

Four Essentials for Keeping Deadlines in a Law Firm

By Nathan Morris

Some of the behaviors that result in malpractice lawsuits are hard to change. If you mistreat your clients, you may have to take anger-management classes. If you don't know the law well, you'll have to hit the books. If you have a drug or alcohol addiction, call in the professionals.

But perhaps the biggest cause of problems for lawyers appears to be much easier to address: missed deadlines. We've been practicing this skill since grade school, when we had to turn in our science-fair project on time—how can we still be so bad at it?

It would seem like sloppy scheduling and procrastination are the smoking tobacco of the legal world: we know we should give them up, we know the consequences might be dire, but we're stuck in our habits. Here are some tips for getting unstuck and starting a system to help you meet every deadline.

1. Get clever calendars

If you're missing deadlines, the problem could simply be technological. The American Bar Association's *Desk Guide to Legal Malpractice* notes that "calendar-

ing errors remain a leading cause of malpractice claims." Some calendars are unwieldy, unclear, or difficult to use, increasing the likelihood of data-entry errors from you or office staff.

And some calendars are a confusing hodgepodge. In a presentation to the ABA, attorney risk-management experts Mark Bassingthwaight and Reba Nance insist that if legal professionals haven't already centralized their calendars, they are asking for a crisis:

Use a calendar system with one point of entry. I can't stress this enough. Avoid having a calendar at home, one at the office, and sticky notes all over the place. This "system" is a disaster waiting to happen. There is no way you can keep track of all your appointments and deadlines unless it's all in one place.¹

The ABA's *Desk Guide* insists that key points from your personal calendar—particularly deadlines for cases—be shared office-wide in a master calendar, with a clear record of who made each entry.² A centralized, shared calendar means others may notice what you've let slip, and also increases the chances of catching data-entry mistakes. After all, when one person in the office slips up, the entire firm can be liable, so it makes

sense to watch out for each other. Also, if a tragic event happens in the firm resulting in a member's death or disability, a master calendar means nobody will have to sort through sticky notes to find out what a colleague was doing.

Find a system that's easy to use, maintain, and teach to new personnel. Then, the first thing you should schedule in your shared system is calendar training. No matter how intuitive and well-designed your technology is, you'll only get a fraction of the benefits if everyone in the office isn't fully trained on how to use it.

Once the calendar is up and running, remember two tricks to use its full potential:

- Schedule in a recurring time one evening a week to focus on your calendar. In addition to setting up the plan for the upcoming week, analyze how you spent your time the previous week and note what things required more or less time than you had expected.
- For particularly difficult projects, don't simply put them on your task list, but actually schedule "appointments" for them. These will be blocks of time which you hold free of distractions, just as you would for client meetings, so you can spend quality time working on these projects.

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Technological help in keeping deadlines goes beyond calendars. You can also subscribe to rules-based calendaring software, which will calibrate deadlines to specific jurisdictions and areas of law. They're so effective at reducing the likelihood of malpractice suits that some legal malpractice insurance agencies offer heavy discounts to firms that get one. And if a court rule changes, this software automatically recalculates dates of cases already in its system.

Finally, your calendar should be linked to your case-management software—another top tool for avoiding malpractice suits. This is especially true if your software generates a shared calendar for each case, so all team members working on it can see upcoming deadlines and who is assigned to which tasks.

Connecting your calendar, task manager, and case files within an all-in-one case-management system doesn't completely guarantee you'll never miss a deadline—but it's a good start. From there, you need to create a firm-wide culture of keeping deadlines.

2. Create shared routines

The most important part of a routine is keeping it. Some main points should be shared by everyone in the office and treated as sacrosanct—a gesture of respect toward clients and each other.

Newly received information is the most vulnerable to getting lost. The instant you have information, someone must calendar it. Start managing your time at the beginning of the case. You'll know many deadlines (like statutes of limitations) from the outset, so immediately put them in your schedule.

Break down big tasks and count backward. Without dividing projects into their

smallest parts, you can't make an accurate assessment of how far back you'll need to go to make everything happen. As Dan Pinnington, writing for the ABA's *Law Practice Magazine*, put it:

Breaking a task into smaller parts can help ensure there is time to complete everything by the required deadline. For example, the milestones for completing a client affidavit might be as follows: Send draft affidavit to client four weeks before the deadline; get comments in from client three weeks before; send final draft to client for signing two weeks before; and get final signed affidavit back from client one week before.³

Each law firm should have its own standard system of creating deadlines for critical events that is clear to all attorneys and support staff. The ABA's *Desk Guide* suggests having firm-wide buffer requirements—such as three months between filing a lawsuit and the running of the statute of limitations.

Set spaced reminder dates

Legal malpractice insurance expert Jett Hanna recommends having a series of soft deadlines in addition to your hard deadlines. "Making only one schedule entry for a file is almost always insufficient."⁴

Pinnington adds, "Setting tickler dates for the very last day something is due virtually guarantees a malpractice claim will occur at some point."⁵ You must build in buffered deadlines to allow for things to go wrong: "the signed final affidavit coming from the client via overnight courier might get lost, or the taxi taking it to the courthouse for filing might get stuck in an ice

storm and not make it before the court offices close for the day."⁶

Pamela Everett Nollkamper, a scholar of law office management, recommends a tiered system of deadline types. These include:

- Reminder date: a first notice that a deadline is approaching
- Urging date: a matter is getting close and action needs to be taken
- Warning date: a last reminder, warning that a deadline may be missed if action isn't taken
- Due date⁷

Review and close cases

Inactive cases can enter a kind of office purgatory where they require no immediate work, but they can't be completely dropped. They still need to be on your calendar and part of the routine. Schedule times to review cases without impending deadlines. If you're waiting for information from someone else, schedule a time to check back to see if you have it and perhaps send a reminder, if appropriate. Reviewing a floundering file might bring up necessary action and could be a step in maintaining a good relationship with clients who grow alarmed when they haven't heard from their attorney in months.

Hanna recommends that if a case doesn't have another scheduled entry in it, it should be closed:

Every file should have at least one schedule entry. If it doesn't, it should be closed and the client should be told that the attorney will not be doing any further work on the matter. If there is no hard deadline, the client may lose patience with their lawyer for failing to take action. If the attorney is waiting for another event before taking action, the lawyer should set a date to check on whether the event has occurred and, if appropriate, to communicate to the client the reason that the lawyer has not taken action. While the ABA statistics do not quantify how many claims arise from client feelings of neglect, the most common grievance complaint is of neglect.⁸

The first case to close is the one you never accepted. In an article in the *New Jersey Law Journal*, malpractice attorney Thaddeus Hubert explains: “Sending a prospective client whose case you’ve turned down a nonengagement letter is a fabulous risk management technique. It provides you with evidence that you did not take the case. You cannot miss a deadline on a case if you can prove you never took it.”⁹

3. Investigate

A lot of deadlines are missed because we are complacent that we already understand everything and don’t pursue the correct information.

The best clients provide their attorneys with a lot of information—but this always needs to be reviewed and verified. Police reports, hospital records, and other corroborating documents should be reviewed early on to double-check dates and the identities of opposing parties. Hanna explains:

We see a lot of malpractice claims where lawyers fail to analyze such documents until very close to what they thought was the deadline. Such documents are best analyzed immediately after the client first approaches the lawyer, not almost two years later.¹⁰

Schedule your research of the law and the facts at the beginning. If you’re working on an unfamiliar type of case or new jurisdiction, allow yourself extra time.

4. Analyze your procrastination

Even seasoned attorneys miss deadlines. Mary Catherine Bonner, a Florida attorney, twice missed last-chance appeal deadlines for clients facing the death penalty. Before the United States Supreme Court, arguing for another death-row prisoner whose attorney had filed late, Bonner explained: “You know, being lawyers, we always do file at the last minute.”¹¹

Is it as simple as that? A fundamental flaw within the profession, to be accepted? Hubert muses: “[W]e can ask ourselves anecdotally whether lawyers are genetically prone to procrastinate.”¹² He explains that when the ABA started creating statistics

regarding the causes of legal malpractice, problems with calendars always came up as a top error. Once calendaring systems improved, however, deadlines were still missed. “[T]he ABA had to add a new category to their studies—failure to react to calendar. It was the same old problem in yet another form.”¹³

The best calendar system and the cleanest and most well-defined routine can’t completely save us from our own bad habits—especially when we cavalierly accept those habits as our professional badge, like a medical doctor’s messy handwriting.

Psychologists, business-management gurus, and life hackers generate a steady stream of simple tricks for dealing with procrastination. Most deal with the surface-level problems, which is sometimes all you need. You can commit to doing an unpleasant task for a measly five minutes, knowing that once you’ve started, the momentum usually carries you further. You can micro-reward yourself each time you achieve a micro-goal. There are apps that will block your biggest time sink or distracting websites, and other sites that require you to put down money, which, if you don’t achieve your goal in time, will be sent to an organization you find offensive.

If the threat of handing over \$50 to a church you don’t attend or a rival sports team isn’t enough to end your procrastination, the problem is probably deeper than your software. It’s time to look at the bigger picture. Are you avoiding specific clients or kinds of cases? If you analyze where your biggest problems occur, you might recognize that there’s an area of law you’re either not familiar enough with or doesn’t interest you like other projects. Or there could be a specific kind of client you find annoying and unpleasant. This is an opportunity for you to commit to refusing certain kinds of cases or clients in the future—and to ask whether the situation is so unpleasant you should hand your client off to someone else for everyone’s benefit.

Of course, the problem could be more general than this. If you are overworked and under too much stress, it doesn’t matter how well your calendar functions—you’re still bound to slip up. At this point, the only alternatives are to take fewer cases

or deal with underlying problems like inefficient work habits, the plague of distractions, or stress and other emotional strain.

These are all bigger issues than we have space for dealing with here, but keep an eye on the Filevine blog for regular discussions on how to avoid distractions, improve your mood, and do your best work.

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A co-founder of Filevine, Nathan Morris previously was a federal appellate tribal magistrate judge, worked in the ultracompetitive world of class-action lawsuits, and served the underprivileged and disadvantaged with development and humanitarian organizations internationally. He now devotes his time to developing effective tools for attorneys.

ENDNOTES

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