You Get What You Pay For
Best Practices in Choosing a Calendaring Solution

By: Chris Gierymski

Introduction

Every lawyer deals with deadlines, whether they are rules-based, contractual, statutory, or personal. How the lawyer stores those deadlines and gets reminded in a timely manner to act upon them are crucial factors in risk management. Having a reliable calendaring[1] system, dedicated staff, and an effective workflow process are critical to mitigating the risk inherent in deadline errors and omissions.

Although lawyers are very cognizant of the importance of properly using a calendaring system, they tend to treat the task of calendaring deadlines as a low priority in their practice. This is especially true when they have to invest time and money to evaluate software and staff that are specialized for the task. It is also no secret that recessions in the economy lead to more legal malpractice claims as clients look for someone to blame and another source of income to right their wrongs. Even armed with that knowledge, and the fact that 34% of legal malpractice claims are directly attributable to deadline/calendaring errors[2], too often law firms do not address this critical function until an error occurs that exposes them to professional liability. Every calendaring error could easily be avoided with the proper use of an effective calendaring system, specialized support, and a well-planned workflow process.

Evaluate Current Staffing

The key to creating effective docketing support is to properly assess the needs of the firm. Should the docketing staff be centralized, decentralized, or a hybrid of both? The answer to this question depends on the size of the firm, the number of offices that need support, and the firm's workflow (or a lack thereof).

Generally, centralized docketing departments provide support for the entire firm. They report to one manager and use the same docketing software for all offices. This is prevalent in small firms with a few offices, firms that outsource their docketing function or those that have a business center for their administrative staff. Centralized departments can also be organizationally centralized reporting to one leader yet geographically dispersed. This way a specialist can be located close to the lawyers they support and still have a solid line reporting to the same manager.

A decentralized approach is very popular with firms, regardless of size. There could be administrative or legal assistants calendaring deadlines in smaller offices with multiple specialists located in the larger offices, and solo specialists located yet in other offices. They all report to different people and typically use different calendaring software.

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[1] For the purpose of this document, the terms Calendaring and Docketing will be used synonymously.
[2] Source: Profile of Legal Malpractice Claims 2008-2011, American Bar Association (2012)

A hybrid solution can be found in mid-sized to larger firms where the majority of offices are supported by a centralized department and one or two offices have docketing support independent of the others. The staff in the centralized department report to one manager and use the same calendaring software while the staff in the independent offices report to someone else and use different software.

There is no right or wrong solution but firms must closely evaluate their current workflow process and staffing based on their needs. Regardless of the type of support you decide upon, the calendaring software will need to be flexible, robust, and easy to use and maintain.

Evaluate Calendaring Software

The goal of evaluating calendaring systems is to find one that is reliable, efficient, and user-friendly. Cost is a major factor but usually the less expensive options are the ones with little to no customizations or flexibility. Remember the saying "you get what you pay for." Many firms spend hundreds of thousands of dollars on business development opportunities like sponsoring events or hosting elaborate cocktail parties, which is extremely important. The thought process goes like this -- even if we spend $100,000 on this event, one new client can bring in millions of dollars in business. If firms are willing to spend the money taking that kind of a risk to gain new business, why would they not spend that kind of money to reduce the risk of losing business? One missed deadline can cost the firm millions of dollars, a loss of important clients, and damage to their reputation. Not to mention the major hit to the career of the responsible attorney. Do the math.

The insurance industry's emphasis on adequate docketing controls is the very result of claims experience directly attributable to missed deadlines. You only have to search the Internet for docket control suggestions from insurance companies and you will find many articles and guides with a repetitive theme: Use one of many computer-based, automated docketing systems that are available and employ an administrator to manage a centralized system.

An effective calendaring system will automatically calculate deadlines and take into account holidays. The best system for the firm will be the one that attorneys and staff can use efficiently without a complicated user interface that makes it difficult to operate.

Many lawyers use basic computer calendaring systems such as Outlook Calendar and manually calculate the deadlines. There is nothing wrong with that approach if the lawyer is solo or has a couple of partners. As long as the calendars are shared with other partners or assistants, the risk to missing deadlines is reduced. However, any firm that has 20+ attorneys is taking a huge risk using Outlook Calendar as their sole docketing system. For larger firms, a rules-based system that can automatically calculate deadlines and adjust calendars accordingly is preferred.

A centralized calendaring system is recommended by insurance companies and keeps the firm's system running safely and smoothly by having everyone's deadlines in one database. A centralized system is beneficial in the instances of sudden illnesses, disaster recovery, and attorney departures. It also reduces premiums for professional liability coverage.

Other keys to a successful docketing system include making sure the rules are written by U.S. licensed attorneys that are employees of the vendor. Using vendors that employ third parties to write the rules are less effective and do not have control over the accuracy and methodology used to monitor the changes to the rules. Ask the vendor for their attorney biographies. The best docketing systems cost more because the vendors employ such licensed attorneys to write the rules. Any lawyer should be able to appreciate that fact.

Universal participation is extremely important to a successful docketing system. A written firm policy requiring participation is equally important to eliminating exceptions. Those who resist changing their docketing practices by adopting a new calendaring system are the most likely to miss deadlines or commit errors in the future. They include but are not limited to the following examples:

- The rogue attorneys who do not want to participate and claim they never missed a deadline in their 30+ year career.
- The secretaries who find all kinds of reasons to resist adopting and convince their attorneys to do the same because they are worried about job security.
- The practice groups that claim they have special needs for their docketing systems.
- The excuse that the integrated rules in the docketing software do not meet the needs of the local jurisdictional practices.

Must Have Features of an Effective Calendaring System

- ✓ Operate from a database common to all offices.
- ✓ Perform automatic date calculations and account for court holidays.
- ✓ Have a robust query and reporting capability to satisfy practice groups and business intelligence for the firm.
- ✓ Handle both litigation and transactional matters.
- ✓ Permit automation of CM/ECF receipts and downloads of PACER documents.
- ✓ Support calendaring of events by timekeeper or by groups of timekeepers.
- ✓ Permit automation by importing of client, matter, and attorney information from time and billing systems.
- ✓ Integrate with the firm's document management system.
- ✓ Perform duplicate and error checking on all data entered: attorneys, client and matter numbers, dates, etc.
- ✓ Have sufficient security controls to prevent unauthorized modification or deletion of calendared events.
- ✓ Easily assign/reassign attorneys to matters and events.
- ✓ Easily track deadlines through Outlook calendar integration.
- ✓ Allow attorneys to choose which matters and deadlines get pushed to Outlook avoiding clutter.
- ✓ Easy to use and train attorneys and staff.
- ✓ Adaptability to remain compatible with changes to firm technology.

Evaluate Current Workflow Process

The calendaring workflow process is the glue that bonds the staffing requirements to the calendaring software solution. Without an effective workflow process, the risk to deadline errors and omissions can actually increase, even with the smartest staff and the best software.

While 100% participation in a docketing solution is necessary to achieve compliance with written policies and mitigate risks to the firm, no firm will get to that number because there always will be an attorney who does not engage fully, remains technologically challenged, or is just too disorganized. The goal is to get as high a degree of participation as possible and continue to pursue those that do not.

There are so many different ways to create workflow processes that no method is a one-size-fits-all for firms. It all depends on the firm's culture, technology, geography, and enforcement. The best process is the one that works well for your firm.

Firms tend to create their workflow process for docketing so it matches existing methods for other organizational resources such as conflicts clearance, new business intake, mail and faxes, etc. Some firms will benefit from a centralized department examining mail and faxes for deadlines and limitations while other firms are just too large for that practice. Many firms use forms to notify docketing specialists of important deadlines while others are paperless and use email as their primary source for requests.

Automation is a key ingredient to a successful docketing workflow process. It allows specialists to free up their time so they can pay closer attention to details while keeping overhead costs low for the firm. An effective docketing system should have the following automations to help with workflow:

- Capture CM/ECF receipts automatically and download the PACER documents into the firm's DMS system. For example: If a firm receives 100 e-filing receipts per day and it takes a staff person 10 minutes to process each receipt, download and store the PACER attachments, and calculate the deadlines, such automation can save the firm 4000 hours per year. That does not include saving money on the PACER costs involved with people downloading the attachments later after the free look was taken.

- Ability to schedule reports for certain days, times, attorneys, matters, etc. for automated distribution - *set it and forget it automated reporting*. For example, if a firm of 600 attorneys sends out weekly calendar reports on Fridays to the assigned attorneys and staff, and the software users must manually set the parameters of the report and send the reports by attorney or office by email, it takes about 3 minutes per attorney to complete the distribution. Automated reporting can save the firm about 1560 hours if the users did not have to send the reports manually. Plus, during the distribution process, the software may prohibit the user from working further until the reports are completed.
- Allow users to quickly and efficiently assign and reassign attorneys and staff to matters in the docketing system. All firms face the fact that there will be departing attorneys,

laterals arriving every year, and reassignment of attorneys and staff to existing matters. For example, if a firm is handling 100 asbestos cases across the country and a new attorney is assigned to every one of those cases, it can take a lot of hours or days just to add that attorney to every matter and future event in the system. Automating this task will reduce the time a user must spend handling such a project and spend more time calendaring critical deadlines.

- Synchronize deadlines with Outlook Calendar or similar applications. A good system allows a firm to reduce the clutter that attorneys face in their calendars by easily filtering events that are not applicable to the matter. If a firm has 500 entries per year manually added to Outlook Calendar by a secretary and it takes about 4 minutes per entry, the firm can save at least 8000 hours per year if the docketing system automatically pushes deadlines to Outlook and adjusts any changes made to updates.

The best workflow processes promote teamwork among attorneys and staff and are easy to follow. A complicated workflow process that is difficult to understand or does not benefit certain group practices will cause unwilling participants to put such tasks aside for other tasks and that's when deadline omissions occur.

Regardless of the process, attorney oversight is crucial to the success of a docketing system. Attorneys are responsible for the accuracy of the deadlines whether they input the dates personally or a staff member is assigned that task.[3]

A sample workflow process for a medium to large firm can look something like this:

1. Docketing request form is completed by attorney or secretary and sent to a designated docketing specialist via email. Documents related to the request are attached.
2. Documents are reviewed by the specialist and relevant information is extracted to trigger deadlines.
3. Automated rules calculate deadlines and are verified by specialist.
4. Deadlines are saved in the docketing system and documents stored in the firm's repository or document management system.
5. Confirmation email is sent to the requestor with all relevant deadlines referenced for review by attorney and stored as a backup for auditing purposes.
6. Deadlines are synchronized with attorneys' Outlook Calendars.

Conclusion

Whether choosing a centralized, decentralized, or a hybrid docketing solution, an effective calendaring system will assist a firm in practicing in a safe environment that will reduce, if not alleviate, the chance of committing errors with and omitting critical deadlines. Client relations, office management, and firm expenses will also be improved.

The key is finding a reputable vendor that will become a business partner with the firm and help with not only the implementation of the software but also with the workflow solution.

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[3] Richmond, Douglas R. (2012) "Neglect, Excusable and Otherwise," Seton Hall Circuit Review: Vol. 2: Iss. 1, Article 3.

Having experienced staff that understands docketing support as well as the law firm business model makes that vendor a true partner.

Rules-based docketing systems remain the most reliable and drastically reduce the risks to the firm. Having a vendor that employs its own attorneys to write the rules and offers clients the chance to communicate with those attorneys by email and phone to discuss rules interpretations is extremely valuable to the firm, its attorneys, and the docketing staff.

The best calendaring system is the one that satisfies your firm's needs, makes your job easier and not more difficult, is easy to use and maintain, your staff understands, and is very reliable. Remember, don't settle for a system that costs less because your firm will regret that decision later and waste valuable resources implementing it. Do your due diligence and get references. It will make all the difference for years to come.

Project Management Steps

The following steps are useful in determining the type of docketing support and system for any size firm:

1) ***Evaluate current docketing system, workflow processes, and staffing needs.***
   a) Find a champion in the firm, such as the general counsel or professional liability partner that will be an advocate with influence over critical decision making.
   b) Create a committee or team that includes key stakeholders (attorneys, admins, and staff) to evaluate the needs of the firm.
   c) Appoint a "go to" person that will oversee the project.
   d) Conduct an internal and external discovery process. Learn from colleagues and competitors using surveys and interviews. Most professionals are willing to help.
   e) Draft a written proposal that summarizes all findings and factual data and submit it to the firm's decision makers.

2) ***Determine what calendaring system works best for your firm.***
   a) Identify the persons that will be responsible for the docketing.
   b) Create a list of must have features for the software.
   c) Determine what integrations will be necessary with current firm applications (document management system, email, conflicts, new business intake, accounting and billing, etc.)
   d) Get references from the vendors and contact them.
   e) Compare features, capabilities, and ease of use of software.
   f) Compare initial and annual subscription costs.
   g) Do not let cost be the only determining factor.

3) ***Plan the implementation and rollout of the new calendaring system.***
   a) Use project management principles to create timelines and assign staff responsible for each milestone. Too many firms have failed in their implementations due to a lack of proper project management skills. Equally important is to make sure the vendor you use has an experienced project manager to work with you every step of the way.
   b) Standardize workflow processes but be flexible to adopting changes based on cultural differences in the various legal markets and cities.
   c) Create a written calendaring policy for the firm.
   d) Expect technical glitches and roadblocks.
   e) Follow up with offices and groups after the rollout.

4) ***Communicate effectively and often.***
   a) Communicate with practice groups and office leaders prior to rolling out the software and support for that office or group.
   b) Expect resistance and lots of it.
   c) Convince the attorneys that reviewing the calendared events for accuracy is critical. They are ultimately responsible.
   d) Make sure everyone is familiar with the firm's calendaring policy.

e) Use coaching skills to encourage attorneys and staff to view the calendaring system as a tool to help them do their jobs more thoroughly and efficiently.

f) Sell the system to the attorneys and staff rather than forcing it upon them.

5) **_Train properly and frequently_**

a) Get training for all docketing staff and users of the software from the vendor. See if the vendor has a train the trainer program.

b) Create training for new hires. Make sure they are aware of the docketing policy and workflow process.

c) If possible, meet with the office attorneys and staff and provide them with an overview of the docketing system and workflow process.

d) Create online training program for internal users.

e) Have docketing staff and users participate in frequent training programs offered by vendor, many being web based.

Chris Gierymski is the Director of Business Development at American LegalNet. Prior to joining ALN, Chris was the Director of Docketing for all U.S. offices at DLA Piper for 23 years. He also served as founding member and past president of the National Docketing Association. Chris is a recognized authority on docketing support and calendaring applications. He can be reached at cgierymski@alncorp.com.

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