

## LEGAL TECH

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### Reduce Malpractice Risks With Automated Court Calendaring

Switching to a rules-based calendaring system could save your firm time and money

Some attorneys and law firms use simple calendar programs like those found in Microsoft Outlook® and Novell GroupWise® to keep track of their court dates. However, these simple calendars do not use court rules databases to search deadlines and lack the ability to automatically change dates should there be modifications. Instead, secretaries calculate and input court appointments and other critical dates by hand for attorneys, who then write them in their day planners or key them into a PDA. When a critical court date changes, their entire calendar must then be recalculated, costing the firm time and money. This type of calendaring process is highly prone to human error, increasing the firm's malpractice risk.

In contrast, an automated court rules-based calendaring system does the work in only seconds and greatly reduces the risk of human error. Automated calendaring systems have been around for years and have evolved into inexpensive software that works for

all law practices regardless of size, from solo practitioners to multinational law firms.

Automated court rules-based calendaring software works by allowing a docket clerk, secretary, paralegal or the attorney to enter key dates for matters and apply court rules for various jurisdictions. The software then automatically calculates responsorial deadlines. When trigger events are moved, like trials or hearings, the court rules software automatically recalculates the entire calendar.

Another benefit of using an automated court rules-based calendaring system is cost savings on malpractice insurance for the firm. All law firms have an interest in minimizing these risks and benefiting from the efficiencies that court-calendaring software has over manually calculating critical dates. A recent study by the American Bar Association found that failure to properly calculate court deadlines associated with changing rules is a leading cause of malpractice claims (American Bar Association, Profile of Malpractice Claims, 1996-1999). While few lawyers realize the risks associated with court calendaring errors, even fewer are aware that implementing automated calendaring programs provides financial relief for the high cost of malpractice

insurance, resulting in rate reductions of five to 25 percent. There are even some insurance companies that refuse to write policies for law firms that do not utilize automated court-rules based calendaring software.

The cost for malpractice insurance has skyrocketed during the past few years and insurance companies now audit law firm practices. For example, there was a recent incident in New York in which a small law firm missed a court deadline and tried to excuse its oversight by noting that one partner was serving in the military in Iraq at the time, the other was in China adopting a baby and their secretary went into premature labor. A New York court held that poor office procedures, not unanticipated absences, caused the firm to miss a court deadline. The court found that the circumstances did not constitute "excusable neglect." The firm's error cost several malpractice claimants a chance to obtain recompense for damages.

While there are some upfront costs for purchasing and implementing an automated calendaring system, the investment quickly pays for itself. In addition to savings on insurance, firms using rules-based calendaring software can save on staffing costs and eliminate duplication of effort. In a manual, paper-based system, there is always a risk of misplacing the calendar. With an automated court rules-based calendaring program, electronic backup copies of the calendar protect against its loss.

There are several administration styles available today for automated court calendaring systems, making the

technology work for any size firm:

1. **Stand-alone systems:** For small offices, the software can be installed on a stand-alone PC, with the calendar events and rules databases available only on the stand-alone system. The individual secretary, paralegal or lawyer who has access to the system can then create or modify the calendar.

2. **Client-Server Version:** The software is installed on the firm's server, which individual secretaries or paralegals or the central docket department can access on their PCs. The software can also be made accessible via the firm's wide area network from a central server.

3. **Web Portal Access:** Attorneys can access their court calendar at any time via Web browser using an Internet connection or a PDA.

There are several key elements for a law practice to focus on when considering an automated calendar system. First, the calendaring software should be easy to implement, easy to learn and most important, easy to use. The leading calendaring software programs utilize an English-language tree system that easily enables the user to select the correct jurisdictions and individual court rules. The software should have the capability to easily produce calendars for all of the lawyers working on a particular matter as a team, as a department or by any other means. Coordinated calendars can be crucial for the firm's management.

Another consideration is the rules-

based court calendaring software's compatibility and interaction with the other software on the firm's network. If the firm uses Novell GroupWise, Microsoft Outlook, Microsoft SQL®, Lotus Notes®, etc., the system must be able to integrate and work well with it. The best court rules-based software works with such programs to deliver information in the way that best suits the individual attorney.

When selecting an automated calendaring system, another factor to keep in mind is the program's ability to track deadline changes. Tracking court dates can be extremely intricate and courts may issue changes in calendaring rules at any time. Often firms may assume federal rules without checking for local rules, therefore, missing court dates for local jurisdictions. An automated system can save hours of research and entry on every matter maintained in the program.

Lastly, the calendaring software should offer a wide availability of court rules-based databases for jurisdictions in which the firm practices, including state district, state appellate, federal district, appellate circuit and Supreme Court. The program should also include rules for special courts like bankruptcy, family law, intellectual property and arbitration, and should factor in holidays when scheduling. Frequent updates are a must for all jurisdictions and special courts.

In addition to the key elements listed above, a firm should look for an auto-

mated court rules-based calendaring program with the following features:

- Built-in automatic date scheduling that has the ability to routinely and correctly schedule events based on courts rules.

- Automatic changes for all dates regarding a specific matter or the ability to adjust only the trigger date as is applicable in a particular case.

- Automatic reminders that allow the firm to set up repeating reminders for critical dates.

- Audit trails that allow the firm to review changes, additions and deletions for any subject.

- Qualified lawyers on staff whose sole task is to review court rules and create databases.

- Support staff that the docket clerk can contact for clarification about how a certain rule is applied.

Studies of legal malpractice insurance companies throughout the nation have shown that they recognize the importance of automated court calendaring in reducing legal liability. Now, most ask if a law firm is using court rules-based calendaring, and some require a court rules-based system before they will write a policy. Other insurance companies give a discount or reduce a rate increase. Automated court rules-based calendaring systems are available to firms of all sizes, and every firm can find payback in lower insurance rates and the better use of billable time. ■