



CALENDAR AND DOCKET CONTROL

RISK MANAGEMENT PRACTICE GUIDE OF LAWYERS MUTUAL



LIABILITY INSURANCE
COMPANY OF
NORTH CAROLINA

www.lawyersmutualinc.com

DISCLAIMER: This document is written for general information only. It presents some considerations that might be helpful in your practice. It is not intended as legal advice or opinion. It is not intended to establish a standard of care for the practice of law. There is no guarantee that following these guidelines will eliminate mistakes. Law offices have different needs and requirements. Individual cases demand individual treatment. Due diligence, reasonableness and discretion are always necessary. Sound risk management is encouraged in all aspects of practice.

OCTOBER 2016

Calendar and Docket Control

RISK MANAGEMENT PRACTICE GUIDE OF LAWYERS MUTUAL

TABLE OF CONTENTS

Introduction	2
Elements of a Calendar System	3
Implementing a Calendar System	5
Calendaring Options	6
Good Practices for Better Time Management	8
Conclusion	9
Calendar Training Topics	10
New Client Information Sheet	11
Calendar Notice	12
Weekly Firm Docket	13
Master Docket	14
Docket Notice	15
Red Ball Sticker Tickler System	16
Checklist of Docket Entries	17
Calendar Control Self-Review	18

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Introduction

Everything has a deadline. Even armed with this knowledge, the most frequent cause of a malpractice claim continues to be a missed statute of limitation or other deadline. These cases can be frustrating because there is very rarely a defense for the error. The error could have easily been avoided by the proper use of a calendaring system. The goal is to create a calendaring system that is reliable, efficient and user-friendly. An effective system includes all of the work in the office and all of the time out of the office, such as holidays and vacations.

The best system will be the one that you and your staff can efficiently use together. A complicated system that is difficult to operate will not benefit your practice. Your system will only be as good as the information entered into it, so it is imperative that you find a calendaring system that everyone finds simple to use. If entering the data into the system feels burdensome, staff may tend to put it aside for other tasks and accidents may happen. Teamwork with active oversight by an attorney will keep the system running smoothly.

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Elements of a Calendar System

Centralization

A centralized calendar system keeps the firm's system running smoothly by having everyone's information on one calendar. This system is beneficial for sudden illnesses and disaster planning since another attorney can take appropriate actions if an attorney is incapacitated for any reason. If the indisposed attorney's calendared events were solely on his personal calendar, an appointment or deadline may be overlooked and the firm could be exposed to a malpractice claim. For solo attorneys, it may be desirable to partner with a trusted attorney and provide access to your calendar in the event of an emergency to avert potential exposure to malpractice should you be unable to practice.

Universal Participation

All attorneys and staff in the firm must participate in the calendaring system. There can be no exceptions. The only way the system can be effective is if all members of the firm participate. All partners, department heads, or even the solo lawyer should routinely monitor their system to verify that it is used universally and data is properly entered.

Redundancy

The calendar must not be stored in one place only. Backups are helpful in the case of a system malfunction, but other options are available to provide instant access to information. Personal data assistants (PDAs) and smart phones, such as the iPhone or Blackberry, provide a portable secondary version of your calendar. Desktop calendars are also useful as a redundant system, readily accessible in the event of a system failure.

If you are a solo attorney, having separate calendars for the attorney and legal assistant with duplicate deadline information on each calendar can be sufficient. Be sure to compare calendars regularly to ensure that the information entered on the calendars is exactly the same. Inconsistencies could lead to a missed deadline and exposure to potential malpractice.

Backups

Regardless of the system used, the information should be backed up nightly and stored off site. In the event of a disaster, this may be the only method of recovering your information. Anything stored onsite could be lost. Information on handheld devices may not include all data entered into the system that day or could be lost or corrupt itself, so it is important to maintain proper backup procedures.



PRACTICE TIP

ELEMENTS OF A CALENDAR SYSTEM

1. Centralization
2. Universal Participation
3. Redundancy
4. Backups
5. Tickler System
6. Perpetual Calendaring
7. All-inclusive
8. Adaptability

“

The ability for the system itself to be updated is crucial.

Tickler System

Every law firm's calendaring system should include a system to tickle deadlines and file reviews. These tickle dates should include a reminder notice before the actual event so that enough time is allotted to complete the work before it is due. For file reviews, one reminder notice is sufficient. Deadlines for approaching statutes of limitation, filings, discovery, and other work-intensive activities should have multiple reminders to ensure timely completion before the event date.

Perpetual Calendaring

The calendar must be able to include reoccurring events and events that occur in the future. Statutes of limitation deadlines that do not expire for several years can be dangerous if you cannot immediately calendar the events in your system. This prevents cases from falling off the radar and exposing you to a potential malpractice claim.

All-Inclusive

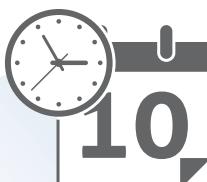
Do not forget that all time must be accounted for in the calendaring system. Any time away from the office

should be scheduled through this system, such as holidays, CLE events and vacation. Prepare for extended time away from the office by designating a backup attorney who would handle any emergency that may arise while you are not available. This will assist the firm with client relations and be a much needed peace of mind for all involved.

Adaptability

Laws are frequently updated. Court dates and appointments get rescheduled. Your calendar system must be able to accommodate these changes. Consider the nightmare it would cause for staff, as well as the inefficient use of time, if they had to delete and reenter each rescheduled deadline or appointment.

The ability for the system itself to be updated is crucial. Programs run slower as they age, especially if they no longer are receiving regular maintenance. If your office is connected to a broadband internet connection, any software program that is not updated could pose a liability as older software is more prone to attack by hackers. Regular updates patch weak spots in software to protect you. When the software manufacturer is no longer offering patches for your version of the software, you should upgrade to a newer version to protect yourself and your clients.



PRACTICE TIP

Be sure to properly maintain your calendaring system to ensure the functionality and security features are maintained at their highest levels.

Implementing a Calendar System

Train All Staff

Everyone should be thoroughly trained on how to use the calendaring system. When the system is implemented, all attorneys and staff must use it for it to work effectively. A complete description of the calendaring system and rules for its enforcement should be included in the firm's Office Procedures Manual. Leave no excuses for why an attorney or employee would not know the proper procedures for using the calendaring system.

Identify a Calendar Clerk

Designate one employee as a calendar clerk to maintain the calendar system and provide a backup clerk in the event of an absence. The calendar clerk will be responsible for inputting data from intake forms and calendar notices and distributing weekly reports to attorneys and staff for review. The reports should be distributed on Friday for the following week's deadlines. Daily calendars should be distributed at the end of the day to allow appropriate notice for any scheduled appointments or hearings first thing in the morning. The calendar clerk will have the capability of changing the priority of a entry in the system should the need arise.

The calendar clerk should also have the ability to determine if a matter has been completed and to take appropriate steps to ensure pending deadlines are met timely. Provide the calendar clerk with the authority to notify a supervisor if a statute of limitation deadline is due and no action is being taken. Remember, the entire firm will be held accountable for malpractice should the deadline be missed.

Create Calendaring Forms

Client Intake Forms and Calendar Notices are essential to a well-operated calendaring system. Having forms and notices that attorneys and staff can complete and forward to the calendar clerk for entry alleviates the danger of a lost post-it note with a crucial deadline jotted down during a conversation. Client Intake Forms will be completed by the attorney during the initial interview with a client and should include all possible events to be calendared including but not limited to: statutes of limitation, statutory/administrative notice deadlines, notices of appeal, required appearances,



PRACTICE TIP

IMPLEMENTING A CALENDAR SYSTEM

- 1. Train All Staff.** Everyone should be thoroughly trained.
- 2. Identify a Calendar Clerk.** Designate one employee to maintain the calendar system.
- 3. Create Calendaring Forms.** Client Intake Forms and Calendar Notices are essential. Client Intake Forms will be completed by the attorney during the initial interview with a client and should include all possible events to be calendared including but not limited to: statutes of limitation, statutory/administrative notice deadlines, notices of appeal, required appearances,
- 4. Rescheduling.** Any rescheduled event or deadline should immediately be accompanied by a calendar notice.
- 5. Mail, Faxes and Hand Deliveries.** Develop rules for handling and distributing.

CALENDAR AND DOCKET CONTROL

area of law specific deadlines, discovery deadlines, witness and exhibit deadlines, and jury lists. Calendar notices should be completed for office meetings, CLE events and personal events.

Rescheduling

Appointments and court dates are often rescheduled for various reasons. It is imperative that these date changes are reflected in your calendaring system. Rescheduling also applies to cases that include voluntary dismissals as the calendar system will not alert you to a refiling deadline, resulting in a missed statute of limitation. Anyone rescheduling an event or deadline should immediately complete a calendar notice and forward it to the calendar clerk to ensure the system is updated timely.

Mail, Faxes and Hand Deliveries

Most incoming documents to a law firm include a deadline for responding. The firm should develop rules for the handling and distribution of mail, faxes and hand deliveries, including how they are to be included in the calendaring system. The mail should be opened and date stamped in a timely manner daily. Typically the most efficient distribution method is for individual attorney's support staff to review mail for deadlines and limitations, completing calendar notices and forwarding these to the calendar clerk for entry. All faxes and hand deliveries should also be reviewed and the pertinent deadline information forwarded to the calendar clerk.

Calendaring Options

Manual calendaring, other than the basic desktop calendar, is slowly disappearing from the modern office. It is almost impossible not to have a computerized calendar. The difficult decision is determining what type of calendaring system best fits the needs of your firm. There are two basic types of computerized calendaring systems, personal information managers (PIMs) and case management software.

Manual Systems

Gone are the days when lawyers managed their calendar by using 3x5 index cards in a box, separated by day, month, and year. A desktop calendar is often used as a backup system, but be wary not to forget to include deadlines and appointments scheduled when out of the office. If you use a manual system as a backup calendar, be sure that all dates are included so that nothing will be overlooked should your main system fail. Review

the calendar daily against the computerized system to be sure that they are completely synchronized.

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Personal Information Managers (PIMs)

PIMs are the basic computer calendaring system that most of us are familiar with, such as Microsoft Outlook

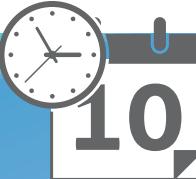
Exchange, Yahoo Calendar, and Google Calendar. These systems combine your email information and calendaring system to provide basic calendaring functions. PIMs do not have a master calendar feature and do not track dates by multiple users. PIMs can be effectively used by solo or small firms where individual attorneys and support staff have access to individual calendars and can review each other's calendars for events and deadlines. Most cell phones have data plans that allow for the downloading of PIM calendars, so you would have some access to your calendar and reminders even if you do not own a smart phone such as the iPhone, Droid, or Blackberry. For PIM calendars to work effectively, identical data has to be entered on separate calendars, such as an attorney and an assistant, and the calendars have to be reviewed regularly to ensure that the information included on the calendars matches exactly.

Case Management Software

Case management software is designed specifically for law firms and can be tailored to meet the firm's specific needs. Most case management software comes in trial versions that can be downloaded or requested via the internet. Many case management systems include features that can be accessed via smart phones as well. The Center for Practice Management of the North Carolina Bar Association, www.cpm.ncbar.org, provides an excellent source for technology reviews. The North Carolina Bar Association also provides discounts for products such as Clio through its affinity partnership program. A consultant can also provide you with unbiased comparisons of software products to help determine which may best fit your firm's needs. Lawyers Mutual or the NCBA Center for Practice Management can provide referrals for consultants.



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PRACTICE TIP

There are **2 basic types** of computerized calendaring systems.

PERSONAL INFORMATION MANAGERS (PIMS)

- 1. Basic computer calendaring** (Outlook, Google Calendar). Can be a good choice for solo and small firms.
- 2. Case Management Software.** Designed specifically for law firms and can be tailored to meet the firm's specific needs.

Good Practices for Better Time Management

Schedule Appointments with Files

If ticklers and reminders are not enough to motivate you to complete work on a file timely, schedule appointment time on your calendar to complete the work. Treat appointments with files as seriously as appointments with clients. If you need to reschedule an appointment with a file, do so as diligently as you would with a client. Keeping file work up to date through appointments can be a vital part of malpractice avoidance.

Investigate the Facts Provided by Clients

A client may provide the wrong date for an event or misidentify opposing parties during an initial interview. To ensure that the correct information is used, review corroborating documents before submitting information for entry into your calendaring system. Investigation of facts should also include review of any out-of-state statutes of limitation that applies so that the correct deadline can be entered into the system.

Include Follow-up Notices

Follow-up notices are an essential aspect of case management. A follow-up notice can serve as a protection against missing a critical deadline. Any calendared action should include a follow-up notice to ensure that the intent of the action has been accomplished, such as receipt of a response from a client or opposing party or service of process on a filed complaint. Using follow-up notices will help maintain a timely course of action for your file.

Beware “Expiring Soon” Cases

A new client or case with a fast approaching statute of limitation deadline is a disaster waiting to happen. Proper investigation may lead to missing the deadline during the investigation process. If you do not fully investigate the matter, you may be in danger of malpractice for



PRACTICE TIP

WAYS FOR BETTER TIME MANAGEMENT

Schedule Appointments with Files. Keeping file work up to date through appointments can be a vital part of malpractice avoidance.

Investigate the Facts Provided by Clients. Review corroborating documents before submitting information for entry into your calendaring system.

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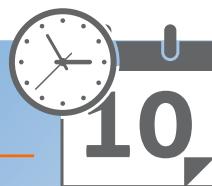
The Non-Billable Hour
Make time for tasks not included in the billable hour.

naming the wrong opposing party as well as failure to prosecute before the statute of limitation has expired. Be sure to promptly send a nonengagement letter if you elect not to pursue such a case.

The Non-Billable Hour

Make time for tasks not included in the billable hour. Even though there are no ethical or malpractice consequences, the continual neglect can be detrimental to the law firm. Schedule time to work on office priorities to maintain a well-managed office. The benefits will reflect in your billable time since you will be better prepared to serve clients.

PRACTICE TIP



When you have a client whose injury occurred in another state (e.g. a car accident that took place in Virginia or Tennessee), be sure to determine the correct statute of limitation for that state before entering the deadline into your system.

Conclusion

An effective calendaring system can assist your firm in running smoothly and efficiently. A correctly implemented system operated by fully trained attorneys and staff will function to reduce, if not alleviate, the errors caused by missed statutes of limitation or other deadlines. Client relations and office management will also be improved. Emergencies will happen, but if you have properly handled everything else in a timely fashion, you will be better prepared to handle them without a crisis of time.

Calendar Training Topics

Need a topic for your next staff meeting? Following are discussion points on calendar and docket control:

- Docket czar.** Appoint one staff member as docket control coordinator.
- Statute of limitation.** A new client cannot be accepted and a new file cannot be opened on any plaintiff litigation until a statute of limitation date has been established. The new matter/client intake sheet should contain a line for the statute of limitation date, with a signature line next to it. Each date entered on the sheet should be verified by the responsible attorney and initialed. Copies of the sheet should then be given to the person responsible for the central calendar and to the responsible attorney. The system should provide ticklers at least 180, 90, 60 and 30 days before the statute of limitation date. When you have a client whose injury occurred in another state (e.g. a car accident that took place in Virginia or Tennessee), be sure to determine the correct statute of limitation for that state before entering the deadline into your system.
- Statute of limitation follow-up.** One system is to have one attorney in the firm assigned the responsibility for following up on all statute dates. The follow-up attorney should receive a printout each week of upcoming statutes. This attorney should require proof that the suit has been filed such as a copy of the filed complaint. Firms have been stung by malpractice claims because one attorney has covered up a missed statute in hopes of later correcting the situation.
- Procedure for incoming mail.** Each piece of incoming mail should be date-stamped and reviewed for dates that need to be calendared, such as deposition dates, tax payment dates, etc. Those dates should then be placed into the central calendar. The clerk reviewing the mail should initial each date calendared for accountability. After the dates are recorded in the central calendar, the mail should then be distributed to the responsible attorney or staff member. The attorneys should calendar all relevant dates in their personal calendars.
- Automatic review dates.** After attorneys have completed a specific event in a particular file or matter, they should automatically place a follow-up date in the calendar. This date may be every 30, 60 or 90 days. This system ensures that no file or matter will go unattended for a long period of time.
- Redundancy.** Each critical date must be entered in at least two diaries maintained by separate individuals. In the case of a sole practitioner, the dates can be maintained by the attorney and her secretary. In the case of a larger firm, the dates can be maintained in a central computer system and in the individual diary of each attorney who is responsible for a particular matter.
- Daily and weekly deadline lists.** Each day the coordinator will distribute the docket entry forms calendared for that day. The coordinator can prepare and distribute weekly calendar listings of all deadlines due within the week.
- Advance warnings.** The docket control coordinator is responsible for setting up the advance warning dates and putting the docket entry forms into the system. Two advance warnings are recommended for deadlines of 30 days or sooner (for example, two weeks/one week or two weeks/two days). This may vary if your deadlines are more than 30 days away.
- Everyone has input.** The system will succeed only if everyone participates and makes it work.

New Client Information Sheet

Date: _____

Client's full name: _____

Spouse's full name: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Client work no.: _____ Spouse work no.: _____

Client employer: _____ Spouse employer: _____

Emergency Contacts:

Name: _____ Relation: _____ Phone: _____

Name: _____ Relation: _____ Phone: _____

Name: _____ Relation: _____ Phone: _____

Referred by: _____

Conference with Attorney regarding:

Prepared by: _____ Conflicts checked by: _____ Deadlines docketed by: _____

Calendar Notice

Date: _____

Client Matter: _____

Case Number: _____

Requested by: _____

Dates to be Calendared:	Reason	Daily Calendar:	Entered By: (initialled)
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(Original for calendar clipboard and one for file)

WEEKLY FIRM DOCKET

FOR THE WEEK OF _____

SAMPLE

MASTER DOCKET

Page ____ of ____

SAMPLE

DOCKET NOTICE

1st Reminder

Attorney: _____

Client Name: _____

Client Matter: _____

2nd Reminder

File Number: _____

Due Date

Activity: _____

Entry date: _____ By: _____

Red Ball Sticker Tickler System

Thanks to Walt Baker of High Point for sharing this good idea.

- During or immediately after a client contact, the lawyer or assistant should determine whether any date — answer due, court appearance, statute of limitation — needs to be calendared.
- When incoming mail is sorted, note all correspondence requiring action by a given date, e.g., counterclaim, calendar notice, appellate deadlines, etc.
- Immediately enter the pertinent dates on assistant and lawyer calendars.
- Affix a red ball sticker to the upper right corner of any tangible document or paper writing that carries a deadline (ex: traffic citation, warrant, counterclaim, extension order, claim for mandatory relief, discovery documents, etc.) to confirm that all calendar entries have been made.
- Automatic review dates. After attorneys have completed a specific event in a particular file or matter, they should automatically place a follow-up date in the calendar. This date may be every 30, 60 or 90 days. This system ensures that no file or matter will go unattended for a long period of time.

Caution: Never affix red ball sticker until all calendar entries are made.

Purpose: To know and have confidence at a glance that a matter is calendared, without having to look at the calendar.

Safeguard: If any document (ex: warrant, citation, counterclaim, calendar notice, etc.) is seen in the office without a red ball sticker, any personnel is to immediately determine the deadline or event date and check calendars to confirm that proper entries have been made.

- (a) If event is not calendared, make entries and affix red ball sticker; or
- (b) If event is calendared, affix red ball sticker to document.

The Best Calendar System

Is one that:

1. You will use.
2. Makes your life easier, not more difficult.
3. Requires only a single entry for dates and deadlines.
4. Your staff understands.
5. Is repetitive.
6. Is reliable.
7. Has a back-up feature.

Checklist of Docket Entries

Following are some dates and deadlines that might be entered in your calendar system. This list is not meant to be exclusive. Use it to prepare your own checklist of dates critical to your practice.

Litigation

- Statutes of limitations
- Court appearances
- Trials
- Judgment renewals
- Pleading due dates
- Discovery deadlines, replies to interrogatories, requests for admission, depositions, discovery cut-off dates
- Due dates for appellate briefs and arguments, notices of appeal and records on appeal
- Returns on service
- Briefs and memoranda due dates
- Settlement conferences
- Motions
- Pre-trial conferences
- Receipt of investigative materials
- Mediation, arbitration and other alternatives to trial

Real estate

- Closing dates
- Survey and inspection deadlines
- Financial disbursement dates
- Rescission dates
- Environmental compliance deadlines
- Lender-imposed deadlines
- Deadlines for zoning cases, board of adjustment matters and other applications for permits or exceptions
- Recordation deadlines
- Follow-up to receive cancelled instruments and recorded documents

Other Client Matters

- Tax return due dates
- Note payment due dates
- Renewals of leases and licenses

- Renewals of insurance
- Due dates in probate and estate proceedings such as inventory and appraisal dates, hearing dates and due dates for tax returns
- Appearances in bankruptcy proceedings
- Due dates in corporate and security matters
- Stockholder and director meetings
- Filing corporate documents
- Corporation renewal dates
- Renewal dates for copyright, patent and trademark status
- Review dates for wills and trusts (long-term obligations)
- Labor contract expiration dates
- EEOC deadlines
- Family law matters
- Workers' compensation deadlines
- Receipt of information and documents from clients
- File purging and destruction

Office Deadlines

- Client appointments
- Client follow-ups
- Periodic file reviews
- Staff meetings
- Renewal/reissue of malpractice and other insurance
- Renewal of office lease
- Renewal or review of equipment leases
- Partner/shareholder meetings
- Review dates for associate and staff evaluations
- Bar dues
- Professional commitments, such as dates of bar meetings
- Subscription expirations for professional publications
- Filing CLE
- Attending CLE
- Discretionary deadlines (doctor's appointments, PTA, recreational activities, luncheons, vacations, etc.)

Calendar Control Self-Review

	YES	NO
1. Do you have a reliable system for tracking dates and deadlines?	<input type="checkbox"/>	<input type="checkbox"/>
2. Does your system include at least two of these features? • Computerized calendar system • Manual system (tickler cards/file box) • Attorney's calendar • Matching assistant's calendar	<input type="checkbox"/>	<input type="checkbox"/>
3. Do you have a backup system?	<input type="checkbox"/>	<input type="checkbox"/>
4. Do you calendar advance warnings prior to ultimate deadlines?	<input type="checkbox"/>	<input type="checkbox"/>
5. Do you follow up to see that work was actually completed?	<input type="checkbox"/>	<input type="checkbox"/>
6. Do you routinely enter important dates, such as: • Statutes of limitations • Court appearances and litigation deadlines • Procedural deadlines • Client-imposed deadlines • Discovery dates • Billing dates • Office appointments • Administrative hearings and deadlines • Real estate deadlines • Deadlines set by you and your staff • Dates you will be out of the office	<input type="checkbox"/>	<input type="checkbox"/>
7. Do you have a designated Calendar Clerk to run the system?	<input type="checkbox"/>	<input type="checkbox"/>
8. Is everyone from senior partner to receptionist trained to use the system?	<input type="checkbox"/>	<input type="checkbox"/>
9. Do you keep a long-range calendar for one-, five-, 10- and 20-year ticklers (for example, future work in estate or corporate files)?	<input type="checkbox"/>	<input type="checkbox"/>
10. Does your system produce daily or weekly activity calendars that are distributed to the responsible attorney and staff member?	<input type="checkbox"/>	<input type="checkbox"/>

TIP: Keep a pad of calendar notices on every desk and beside every telephone in the office. Also, have some in your briefcase, car, and home. That way, you'll be able to quickly and easily record pending deadlines when they arise. When you return to the office, give your notices to the Calendar Clerk for entry in the system.

No. of
Yes Answers