

Avoiding Malpractice Claims Through Better Court Calendaring Techniques

BY JOSEPH C. SCOTT

As the economy continues to struggle, improving efficiencies and reducing risk have become more important than ever for attorneys and their clients. But many sole practitioners and small firm attorneys continue to jeopardize the cases of their clients and their own financial well-being through poor management of the court calendar.

At many firms throughout Texas, the court calendar is an area that can be ripe for improvements. The process of managing the calendar manually takes a great deal of time and is highly prone to error. While no lawyer intentionally misses a court deadline, it does happen with alarming frequency. According to the American Bar Association's most recent *Profile of Malpractice Claims* survey, calendar/deadline-related errors represent the leading cause of legal malpractice claims. Of all malpractice claims filed against attorneys, 17 percent were due to not knowing or not properly responding to the legislated court rules dates; 7 percent for failure to know/ascertain deadlines; 5 percent for failure to calendar properly; and 4 percent for failure to react to the calendar. In the Lone Star State, attorneys who make calendaring errors may find themselves liable under the Texas Deceptive Trade Practices Act.

Even if attorneys manage to avoid court calendaring errors, poor calendaring practices are a drain on productivity. Attorneys and staff can spend a great deal of time figuring out initial court dates, entering them into the calendar, and then re-checking them on a regular basis. This time can be better spent elsewhere.

Best Practices

For many sole practitioners and small law firms, juggling the court calendar can be a particular challenge. Unlike large firms with teams of support staff and specialized IT departments, small firm lawyers often end up doing much,



Illustration by Gilberto Saucedo

if not all, of the calendaring. Taking time away from practicing law and managing the firm in order to focus on court dates can be distracting and difficult.

Determining court dates is simply the first step in the calendaring process. Those dates must then be marked on the calendar, taking into account weekends and holidays on both the federal and local levels. Every calendar in the firm

must be updated accordingly. Then, dates must be checked and consistently re-checked to ensure that nothing has changed and will be missed.

Changing old habits is never easy, but there is no better time to improve the calendaring process. Once a firm has decided to minimize the risk of calendaring errors, several steps should be considered.

First, it is important to understand what types of calendar each attorney and each assistant are using — these can range from paper calendars to the latest applications for PDAs. Once an inventory has been taken, firms should evaluate the programs and calendar types in use. To reduce the chance of errors, every firm should switch to a standardized, electronic firmwide calendar. With a standardized calendar, everyone at the firm is using the same methods and systems, which helps ensure that nothing slips through the cracks. If an attorney or key staff member is out of the office, others at the firm can easily pick up the slack in calendaring duties. Electronic calendars are easier to back up and the data can be transmitted to PDAs, allowing attorneys and staff to receive updates while they are out of the office.

New Technology

Legal calendaring software can also help minimize the risks involved in the calendaring process. Technology is another area where small firms have traditionally been at a disadvantage over their larger firm counterparts, many of whom have rules-based, automatic calendaring programs. In the past, these types of legal-specific calendaring services have been very expensive and required too much technical support to make them practical for many small firms. However, that is no longer the case. Technology and widespread Internet use have put these types of court calendaring services within the reach of even the smallest firms. Some of these programs require no special software and operate on a pay-per-use basis. These programs may only require a few pieces of information to begin working — once critical data about a case has been entered, all of the relevant court dates can be calculated automatically, reducing the risk of human error.

When considering different types of programs, small firms should consider which features are most important and will give them the greatest value. When exploring different methods to calculate dates, law firms should consider whether court dates can be easily and seamlessly integrated and synchronized with their

calendars. They should also consider how far in advance dates can be shown — for many busy attorneys, a new month can sneak up quickly, and attorneys may (electronically) flip a page in their calendar at the end of the month only to realize a critical court date is looming. Attorneys should also consider whether date changes or rule changes can be conveyed automatically.

Just as most attorneys do not want to spend their time working on the court calendar, most do not want to spend any more time than necessary billing back information to clients — some date calculation services can automatically integrate time and billing systems or allow firms to track date searches by client.

When exploring technology options, attorneys should also carefully review all of the available jurisdictions. There is no value in a new system if that system fails to provide the necessary rule sets.

With the right technology and best practices, sole practitioners and small

firms can improve efficiencies and reduce the errors in court calendaring. With the economic pressures faced by both clients and attorneys, reducing court calendaring time and risks will free up more time to focus on achieving the best outcome for every matter.



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