

Avoid Administrative Malpractice Headaches

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Every lawyer knows he is at risk for a malpractice claim, but there is a significant difference between knowing the risk and doing everything possible to avoid it. Finding solutions to stave off malpractice claims, buying and mastering the technology and bringing everyone at the firm on board with it can be daunting tasks for attorneys, particularly those at smaller firms.

However, it is becoming increasingly important that attorneys do just that. The days when lawyers wouldn't sue their brethren are long gone, and many attorneys are now willing to pursue claims on behalf of clients who consider themselves wronged by their legal counsel. In this environment, insurance companies are beginning to see law firms as high risk. Since insurance is all about risk, lawyers are now beginning to feel more pressure from their malpractice insurance providers to lessen their chances of a lawsuit. That pressure often comes in the form of more expensive premiums for law firms that fail to act to reduce their risk.

Among malpractice lawsuits, administrative claims are the easiest to avoid, but they are also, paradoxically, among the most common mistakes that lawyers make. According to the American Bar Association Standing Committee on Lawyers' Professional Liability, the top five administrative malpractice traps are: procrastination, failure to calendar, clerical error, failure to react and failure to file documents. Even the largest firms have trouble with these, but with more staff and IT resources, many of these firms have taken significant steps to reduce their liabilities. However, many solo practitioners and small and mid-sized firms are still dragging their feet in this area.

It's not that smaller firms lack interest or willingness to improve administrative procedures. With limited resources, it's simply harder to accomplish. Fortunately, smaller firms now have more options available when it comes to improving their administrative procedures and lessening their risk of a malpractice suit. The use of efficient technology and standardizing practices are two of the best ways to help fend off malpractice suits and eliminate many of the errors and oversights that undercut the quality of a firm's casework.

Calendar errors rank among the greatest risks to law firms (and their insurance companies) -- failure to properly calendar, failure to react to calendar and failure to file documents are particular danger zones. For many firms, the answer to avoiding these pitfalls lies in an automated calendaring program; one that decreases the risk of a clerical or human error occurring. Once limited to the realm of the larger multinational firms, today, law firms of every size can find a rules-based legal calendaring program to suit their needs.

Any calendaring program a firm adopts should be rules-based. Certainly, a generic calendaring system would serve as an upgrade over the paper-based versions some firms still use. However, insurance companies won't be as satisfied that such programs have mitigated risk to the greatest extent possible. In part because calendaring programs that are not legal-specific do not help address one of the most difficult issues that law firms face -- tracking and managing court rules across multiple jurisdictions.

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Even well-known, multinational law firms have found themselves in trouble with the courts and clients for missing deadlines. For smaller firms, tracking such dates is even more of a headache. Changing court calendars, differing rules in each jurisdiction and obscure local holidays make checking, and then double-checking, deadlines a tiresome and never-ending process. Paper and nonlegal-specific calendaring programs do little to ease the stress, time spent and anxiety caused by these kinds of calendaring uncertainties. If a court date changes, will that change be caught? Will it be reflected in every version of the firm's calendar, from the master calendar to each individual lawyer's calendar, and then uploaded to attorney PDAs?

Many sophisticated court rules-based calendaring programs, such as [CompuLaw Vision\(tm\)](#) software, update court rules automatically and regularly. Since dates and deadlines are constantly changing and must be monitored throughout the course of any matter, getting those regular updates should also be efficient and affordable. This is where a product such as CompuLaw shows its true value.

Traditionally, these software programs have been very extensive, including information from jurisdictions across the country. That information (and the expense that comes with such a thorough knowledge base) is often more than many smaller firms require. Fortunately, other court calendaring programs, such as [Deadlines On Demand\(tm\)](#), are now geared toward the needs of smaller firms by allowing legal professionals to calculate court dates online, with pay-as-you-go options. This makes calendaring technology more affordable and less cumbersome for solo practitioners and small firms.

The best technology in the world won't help, however, if it is not used consistently and properly by every attorney, paralegal and administrative staff person involved in the calendaring process.

For example, a good system should include a standardized method for file review, which is a major shortcoming of so many law firms. With multiple cases that can take years to resolve, it is too easy for attorneys to forget to review every file. When this happens, it's easy to overlook a seemingly small matter and a serious loss can follow. With regular prompting from the system, via a customized file review reminder, lawyers are able to stay abreast of every open matter.

Sophisticated standardized systems can also help by providing an audit trail. With a system that automatically tracks changes, attorneys can ensure that the proper people are working on the calendar and can determine who made what changes, and when.

One of the greatest advantages of a standardized system, at least from a malpractice insurance carrier's point of view, is the allowance for redundancies. In fact, three separate, independent redundancies are what most risk managers and insurance companies prefer to see in a court calendar. Independent redundancies can exist in the form of the master calendar, a version synced to personal digital assistants or a backed-up version updated regularly and electronically stored away from the firm's main office. Should a natural disaster or fire occur, a court calendar with the proper redundancies will ensure that every attorney at the firm has ready access to individual and master calendars regardless of where they are or what has happened in the physical office.

Finally, don't overlook the necessity of training all staff and attorneys when first implementing a new system, as well as for new employees and attorneys who join the firm later on. If everyone who uses the system is extensively trained from the outset, they learn the shortcuts that enable them to improve productivity and master the features that allow them to utilize the program to its full potential. In fact, periodic training on a regular basis can help ensure that what has been learned isn't forgotten, such that use of the system becomes watered-down and less effective over time.

When it comes to administrative errors that lead to malpractice claims, some are more avoidable than others; after all, there is still no cure-all for old-fashioned procrastination. However, by relying on court rules-based calendaring technologies and a standardized method of using such tools, firms can take steps to lower their

risks of malpractice. That is good news for attorneys, insurance providers and clients alike.

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