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My Practice in Mexico City

By Gil Anav

Explain your current legal practice.
I practice in Mexico City as part of a small law firm based in Los Angeles. I generally handle two types of matters. The largest part of the practice consists of advising Mexican companies in their commercial transactions with American and other foreign partners and handling corporate work for Mexican clients with American subsidiaries. This part of the practice also involves

counseling the Mexican clients on litigation matters in the United States, basically taking on the role of in-house counsel and coordinating with American litigation counsel.

I also handle some in-bound work for American individuals and companies with interests in Mexico, which largely consists of commercial transactions, trademark registrations, and immigration work.

Who are your clients?
I work with a couple of large multinational companies in the entertainment and pharmaceutical fields that provide the mainstay of my practice. I also work with midsize companies with export-oriented businesses and some individuals.

What role does technology play in the specific needs of having to apply U.S. law and/or interact with clients in a different country from where you work?
Thanks to the Internet, I have the same access to U.S. legal information that I would have if I practiced within the United States and I can coordinate with American colleagues pretty much in the same way as if I were working down the hall. This is crucially important to my ability to provide a high level of legal services to my clients while at the same time being located close to them. Most of my communication with clients is also through e-mail or videoconference, so technology is crucial there as well.

What is the most surprising difference you have encountered between the laws of the U.S. and the country where you currently practice?
A good deal of substantive Mexican law is actually heavily influenced by U.S. and international law and practice, especially in the commercial and intellectual property areas, so the difference in the substance of legal norms is not as great as you might think. The chief difference I've encountered is in the procedural arena, where you can run into an emphasis of form over substance in the courts that can be really frustrating for lawyers or business persons from abroad. The result is that I have to warn people that the outcome of disputes will often turn on technical issues that have little to do with the facts of the case. As a practical matter, I feel that this gives the defendant a built-in advantage as compared to litigating the same dispute in a U.S. forum. Another big difference is in administrative procedures, which can sometimes be agonizingly slow.

How did you bridge the cultural differences on the practice of law in the U.S. and in the place where you currently practice?
Well, I married a Mexican attorney, which is one way to go about it, I suppose. In general, I've found that there's more of a friendship component to attorney-client relationships here than in the U.S., which I actually find to be one of the more pleasant aspects of practicing in Mexico.

Based on your personal experience, please share a word of advice to the solo and small firm practitioners in the U.S. on how to better interact with foreign attorneys, both as opposing counsel and as cocounsel.
In general, I'd say that in Mexico (as in other countries), Americans tend to come across as too direct and too quick to get down to business. It's definitely a mistake to sit down to lunch and start talking about the business at hand before the food has even been ordered. First take the time to get to know the other person and have them feel comfortable with you. Business can wait until after the main course is finished.

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My Practice in Ecuador

By Bruce Horowitz

Explain your current legal practice.
I know of two U.S.-trained lawyers (both of whom were Ecuadorian citizens who studied and graduated from U.S. law schools), whose U.S. J.D.s were

used as the basis for Ecuadorian law degrees after several years of part-time study at Ecuadorian law schools. When I came to Ecuador in 1985, it would have taken six years of full-time study in order to get an Ecuadorian law degree. I am not licensed to practice in Ecuador, but I am not prohibited from being a partner in our Ecuadorian law firm, PAZ HOROWITZ, Abogados (now in its 20th year). Before coming to Ecuador, I practiced law in Alaska and Ohio for nine years, where I mostly handled litigation and law office management. In Ecuador, I could not litigate, but I could manage a legal department, or a law firm. Therefore, I started off managing the IP section of a large local firm. After that, with Ecuadorian law partners, I founded and have managed our own firm. In addition to management responsibilities, and work on international IP and transnational contract work, I have also worked on international employment and agency matters, litigation risk and settlement analysis, and, in particular, on Anti-corruption Compliance and Foreign Corrupt Practices Act matters.

Who are your clients?
Mainly multinational and foreign corporations, and local and foreign NGOs.

What role does technology play in the specific needs of having to apply U.S. law and/or interact with clients in a different country from where you work?
When I first began working in law firms in Ecuador, the most advanced technology was the use of cables. Everyone was able to go home for lunch and even have siestas. Clients did not expect to receive replies for at least two weeks, and a three- or four-week delay in responses was considered normal. A couple of years later, cables were no longer used, and faxes brought the expected response time down to two weeks. With e-mails and net2phone applications, clients now expect all initial responses the same day. Technology does not yet play any role in applying U.S. law locally. Initially (20 years ago) I thought that we were well-positioned to economically handle U.S. legal matters such as U.S. trademark filings and Blue Sky matters. However, even though we filed the first Ecuadorian trademark applications electronically in the United States, there was not enough locally-based work to make U.S. filings interesting. For a while there was a rush of U.S. interest in expensive Blue Sky Law software, but it quickly passed, and the U.S. firms were concerned about their liability for work done overseas (this was before India took the reins of this kind of work).

What is the most surprising difference you have encountered between the laws of the U.S. and the country where you currently practice?
The most surprising differences between the U.S. common law legal system and the application of the civil law system were:

- The lack of case law as an important influence on the legal system;
- The lack of extensive rules of evidence, due to the non-existence of a jury system;
- The high status of law professors who have written treatises on the law versus the low status of judges (due originally to the Napoleonic Code emphasis on positive law that should not be "interpreted" under the civil law system;
- The lack of development of "tort" law, and the high development of "obligations" law in the civil law system.

How did you bridge the cultural differences in the practice of law in the U.S. and in the place where you currently practice?
I said little and listened a lot to local attorneys. In a foreign language, the last intelligence that you develop is your understanding of jokes. It takes about three years to be able to finally express your own sense of humor. I could be wrong, but I suggest smiling but never laughing at a joke you do not understand.

Based on your personal experience, please share a word of advice to the solo and small firm practitioners in the U.S. on how to better interact with foreign attorneys, both as opposing counsel and as cocounsel.
Lawyer culture, that is the culture of the professional practice of law, is very similar no matter whether you were trained in the civil law or the common law. Lawyers tend to think similarly in both systems. They also tend to overly develop verbal and written communications, based on their fear of not using the particular word that some judge may require in future litigation, and based on their fear that they cannot charge their clients sufficiently if their clients understand everything that the lawyer has said or written. To better

interact with foreign opposing counsel or cocounsel, you should respond quickly and clearly to them, and never denigrate their legal system.

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Around the World-Solo

By Paul Karl Lukacs

Explain your current legal practice.
I travel around the world-hence the business name "The Nomad Lawyer"—while helping other lawyers with their practices. I research memos, draft motions and oppositions, respond to discovery—whatever work can be done and delivered by phone and Internet. It's a way for practicing lawyers to have the benefits of a senior associate without the overhead.

Who are your clients?
Generally, solos and small firm practitioners. There are times when there's too much on the desk, with deadlines looming. That's when attorneys e-mail me. I might be in Malaysia or Macedonia, but I respond rapidly. My clients tend to be located in the United States, so I am usually available to handle "overnight" assignments because it's the beginning or middle of my day.

What role does technology play in the specific needs of having to apply U.S. law and/or interact with clients in a different country from where you work?
My practice and lifestyle are possible only because of technology. I couldn't have done this 10 years ago. Before, I would have had to locate myself in a city with a large law library. Now, most applicable law is available online, and, if there's an obscure decision or statute involved, I can have a colleague in the jurisdiction pull it, scan it, and e-mail it to me.

What is the most surprising difference you have encountered between the laws of the U.S. and the country where you currently practice?
My business makes intuitive sense to lawyers in the United States, who are trained in the billable hour. They pay me half the rate of a senior associate, bill my time out at the full rate, and enjoy a 100 percent profit. The business model is harder to fit into English-derived barrister or solicitor systems in which the advocate is paid a flat fee, a statutory percentage, or a "brief fee" followed by a "refresher."

How did you bridge the cultural differences on the practice of law in the U.S. and in the place where you currently practice?
After graduating from Berkeley Law, I practiced for a decade in Los Angeles and San Francisco-places where you are defined by the size of your firm and the number of hours you bill. In other countries—as with many solos in the States—there's more emphasis on living a balanced life and on contributing to the community. So, on a visceral level, I "connect" with solos, who understand (more so than many big firm lawyers) why a person would prefer to draft motions to dismiss in a lodge near a Chinese forest rather than in a modern office tower.

Based on your personal experience, please share a word of advice to the solo and small firm practitioners in the U.S. on how to better interact with foreign attorneys, both as opposing counsel and as cocounsel.
Identify good people and trust them. The non-U.S. attorneys I deal with are steeped in their legal cultures, which often employ assumptions, logic, and tactics quite different from that used in the U.S. If your Delhi cocounsel is wording her filings in the passive voice and appears to be backing into arguments, there's usually a good reason why she's not employing the in-your-face advocacy used in Manhattan Supreme Court.

Wherever he is in the world, **Paul Karl Lukacs** can be reached at

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My Practice in Japan

By Norman R. Solberg

Current Legal Practice
I'm in solo practice as an American lawyer licensed in Osaka, Japan, one of its largest cities and the center of the Kansai region that includes Kyoto, Kobe, and Nara.

After a career in large multinational companies that took me all over the world and ultimately to a general counsel position, I went back into private practice with no clients but a plan to use my ties to Japan to build a roster. My connections to a top executive at Sharp Corporation led him to ask me to come to Osaka to advise the company on how to negotiate international deals. In the end I handled practically every international and high-tech deal that Sharp made over the course of several years, including those with Apple, Intel, Microsoft, IBM, Sun, Silicon Graphics, GE, and H-P. And after 19 years in Osaka, I'm still here.

Clients
The clientele has changed over the years, as might be expected in a society such as Japan's. I focus on business clients—both Japanese and those of other countries—since my background is in international transactions and litigation, M&A (mergers and acquisitions) and corporate law, and I have experience with the intricacies such matters face in cross-border situations. However, I've found that Japanese companies are generally reluctant to retain foreign lawyers unless they are in large international firms. A major reason is due to the country's social customs-managers rely heavily on group consensus and want to make decisions that all support . . . or at least ones that no one will question. A "brand name" is always easier to accept in such an environment.

Thus I also handle matters for individuals and families, such as multistate estate planning and personal issues. These often overlap with business, as most companies in Japan, according to recent surveys, are family-controlled. This is fascinating work where one can make a tangible contribution on many levels.

Often I act as local counsel for lawyers and others in the United States and other countries. The way things are done in Japan, and local expectations on business and personal issues, for that matter, tend to be quite counter-intuitive for those in other countries. Parties simply don't communicate the same way, and it is helpful to have expertise to ensure that things get done smoothly.

Here is an example. A visiting professor from Japan traveled to New York, where he deposited $100,000 for living expenses in a prominent bank. While there he died and his widow then sought to retrieve the funds. Bank officers asked her to send authorization from the executor of the professor's estate. In Japan, wills are uncommon, so the professor died intestate. In New York, one would get a court order naming an executor, but there is no such practice in Japan, where an elaborate system of official family registers makes clear who are the heirs. It took someone who speaks the same language (i.e., a New York-licensed lawyer such as myself who could explain the issue) to get the bank to accept this.

Foreign lawyers who practice in Japan get a special kind of license from the Ministry of Justice that permits them to practice the law of their home countries but not to appear in court or before government agencies or to advise on Japanese law. Those are reserved for Japanese lawyers. (It is not particularly easy to get such a license: It took me a year to obtain mine.) In recent years, the rules have been relaxed so that foreign and Japanese lawyers may have partnerships and each can hire the other, so the restrictions are manageable and make sense.

From my perspective, this works well. I share offices with a group of Japanese lawyers (Bengoshi), administrative and judicial solicitors (Gyosei

Shoshi and Shiho Shoshi), tax lawyers and accountants (Zeirishi), so we can draw upon one another's skills, both on projects and informally. This is not a partnership, but it is fine for me, since, unlike those in a firm, I also draw upon other professionals outside this group in specific cases where I want other expertise or connections.

Most Surprising Difference
Perhaps the most surprising aspect to me of law practice by Bengoshi is their heavy reliance on the "code" system. Japanese law is an amalgam of historic laws, Roman law (especially the German codes), and American law adopted in the 19th and 20th centuries. In counseling clients, Bengoshi always meet in a conference room. On each conference table is a one-volume set of the "seven codes" for ready reference. It is the "authority," and clients seldom question the pronouncements delivered to them. Also on the table is a printed "Schedule of Fees," with tables showing the rates for the various economic values of particular cases. Clients tend not to question those either. In 2004, bar association fee schedules were abolished, but most firms simply adopted their own schedules based on the prior ones. Few lawyers charge by the hour.

Technology
My practice differs some from that of local lawyers. For example, almost everything I do is computerized. Communications, documents, research, scheduling, and billing—it is all done on (Apple) computer equipment. Japanese lawyers do this to a much lesser extent, partly, I think, because typing in kanji characters was adopted at a slower pace.

Advising to Other Solos
I was always interested in international law, and when I first joined a multinational company in Boston, that was a major attraction. It even sent me back to Columbia for a post-graduate program in foreign and comparative law, so I had good training at an early stage. Many teachers were foreigners and constantly noted the relevance of cultural assumptions and differences. As advice for those interested in such work, I'd say 1) get similar training, and, 2) learn your "trade" first, before you go abroad. One needs solid, substantive experience in order to build a useful practice in another country.

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My (Unconventional) Practice in Argentina

By Laurence P. Wiener

On April 6, 2010, my partners and I opened the doors of a law practice in Buenos Aires, Argentina. We declared publicly and privately this would be no conventional law firm. Instead, we looked at our professional association as a new paradigm for legal services. We would emulate the best features of a U.S.-style practice (e.g., open-ended professional partnership, objective criteria in hiring and promotion) but recognize our "organic" origins as a local service provider.

Current Legal Practice
As a legal professional licensed only by the State Bar of California, I am careful to not hold myself out as an Argentine attorney. Still, long gone are the times when Argentina enjoyed fluid access to foreign capital and I could spend most of my time working on U.S.-law financing transactions. To survive professionally I had to find a new place in a completely different Argentine economy. Largely cut off from capital, Argentina prompted me to become a caretaker of long-term foreign investment.

The (necessary) transition from specialist to generalist proved remarkably enriching. Moved from my comfort zone of corporate finance and mergers and acquisitions (M&A), I broadened my knowledge of Argentine corporate, labor, taxation, intellectual property, and regulatory matters This work typically begins with either an M&A transaction or with forming a subsidiary. Either way, clients place a premium on retaining counsel who help them understand local custom and practice, as well as local law.

Clients

Our clients are broadly organized in two groups. Large foreign companies with long-term investment horizons comprise one category; local companies round out the client list. Because of the country's natural wealth and sizable population, our clients span a wide range of manufacturing and production of goods (e.g., mining, fishing, software, alcoholic and soft drink beverages, dairy, and other consumer goods) and services (medical and industrial supplies, tourism, oil and gas support, business consulting, business office services). Not surprisingly, my client focus is directed toward companies and individuals from common law (North America, Oceania, Europe) jurisdictions.

What role does technology play in the specific needs of having to apply U.S. law and/or interact with clients in a different country from where you work?
Technology is essential to our ability to respond to clients. Because our clients are literally located around the world, being "connected" at all times is hugely important. We place great reliance on both handheld and laptop devices to access e-mail, the web, and telephones.

What is the most surprising difference you have encountered between the laws of the U.S. and the country where you currently practice?
I have spent a significant amount of time writing and lecturing on differences between common law and civil jurisdictions. While substantive law concepts are generally familiar to the practitioner from either system, procedural law is a whole different world. It is no mean feat explaining to the common law counterpart why a seemingly meritless claim can proceed to final judgment (no summary judgment) or why all evidence must be declared to the court at the pleadings stage (no party-driven discovery) and why there is no opportunity to cross-examine a witness.

How did you bridge the cultural differences on the practice of law in the U.S. and in the place where you currently practice?
I am not sure that I have bridged cultural differences. I do know that I have made a career of attempting to do so. One prominent tactic I favor is to organize information conceptually to explain context. As an example, there is a fundamental difference between simply telling a client that terminating a poorly performing employee will end up costing thousands of dollars and being able to place that seemingly absurd result in perspective (Argentina labor law is protectionist, employees accrue statutory severance based on years of service, and the job market is liquid compared to more developed economies). I have found that being able to anticipate and manage client expectations through your own knowledge of the client's cultural mindset is a huge competitive advantage.

Another telling anecdote is when a U.S. client withdrew from Argentina and I and colleagues at my former firm were sued personally for more than US$500,000 in employment claims. While the claim was meritless, the client was unwilling to give an indemnity, which my colleagues interpreted as a sign of bad faith and prompted them to want to take action adverse to the client. My comprehension of the client's perceptions allowed me to convince my colleagues that the client, although frightened of an unlimited contingency, would act reasonably and fairly. Eventually calmer heads prevailed and by subordinating our personal interests in favor of the client's we managed to broker a reasonable settlement, collect sizable legal fees, and achieve the client's sincerest appreciation. I lost nights of sleep from worry but the outcome upheld my judgment.

Based on your personal experience, please share a word of advice to the solo and small firm practitioners in the U.S. on how to better interact with foreign attorneys, both as opposing counsel and as cocounsel.
Language and cultural fluency. We have a huge advantage over our competitors by being able to express ourselves fluently in both English and Spanish. Even in the age of electronic mail, the written word remains potent. Clear expression and occasional subtlety are handy tools. As with any meeting of different cultures, understanding the other's perceptions, ways of thinking, and social mores are essential. That, and learning how to properly use a knife and fork (Argentines are very well-mannered), can go a long way.

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