

Automated Calendaring

Risk Management for Legal Professionals

Lawyers are risk averse by nature, so risk management and the law go hand-in-hand. Managing, or mitigating risk is something attorneys routinely engage in as part of their client work, but it has not always been considered germane to law firm business operations.

Law firms face a growing volume of complex litigation requiring an astute understanding of rules, procedures and technologies. They must deal with more stringent business continuity and disaster recovery requirements, and risks of the “trade” such as malpractice claims and client confidentiality. Faced with such challenges, modern law firms are taking the lead in developing proactive and far reaching risk management strategies.

Thankfully, it does not take a rocket scientist (or a law degree for that matter) to lay the groundwork for sound risk management. Nor does it mean hiring highly compensated management consultants. It simply requires starting with the basics of law firm calendaring and docketing.

A Step Back

According to the American Bar Association’s *Profile of Legal Malpractice Claims*, calendar related errors are the leading cause of malpractice actions against lawyers. They account for more than 34 percent of all malpractice claims, and 70 percent of claims are against firms with five or fewer attorneys. Malpractice claims typically rise dramatically during economic downturns, so attorneys and paralegals in firms of all sizes now have major risk management issues.

Many law firms are anxious about avoiding costly mistakes and managing their court calendars and calendar-related deadlines. Fortunately, technology offers a number of answers to make the job more efficient and less error prone.

With the advent of legal specific court date calculation and rules-based calendaring technologies, firms of all sizes and budgets can tap into resources to help with calendaring, improve efficiencies, and minimize the risk of missing a deadline that could lead to a malpractice lawsuit.

Rules-based Calendaring

Accurate statistics regarding rules-based or automated calendaring/docketing use among all law firms is not available. The International Legal Technology Association’s *2010 Technology Survey*, however, offers a useful glimpse of such technologies within law firms with more than 20 attorneys. Among this group, 17



percent responded that they had no technologies to automate the calendaring process. Another 19 percent used Microsoft *Outlook* to manually track court deadlines and dates. Not reflected in these numbers are the majority of small firms and solo practitioners still relying on manual techniques.

Alternatives

Rules-based computerized date calculation services are no longer the sole purview of large firms with extensive IT support, or to firms that only concentrate on litigation. Recent advances have made the technology affordable and manageable for firms of all sizes, including solo practitioners. Various online services do not even require firms to buy and learn new software programs, but operate via a “software-as-a-service” Web model.

This means of delivering on-demand deadlines and calendaring is also conducive to a mobile workforce. Web portals, for example, can provide mobile lawyers and clients access to critical dates and deadlines anytime, anywhere.

Certain aspects of calendaring are often delegated to qualified paralegals, but lawyers should be in control of the process and

take ultimate responsibility for the outcome. This is the sensible approach to risk management in view of the severity and frequency of calendar-related malpractice claims.

Managing Risk

Here are some tried and proven best practices:

- Review and analyze insurance companies' malpractice mandates—Understanding carriers' calendar automation requirements and disaster recovery plans can streamline compliance and may earn insurance discounts.
- Establish disaster recovery/business continuity procedures—Get lawyers' calendars in as many places as possible without duplicate entry, and establish firm-wide, rules-based, centralized calendaring.
- Maximize calendar exposure—Make this firm-wide, encouraging integration with other desktop calendars, and establishing a single cohesive and easy to access calendaring system. This minimizes calendar related errors and reduces billable time spent on researching rules and calculating deadlines.
- Integrate—Integrate calendaring systems with existing platforms such as Outlook, GroupWise, and Lotus Notes to enhance cohesiveness and integrity of the centralized calendar.
- Establish a calendaring portal—This provides access to critical dates and deadlines at any time and from anywhere via a Web portal. This includes mobile lawyers as well as clients.
- Test-drive the technology—Automation, powered by intelligent

technologies, can be used on a pay-as-you-go or pay-per-use basis. It is easy to try it before you buy it.

Beyond automation, modern calendar technology is increasingly perceived as a significant management tool to minimize calendar related malpractice risks. Calendaring systems can play an important supporting role in firm risk management, or serve as the impetus behind an integrated firm-wide risk management initiative.

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Communication Corner

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Was That Right?

Have a communication question? Submit it to the Communication Corner for an answer. Post your questions to the *Facts & Findings* discussion board on NALANet or send them to nalanet@nala.org.

Choose the best answer in each of the following questions.

1. If Alan was with you all evening, he did not know that I was trying to reach him.
A. Error B. No error
2. None of the legal secretaries in our firm are shy.
A. Error B. No error

3. If ruthlessness was the only criterion for success, Nicholas would be extremely well off.
A. Error B. No error
4. His demeanor as well as his competence was unacceptable.
A. Error B. No error
5. The county judge acted as if she were presiding over the US Supreme Court.
A. Error B. No error



ANSWERS: (page references are to the *CLA Review Manual*, 3d ed.)

1. No error—Use the verb's indicative mood to state a fact. Page 110. If Alan was with you (a fact), he did not know that I was trying to reach him.
2. Error—When the subject of the sentence is "none," the verb almost always is singular. (a fact), he did not know that I was trying to reach him.
3. Error—Use the verb's subjunctive mood to state a condition that is doubtful or that is contrary to fact. Page 110. If ruthlessness were the only criterion for success (contrary to fact), Nicholas would be extremely well off.
5. No error—Use the verb's subjunctive mood to state a condition that is doubtful or that is contrary to fact. Page 110. The county judge acted as if she were presiding over the U.S. Supreme Court (but she is not presiding over the U.S. Supreme Court.)