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Automated Rules Databases Reduce the Risk of Malpractice

BY LARRY A. CRAPO

Calendar/deadline errors are reportedly the leading cause of malpractice claims against attorneys, according to a survey by the American Bar Association.

In fact, nearly one in four malpractice claims were related to court rules calendaring in 1999, the last year for which data is available. The breakdown includes: failure to know/ascertain calendar, 15 percent; failure to calendar, 7 percent; and failure to react to calendar, 1 percent.

Moreover, according to the study, "a significant percentage of practicing lawyers have no malpractice coverage. Uninsured lawyers claims cannot therefore be represented." If they could, the numbers would be significantly higher.

Strict Rules

Calendars are strictly set by the rules of the court and vary in each jurisdiction. Rules in certain jurisdiction can be complex. For example, at the Los Angeles County Superior Court, a single trial date

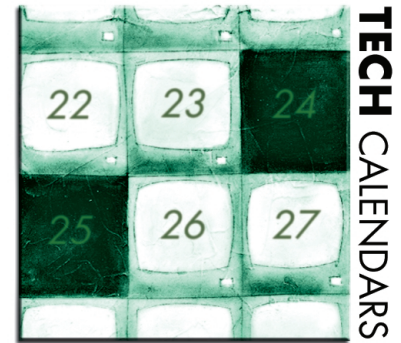
may be linked to as many as 60 deadlines. If one date changes, the entire matter calendar must be recalculated, compounding the opportunity for error.

Traditionally, attorneys have kept a paper calendar to pencil in dates and times. Today, many use automated calendar programs such as Microsoft

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Outlook, Palm Pilot or other PDAs to record dates, allowing them to print schedules or carry them electronically. These systems typically rely on a paralegal, secretary or administrator to track dates and enter them.

The more complex the case, the more susceptible the calendaring system is to human error. Throw into this mix the fact that courts may make changes in their calendaring rules at any time — and that multiple rules apply to dates in one jurisdiction — and it is easy to see what an error-prone headache manual calendar



tracking has become.

Automated court rules-based calendaring systems are a proven solution to reducing the risk of calendaring errors. For this reason, many malpractice insurance carriers offer discounts to law firms and attorneys who use automated rules-based calendaring software or services.

Rules-based software programs differ from simple calendaring software because they are based on court-rules databases and automatically calculate all the dates and deadlines for a matter based on the initial trial date entry.

If a date changes, the rules-based program automatically recalculates the entire docket.

No matter the size of a firm, consideration should be given to the following features when researching an automated court rules-based calendaring system:

- **Centralized or decentralized docket administration.** When bringing in a new automated court calendaring system, law firms and corporate legal departments should think about how they are administering the program for their attorneys.

Larry A. Crapo is vice president of sales and marketing at CompuLaw, Inc., in Los Angeles.

Often, a firm's calendaring administration has simply grown ad hoc, attorney-by-attorney, with secretaries or paralegals using their own system for individual lawyers. Larger litigation firms and firms practicing in many jurisdictions have found this structure inefficient and costly, with a far greater margin for error. Firms should look into creating a centralized docket department that issues reports for each attorney and assures that any changed dates in the schedule are automatically recalculated.

- **Preprogrammed court rules for your jurisdiction(s).** Check to make sure the vendor issues rules databases for the jurisdictions in which you practice. This would include rules sets, for example, in state districts, federal districts, appellate circuits and the U.S. Supreme Court, or rules sets for special court like bankruptcy, family court and arbitration.

- **Updates by a team of dedicated attorneys.** The vendor must have a team of qualified attorneys who work solely at reviewing court rules and creating and amending calendars.

- **Frequent rules sets updates.** The vendor's attorney team must monitor all court rules changes throughout the nation daily and update the rules sets accordingly. The frequency of rules database updates can vary significantly from vendor to vendor.

- **Automatic date scheduling.** The software must be able to automatically and correctly schedule events using the court rules database for the particular jurisdiction in which the event occurs. The software tracks all dates relevant to the case and combines them with appointments, tasks, and other docket dates for the individual attorney.

- **Automatic recalculations.** When the date of an event changes, the docketing software must automatically recalculate all the dates for that matter. When a court creates new rules, the vendor

should update the database and the docketing software should recalculate the entire calendar.

- **Scheduling trigger dates.** A "trigger" date sets an entire schedule in motion and is subject to change. You should require that your court calendaring system give you a choice between automatically changing all dates for the case and only adjusting the trigger date as it applies to each particular instance.

- **Data validation.** Any reliable software should include a data validation system. The system should not allow the entry of incorrect data. The most sophisticated rules-based calendar systems do not use cryptic codes to select jurisdictions or individual court rules, which can lead to human errors. Instead, these programs include English language trees to allow users to make the correct selection. Superior programs validate user authenticity before allowing users to access a rules database(s) for creating a case calendar. Sometimes formulating a calendar date requires the application of as many as five rules databases in a given jurisdiction. The calendaring software should self-correct to ensure that the rules databases are applied in the correct order of priority and that all needed databases are used.

- **Automatic reminders.** A reliable calendaring software should include a feature that automatically reminds the user about critical dates. This feature should be able to repeat reminders for critical dates that are most important.

- **Scheduling multiple timekeepers.** The software and database should be able to create and publish the calendars of all the lawyers working on a particular case, the entire litigation department, or other related team members.

- **Holiday scheduling.** The system should factor court and firm holidays into the schedule calculations. The vendor should provide an exact holiday table with every rules database purchased from them.

- **Creating an audit trail.** The software should be able to create an audit trail, allowing review of any addition, change or deletion for any given subject.

Other Benefits

Although reducing the chance of creating a calendaring error is critical, there are other important benefits to using a court rules-based calendaring system.

The efficiencies of automated docketing software translate directly into savings of time and money.

With hours of manual work now taking just minutes, support staff is free to perform other duties. And the efficiencies of automated court rules calendaring can help larger firms hold the line on increasing support staff.

Court rules calendaring is more efficient for attorneys, too. Reports can be delivered via e-mail, or, if an attorney prefers, still printed on paper. If court calendar dates change while an attorney is traveling, the dates can be recalculated immediately, and the attorney can access the new report from a laptop.

And, again, many professional liability insurance carriers offer discounts to attorneys and firms using court rules-based calendaring software.

But perhaps the most important benefit is qualitative rather than quantitative: Simply knowing that an automated system is virtually eliminating the risk of a calendar/deadline error helps attorneys sleep better, whether at home or on the road. And when attorneys can focus more of their energy on the substantive issues of a case, their work performance improves.

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