

April

Monday	<small>14</small>	<small>15</small>	7	14	21	28	<small>29</small>	<small>30</small>
Tuesday	1	8	15	22	29			
Wednesday	2	9	16	23	30			
Thursday	3	10	17	24				
Friday	4	11	18	25				
Saturday	5	12	19	26				
Sunday	6	13	20	27				

# Getting It Right the first time

BY JOSEPH C. SCOTT, ESQ

Savvy legal administrators and law firm managers should consider new options for efficient calendar management to save time and avoid potentially costly mistakes.

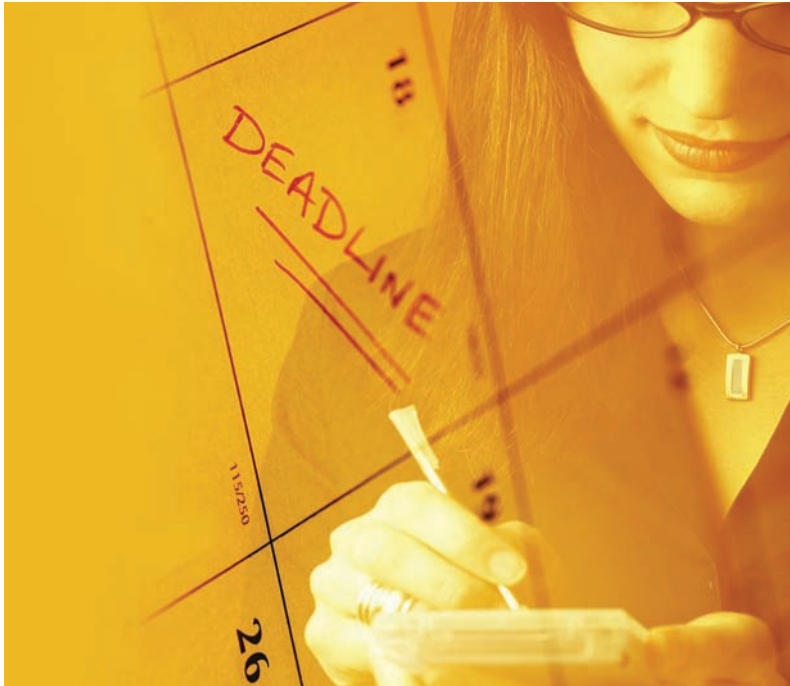
When it comes to calendaring court dates, law firms have only one chance to get it right. Courts and clients tend to be extremely unsympathetic to firms whose legal administrators or lawyers miss a deadline or court date.

Unfortunately, these errors are all too easy for professionals in any law firm to make, from the smaller boutique offices to the mega-litigation operations. Firms often unknowingly expose themselves to date error and malpractice claims because of their systems for managing court calendars, both firmwide and for individual attorneys. In fact, many law firm administrators still calculate court deadlines manually and then write them by hand into paper calendars, a method that leaves the door wide open for human error. Writing down the wrong date, failing to understand the rules in different jurisdictions or not double-checking dates frequently can all easily lead to missed deadlines – and subsequent malpractice claims.



## SHORTCUT

An effective calendaring process is critical to any law firm's long-term success. While some firms may continue to use manual, paper-based systems, that approach to calendaring still leaves a lot of room for human error. New automated systems that save considerable time and money may be an excellent option for firms ready to harness the evolving technology.



In its most recent "Profile of Legal Malpractice Claims," the American Bar Association found that calendar- and deadline-related errors remained the leading cause of legal malpractice claims. More than 16 percent of those malpractice claims were due to the firm not knowing or not properly responding to the legislated court rules dates; 7.09 percent of malpractice claims were for failure to know or ascertain a deadline; 5.19 percent of malpractice claims were for failure to calendar properly; and 4.35 percent were for failure to react to the calendar.

### MISTAKES AND HOW THEY HAPPEN

Such mistakes can happen to firms large and small. In 2004, a clerk at the high-profile litigation firm Boies, Schiller & Flexner LLP misread a calendar rule and missed a crucial deadline. Fortunately for the firm, the 9<sup>th</sup> Circuit U.S. Court of Appeals showed leniency and ruled that error was one of "excusable neglect." But the *en banc* panel was clearly divided. In a strong dissent, three judges took the firm and the lawyer in charge of the case to task for allowing a clerk to make such a mistake. "Errors made by

clerks performing lawyerly functions are probably less excusable than those made by the lawyer himself; they certainly can't be more so," wrote the judges in *Pincay v. Andrews*.

That scenario occurred at a firm with nearly 200 attorneys. For solo practitioners and small firms with minimal administrator staffing, calendaring can be even more challenging. In another recent case, every employee at a two-lawyer New York state firm was out of the office simultaneously on personal business. One partner was in China adopting a baby, and the other had been deployed to Iraq. Then, the firm's secretary, who was pregnant, went into premature labor. Amid all of that, no one remembered to file a claim in a case. Unlike in the Boies Schiller case, the judge in this matter ruled that the delays were inexcusable and refused to grant an extension, specifically citing the secretary's failure to note the filing date in the firm's calendaring system. (The secretary was aware of the date long before she went into labor.)

Law firm administrators understand the importance of maintaining accurate court calendars. That is why, in many instances, firm administrators are now taking the lead in replacing old calendaring systems with newer, more efficient systems. If your firm hasn't yet switched from the cumbersome, error-prone manual method of calendaring, you can take several steps to identify the best system for your firm – one that will save money, time and potentially embarrassing and costly missed deadlines.

### CALENDARING PROGRAM OPTIONS

Several types of calendaring programs are available, from simple paper-based ones to high-tech rules-based applications

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At firms with technophobe lawyers, the paper calendar may still have some appeal. After all, there's no training involved, it's inexpensive and everyone understands it. This approach, however, still presents numerous problems. Unless the firm is run by a solo practitioner, someone must be constantly updating the master calendar. In addition, no backup is available in case the calendar is lost or a fire or other disaster occurs in the office. Someone has to be in the office to view it, so it can't be accessed by anyone remotely.

Standard calendaring programs such as Microsoft Outlook™ are another option. These types of programs have many advantages, particularly for firms that do most of their work in only a few jurisdictions where the lawyers, legal administrators and other

entering dates. Some even offer such automatic features as checking conflicts of interest, which offers another layer of security to firms. These programs also can often provide information on multiple jurisdictions, minimizing the need for research. However, these programs do require an investment of money and resources – both to buy the software and to train staff to use it.

Fortunately, the Internet is also becoming an even more powerful tool for law firms. Some technology companies now offer systems geared specifically to small firms that allow them to calculate their court dates online. These save legal administrators and lawyers the hassle of numerous phone calls and time-consuming research. And because some of these programs are priced on a per-use basis, law

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staff are familiar with court rules. Such calendars tend to be relatively inexpensive, and they are simple enough that most computer-savvy legal professionals can easily master them. Some even offer so-called "team" calendars, which allow users to view each attorney's calendar simultaneously. Most can also be synchronized to handheld computers (PDAs), so lawyers who are out of the office can access their calendars remotely.

With these generic programs, however, court dates must still be calculated and entered manually, leaving significant room for errors. Someone at the firm must also make phone calls and do research to determine deadlines.

Several software programs are designed specifically for law firms with tech-savvy professionals. These rules-based calendaring programs automate the entire process, reducing the time it takes to gather information and decreasing the potential for errors in

firms pay only for the information that they need. Also, with an Internet-based program, there is no need to install extra software or learn new computer programs.

#### **TECHNOLOGY AND BUDGET ISSUES**

You should also consider the comfort level and budgets of attorneys and other professionals at your firm. In an ideal world, you could acquire one of the extensive, nationwide, rules-based calendaring programs, along with an entire IT staff to support it and a huge budget for training and support.

For most firm administrators, such thoughts are only dreams. In reality, you must consider what technology you already have, what features your attorneys' want and what will fit into your budget. Are individuals in your firm able to access their calendars remotely? Do you have several litigators who would like to be able to view their calendars simultaneously with a master calendar or another lawyer's?

You should also carefully consider the issues of redundancy and backups. If the hard drive on one computer is somehow destroyed, do you have a backup system to ensure that the entire calendar hasn't been lost? Do you have a system in place to ensure the dates that have been entered manually are accurate, or do you want to consider a system that automatically inputs dates, eliminating any chance of a mis-transcribed number?

Billing and budgeting are also important concerns. Explore systems that can create specific invoices for specific cases. This facilitates easier billings for the firm and its clients.

### ONCE YOU HAVE IT, USE IT

Upon selecting a calendaring system, everyone at the firm must commit to using that system. That means you can no longer allow attorneys to maintain their own quirky calendaring methods. If you spearhead the project of identifying the best calendaring system at your firm, be sure you have at least one senior partner that buys into the system first. That partner can ensure that everyone else is on board with the new program.

You should also consider a system that identifies who is entering dates on the calendar, and when. When it comes to calendaring, accountability is extremely important.

At first, it may seem like a big, expensive undertaking to identify and switch calendaring programs. However, spending hours on the phone tracking down dates in unfamiliar jurisdictions is also a huge task, even if it is a familiar process. Then you have the stress and time involved in entering and rechecking all of those dates.

Automated calendaring systems have become so reliable that many insurance companies offer a discount on malpractice insurance for law firms that adopt the new programs. What seems like an expensive new gadget can pay for itself quickly not only in dollars and cents, but also in peace of mind. ✱

#### *about the author*

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## LEARN MORE

### ALA Resources

These titles are available through ALA's Web site, [www.alanet.org/education/mrc/index.asp](http://www.alanet.org/education/mrc/index.asp).

- *Records Management in the Legal Environment*, by Jean Barr, CRM; Beth Chiaiese, CRM; and Lee R. Nemchek, CRM
- *Risk Management: Survival Tools for Law Firms*, by Anthony E. Davis
- *Law Office Policy & Procedures Manual, Fourth Edition*, by Robert C. Wert and Howard I. Hatoff
- *Minimize Risk: How to Structure Law Firm Internal Controls*, by Joan W. Gleich. Updated by Rosemary Shiels

The following articles are available in the *ALA Management Encyclopedia (ALAME)*, [www.alanet.org/alame](http://www.alanet.org/alame):

- "Technology Decisions: What to Buy? What to Buy?"
- "Ten Steps to a Successful Security Audit"

The following are accessible via ALA's Legal Management Resource Center, <http://thesource.alanet.org>.

- "Danger: Risk Management Key to Avoiding Pitfalls," by Billie Jo Harned – Type in keywords "**calendar/docket management**" in the search engine
- "Knowledge Management: Can It Exist in a Law Firm?" by Nina Platt – Type in keywords "**calendar/docket management**" in the search engine
- "Disaster Preparedness, Disaster Recovery," by LawNet Inc. – Type in keywords "**calendar/docket management**" in the search engine

### On the Web

- Law Technology News, "Creating Law Firm Systems" – [http://ltn-archive.hotresponse.com/september00/small\\_firm\\_focus\\_p64.html](http://ltn-archive.hotresponse.com/september00/small_firm_focus_p64.html)
- *Entrepreneur.com*, "In Good Time" – [www.entrepreneur.com/article/0,4621,324382,00.html](http://www.entrepreneur.com/article/0,4621,324382,00.html)
- *LLRX.com*, "Case Management Systems: Practical Tips for Implementation Success" [www.llrx.com/features/cmsystems.htm](http://www.llrx.com/features/cmsystems.htm)

### On the Shelf

The following titles are available for purchase or download through many online retailers, including [www.amazon.com](http://www.amazon.com).

- *Management Information Systems: Managing Information Technology in the E-Business Enterprise*, by James A. O'Brien
- *Office Procedures for the Legal Professional (West Legal Studies Series)*, by Judy A. Long
- *Excel for Law Firms*, by Payne Consulting Group