

The Risks and Rewards of Calendaring for Small Firms

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FOR ATTORNEYS THROUGHOUT the San Fernando Valley, the court calendar represents one of the most difficult aspects of law firm management. Ensuring that every attorney and staff member meets every deadline for every matter involves an enormous amount of time and effort. But if law firms fail to invest those resources, the results can be devastating to both attorneys and clients. According to the American Bar Association, calendar/deadline-related errors are the leading cause of legal malpractice claims.

In its most recent report, the ABA found that 16.63 percent of legal malpractice claims were due to not knowing or properly responding to legislated dates. Calendar causes for malpractice include: 7.09 percent due to failure to know or ascertain calendar, 5.19 percent due to a failure to calendar properly, and 4.35 percent due to failure to react to calendar.

For most attorneys and staff, tracking down court dates, properly entering them into the firm calendar and regularly checking those dates is a lengthy and tedious process. Large firms with comprehensive court rules-based calendaring programs enjoy an advantage, since most of the work is done automatically. For firms that are too small to justify the significant costs of a rules-based software package, the calendaring process has to be done manually. Someone at the firm, whether it is a lawyer or staff member, must research court dates via the Web, looking up information in relevant reference guides or through numerous telephone calls. Then, those dates must be entered into the firm-wide calendar, where errors can occur by failing to calculate dates precisely or by not correctly factoring in holidays.

The situation is less onerous for law firms that rarely practice in jurisdictions outside the Valley; but even firms that are very familiar with all of the rules at their local courthouses need to regularly check that dates have not been changed.

To help ease this burden, some smaller firms have adopted simple, non-legal specific calendaring programs. While such programs are an improvement over paper calendars, they can still leave lawyers open to calendaring errors. Even with an electronic calendaring program, someone at the law firm must first verify the dates for each relevant matter, calculate and input court dates by hand, and then enter them into the computer or

PDA. Deadlines must be constantly re-checked and, if the court or a rule change alters a deadline or court date, the entire process must begin all over again. The more complex the case, the more likely errors are to occur.

Fortunately for smaller firms struggling with the court calendar, there are now Internet-based, cost-effective options that do not require any new software or special training. Automated online deadline calculation technology can calculate relevant court dates and electronically populate calendars in seconds, while virtually eliminating the risk of human error. Such Web-based


technology eventually found itself dismissed by the client. In another case, a small New York law firm missed a deadline and tried to excuse its oversight by pointing out that one partner was serving in Iraq at the time, the other was in China adopting a baby and the firm's secretary had gone into premature labor. According to the court, none of these absences amounted to "excusable neglect," and the firm's error cost several malpractice claimants the opportunity to be compensated for damages.

In each of these cases, an automated deadline calculation method would have helped the law firms avoid the client's ire

or court sanctions. With such online systems, attorneys can quickly and painlessly generate a complete list of court deadlines by entering only a few pieces of information, such as the area of law, court location and the date of an event, such as a trial. With that initial information, the deadline calculation service produces a full list of deadlines.

This information can then be printed, downloaded directly to the user's desktop calendar, such as Microsoft Outlook, or sent via email and uploaded into attorneys' PDAs.

Such deadline calculation services also address a major concern for those who oversee the court calendar – a changing court date. The most sophisticated programs will automatically send out email notifications with a convenient link to run new searches for updates to court rules. Rather than taking the time to continuously check and re-check dates, the process is done with virtually no effort by those at the law firm.

Instead of scrambling to stay on top of the court calendar, attorneys at smaller firms can master the task with only an Internet connection. These services save time and reduce errors, while protecting clients and law firms alike from the dangers of missing a crucial deadline. 

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Joseph Scott will explore Calendaring as a Risk Management Strategy at the SFVBA's 12th Annual MCLE Marathon on January 16, 2009 at Pierce College.

technology offers reliable docketing information that includes actual court rules. This information can then be downloaded into a calendaring program to create accurate deadlines for filing legal documents with the court and opposing parties. With many of these applications, court dates can be accessed through any Web browser on a pay-per-use basis, and the jurisdictions available cover a wide range of geographic and practice areas.

The Trouble with Calendars

As lawyers know all too well, the ramifications of missing a court date can be devastating to the client's case. And anything that negatively impacts the client can also cause significant issues for the attorney and the firm involved in the case. In the worst case scenario, a judge could toss out a case, which can promptly lead the client to file a malpractice lawsuit. In the "best-case" scenario, a missed deadline is embarrassing to lawyers and reflects badly on their clients.

In one case, a San Francisco law firm missed a court deadline by a full month because of an error in calculating a deadline; a calendaring clerk thought the firm had 60 days to file an appeal, when the deadline was actually 30 days. Fortunately for the firm, the appeals court excused the missed deadline. However, a Chicago-based law firm was not so lucky. After missing a court deadline, the firm