFH convenience and work engagement.	Accepted
H3—There will be significant relationship between WFH perceived psychosocial safety and work engagement.	Accepted
H4—There will be significant relationship between WFH work engagement and happiness	Accepted

that remote work will be the future workplace (Wilkinson & Barry, 2020; Wilkinson et al., 2020). Under such circumstances, our understanding of the concepts, as we know them and, in the context, we know them, may no longer remain valid.

The present study is an attempt to gain some insight into the changing context of the world of work as it exists today. The findings of this study hold practical implications for both academicians and organizations. The results of this study indicate that employees feel more engaged with their work because working from home affords them autonomy, safety, and convenience during the COVID-19 pandemic, and that this work engagement leads to happiness. These findings may have practical implications for organizations as they can think of better ways to ensure that WFH employees' sense of autonomy is enhanced. Also, one of the items corresponding to the construct WFH convenience measured employees' perception of access to technical support, while they were working from home. Organizations in the future, if they do decide to shift some component of their work to the WFH format, may want to take a careful look at their technical support department.

Organizations and individuals having reorganized their work and experienced the virtues and pitfalls of the WFH format may find the outcomes of this study useful in deciding the context of future workplaces.

2.11 | Theoretical implications

The study makes four distinct contributions to the existing literature. First, it extends the concept of psychosocial safety to include the sense of safety an employee has about himself/herself, his/her family, and the sense of safety that the employee's family has about the employee. Earlier studies have defined psychosocial safety in terms of organizational climate (Dollard & Bakker, 2010). Second, the study partially contradicts the findings from an earlier study that indicated engaged life to be under the control of the individual (Peterson et al., 2005). The results from the study indicate that work engagement is influenced by psychosocial safety, but, in this study, psychosocial safety is conceptualized as a sense of safety that an individual's family has about that individual. Third, the study supports the earlier findings that work engagement should be studied by taking into account the events in an employee's life outside

of work (Lamotte, 2015). The findings from this study indicate that work engagement is not only influenced by factors related to work (autonomy) but also by factors outside of work (convenience and psychosocial safety). Finally, the study reaffirms the relationship between work engagement and happiness, but the same is investigated in the context of different environment, that is, work from home, rather than a physical workplace.

3 | LIMITATIONS AND FUTURE RESEARCH

This study is a preliminary attempt to investigate the positive outcomes associated with working from home. There are many other variables such as absence of workplace conflict, no work intrusions, etc., which may also impact working from home and need further investigation. Also, while this study investigates the positives associated with working from home, academicians, as well as organizations, may be interested to know and understand the negative impact of working alone, devoid of social contact, and connections with co-workers. Further, this study used a snow-ball method of convenience sampling for data collection. Another probability-based method might have improved the quality of data and provided deeper insight. Finally, as the sample frame of the study was limited to employees from the ICT sector, generalization of the results to other professions and regions may not be possible. Future research focusing on other sectors and wider geographical areas should attempt to eliminate these limitations.

4 | CONCLUSION

The lockdown due to the COVID-19 pandemic resulted in the need for many companies to reorganize their work and, consequently, shift some components to a WFH format. While working from home is not an entirely new concept, the suddenness and the magnitude of the shift were probably new for the majority of businesses and employees. The findings from the present study led to two main outcomes. First, the results from the study point toward the role of autonomy, convenience, and safety in influencing WFH work engagement. Previous studies, as well as media reports, have pointed out that even when the pandemic subsides and the world of work returns to normal (pre-COVID 19), the work from home mode is here to stay (Brynjolfsson et al., 2020; FEOnline, 2020).

The results from this study can be very useful for organizations in the post-COVID world of work when they begin focusing on designing initiatives or developing programs to foster employee engagement. These findings are also in consonance with some of the previous studies that have linked autonomy, convenience, and psychosocial safety to work engagement (Albrecht et al., 2013; Bloom et al., 2015; Christian et al., 2014; Halbesleben, 2010; Idris et al., 2015; Yulita & Idris, 2017). Second outcome relates WFH work engagement with happiness. While the first outcome is important from an organization's perspective, the second outcome has more

relevance for employees, as it deals with their psychosocial well-being. Both outcomes, if viewed in totality, indicate that the post-COVID WFH mode, if handled and designed properly, may benefit organizations as well as employees.

DATA AVAILABILITY STATEMENT

The data that support the findings of this study are available from the corresponding author upon reasonable request.

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REFERENCES

- Aaker, D. A., Kumar, V., & Day, G. S. (2000). *Marketing research* (7th ed.). John Wiley and Sons Inc.
- Albrecht, S., Mauno, S., Kinnunen, U., Mäkikangas, A., & Feldt, T. (2013). Job demands and resources as antecedents of work engagement: A qualitative review and directions for future research. In *Handbook of employee engagement*. Edward Elgar Publishing. <https://doi.org/10.4337/9781849806374.00016>
- Alipour, J. V., Falck, O., & Schüller, S. Germany's Capacities to Work from Home (July 30, 2020). CESifo Working Paper No. 8227. Available at SSRN: <https://ssrn.com/abstract=3578262>
- Bajpai, N. (2013). *Research methodology*. Pearson.
- Bakker, A. B., & Demerouti, E. (2007). The job demands-resources model: State of the art. In *Journal of managerial psychology* (Vol. 22, Issue 3, pp. 309–328). Emerald Group Publishing Limited. <https://doi.org/10.1108/02683940710733115>
- Bentley, T. A., Teo, S. T. T., McLeod, L., Tan, F., Bosua, R., & Gloet, M. (2016). The role of organisational support in teleworker wellbeing: A socio-technical systems approach. *Applied Ergonomics*, 52, 207–215. <https://doi.org/10.1016/j.apergo.2015.07.019>
- Bertschek, I., & Niebel, T. (2016). Mobile and more productive? Firm-level evidence on the productivity effects of mobile internet use. *Telecommunications Policy*, 40(9), 888–898. <https://doi.org/10.1016/j.telpol.2016.05.007>
- Bloom, N., Liang, J., Roberts, J., & Ying, Z. J. (2015). Does working from home work? Evidence from a chinese experiment. *Quarterly Journal of Economics*, 130(1), 165–218. <https://doi.org/10.1093/qje/qju032>
- Brynjolfsson, E., Horton, J., Ozimek, A., Rock, D., Sharma, G., & TuYe, H.-Y. (2020). COVID-19 and remote work: An early look at US data. National Bureau of Economic Research. <https://doi.org/10.3386/w27344>
- Burch, K. A., & Barnes-Farrell, J. L. (2020). When work is your passenger: Understanding the relationship between work and commuting safety behaviors. *Journal of Occupational Health Psychology*, 25(4), 259–274. <https://doi.org/10.1037/ocp0000176>
- Carnevale, J. B., & Hatak, I. (2020). Employee adjustment and well-being in the era of COVID-19: Implications for human resource management. *Journal of Business Research*, 116, 183–187. <https://doi.org/10.1016/j.jbusres.2020.05.037>
- Chakraborty, D., & Biswas, W. (2019). Motivating factors in a teacher's research and developmental activities and their impact on effective quality teaching in higher education institutions. *Journal of Applied Research in Higher Education*, 12(4), 609–632. <https://doi.org/10.1108/JARHE-07-2018-0161>
- Chawla, N., MacGowan, R. L., Gabriel, A. S., & Podsakoff, N. P. (2020). Unplugging or staying connected? Examining the nature, antecedents, and consequences of profiles of daily recovery experiences. *Journal of Applied Psychology*, 105(1), 19–39. <https://doi.org/10.1037/apl0000423>
- Christian, M., Garza, A., & Slaughter, J. (2014). Erratum to Work engagement: A quantitative review and test of its relations with task and contextual performance [Personnel Psychology, 64, 89–136] DOI:10.1111/J.1744-6570.2010.01203.X. *Personnel Psychology*, 67(1), 309–311. <https://doi.org/10.1111/peps.12070>
- De Spiegelaere, S., Van Gyes, G., & Van Hootegeem, G. (2016). Not all autonomy is the same. Different dimensions of job autonomy and their relation to work engagement & innovative work behavior. *Human Factors and Ergonomics in Manufacturing & Service Industries*, 26(4), 515–527. <https://doi.org/10.1002/hfm.20666>
- DeLange, A., DeWitte, H., & Notelaers, G. (2008). Should I stay or should I go? Examining longitudinal relations among job resources and work engagement for stayers versus movers. *Work & Stress*, 22(3), 201–223 Retrieved from <https://lirias.kuleuven.be/1952478?limo=0>
- Dollard, M. F., & Bakker, A. B. (2010). Psychosocial safety climate as a precursor to conducive work environments, psychological health problems, and employee engagement. *Journal of Occupational and Organizational Psychology*, 83, 579–599. <https://doi.org/10.1348/096317909X470690>
- Dollard, M. F., & Idris M. A. (2017). Climate congruence: How espoused psychosocial safety climate and enacted managerial support affect emotional exhaustion and work engagement. *Safety Science*, 96, 132–142. <https://doi.org/10.1016/j.ssci.2017.03.023>
- FEOnline. (2020, May 27). TCS 'work from home' policy: Only one-fourth of workers to come to office; CEO explains vision 25x25. The Financial Express Retrieved from <https://www.financialexpress.com/industry/tcs-work-from-home-policy-only-one-fourth-of-workers-to-come-to-office-ceo-explains-vision-25x25/1971995/>
- Furnham, A., & Brewin, C. R. (1990). Personality and happiness. *Personality and Individual Differences*, 11(10), 1093–1096. [https://doi.org/10.1016/0191-8869\(90\)90138-H](https://doi.org/10.1016/0191-8869(90)90138-H)
- Garrick, A., Mak, A. S., Cathcart, S., Winwood, P. C., Bakker, A. B., & Lushington, K. (2014). Psychosocial safety climate moderating the effects of daily job demands and recovery on fatigue and work engagement. *Journal of Occupational and Organizational Psychology*, 87(4), 694–714. <https://doi.org/10.1111/joop.12069>
- Girge, L. M., & Bohns, V. K. (2020). Tips to avoid WFH burnout. *Harvard Business Review*.
- Golden, T. D. (2012). Altering the effects of work and family conflict on exhaustion: Telework during traditional and nontraditional work hours. *Journal of Business and Psychology*, 27(3), 255–269. <https://doi.org/10.1007/s10869-011-9247-0>
- Greenhaus, J. H., & Beutell, N. J. (1985). Sources of conflict between work and family roles. *Academy of Management Review*, 10(1), 76–88.
- Greenhaus, J. H., & Powell, G. N. (2003). When work and family collide: Deciding between competing role demands. *Organizational behavior and human decision processes*, 90(2), 291–303.
- Hair, J. J., Hult, G., Ringle, C., & Sarstedt, M. (2017). *A primer on partial least squares structural equation modeling (PLS-SEM)* (2nd ed.). SAGE Publications.
- Halbesleben, J. (2010). A meta-analysis of work engagement: Relationships with burnout, demands, resources, and consequences. In A. Bakker & M. Leiter (Eds.), *Work engagement: A handbook of essential theory and research* (pp. 102–117). Psychology Press.
- Hills, P., & Argyle, M. (2002). The Oxford Happiness Questionnaire: A compact scale for the measurement of psychological well-being. *Personality and Individual Differences*, 33, 1073–1082.
- Hoffman, K. E., Garner, D., Koong, A. C., & Woodward W. A. (2020). Understanding the intersection of working from home and burnout to optimize post-COVID19 work arrangements in radiation oncology. *International Journal of Radiation Oncology Biology. Physics*, 108(2), 370–373.
- Idris, M. A., Dollard, M. F., & Tuckey, M. R. (2015). Psychosocial safety climate as a management tool for employee engagement and performance: A multilevel analysis. *International Journal of Stress Management*, 22(2), 183–206. <https://doi.org/10.1037/a0038986>
- Idris, M. A., & Dollard, M. F. (2014). Psychosocial safety climate, emotional demands, burnout, and depression: A longitudinal multilevel study in

- the Malaysian private sector. *Journal of Occupational Health Psychology*, 19(3), 291–302. <https://doi.org/10.1037/a0036599>
- ILO Monitor. (2020). *COVID-19 and the world of work* (5th ed.). International Labour Organization.
- ILObrief. (2020). *Working from home: Estimating the worldwide potential*. Retrieved from International Labour Organization. https://www.ilo.org/wcmsp5/groups/public/-ed_protect/-protrav/-travail/documents/briefingnote/wcms_743447.pdf
- Jalali, Z., & Heidari, A. (2016). The relationship between happiness, subjective well-being, creativity and job performance of primary school teachers in Ramhormoz City. *International Education Studies*, 9(6), 45–52. <https://doi.org/10.5539/ies.v9n6p45>
- Joseph, S., & Lewis, C. A. (1998). The depression-happiness scale: Reliability and validity of a bipolar self-report scale. *Journal of Clinical Psychology*, 54(4), 537–544. [https://doi.org/10.1002/\(SICI\)1097-4679\(199806\)54:4<537::AID-JCLP15>3.0.CO;2-G](https://doi.org/10.1002/(SICI)1097-4679(199806)54:4<537::AID-JCLP15>3.0.CO;2-G)
- Kalliath, T., & Brough, P. (2008). Work-life balance: A review of the meaning of the balance construct. *Journal of Management and Organization*, 14(3), 323–327. eContent Management Pty Ltd. <https://doi.org/10.5172/jmo.837.14.3.323>
- Konrad, T., Williams, E., Linzer, M., & Care, J. M.-M. (1999). Measuring physician job satisfaction in a changing workplace and a challenging environment. *Medical Care*, 37(11), 1174–1182 Retrieved from <https://www.jstor.org/stable/3767071>
- Kossek, E. E., Lautsch, B. A., & Eaton, S. C. (2006). Telecommuting, control, and boundary management: Correlates of policy use and practice, job control, and work-family effectiveness. *Journal of Vocational Behavior*, 68(2), 347–367. <https://doi.org/10.1016/j.jvb.2005.07.002>
- Krishnaswami, O., & Ranganatham, M. (2005). *Methodology of research in social sciences* (pp. 1–445). Himalaya Publishing House.
- Kumar, R. (2014). *Research Methodology: A Step by Step Guide for Beginners* (2nd ed.). Pearson.
- Lalić, D., Milić, B., & Stanković, J. (2020). *Internal communication and employee engagement as the key prerequisites of happiness* (pp. 75–91). Emerald Publishing Limited. <https://doi.org/10.1108/s2398-39142020000005007>
- Lamotte, S. (2015). *Employee engagement depends on what happens outside of the office*. Harvard Business Review. Hbr. Org,
- Langfred, C. W. (2000). The paradox of self-management: Individual and group autonomy in work groups. *Journal of Organizational Behavior*, 21(5), 563–585. [https://doi.org/10.1002/1099-1379\(200008\)21:5<563::AID-JOB31>3.0.CO;2-H](https://doi.org/10.1002/1099-1379(200008)21:5<563::AID-JOB31>3.0.CO;2-H)
- Lichtenstein, R. (1984). Measuring the job satisfaction of physicians in organized settings. *Medical Care*, 22(1), 56–68.
- Mas, A., & Pallais, A. (2017). Valuing alternative work arrangements. *American Economic Review*, 107(12), 3722–3759. <https://doi.org/10.1257/aer.20161500>
- Mas, A., & Pallais Harvard University, A. (2019). *Alternative work arrangements* *.
- Mauno, S., Kinnunen, U., & Ruokolainen, M. (2007). Job demands and resources as antecedents of work engagement: A longitudinal study. *Journal of Vocational Behavior*, 70(1), 149–171. <https://doi.org/10.1016/j.jvb.2006.09.002>
- May, D. R., Gilson, R. L., & Harter, L. M. (2004). The psychological conditions of meaningfulness, safety and availability and the engagement of the human spirit at work. *Journal of Occupational and Organizational Psychology*, 77(1), 11–37. <https://doi.org/10.1348/096317904322915892>
- Moncada, S., Utzet, M., Molinero, E., Llorens, C., Moreno, N., Galtés, A., & Navarro, A. (2014). The Copenhagen psychosocial questionnaire II (COPSOQ II) in Spain-A tool for psychosocial risk assessment at the workplace. *American Journal of Industrial Medicine*, 57(1), 97–107. <https://doi.org/10.1002/ajim.22238>
- Nübling, M., Stöbel, U., Hasselhorn, H.-M., Michaelis, M., & Hofmann, F. (2006). Measuring psychological stress and strain at work—Evaluation of the COPSOQ questionnaire in Germany. *Psycho-Social Medicine*, 3, Doc05 Retrieved from <http://www.ncbi.nlm.nih.gov/pubmed/19742072>
- Pannervselvam, R. (2016). *Research methodology* (2nd ed.). PHI Learning.
- Pejtersen, J. H., Kristensen, T. S., Borg, V., & Bjorner, J. B. (2010). The second version of the Copenhagen psychosocial questionnaire. *Scandinavian Journal of Public Health*, 38(SUPPL. 3), 8–24. <https://doi.org/10.1177/1403494809349858>
- Peterson, C., Park, N., & Seligman, M. E. P. (2005). Orientations to happiness and life satisfaction: The full life versus the empty life. *Journal of Happiness Studies*, 6(1), 25–41. <https://doi.org/10.1007/s10902-004-1278-z>
- Peterson, C., & Seligman, M. E. P. (2004). Character strengths and virtues: A handbook and classification. In *journals.sfu.ca* (Vol. 800). American Psychological Association & Oxford University Press Retrieved from <http://journals.sfu.ca/rpfs/index.php/rpfs/article/download/135/134>
- Prottas, D. (2008). Do the self-employed value autonomy more than employees?: Research across four samples. *Career Development International*, 13(1), 33–45. <https://doi.org/10.1108/13620430810849524>
- Putnam, L. L., & Mumby, D. K. (Eds.). (2013). *The SAGE handbook of organizational communication: Advances in theory, research, and methods*. Sage Publications.
- Rothmann, S., & Olivier, A. (2007). Antecedents of work engagement in a multinational company. *South African Journal of Industrial Psychology*, 33(3), 49–56.
- Schieman, S., & Young, M. (2010). Is there a downside to schedule control for the work-family Interface? *Journal of Family Issues*, 31(10), 1391–1414. <https://doi.org/10.1177/0192513X10361866>
- Schlachter, S., McDowall, A., Cropley, M., & Inceoglu, I. (2018). Voluntary work-related technology use during non-work time: A narrative synthesis of empirical research and research agenda. *International Journal of Management Reviews*, 20(4), 825–846. <https://doi.org/10.1111/ijmr.12165>
- Seppälä, P., Mauno, S., Feldt, T., Hakanen, J., Kinnunen, U., Tolvanen, A., & Schaufeli, W. (2009). The construct validity of the Utrecht Work Engagement Scale: Multisample and longitudinal evidence. *Journal of Happiness Studies*, 10(4), 459–481. <https://doi.org/10.1007/s10902-008-9100-y>
- Sewell, G., & Taskin, L. (2015). Out of sight, out of mind in a New World of work? Autonomy, control, and spatiotemporal scaling in telework. *Organization Studies*, 36(11), 1507–1529. <https://doi.org/10.1177/0170840615593587>
- Shin, Y. (2004). A person-environment fit model for virtual organizations. *Journal of Management*, 30(5), 725–743. <https://doi.org/10.1016/j.jm.2004.03.002>
- Stiglbauer, B., & Kovacs, C. (2018). The more, the better? Curvilinear effects of job autonomy on well-being from vitamin model and PE-fit theory perspectives. *Journal of Occupational Health Psychology*, 23(4), 520–536. <https://doi.org/10.1037/ocp0000107>
- Thamilasaran, M. (2015). *Research methodology for social sciences*. New Century Publications.
- Valiant, G. L. (1993). Life events, happiness and depression: The half empty cup. *Personality and Individual Differences*, 15(4), 447–453. [https://doi.org/10.1016/0191-8869\(93\)90072-B](https://doi.org/10.1016/0191-8869(93)90072-B)
- van Gelderen, M. (2016). Entrepreneurial autonomy and its dynamics. *Applied Psychology*, 65(3), 541–567. <https://doi.org/10.1111/apps.12066>
- Venkatesh, V., Thong, Y. L., & Xu, X. (2012). Consumer acceptance and use of information technology: Extending the unified theory of acceptance and use of technology. *MIS Quarterly*, 36(1), 157–178.
- Versey, H. (2015). Managing work and family: Do control strategies help? *Developmental Psychology*, 51(11), 1672–1681.
- Voydanoff, P. (2005). Consequences of boundary-spanning demands and resources for work-to-family conflict and perceived stress. *Journal of*

- Occupational Health Psychology*, 10(4), 491–503. <https://doi.org/10.1037/1076-8998.10.4.491>
- Weigl, M., Hornung, S., Parker, S. K., Petru, R., Glaser, J., & Angerer, P. (2010). Work engagement accumulation of task, social, personal resources: A three-wave structural equation model. *Journal of Vocational Behavior*, 77(1), 140–153. <https://doi.org/10.1016/j.jvb.2010.03.002>
- Wiese, B. S., Chaillie, O., Noppeney, R., & Stertz, A. M. (2020). Daily experiences of commuting strain and self-control at work and at home. *Journal of Personnel Psychology*, 19(3), 125–134. <https://doi.org/10.1027/1866-5888/a000256>
- Wilkinson, A., & Barry, M. (2020). The future of work and employment. In *The future of work and employment*. Edward Elgar Publishing. <https://doi.org/10.4337/9781786438256>
- Wilkinson, A., Barry, M., Healy, J., & Pekarek, A. (2020). Work and wages in the gig economy: Can there be a high road. In *The future of work and employment* (pp. 156–173). Edward Elgar Publishing. <https://doi.org/10.4337/9781786438256.00018>
- Zyl, L., Deacon, E., & Rothmann, S. (2010). Towards happiness: Experiences of work-role fit, meaningfulness and work engagement of industrial/organisational psychologists in South Africa. *South African Journal of Industrial Psychology*, 36(1), 1–10.

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APPENDIX 1

S.No	Item	References
1	Working from home enables me to provide full range of services for which I am trained.	(Konrad et al., 1999; Lichtenstein, 1984)
2	Working from home allows me to set the pace of my work	
3	WFH allows me to schedule my work	
4	Working from home gives me the flexibility to make changes in the ways work is carried out.	
5	Work from home is convenient as technical support is always available	(Venkatesh et al., 2012)
6	Work from home is convenient as it saves on commuting time ^a	
7	Working from home makes me feel safe about myself	(Pejtersen et al., 2010)
8	Working from home makes my family feel safe about me	
9	Working from home reduces the risk of unnecessary exposure to strangers ^a	
10	Work from home assures safety of loved ones (family)	
11	I find the work that I do full of meaning and purpose	(Seppälä et al., 2009)
12	I am enthusiastic about my job	
13	Time flies when I am working	
14	I feel particularly pleased with the way I am these days	(Hills & Argyle, 2002)
15	I feel that the life is very rewarding	

^aItems inserted after feedback from respondents.



Independent Contractor (Self-Employed) or Employee?

It is critical that business owners correctly determine whether the individuals providing services are employees or independent contractors.

Generally, you must withhold and pay income taxes, social security taxes and Medicare taxes as well as pay unemployment tax on wages paid to an employee. You do not generally have to withhold or pay any taxes on payments to independent contractors.

Select the Scenario that Applies to You:

- **I am an independent contractor or in business for myself**
If you are a business owner or contractor who provides services to other businesses, then you are generally considered self-employed. For more information on your tax obligations if you are self-employed (an independent contractor), see our [Self-Employed Individuals Tax Center](#).
- **I hire or contract with individuals to provide services to my business**
If you are a business owner hiring or contracting with other individuals to provide services, then you must determine whether the individuals providing services are employees or independent contractors. Follow the rest of this page to find out more about this topic and what your responsibilities are.

Determining Whether the Individuals Providing Services are Employees or Independent Contractors

Before you can determine how to treat payments you make for services, you must first know the business relationship that exists between you and the person performing the services. The person performing the services may be:

- An [independent contractor](#)
- An [employee](#) (common-law employee)
- A [statutory employee](#)
- A [statutory nonemployee](#)
- A [government worker](#)


Related Topics

- [Businesses with Employees](#)
- [Hiring Employees](#)
- [Know Who You're Hiring Independent Contractor Self employed vs Employee](#)

Forms & Instructions

- [About Form SS-8, Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding](#)

Videos

- [IRS Video Portal](#) 
- [Proper Worker Classification Audio](#) 

In determining whether the person providing service is an employee or an independent contractor, all information that provides evidence of the degree of control and independence must be considered.

Common Law Rules

Facts that provide evidence of the degree of control and independence fall into three categories:

1. **Behavioral**: Does the company control or have the right to control what the worker does and how the worker does his or her job?
2. **Financial**: Are the business aspects of the worker's job controlled by the payer? (these include things like how worker is paid, whether expenses are reimbursed, who provides tools/supplies, etc.)
3. **Type of Relationship**: Are there written contracts or employee type benefits (i.e. pension plan, insurance, vacation pay, etc.)? Will the relationship continue and is the work performed a key aspect of the business?

Businesses must weigh all these factors when determining whether a worker is an employee or independent contractor. Some factors may indicate that the worker is an employee, while other factors indicate that the worker is an independent contractor. There is no "magic" or set number of factors that "makes" the worker an employee or an independent contractor and no one factor stands alone in making this determination. Also, factors which are relevant in one situation may not be relevant in another.

The keys are to look at the entire relationship and consider the extent of the right to direct and control the worker. Finally, document each of the factors used in coming up with the determination.

Form SS-8

If it is still unclear whether a worker is an employee or an independent contractor after reviewing the three categories of evidence, then [Form SS-8, Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding](#) [PDF](#), can be filed with the IRS. The form may be filed by either the business or the worker. The IRS will review the facts and circumstances and officially determine the worker's status.

Be aware that it can take at least six months to get a determination. A business that continually hires the same types of workers to perform particular services may want to consider filing the [Form SS-8](#) [PDF](#).

Employment Tax Obligations

Once a determination is made (whether by the business or by the IRS), the next step is filing the appropriate forms and paying the associated taxes.

- [Forms and associated taxes for independent contractors](#)
- [Forms and associated taxes for employees](#)

- [Small Business Taxes: The Virtual Workshop - Worker Classification](#) [↗](#)

Publications

- [2022 Publ 15-A \(PDF\)](#) [PDF](#)
- [2022 Publ 15-B \(PDF\)](#) [PDF](#)

Employment Tax Guidelines

There are specific employment tax guidelines that must be followed for certain industries.

- [Employment Tax Guidelines: Classifying Certain Van Operators in the Moving Industry](#) [PDF](#)
- [Employment Tax Procedures: Classification of Workers within the Limousine Industry](#) [PDF](#)

Misclassification of Employees

Consequences of Treating an Employee as an Independent Contractor

If you classify an employee as an independent contractor and you have no reasonable basis for doing so, then you may be held liable for employment taxes for that worker (the relief provisions, discussed below, will not apply). See Internal Revenue Code section 3509 for more information.

Relief Provisions

If you have a reasonable basis for not treating a worker as an employee, then you may be relieved from having to pay employment taxes for that worker. To get this relief, you must file all required federal information returns on a basis consistent with your treatment of the worker. You (or your predecessor) must not have treated any worker holding a substantially similar position as an employee for any periods beginning after 1977. See [Publication 1976, Section 530 Employment Tax Relief Requirements](#) [PDF](#), for more information.

Misclassified Workers Can File Social Security Tax Form

Workers who believe they have been improperly classified as independent contractors by an employer can use [Form 8919, Uncollected Social Security and Medicare Tax on Wages](#), [PDF](#) to figure and report the employee's share of uncollected Social Security and Medicare taxes due on their compensation.

Voluntary Classification Settlement Program

The [Voluntary Classification Settlement Program \(VCSP\)](#) [PDF](#) is an optional program that provides taxpayers with an opportunity to reclassify their workers as employees for future tax periods for employment tax purposes with partial relief from federal employment taxes for eligible taxpayers that agree to prospectively treat their workers (or a class or group of workers) as employees. To participate in this voluntary program, the taxpayer must meet certain eligibility requirements. Apply to participate in the VCSP by filing [Form 8952, Application for Voluntary Classification Settlement Program](#), in order to enter into a closing agreement with the IRS.

"The Art of Resilience in Solo and Small Firm Practice"
May 3, 2022

Common Ethical Considerations for Solo Practitioners and Small Firms

Small firms and solo practitioners are the subject of a disproportionate number of grievance complaints filed with disciplinary committees. Unlike their big-firm counterparts, solo and small firm practitioners do not have the same extensive administrative support, and do not have a cadre of colleagues who can take over a matter if needed, whether because of workload or because of stress or other impairments. And in addition to providing legal services, solo and small firm practitioners have to supervise all staff, market the firm, and attend to the administrative tasks necessary to have a successful firm. Finally, solo and small firm practitioners are more involved in areas of law where client emotions run high (e.g., criminal, family, trusts and estates), which can lead to grievance complaints based simply on a client's (or adversary's) sense of unfairness or unhappiness with a result. "Resilience" for small firm and solo practitioners includes avoiding and appropriately dealing with these grievance complaints and the issues that may underlie them.

Below is a brief outline of some of the Rules of Professional Conduct (22 NYCRR Part 1200) most commonly implicated by grievance complaints against solo and small firm practitioners, and some practical considerations with respect to avoiding or addressing those complaints.

I. Competence, Neglect and Failure to Communicate with Clients

- A. Rule 1.1 (Competence) states that competent representation requires not only legal knowledge and skill, but also the "thoroughness and preparation reasonably necessary for the representation." Some solo and small firm practitioners undertake representation in matters in which they lack the requisite substantive legal knowledge, often as an adjunct to work they are competent to perform. Competence may be implicated when an attorney has to "pivot" her practice during times of change, and with respect to new technologies and their utilization in practice. Rule 1.1 is also implicated when an attorney does not have the time to adequately prepare for court appearances or other aspects of a matter.
- B. Rule 1.3 (Diligence) requires a lawyer to act with reasonable diligence and promptness in representing a client, and not neglect a legal matter entrusted to the lawyer. Most often, this rule is implicated when a lawyer lets a matter linger or "fall to the bottom of the pile," sometimes to avoid a difficult client or to avoid giving bad news to a client.
- C. Rule 1.4 (Communication) states that a lawyer shall promptly inform the client of material developments in the matter, including settlement or plea offers; reasonably consult with the client about the means by which the client's objectives are to be accomplished; keep the client reasonably informed about the status of the matter; and promptly comply with a client's reasonable requests for information. Attorneys often fail to return client inquiries because they believe that there is nothing new to tell the

client, they are afraid to give the client bad news, or the client is difficult. Failure to communicate properly often goes hand in hand with allegations of neglect.

D. Some general suggestions for avoiding complaints about competence, neglect and communication:

- 1) Respond to client inquiries/phone calls promptly. Even if it is news the client does not want to hear, there are no substantive updates, or the client is difficult, a prompt response will ensure that the client knows that you are paying attention to them. Do not ignore client inquiries!
- 2) Send your client a copy of all correspondence, pleadings, etc.; it is a simple way to show that attention is being given to their case.
- 3) If nothing is happening in the matter, let the client know of that fact, the reasons for the delay, and what next steps will be.
- 4) In addition to keeping copies of all written communication with clients, document non-written communications with clients and unsuccessful attempts to respond to their phone calls. Even if this doesn't help in avoiding a complaint, it can be very helpful in having a complaint about lack of communication promptly dismissed.
- 5) Do not respond in kind to emotional client outbursts/communication. A riled up, angry, or defensive client is much more likely to file a grievance complaint.
- 6) Implement a stringent reminder/tickler system to ensure important dates in a matter do not get missed, and to remind yourself of the need to communicate regularly with your client.

II. Trust Account Issues

- A. Client funds must be maintained and preserved in an attorney trust account, and must not be commingled with the lawyer's own funds (Rule 1.15 [a] - [b]). **Commingling is a serious violation, even when the client does not suffer a loss.** A lawyer who fails to maintain the appropriate trust accounts and records (see Rule 1.15 [d]), or fails to produce those records when requested, is subject to disciplinary proceedings (Rule 1.15 [j]).
- B. It is improper to issue a disbursement check from the attorney trust account on behalf of a client before funds to cover the check have been both deposited and cleared (i.e., "available"). Such an "advance" results in the check being paid out of funds

belonging to other clients, which constitutes a conversion. (See, e.g., Matter of Vargas, 85 AD3d 111 [2d Dept 2011]; Matter of Rosenberg, 192 AD2d 871 [3d Dept 1993]). Funds disbursed from a trust account must correlate to specific client funds; an attorney cannot use a trust account that does not contain the specific client funds being disbursed simply because there is enough money in the trust account to cover the disbursement.

- C. An attorney may not have a line of credit or other overdraft protection relating to the attorney trust account due to the prohibition against commingling.
- D. If you receive a Dishonored Check Notice, proactively reach out to the Grievance Committee to discuss and to determine what relevant records might need to be supplied to the Committee relating to the transaction at issue. Do not assume that a “minor” issue with the transaction will be ignored, or that a “bank error” might be found; a Dishonored Check Notice will not go away without documentation concerning the transaction or alleged “bank error.”
- E. Earned fees must be withdrawn promptly from the trust account. Allowing legal fees to remain on deposit with client funds constitutes improper commingling of personal and client funds. (See Matter of Friedman, 279 AD2d 147 [2d Dept 2000]).
- F. Rule 1.15 (c) requires lawyers to promptly pay or deliver to a client or third person, as requested by the client or third person, funds or property in possession of the lawyer that the client or third person is entitled to receive. Many attorneys are not aware that their fiduciary duty to third persons may take precedence over the client’s instructions regarding funds or property held in trust.
- G. ATM cash withdrawals from trust accounts are prohibited, as are checks payable to cash. (Rule 1.15 [e]; see Matter of Scott, 263 AD2d 125 [2d Dept 1999]).
- H. Properly label your trust account. Trust account checks and deposit slips must contain the title “Attorney Trust Account,” “Attorney Special Account,” or “Attorney Escrow Account” (Rule 1.15 [b] [2]). You can add further descriptive information (“IOLA Account,” e.g.) below this title, but the account must be labeled with one of these titles.
- I. Publications available on the website of the Lawyers’ Fund For Client Protection, <http://www.nylawfund.org/pubs.html>, provide detailed guidance on proper handling of attorney trust accounts.

III. Fees/Retainers/Billing

- A. Clear communication is required at the outset of the representation with respect to the scope of the representation and “the basis or rate of the fee and expenses for which the client will be responsible” (Rule 1.5 [b]).

- B. A retainer agreement/engagement letter is required for all matters in which the expected fee is greater than \$3,000 (22 NYCRR Part 1215).
- C. An attorney cannot “enter into an arrangement for, charge or collect”, among other things: (1) a contingent fee in a criminal case; or (2) a “nonrefundable” retainer fee (Rule 1.5 [d] [1], [4]).
- D. In Domestic Relations matters, both a retainer agreement and an executed Statement of Client’s Rights and Responsibilities is required at the outset of the representation; without a written retainer agreement, an attorney in a Domestic Relations matter may not collect any fee (Rule 1.5 [d] [5], [e]; 22 NYCRR Part 1400). In addition, billing is **REQUIRED** in Domestic Relations matters every 60 days, regardless of whether any work has been done in that 60-day period (22 NYCRR 1400.3 [9]). Sixty-day billing ensures that an attorney updates the client concerning progress in Domestic Relations matters.

IV. Failure to Supervise

- A. Rules 5.1, 5.3 – An attorney/firm is required to oversee lawyers and non-lawyers and ensure compliance with the Rules. Thus, attorneys are obligated, among other things, to oversee the bookkeeping and accounting practices of the law firm, and can be held responsible for the actions of other lawyers and non-lawyer employees of the firm.
 - 1. Lawyers have been censured (or even suspended) for failing to adequately supervise the conduct of non-attorneys. (See, e.g., Matter of Galasso, 19 NY3d 688 [2012]; Matter of Laub, 136 AD3d 104 [4th Dept 2015]; Matter of Bushorr, 274 AD2d 107 [4th Dept 2000]).
 - 2. Non-lawyer office staff may not be authorized signatories or be given "permission" to sign the attorney's name on trust account checks.
 - 3. A lawyer may allow a paralegal to use a signature stamp in limited circumstances as long as attorney closely supervises the delegated work and maintains complete professional responsibility for acts of the paralegal. *NYSBA Op. # 693*.

V. Dishonesty, Fraud, Deceit, Misrepresentation, and Other Misconduct

- A. Rule 8.4 (b) – a lawyer shall not engage in illegal conduct that adversely reflects on the lawyer’s honesty, trustworthiness, or fitness as a lawyer.
- B. Rule 8.4 (c) – a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation (even if not illegal). Conduct may include, e.g., false statements to clients or third persons, often to conceal neglect of legal matters.
- C. Rule 8.4 (d) - a lawyer shall not engage in conduct that is prejudicial to the

administration of justice. Conduct may involve creation of false documents (including backdating documents or notarizing a document not signed in lawyer's presence) to conceal a lawyer's neglect. The Rule is also implicated by a failure to adhere to Court directives, or failure to cooperate with the Grievance Committee.

- D. Rule 8.4 (h) – a lawyer shall not engage in any other conduct that adversely reflects on the lawyer's fitness as a lawyer. This provision usually arises in conjunction with violations of other rules.
- E. Rule 8.3 (a) – Lawyers who know that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer shall report such knowledge to a tribunal or other authority empowered to investigate such violation.

VI. Dealing With Complaints by Clients

- A. If a client files a grievance complaint, it does not relieve the attorney of the obligation to continue to diligently pursue the representation of the client!
- B. An attorney may not condition the settlement of a fee dispute or civil claim on an agreement to withdraw a disciplinary complaint. (See Matter of Pobiner, 240 AD2d 67 [2d Dept 1998]; Matter of Finn, 223 AD2d 333 [2d Dept 1996]).
- D. It is improper for an attorney to dissuade a complainant from testifying in a disciplinary proceeding or to induce withdrawal of the complaint. (See Matter of Moore, 197 AD2d 254 [1st Dept 1994]).
- E. Ethics complaints and investigations often trigger fear, anger, defensiveness, and other strong emotions in lawyers. Respond to the complaint factually and dispassionately, and if possible, attempt to resolve any misunderstandings that might have led the client to file the complaint. In many cases, a client's claim that an attorney failed to communicate or neglected a matter can be decisively rebutted with evidence demonstrating communications and actions taken in the matter. Emotional and defensive responses to grievance complaints do not serve respondent attorneys well in proceedings before the Grievance Committee, and are not viewed well by the Court if formal charges are filed.

VII. Failure to Cooperate

- A. **DO NOT IGNORE CORRESPONDENCE FROM THE GRIEVANCE COMMITTEE!** Failure to respond to inquiries by the Attorney Grievance Committee staff is a basis for a separate charge of misconduct (based on violations of Rules 8.4 [d] and 8.4 [h]). The overwhelming majority of grievance complaints are resolved short of public discipline, but failure to cooperate can lead to the filing of formal disciplinary charges.

- B. Failure to respond to a subpoena or otherwise cooperate with disciplinary authorities is a basis for interim suspension (22 NYCRR § 1240.9 [a]).

VIII. Impairment

- A. Lawyers with impairment often don't see, or don't admit, that their ability to represent clients has been impacted by a physical or mental condition or substance/alcohol use. Thus, the signs of impairment often show up through actions (or inaction) that implicate the other Rules of Professional Conduct outlined above.

Such actions/inaction might include:

- Repeatedly missing deadlines or asking for adjournments
- Arriving late to meetings/hearings/court appearances
- Failing to return phone calls, emails, or mail
- Persistent forgetfulness or procrastination
- Deteriorating work performance
- Absenteeism
- Changing interpersonal behavior
- Complaints from clients or co-workers
- Commingling or misappropriating trust funds
- Making false representations or creating false documents to conceal neglect

As stated in ABA Formal Opinion 03-429, "[i]mpaired lawyers have the same obligations under the Model Rules as other lawyers. Simply stated, mental impairment does not lessen a lawyer's obligation to provide clients with competent representation." Thus, except where a court's rules require permission to withdraw and permission is not granted (Rule 1.16 [d]), a lawyer **shall** withdraw from the representation of a client when "the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client" (Rule 1.16 [b] [2]). A lawyer **may** withdraw from representing a client when "the lawyer's mental or physical condition renders it difficult for the lawyer to carry out the representation effectively" (Rule 1.16 [c] [9]). Pursuant to 22 NYCRR 1240.14, the Court may enter an order immediately suspending a lawyer from the practice where there has been a judicial determination or other order of incapacity. (Reinstatement of an incapacitated attorney is governed by 22 NYCRR 1240.17.)

When terminating the representation pursuant to Rule 1.16 (whether mandatory or permissive), a lawyer must take all steps practicable to avoid foreseeable prejudice to the client, including delivering all property and papers to which the client is entitled and refunding fees that have not been earned (Rule 1.16 [e]).

- B. Diversion

Pursuant to 22 NYCRR 1240.11 and 1020.11, when a respondent raises alcohol or substance abuse or other mental or physical health issues as a defense to, or in

mitigation of, a grievance complaint, any party may apply to the Court for an order staying the disciplinary proceedings and diverting the respondent to a monitoring program. The application must be supported by proof that respondent has entered into a monitoring program with NYSBA LAP or an equivalent program approved by the Court in advance of the filing of the motion.

C. Help With Being Resilient and Dealing with Impairment

1. MCBA – Confidential Counseling, Lawyers Concerned for Lawyers, Solace Programs can help in times of need.
<https://mcba.org/?pg=ConfidentialAssistancePrograms>.
Tree of Hope Confidential Counseling Helpline: 585-353-1541
Confidential Lawyers Concerned for Lawyers Helpline: 585-234-1950
2. NYSBA – Lawyer Assistance Program (LAP)
<https://nysba.org/lawyer-assistance-program/>
Hotline: (877) 772-8835
3. Importantly, all of these counseling/assistance services are confidential pursuant to Judiciary Law § 499.

Attorney Trust Accounts and Recordkeeping

A Practical Guide



**The New York Lawyers' Fund
for Client Protection
of the State of New York**

April 2021

Dear Colleague:

We are pleased to contribute this revised version of *A Practical Guide* as a public service for the bar of New York, law-office staffs, and law students.

It is intended as a plain-English guide to current court rules, statutes and bar association ethics opinions on the subject of attorney trust accounts and law office recordkeeping. This brochure provides a summary of the applicable rules and standards when a lawyer holds client money and escrow funds. It is not a substitute for the black-letter provisions of the New York Rules of Professional Conduct or court rules in each of the four judicial departments in the State.

A Practical Guide was first published in April 1988, with the help of the Committee on Professional Ethics of the New York County Lawyers' Association. This ninth edition is prompted by judicial decisions and rule changes that have occurred since the last publication in January 2015.

This brochure may be reproduced without further permission of the Lawyers' Fund, in connection with any educational, law office or bar association activity. We hope you find *A Practical Guide* to be informative and helpful in your practice.

Eric A. Seiff, Chairman

Anthony J. Baynes, Peter A. Bellacosa,
Stuart M. Cohen, Patricia L. Gatling, Gary
M. Greenberg, Lisa L. Hutchinson,
Trustees

What are a lawyer's ethical obligations regarding client funds?

A lawyer in possession of client funds and property is a fiduciary.¹ The lawyer must safeguard and segregate those assets from the lawyer's personal, business or other assets.

A lawyer is also obligated to notify a client when client funds or property are received by the lawyer. The lawyer must provide timely and complete accountings to the client, and disburse promptly all funds and property to which the client is entitled. A client's non-cash property should be clearly identified as trust property and be secured in the lawyer's safe or safe deposit box.

These fiduciary obligations apply equally to money and property of non-clients which come into a lawyer's possession in the practice of law.

What is an attorney trust account?

It's a "special" bank account, usually a checking account or its equivalent, for client money and other escrow funds that a lawyer holds in the practice of law. A lawyer can have one account, or several, depending on need. Each must be maintained separately from the lawyer's personal and business accounts, and other fiduciary accounts, like those maintained for estates, guardianships, and trusts.

An attorney trust account must be maintained in a banking institution located within New York State; that is, a "state or national bank, trust company, savings bank, savings and loan association or credit union". Out-of-state banks may be used only with the prior and specific written approval of the client or other beneficial owner of the funds. In all cases, lawyers can only use banks that have agreed to furnish notices

¹ 22 NYCRR Part 1200 (Rule 1.15). The Appellate Divisions' Rules of Professional Conduct are published in 22 NYCRR Part 1200; *McKinney's Judiciary Law* (Appendix); and *McKinney's New York Rules of Court*.

of overdrafts or dishonored checks pursuant to statewide court rules.² In addition, court rules prohibit attorneys from carrying overdraft protection on attorney trust, special and escrow accounts.

These rules also require lawyers to designate existing or new bank accounts as either **Attorney Trust Account**, **Attorney Special Account**, or **Attorney Escrow Account**, with pre-numbered checks and deposit slips imprinted with that title. These titles may be further qualified with other descriptive language. For example, an attorney can add “IOLA Account” or “Closing Account” below the required title.³

What is the purpose of an attorney trust account?

To safeguard clients' funds from loss, and to avoid the appearance of impropriety by the lawyer-fiduciary. The account is used solely for funds belonging to clients and other persons incident to a lawyer's practice of law.

Funds belonging partly to a client and partly to the lawyer, presently or potentially, must also be deposited in the attorney trust account. The lawyer's portion may be withdrawn when due, unless the client disputes the withdrawal. In that event, the funds must remain intact until the lawyer and client resolve their dispute.

Withdrawals from the attorney trust account must be made to named payees, and not to cash. Such withdrawals shall be made by check or, with the prior written approval of the party entitled to the proceeds, by bank transfer.⁴ A lawyer may not issue a check from an attorney escrow account drawn against a bank or certified check that has not been deposited or has

not cleared.⁵ A lawyer is also not permitted to make an ATM withdrawal from a client funds account. Deposits by ATM may be permitted if the attorney carefully reviews and adequately documents the deposit transaction, and otherwise complies with the records retention requirements of Rule 1.15.⁶

Only members of the New York bar can be signatories on the bank account. In certain instances, a lawyer may allow a paralegal to use the lawyer's signature stamp to execute escrow checks from a client trust account so long as the lawyer supervises the delegated work closely. The lawyer though remains completely responsible for any misuse of funds.⁷ An attorney is also permitted to electronically sign escrow checks provided the attorney reviews and approves issuance of an escrow account check with his/her digitized signature.⁸

A lawyer or law firm may authorize non-legal staff members to open escrow sub-accounts and to transfer funds from sub-accounts to master accounts provided the lawyer/law firm exercises close supervision. Withdrawals, however, may only be authorized by an admitted attorney. The attorney maintains professional responsibility for the conduct of non-lawyer staff.⁹

What about bank service charges?

A lawyer may deposit personal funds into the attorney trust account that are reasonably sufficient to maintain the account, including bank service charges.¹⁰

² 22 NYCRR Part 1200 (Rule 1.15 (b)(1)). The Dishonored Check /Overdraft Notice Reporting Rules, effective January 4, 2021, are reported at 22 NYCRR Part 1300.

³ 22 NYCRR Part 1200 (Rule 1.15 (b)(2)).

⁴ 22 NYCRR Part 1200 (Rule 1.15 (e)).

⁵ See, NYSBA Op. 737 (2001).

⁶ See, NYSBA Op. 759 (2002).

⁷ See, NYSBA Op. 693 (1997).

⁸ See, NYSBA Op. 1114 (2017)

⁹ See, NYSBA Op. 1060 (2015)

¹⁰ 22 NYCRR Part 1200 (Rule 1.15(b)(3)).

Should interest-bearing accounts be used?

Lawyers, as fiduciaries, should endeavor to make client funds productive for their clients. By statute, every lawyer has complete discretion to determine whether client and escrow funds should be deposited in interest-bearing bank accounts.¹¹

For funds nominal in amount, or which will be held only briefly by a lawyer or law firm, the statute authorizes their deposit in so-called IOLA bank accounts.

But lawyers may also establish interest-bearing accounts for individual clients. For all client funds, lawyers may use pooled accounts in banks which have the capability to credit interest to individual client sub-accounts. A lawyer or law firm may also do the calculations necessary to allocate interest to individual clients or other beneficial owners.

What is IOLA?

IOLA is the acronym for the Interest On Lawyer Account Fund and program.¹² IOLA is a state agency which uses interest on IOLA attorney trust accounts to fund non-profit agencies which provide civil legal services for the poor, and programs to improve the administration of justice.

The IOLA account is designed for nominal and short-term client deposits which, in the sole discretion of the attorney, would not generate income for the client-owner, net of bank fees and related charges.¹³

A lawyer's participation in IOLA has no income tax consequences for the lawyer, or for the client. In addition, IOLA assumes the cost of routine bank service charges and fees on the

account. IOLA's offices are at 11 E. 44th Street, Suite 1406, New York, NY 10017. Telephone (646) 865-1541 or 1-800-222-IOLA. The IOLA Fund also has a site on the internet at www.iola.org.

FDIC Insurance and Attorney Trust Accounts

Attorneys are not required by court rules to deposit client funds in an FDIC insured banking institution. Nevertheless, as a fiduciary of client funds, an attorney is wise to consider FDIC insured institutions in order to provide an added layer of protection. A lawyer who fails to consider the relative safety of a depository banking institution might be exposed to civil liability.¹⁴

The Federal Deposit Insurance Corporation (FDIC) provides insurance coverage to various types of deposit accounts. The FDIC considers attorney escrow accounts as single accounts. An attorney must comply with New York record keeping rules to demonstrate the fiduciary nature of an escrow account in order to extend FDIC coverage to individual client deposits.¹⁵

FDIC coverage of depositor funds is in the aggregate. Lawyers must therefore consider if their client has other funds on deposit with the lawyer's depository bank. If a client has accumulated deposits in excess of FDIC coverage, then lawyers should discuss deposit alternatives with their client.

In light of an ever-changing financial landscape, practitioners are encouraged to visit the FDIC's website at www.fdic.gov to obtain the most current rules regarding available insurance coverage.

¹¹ Judiciary Law §497.

¹² State Finance Law §97-v; Judiciary Law §497.

¹³ 21 N.Y.C.R.R. 7000.2(e).

¹⁴ See, *Bazinet v. Kluge*, 14 A.D.2d 324, 788 NYS 2d 77 (2005).

¹⁵ See, 12 CFR § 330.5 and FDIC Advisory Opinion 98-2, June 16, 1998.

How should large trust deposits be handled?

When a client's funds and the anticipated holding period are sufficient to generate meaningful interest, a lawyer may have a fiduciary obligation to invest the client's funds in an interest-bearing bank account.¹⁶

In that case, prudence suggests that a lawyer consult with the client or other beneficial owner. And when dealing with large deposits and escrows, lawyers and clients should be mindful of federal bank deposit insurance limits.¹⁷

There may also be income tax implications to consider. Using the law client's social security or federal tax identification number on the bank account can avoid tax problems for the lawyer.

May a lawyer retain the interest on an attorney trust account?

No. A lawyer, as a fiduciary, cannot profit on the administration of an attorney trust account. While a lawyer is permitted to charge a reasonable fee for administering a client's account, all earned interest belongs to the client. A lawyer's fee cannot be pegged to the interest earned.¹⁸

Am I permitted to maintain overdraft protection on my Attorney Trust, Special or Escrow Account?

No. Effective April 1, 2021, Court Rules prohibit overdraft protection on attorney trust, special or escrow accounts.

What happens if a trust account is overdrawn or a check bounces?

An overdraft or bounced check on an attorney trust account is a signal that law client funds may be in jeopardy. Banks in New York State report overdrafts/dishonored checks on attorney trust accounts to the Lawyers' Fund for Client Protection. Notices that are not withdrawn due to bank error are referred by the Lawyers' Fund to the proper attorney grievance committee for such inquiry as the committee deems appropriate.

These bank notices are required by the Appellate Divisions' Overdraft/Dishonored Check Notice Reporting Rules.¹⁹ A "dishonored" instrument is a check which the lawyer's bank refuses to pay because of insufficient funds in the lawyer's special, trust, or escrow account. An overdraft occurs when there are insufficient funds in an account to cover a draft, but the bank extends credit to the depositor to cover the account deficiency.

The Lawyers' Fund holds each overdraft/dishonored check notice for 10 business days to permit the filing bank to withdraw a report that was sent in error. However, the curing of an insufficiency of funds by a lawyer or law firm will not constitute reason for the withdrawal of an overdraft/dishonored check notice.

Are there special banking rules for down payments?

Yes. A buyer's down payment, entrusted with a seller's attorney pending a closing, generally remains the property of the buyer until title passes. The lawyer-escrow agent is serving as a fiduciary, and must safeguard and segregate the buyer's down payment in a special trust account.

¹⁶ See, NYSBA, Comm. on Prof. Ethics, Ops. 554 (1983), 575 (1986); Assoc. Bar, NYC, Comm. on Prof & Jud. Ethics, Op. 86-5 (1986).

¹⁷ See, 22 NYCRR Part 1200 (Rule 1.15 (b)(1)), and *Bazinet v. Kluge*, 14 A.D.2d 324, 788 NYS 2d 77 (2005).

¹⁸ NYSBA, Ops. 532 (1981), 582 (1987); Assoc. Bar, NYC, Op. 81-68 (1981).

¹⁹ 22 NYCRR Part 1200 (Rule 1.15 (b)(1)). The Overdraft/Dishonored Check Notice Reporting Rules, effective January 4, 2021, are reported at 22 NYCRR Part 1300.

The purchase contract should make provisions for depositing the down payment in a bank account, the disposition of interest, and other escrow responsibilities.

A 1991 statute codifies the fiduciary obligations of lawyers and realtors who accept down payments in residential purchases and sales, including condominium units and cooperative apartments.²⁰

This statute requires that the purchase contract identify: (1) the escrow agent; and (2) the bank where the down payment will be deposited pending the closing.

There are also special rules, promulgated by the New York State Department of Law, where escrow accounts are established in connection with the conversion of buildings into condominiums and cooperatives.²¹

Are other bank accounts needed?

Yes. A practitioner needs a business account as a depository for legal fees, and to pay operating expenses. A typical designation is **Attorney Business Account**. Lawyers also need special bank accounts when they serve as fiduciaries for estates, trusts, guardianships, and the like.

Where are advance legal fees deposited?

This depends upon the lawyer's fee agreement with the client. The presumption in New York State is that the advance fee becomes the lawyer's property when it is paid by the client. As such, the fee should be deposited in the business account, and not in the attorney trust account.

If, on the other hand, by agreement with the client, the advance fee remains client property until it is earned by the lawyer, it should be deposited in the attorney trust account, and withdrawn

by the lawyer or law firm as it is earned.²²

In either event, a lawyer has a professional obligation to refund unearned legal fees to a client whenever the lawyer completes or withdraws from a representation, or the lawyer is discharged by the client.²³

It is good business practice to deposit advance legal fees in a non-escrow fee account and draw upon the deposit only when legal fees are earned. This practice will ensure that a lawyer will be able to fulfill the professional obligation to refund unearned legal fees.

In the event of a fee dispute, court rules provide that a client may elect mandatory fee arbitration in most civil representation which commenced on or after January 1, 2002 when the disputed amount is between \$1,000 and \$50,000.²⁴ Fee arbitration is also mandatory in fee disputes in domestic relations matters.²⁵

And advances from clients for court fees and expenses?

This also depends upon the lawyer's fee agreement with the client. If the money advanced by the client is to remain client property until it is used for specific litigation expenses, it should be segregated and safeguarded in the attorney trust account, or in a similar special account.

How are unclaimed client funds handled?

If a lawyer cannot locate a client or another person who is owed funds from the attorney trust account, the lawyer is required to seek a judicial order to fix the lawyer's fees and disbursements, and to deposit the client's share with the Lawyers' Fund for Client Protection.²⁶

²² See, NYSBA Op. 570 (1985) and Op. 816 (2007).

²³ 22 NYCRR Part 1200(Rule 1.16 (e)).

²⁴ 22 NYCRR Part 137

²⁵ 22 NYCRR Part 136

²⁶ 22 NYCRR Part 1200 (Rule 1.15 (f)).

²⁰ See, General Business Law, Article 36-c, §§778, 778-a.

²¹ See, General Business Law, §352-e (2-b).

To preserve client funds, the Lawyers' Fund will accept deposits under \$1,000 without a court order.²⁷

In 2017, the New York Lawyers' Fund amended its Regulations to authorize the Trustees to utilize, for the benefit of victims, unclaimed missing client and deceased attorney escrow deposits held by the Lawyers' Fund for over five years, and such deposits held for unknown clients, pursuant to Rules 1.15 (f) and 1.15 (g) of the Rules of Professional Conduct.²⁸

What happens if a sole signatory dies?

The Supreme Court has authority to appoint a successor signatory for the attorney trust account. The procedures are set forth in court rules adopted in 1994.²⁹

What accounting books are required?

No specific accounting system is required by court rule, but a basic trust accounting system for a law firm consists of a trust receipts journal, a trust disbursements journal, and a trust ledger book containing the individual ledger accounts for recording each financial transaction affecting that client's funds.

At a minimum, each client's ledger account should reflect the date, source, and a description of each item of deposit, as well as the date, payee, and purpose of each withdrawal.

Whether it be an attorney trust account or the lawyer's operating account, each should be maintained daily and accurately to avoid error. All documents like duplicate deposit slips, bank statements, canceled checks, checkbooks and check stubs must be preserved for seven years.

²⁷ See, Bar Assoc. Erie Co., Cttee. Prof. Ethics Op. #xx1-1/15/04
²⁸ 22 NYCRR Part 7200.4 (a)

²⁹ 22 NYCRR Part 1200 (Rule 1.15 (g)).

Internal office controls are essential. It is good business practice to prepare a monthly reconciliation of the balances in the trust ledger book, the trust receipts and disbursements journals, the bank account checkbook, and bank statements.

Attorneys or firms who engage the services of non-lawyer bookkeepers maintain personal responsibility to supervise non-lawyer employees and exercise reasonable management and supervisory authority for the appropriate handling of the firm's attorney escrow accounts. This supervision includes regular review, audit and reconciliation by the attorney of those client fund accounts.³⁰

What bookkeeping records must be maintained?

Every lawyer and law firm must preserve³¹, for seven years after the events they record:

- books of account affecting all attorney trust and office operating accounts; and
- original checkbooks and check stubs, bank statements, pre-numbered canceled checks and duplicate deposit slips³²

Also, copies of:

- client retainer and fee agreements;
- statements to clients showing disbursements of their funds;
- records showing payments to other lawyers or non-employees for services rendered; and

³⁰ *Mtr. Galasso*, 19 N.Y.3d 832, 968 N.E.2d 998, 945 N.Y.S.2d 642 (2012).

³¹ 22 NYCRR Part 1200 (Rule 1.15 (d)).

³² N.B. With the advent of electronic banking and Check 21, the 'substitute check' provided by participating banking institutions is considered the legal equivalent of the canceled check and thus the original record that must be maintained by 22 NYCRR Part 1200 (Rule 1.15 (d)). See also, NYSBA Op. 758.

· retainer and closing statements filed with the Office of Court Administration.

“Copies” means original records, photo copies or other images that cannot be altered without detection. Records required to be maintained by the Rules in the form of “copies” may be stored by reliable electronic means. Records that are initially created by electronic means may be retained in that form. Other records specifically described by the Rules that are created by entries on paper books of account, ledgers or other such tangible items should be retained in their original format.³³

Lawyers have an ethical duty to maintain a client’s confidential information.³⁴ Lawyers employing “cloud” based or electronic storage of client records are cautioned to consider whether such technology is reliable and provides reasonable protection of clients’ confidential information.³⁵

How are these rules enforced?

A violation of a Rule of Professional Conduct constitutes grounds for professional discipline under section 90 of the Judiciary Law. Also, the accounts and records required of lawyers and law firms by court rule may be subpoenaed in a disciplinary proceeding.

Lawyers in the First and Second Judicial Departments are also required to certify their familiarity and compliance with Rule 1.15 in the biennial registration form that is filed with the Office of Court Administration.

What losses are covered by the Lawyers' Fund?

The New York Lawyers' Fund for Client Protection is financed by a \$60 share of each lawyer's \$375 biennial registration fee. The Lawyers' Fund receives no revenues from tax revenues or the IOLA program.

The Lawyers' Fund, established in 1982, is administered *pro bono publico* by a Board of Trustees appointed by the State Court of Appeals.³⁶ The Trustees provide approximately \$8 million in reimbursement each year to victims of dishonest conduct in the practice of law.

The Lawyers' Fund is authorized to reimburse law clients for money or property that is misappropriated by a member of the New York bar in the practice of law. Awards are made after a lawyer's disbarment, and in situations where the lawyer is unable to make restitution. The Fund's current limit on reimbursement is \$400,000 for each client loss.

To qualify for reimbursement, the loss must involve the misuse of law clients' money or property in the practice of law. The Trustees cannot settle fee disputes, nor compensate clients for a lawyer's malpractice or neglect.

Typical losses reimbursed include the theft of estate and trust assets, down payments and the proceeds in real property transactions, debt collection proceeds, personal injury settlements, and money embezzled from clients in investment transactions.

The Lawyers' Fund is located at 119 Washington Avenue, Albany, New York 12210. Telephone (518) 434-1935, or 1-800-442-FUND. The Lawyers' Fund also has a site on the internet at www.nylawfund.org.



³³ See, NYSBA Ops. 680 (1996), 758 (2002).

³⁴ 22 NYCRR Part 1200 (Rule 1.6).

³⁵ See, NYSBA Ops. 842 (2010), 940 (2012) and, *The Cloud and the Small Law Firm: Business, Ethics and Privilege Considerations*, NYCBA Committee on Small Law Firms, (November 2013).

³⁶ Judiciary Law, §468-b; State Finance Law, §97-t.



The Lawyers' Fund for Client Protection

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