



Office Procedures Manual

RISK MANAGEMENT HANDOUTS OF
LAWYERS MUTUAL



**LAWYERS
MUTUAL**

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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.

CALENDAR CONTROL

The most frequent source of claims at Lawyers Mutual is missed statute of limitations deadlines. These cases are frustrating because there is usually no defense. The event leading to the malpractice, the blown deadline, could have easily been avoided by implementing a calendar control system or utilizing the system already in place.

The idea behind calendar (or docket) control is to create a system that is reliable and efficient. An effective system provides for the daily scheduling of all work in the office, including appointments, court appearances, litigation deadlines, filing deadlines, real estate closings, follow-up dates, self-imposed deadlines and office meetings.

A good system provides peace of mind. For example, with calendar control, promises to a client to have a status report completed by a certain date will no longer turn into a last minute rush. Another benefit is improved client relations, which also reduces the risk of a malpractice claim.

THE BASICS

The first step in setting up your calendar system is to appoint one person who will be responsible for docket control. Name a back-up. In some large offices, docket control is the sole function of one employee, usually a paralegal, with another paralegal acting as the back-up. We'll call this person the *Docket Coordinator*.

In a smaller office the coordinator may have other responsibilities. It is important that everyone in the office be familiar with the system and use it. For example, if the receptionist schedules an appointment for an attorney who is out of the office, the receptionist must advise the docket coordinator of the scheduled client meeting.

There should be at least two or three notices for every deadline. The system would not serve its purpose if it only gave notice of a deadline on the date of the deadline. For example, if an answer is due to be filed with the court on Monday by 5:00 p.m.,

you need to know before 9:00 a.m. Monday.

As a general rule, your docket system should give you deadline notices two weeks in advance, one week in advance, and on the day of the deadline. Successive reminders allow you to work on projects gradually rather than constantly putting out fires.

BACK-UP AND REVIEW

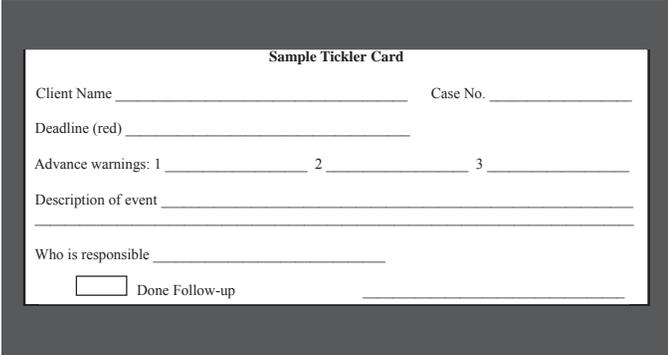
The docket coordinator should distribute docket reminders to the attorneys and support staff each day. The back up should distribute the reminders in the absence of the coordinator. There should also be a procedure for covering deadlines when the responsible attorney is out of the office. A back-up system or calendar should be maintained. If your docket system is on computer, your back-up system should be manual.

MATERIALS NEEDED

1. Two File boxes, each large enough to hold 3 x 5 index cards.
2. Two sets of 3 x 5 tab dividers, numbered 1-31. These are your daily tab reminders.
3. One set of 3 x 5 tab dividers, labeled January through December. These are your monthly tab reminders.
4. Blank set of nine 3 x 5 tab dividers. These are your annual tab dividers.
5. 3 x 5 tickler cards. You can choose from a variety of pre-printed forms that are self-imaging, so no carbon paper is required. Or you can easily create your own cards on your word processing system. Or just use blank 3 x 5 cards and fill in the necessary data on each card. Below is a sampler tickler card that might work for you.
6. One set of 3 x 5 tab dividers labeled A-Z. These will be used to set up a client control index.
7. Yellow and red felt pens.
8. Back-up calendar (week-at-a-glance or month-at-a-glance).

SAMPLE TICKLER CARD

Notes: You can use this as a tickler card or customize your own. Have the card printed by your neighborhood printer for a relatively modest cost. Ask for carbonless, self-imaging cards that are in triplicate and can tear apart. The bottom sheet must be red, the middle sheet yellow, and the top sheet white. Or you can simply make photocopies of the above card and use different colored markers to indicate the different warnings.



The image shows a sample tickler card form with the following fields:

- Client Name _____ Case No. _____
- Deadline (red) _____
- Advance warnings: 1 _____ 2 _____ 3 _____
- Description of event _____
- Who is responsible _____
- Done Follow-up _____

PUTTING THE SYSTEM TO WORK

Anyone can enter information into the docket system by using the tickler cards. The cards should be completed and given to the docket coordinator. Or the information can be given directly to the docket coordinator, who actually prepares the tickler and files in the system. The original tickler should be filed under the date of the deadline. Duplicate cards should be filed at the two-week advance warning, and so on.

Color coding is helpful. The pre-printed systems come color-coded. A red tickler card, for example, is the one actually filed under the deadline date. A blue card is used for the two-week advance warning, and so on.

You can easily color code your system by using different colored paper for your tickler cards, or by using different colored pens to write the information on the cards. The colors send different messages. Example: blue indicates the two-week warning, yellow is one week, red is the ultimate deadline.

Each day, the deadline coordinator distributes the tickler cards that appear in the docket system for that date. The deadline coordinator also enters the deadline date of each item on the back-up calendar.

This back-up system will be in place if a tickler card is lost or misfiled.

Each day, the coordinator pulls all files requiring activity that day. After the activity has been completed, the files should be immediately returned to their storage cabinets and a new tickler date should be established.

Two rules should be followed: Never accept representation in a case or open a file, particularly a plaintiff's file, without first determining when any statute of limitations will run. Never file or shelve a client file until the next activity date is tickled.

WEEKLY CALENDAR

It may be helpful for the docket coordinator to also prepare a weekly calendar for each attorney and support person. The calendar shows all upcoming deadlines for the week. The weekly calendar is given to the attorney and support staff on Monday so they know what must be accomplished during the week.

Each day the docket coordinator will check with the attorney to determine whether the items due that day were completed. If for some reason the attorney is unavailable, he or she can make the appropriate notation on the weekly calendar and the docket coordinator knows where to get the information

A PICTURE OF THE SYSTEM AT WORK

First, let's set up our calendar system. Let's say that today is January 1, 2002.

- Place the January monthly tab divider at the front of one of the file boxes.
- Place one set of daily tab dividers (numerical 1-31) behind the January tab.
- Place the February monthly tab dividers behind the number 31 daily tab.
- Place the second set of daily dividers behind the February tab.
- Place the remaining monthly tabs (March through December) behind the tabs for February.
- Place the 9 blank tab dividers in the back of the box. Label these for the next 9 years (2002, 2003, etc.) These tabs represent future years.

- Place the alphabetical tab dividers (A-Z) in the second file box. This will be your client control box.

Now that our system is set, let's see how it works. Let's say you're using the sampler tickler card shown above. Imagine that a pleading must be filed on February 5. To enter that deadline in the tickler system, you:

- Fill out the information on the front of the card, pressing firmly to imprint on all copies. Generally, tickle at least two advance warnings.
- The bottom copy (red) of the tickler card should be filed behind the February 5 tab divider. This indicates your drop-dead or ultimate deadline.

Note: The red card always remains filed behind the ultimate deadline. It does not move until the ultimate deadline arrives.

- The middle copy (yellow) is used for advance warnings. It should be filed behind the tab divider representing the first advanced warning (January 17 as the two-week warning). When the January 17 deadline passes, this card is refiled in the date corresponding to the second advanced warning (January 24 as the one-week warning). Note: The middle card (yellow) "floats" through the box. It begins with the first advance warning and proceeds toward the ultimate deadline.
- If for some reason the activity required by the advance warning cannot be completed, simply assign a new advance warning date and refile the card accordingly.
- The top card (white) is filed alphabetically in the second box under the client's name. This is your client control file. Whenever you wish to determine upcoming dates and deadlines for any client, simply consult this file. You will see what deadlines, including advance warnings, have been tickled for every client.

Other points about the system:

- The calendar is perpetual. At the end of every day, remove the daily tab divider from the current month and place it behind the tab for the month-after-next. Similarly, when you reach the end of a month, remove the monthly tab divider and place it at the back of the monthly tabs.

- Note that you will always have 62 daily tab dividers at the front of the box for filing tickler cards. Some of the 62 tabs will be in the current month, depending on how late in the month it is. The remainder will be in the two succeeding months. These daily tabs roll over perpetually.
- Tickler cards that are to be followed up more than than 62 days in the future should be placed behind the appropriate month, regardless of the actual day. When that month arrives, the daily guides will be placed behind the monthly tab and the tickler cards distributed accordingly.
- Tickler cards to be followed up in future years should be placed behind the appropriate annual tab at the back of the box. When that year arrives, monthly and daily tab dividers can be set up, and the cards distributed accordingly. This allows for long term tickle dates.

MAINTAINING THE SYSTEM

1. Prepare a written office policy regarding your docket system and include it in your employee manual.
2. Appoint one staff member as docket coordinator. Appoint a back-up.
3. Know the law. You cannot calendar litigation deadlines if you do not know the deadlines required by statute and the Rules of Procedure.
4. Enter dates and deadlines into the system in a prompt and timely manner.
5. Calendar reminder dates in advance of the final deadline.
6. Maintain a back-up system.
7. Make sure deadline notices are distributed each day by the docket coordinator.
8. Develop a follow-up procedure to make sure that docketed matters have been fully completed.
9. Set up a 12 month wall calendar so you can plan long-term. Or you can use this calendar to show all upcoming court hearings, real estate closings, etc.

CHECKLIST FOR DOCKET CONTROL ENTRIES

LITIGATION

- Statutes of limitations
- Court appearances
- Judgment renewals
- Pleading due dates
- Discovery deadlines, replies to interrogatories, request for admissions, depositions, discover cut-off dates
- Due dates for appellate briefs and arguments, notices of appeal and records on appeal
- Returns on service
- Briefs and memoranda
- Settlement conferences
- Motions
- Pre-trial conferences
- Mediation, arbitration and other alternatives to trial
- Client appointments

REAL ESTATE

- Closing dates
- 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.

BUSINESS

- Note payment due dates
- Renewals of leases and licenses
- Renewals of insurance
- Due dates in probate and estate proceedings (inventory and appraisal dates, hearings, and dates for tax returns)
- Appearances in bankruptcy proceedings
- Due dates in corporate and security matters
- Dates of stockholder and director meetings
- Dates for filing corporate documents
- Review dates for wills and trusts (long-term)
- Labor contract expiration dates
- EEOC deadlines
- Worker's comp deadlines

GENERAL

- Procedural deadlines
- Discretionary deadlines (doctor's appointments, PTA, recreational activities, luncheons, etc.)
- Professional commitments, such as dates of bar meetings
- CLEs
- Staff vacation dates
- Children reaching majority (depends on type of matter)
- Client or client's parents reaching majority (depends on type of matter)
- Conviction expungements

MAIL DISTRIBUTION

INCOMING MAIL

One person should be responsible for picking up, opening and date stamping all the mail. Every item received in the office should be stamped with a receipt date. Once this has been accomplished, distribution should be made to the secretary of each attorney.

The secretary should review the mail for dates and items of importance. She should look for correspondence requiring a response, receipt of information which the attorney has been waiting for, notices of important dates for meetings and hearings, depositions, trials, etc. Such correspondence should be flagged, either by highlighting the important information or by attaching a note to the correspondence so that the attorney recognizes it right away.

Make notation on the calendar. Make an entry in the docket control system for deadlines.

You may want to separate the mail into three different stacks: 1) legal periodicals and newsletters; 2) junk mail; and 3) correspondence and pleadings that require immediate attention. To place all of the mail in one stack will seem overwhelming to the attorney. Unfortunately, instead of sorting through the stack, the attorney will move the stack to the side in hopes of reviewing it at a later time. By having the secretary sort through the mail, and highlight the items that need immediate attention, the attorney can tend to important matters right away and either discard or put aside the reading material and junk mail until later.

Attach the mail to the client file before placing on the attorney's desk. It is easy for loose mail to be misplaced or misfiled. Also, if these loose items of mail are given back to the secretary for filing, they may sit on the secretary's desk for an indefinite period of time until the secretary finds time to do the filing. After all, filing is a job that most of us put off as long as possible.

Once the mail (attached to the file) is returned to the secretary, she can place the mail in the file in its proper place and return the file to the cabinet. This will help to keep the files as current as possible. Attorneys and staff review files to bring themselves up-to-date on the case. This cannot be done if all the correspondence and/or documents have not yet been filed.

OUTGOING MAIL

Any correspondence prepared for review by an attorney should not be added to the already overwhelming stack on the attorney's desk. Correspondence can easily be shifted and covered by other matters added to the stack. The attorney may not get to the correspondence for several days.

The correspondence should be given directly to the attorney or put in a noticeable place. Consider designating a special basket or area just for documents requiring review and signature. Place post-it notes on the documents to show when they must go out (example, red means must be mailed today).

Pull the file and refer to it when preparing correspondence. This way, you'll get the correct names and addresses. Also, the file should indicate if copies are to be sent to a particular person such as co-counsel. If additional copies of the letter and enclosures are to be mailed, make a notation on the file copy of the persons to whom copies were sent.

APPOINTMENTS

When making appointments, use a calendar that allows enough space for appointments and meetings to be listed legibly. A calendar that displays the entire week at one glance is helpful. This allows the person viewing the calendar to easily see how the attorney's schedule looks for the next couple of days as opposed to viewing one day at a time.

Attorneys should not be shy about making notations on calendars. Do not rely on memory for keeping meetings and other scheduled appointments straight.

The secretary should always keep a duplicate of the attorney's calendar. At the beginning of each day (or the end of the previous day), the attorney's and secretary's calendars should be checked against each other to make sure they coincide. Attempt to review the day's calendar together so that you can make joint plans. After reviewing the calendar, you can begin planning your day.

When making appointments, be sure to obtain all of the necessary information from the client. One of the most important items you will need is a phone number where the client can be reached during the day. Emergency situations often arise and it may be necessary for you to contact the client to reschedule an appointment. Without a phone number where the client can be reached, you will have to wait until the client comes in to inform him/her that the appointment has been cancelled.

Ask clients where they would prefer to receive their mail and telephone calls. Some would prefer to be contacted at home, others at work. Ask for convenient times of day.

Ask what the consultation is in reference to. The type of case determines the type of information you need. For example, in a domestic matter, the attorney will need information regarding the client's financial situation. For a will update, the client should provide a copy of his/her existing will, as well as the correct names and addresses of the people who will be named in the will.

Having the necessary information up front will speed up the process and eliminate unnecessary delays. The use of preprinted forms is helpful. Prior to the initial conference, the client could pick up the form questionnaire or you could mail one to the client. They could complete the questionnaire at their leisure and bring the completed form with them when they meet with the attorney.

Sample interview and intake forms are included in the "Client Intake" handout. You can obtain a copy via our website:

www.lawyersmutualinc.com.

Be sure to allot ample time for each appointment. More often than not appointments run longer than their scheduled time limit. Depending on the circumstances, you should allow approximately 1/2 - 1 hour for office conferences, 2 or more days for a trial, and 1/2 - 1 day for depositions.

If the attorney is rushed and pressured, the whole office will feel the effects. It is better to schedule too much time as opposed to not enough time. Overcrowding and long delays in the reception area do not promote happy clients.

CONFLICTS OF INTEREST

It is impossible for an attorney or staff member to have an instant recall of all former clients. Not only do you have to remember former clients, but also adverse or opposing parties. The memory method is not easy and definitely not reliable. Memory alone is not sufficient to avoid conflicts of interest.

The problem becomes even more complicated with firms that have several attorneys. It is impossible for each attorney to know the past and/or present clients of the other members of the firm. Mergers are almost impossible to handle even with a good conflict of interest system. Conflicts of interest information should be compiled when the file is opened. Parties may also be added during the pendency of the case.

Four different options are discussed below. Review the options to determine which method is right for you. Though the options are similar in that they all achieve the same goal, they differ slightly in their method. The option you choose will depend upon your preference as to procedure.

OPTION A

Supplies needed:

- 3 x 5 index or rolodex cards
- File box large enough to hold 3 x 5 index cards or rolodex
- Set of alphabetical dividers

The name of related or adverse parties should be printed on 3 x 5 index cards to be maintained in one central location. You will need to include on the card the name of the party, the relationship of the party to your client (ex: opposing party, co-defendant, witness, etc.), the client's name, and the file number and case matter.

Doe, John	Opposing Party	#11789
Client:	J. W. Smith & Sons, Inc.	Worker's Comp
Case:	Doe v. J. W. Smith & Sons, Inc.	

The cards should be filed alphabetically. Cards should be stored in the file box or on a rolodex depending upon your preference.

You should prepare a separate card for each individual involved.

Your firm may be asked to represent a future client against a former client.

A review of the master client listing is also important. To save yourself an additional step, you could prepare an index card for clients as well as other parties involved in the case. This way, you would only have to check one place for all possible conflicts.

OPTION B

Supplies needed:

- 4 x 6 five part one-write carbonless preprinted cards
- File box for 4 x 6 cards
- Set of alphabetical dividers

This option is similar to Option A. The 4 x 6 cards, however, are carbonized. You could list the client as well as numerous other parties on one card and then separate the cards for filing.

Client:	J. W. Smith & Sons, Inc.	#11789
Opposing parties:	Other parties:	
Doe, John	J. W. Smith Sr.	
	J. W. Smith Jr.	

Once the card has been completed, separate the parts and file them in alphabetical order in the system.

This option is the least time consuming because you only type one card as opposed to a different card for each party in Option A.

This option will be the most expensive because you will need your local printer to print the carbonized forms.

OPTION C

Supplies needed:

- Pre-printed Initial Interview forms
- Notebook large enough to hold the Initial Interview forms

The Initial Interview form is prepared when the file is opened. It should be carbonized and have a section dealing with conflicts of interest. One of the copies could be filed alphabetically in a notebook and used as a checking system. This option works basically the same as the other two options discussed.

The advantage to this system is that it is simple, low-maintenance and does not require forms. Additionally, you will not have to prepare a separate entry for the system. The conflict information will be obtained by simply filing the carbonized copy of the initial interview form.

Sample interview and intake forms are included in the "Client Intake" handout. You can obtain a copy via our website:

www.lawyersmutualinc.com.

OPTION D

Your conflicts of interest database could be placed on your office computer or word processor. There are various software packages available or you may want to create your own. Simply search the database for possible conflicts.

A list of software programs is included in the "Software Directory" handout. You can obtain a copy via our website:

www.lawyersmutualinc.com.

This option is quick and accurate. The amount of storage space used, of course, depends on the size and nature of your practice.

USING THE CONFLICT SYSTEM

When a new file is opened, the person responsible will check the alphabetically filed cards to see if any of the names that appear on the Initial Interview form appear in the listing. If so, the responsible attorney should be notified immediately.

You should disseminate a "Conflicts of Interest Questionnaire" form. A copy should be distributed to each attorney and staff member in the firm. The form should be returned by the date indicated and should be initialized or signed by the attorney or staff member giving the information. The person responsible for disseminating the forms should keep the original of the form and enter the date by which the forms should be returned into the docket control system. Keep a list of those people in the firm that received a copy of the questionnaire. If all of the forms are not received by the date requested, the person responsible for the system can easily see who has and hasn't returned the forms.

Date: _____ From: _____
 To: All Attorneys and paralegals
 Client: _____ Case number: _____
 Type of matter: _____
 Adverse Party: _____
 Attorneys for adverse party: _____
 Additional adverse parties: _____
 Referred by: _____
 Attorney who obtained this representation: _____ (accepting attorney's initials)
 We have been asked to undertake the above representation. Please indicate below whether there is any reason why we should not do so.
 Is this a new client? Yes _____ No _____
 _____ I know of no reason to decline this representation.
 _____ I recommend that we decline this representation because:
 Date: _____
 Please check your initials after completing this form and route to the next name on the list.

Once the file is set up, the original Conflicts of Interest Questionnaire should be placed in the file.

The conflicts of interest system should be centrally located in the office and everyone in the firm should contribute. It will not be of much help if several people or groups of people do not participate or insist on maintaining systems on their own. The file room is a good place to house the conflicts of interest system.

A file clerk is the ideal person to assume responsibility for the system. Although it would be everyone's responsibility to make entries into the system, the clerk would be the only person responsible for checking the system for conflicts when requested to do so by an attorney or staff member.

BILLING AND TIME RECORDS

Billable time must be accurately recorded and done so on a daily basis. Preprinted forms are helpful, but a yellow pad works just as well. Whatever type of record you use, keep it with you at all times. Many attorneys dictate their time entries. This works well for the attorney that does a great deal of dictation.

An attorney or firm that keeps time records on a daily basis will bring in more revenue than the attorney or firm who tries to compile bill statements using only memory and a calendar. The latter option takes a great deal of time, relies on a great deal of guesswork, and will not be as accurate, leaving room for questions by the client. Answering those questions will be time consuming and difficult.

Submit your time sheets or have your secretary collect your time sheets on a daily basis. Make daily entries on the computer or word processor if you use either type of equipment. If you prepare your billing manually, you may want to file all of the time records in a separate section of the file. Periodically, you could transcribe the handwritten notes to prepare the bill statement for review. While the computer and/or word processor definitely makes the billing process easier and more manageable, manual preparation of bill statements can be simplified if done in an organized manner.

Waiting to enter the time sheets at the end of the month is time consuming. So instead, spend 15-30 minutes a day so that when the end of the month rolls around, all you have to do is print a rough draft for the attorney's review.

Itemize your statements. Let your client know what you've been doing on his/her case. This may minimize time spent answering questions regarding why your bill is so high. Clients will be more willing to pay your bill if they can see that the amount billed is justified. This is also a good way to keep your clients updated as to how the case is progressing. Follow the fee agreement. If you agreed to bill the

client monthly, then do so. If you agreed not to bill the client for a six-month period, then do not bill the client until the six-month period has passed. If you are working against a retainer, send the client copies of your time sheets. Don't leave the client in the dark. Once the retainer has been exhausted, there should be no question in the mind of the client as to how the money was spent.

Be consistent with your client billing. Send statements periodically as the case progresses. Don't let the amount build up over several months and then expect the client to be happy with the large fee. People are more willing to make small, periodic payments as opposed to one or more large payments.

Let your client know if you change your hourly rate. Even though the hourly rate is computed on the bill, make a separate notation on the bill pointing out the new rate or prepare a notice to all clients to be mailed along with the bills.

Some of the above suggestions might lessen the likelihood that you will have to sue a client for your fee. Every time an attorney sues a client for fees, the attorney invites a counterclaim for malpractice. While many of these counterclaims are not well-founded, they still must be defended (costing the attorney time and money). You should make it a rule never to sue a client for fees. But if you must, consider the following questions:

- Is your client able to pay the fee? If not, you will be wasting your time.
- Did you obtain a favorable result for your client? Was your client unhappy with the result and/or your services? This situation will definitely result in a counterclaim being filed.
- Have you tried to reach an agreement with your client regarding the payment of fees? Perhaps your client would be willing to make small monthly payments until the fee is paid in full. Try to be as cooperative as you can.

FILE DOCUMENTATION

Many malpractice claims could have been avoided if attorneys would get in the habit of documenting their files. We all agree that correspondence and documents should be timely filed and in some sort of order, but what about those handwritten notes that never seem to find their way to the file?

How often have you searched a file, your office, your secretary's office, and all areas in between looking for those notes you took during a phone conversation or at a conference with a client? Or, how many times have you forgotten to follow through on a promise to a client because you failed to make a note of the conversation?

When opening a file, obtain all the information available at the time. Prepare a client information sheet which contains all of the necessary information on the client and his/her case. This sheet should be kept in the file at all times.

Take notes of all phone conversations. Have preprinted forms or use a yellow pad and keep it by the phone. Once you've made the notes, you could give them to your secretary to be filed. If you like to look at the file while you're discussing the case, you could keep a blank sheet of paper in the file to be used for notations. As the yellow sheet becomes filled, simply place another blank one directly on top of it.

Include in your notations any advice given as well as any promises made. Also, document any instructions or information given by the client. An example would be if the client informed you by telephone that the client's CPA would file the tax returns or if the client was going to file the returns. Make a notation in the file and then follow up with a letter.

Do not make unprofessional remarks about your client in the file. Unless you weed through the file prior to returning it to your client, the client will notice the remarks and, of course, this will not promote good client relations. This is especially so if the client is disengaging you for reasons other than the conclusion of the case.

Record activities attempted even though not accomplished. Make notations in the file of the number of times you tried to contact the client, witnesses, etc., and how that contact was attempted (by phone, letter, or personal visit). If a client later alleges that you failed to maintain contact, your file will prove just the opposite. You will have a complete record of the attempts made.

Keep your files current and in proper order. Do not let filing stack up if at all possible. Locating various needed items will be easier if your files are in chronological order. You may also find it helpful to separate the file into various sections if at all possible (i.e. correspondence, documents, notes, fee statements, etc.).

Any information which goes into the file should be dated. If you receive enclosures with a piece of correspondence, mark the date received on the enclosures so that you can easily see which enclosures came with which piece of correspondence.

If you copy a letter or document to the client or any other party, indicate this on the file copy.

The attorneys in a firm should determine the length of time that closed files will be maintained by the firm. The same time limitations should be adhered to by all members of the firm.

FILING SYSTEMS

How many times has your office come to a complete standstill while you've had to organize a search party to locate a missing file? Once the file has been found, how long does it take you to locate a particular document and/or piece of correspondence in the file? Do you have files stacked on your desk, chairs, floors, cabinets, etc.?

This can be extremely frustrating. There are ways to avoid this constant aggravation of not being able to locate what you want when you want it.

SYSTEMS

An alphabetical system may suffice in a small practice. For the larger practice, a numerical system is both flexible and easy to use. The numerical system will easily expand as your practice does.

LOCATING FILES

Place a colored file divider in the place of a file that is removed from the cabinet. On the card, sign the name of the person taking the file and the date the file was removed. Another idea is to have a notebook in the file room. All files removed from the file room would have to be listed in the notebook along with the initials of the person taking the file.

CENTRALIZED LOCATION

An effective filing system requires that all files be maintained in a centralized location. If files are stored

in individual offices or desks, the probability of lost files or documents increases significantly. Then, too, there is the value of the time lost in trying to locate particular items. Maintenance of the files should be the responsibility of one of the members of the office staff, such as the file clerk.

CLOSING FILES

If you do not have the space to store hard copies of all your closed files, you may want to consider putting your files on computer disks, CD-ROM, or even microfilm. Another idea is to return closed files to the client. Have the client sign a statement accepting the original file. Prepare a cover letter to go with the file stating that the entire file is being returned or list the various items from the file being returned.

Be sure to notify the client in writing that your office will not retain duplicates. Keep a copy of the letter. If the letter and file are being returned by mail, send the package certified mail, return receipt requested. If the file is being picked up or delivered, have the client sign the copy of the letter that you will keep.

You may want to assign new file numbers to the files that are closed and keep the closed filing system completely separate from the active files. By assigning new numbers to the closed files, you will not have the problem of shifting the files in the storage area when you later close a file that has a lower number. You, of course, will need a separate index for the closed files.

CLIENT RELATIONS

The attorney-client relationship is the most important aspect of any case. Unfortunately, this is probably one of the areas most ignored by attorneys and staff. A client wants to feel welcome when visiting your office. The client's legal experience with your office should be as pleasant as possible, but this is often not the case. Maintaining good attorney-client relationships will aid in preventing a malpractice claim from being asserted against you. A client who is satisfied with you and your work will be more understanding and willing to cooperate if you commit an error.

Here are a few ideas which will promote good client relations:

- 1. Put the terms of the attorney-client relationship in writing.** State your specific responsibilities as well as the activities which you will not be performing for the client. Malpractice claims often involve a misunderstanding as to the attorney's responsibilities.
- 2. Set your fee (in writing) as early as possible.** Have the client sign the fee agreement or engagement letter and keep a copy in the file. Answer any questions the client may have. Make sure he/she understands the arrangement completely.
- 3. Do not create unjustified or unrealistic expectations for the client.** Do not give the client false hopes by blowing your own horn. Don't make the case sound easier than it is. Many attorneys give unrealistic expectations to their clients by making such statements as "Don't worry about a thing. I've got everything under control." or "This type of case comes up all the time. It shouldn't be a problem."
- 4. Keep the client informed.** Send the client copies of correspondence and/or pleadings. He/she may not understand them, but will be happy you sent them anyway. Clients usually like to be updated as to the status of their case. If the case is to remain dormant for quite some time, you may want to notify the client and explain the reason for the delay.
- 5. Return phone calls promptly.** There is nothing more aggravating than waiting for an attorney, or anyone else for that matter, to return a phone call. If you are unable to return the call right away, have a secretary or paralegal contact the client and explain the reason for your not being able to return the call yourself and ask if there is anything they can do to assist the client or take a message so that you can take whatever action is necessary.
- 6. Decisions must be made by the client.** This is the client's case and all decisions must be made by him/her. Do not assume that you have authority to make a decision without first consulting the client. Make sure you give the client all of the necessary information so that the client can make an informed decision. Put all decisions made in writing, especially if the client insists on making a decision contrary to what you have suggested. If the client carries total responsibility for the decisions made, he/she cannot later blame you for having made the wrong decision if your files are properly documented.
- 7. Employ proper office personnel.** Your employees have a great deal of contact with your clients. Office personnel should be courteous and understanding to the client's situation. Make sure your staff is capable of producing quality as well as quantity work.
- 8. Confidentiality.** Office personnel is held to the same strict code of client confidentiality as attorneys. Advise your staff of their responsibility to maintain confidentiality. Many firms have staff sign a statement which explains the need for confidentiality so that all staff are aware of its importance (see the Staff Confidentiality section, below). Don't take phone calls when a client is in your office. The client will feel that you will probably discuss his/her case in front of other clients as well. Don't leave client files out on your desk for other clients to see. This goes for staff members as well. Treat each case with the greatest of confidentiality.
- 9. Personal involvements.** Attorneys becoming personally involved with their clients has become an increasing problem in North Carolina. Your firm should make it a general practice never to become personally involved with a client. If you are a party in a business venture, suggest that the business use an uninvolved attorney to represent its legal interests. If you attempt to be a partner in a business as well as serve as legal counsel, when

things go wrong the other partners will turn to you to make them whole. Do not ask clients to invest in your personal ventures or those of other clients.

10. Stay in your own back yard. Do not accept a case that is outside your area of expertise. Do not accept a case for a friend if his/her case involves an area of law in which you do not normally practice. You should refer the matter to another attorney who regularly practices in that area of law. If you feel you must handle a case outside your expertise, be willing to either hire co-counsel (an attorney who is more knowledgeable in the area) or spend the additional time required to do

the necessary research. Inexperience is no defense to a charge that you acted below the accepted standard of care. No matter what your experience, you will be held to the standards of attorneys who practice regularly in a given field.

11. Choose your clients carefully. Take a good look at your potential client and his/her case before accepting it. Do not accept the client who:

- Expect unrealistic results.
- Is out for revenge, is trying to defend a principle or is in too much of a hurry.
- Has a case outside your area of expertise.
- Has a case that is too large for your practice.

STAFF CONFIDENTIALITY

Loose lips sink ships - and might well lead to ethical and malpractice problems.

Every member of a law firm, from senior partner to the file clerk, is under a strict obligation to protect the privacy and secrets of clients. Disclosure of a client confidence is one of the most serious errors you can make. Penalties could include immediate termination of employment and other disciplinary actions.

The duties of client confidentiality is broad. It is not limited to merely what the clients tell you. It also precludes unauthorized discussions of case strategy or evidence.

The law office is an exciting place. You're privy to information others don't have. You learn interesting things about prominent people. Resist the temptation to share this news with outsiders, including friends and family.

Following are some pointers to remember about client confidentiality:

- Don't discuss business outside the office.
- Never discuss one client's business with another client.
- Beware of water cooler conversations. Can your chatter be overheard by other clients in the lobby? How about the lawyer waiting for a deposition to begin?
- Don't talk to Oprah or Geraldo. Or the local newspaper or radio station. Decline to answer if a reporter calls to ask if your firm is representing a particular person. Decisions about what to say to the press should be made by the lawyer.

- Remember the law is a profession, not merely a business. Clients pay good money for help with their problems. They deserve respect for their privacy.
- Be especially cautious in office sharing arrangements. Beware "gossip" with employees of other firms. Keep case files segregated.
- Remember that your duty of confidentiality continues even after the case is closed. It also continues after you leave the firm.
- Be wary when clients or strangers want to use your office or an attorney's office to make a few telephone calls. Make sure no client files or documents are visible.
- Never release information to callers such as a client's accountant or an insurance adjuster without authorization.
- Don't give out legal advice.
- Be careful when disposing of confidential papers, including rough drafts or duplicates. Use shredders or other secure disposal methods for sensitive materials.
- Never forget that the attorney-client relationship is built on mutual trust and confidence. Clients come to you expecting a form of sanctuary. You must honor that.

A good idea is for firms to require all employees to sign confidentiality forms, which are placed in personnel files. A blank copy of the form should be included in the office manual. The following page contains two examples.

CONFIDENTIALITY FORMS

CONFIDENTIALITY FORM A

It is the policy of _____ that matters related to the firm and its practice are not to be discussed in the presence of any unauthorized persons. It is understood that some of the matters in the office are sufficiently interesting to tempt personnel to engage in conversation that may breach the rule of confidentiality. Therefore, it is extremely important that everyone exercise extreme care in this area. The information received in the office is the private property of the client and aside from the embarrassment that would result from any unauthorized disclosure, there is the likelihood of creating legal liability and prejudice to the client's case. Additionally, attorneys keep sensitive material that may be of a confidential nature, either as to the firm, its personnel, to themselves, or to their clients. To avoid any violations of that confidentiality in the attorney's absence, under no circumstances should an attorney's office be offered for use to a client, vendor, or other unauthorized person without the consent of the attorney or his or her administrative secretary or, in their absence, the Director of Administration.

In addition to the client matters, some personnel must routinely handle pay and personnel information as a result of their normal duties. This information must be treated with the utmost sensitivity and confidentiality. A breach of confidentiality with respect to any client matter or internal matters, including pay or personnel, will be considered reason for immediate dismissal.

Name of firm: _____

This will confirm that I, the undersigned, have read and agree to abide by the provisions of the foregoing stated policy as it relates to the confidentiality and the law firm.

This the _____ day of _____, 20__.

Signature

CONFIDENTIALITY FORM B

As an employee of (Law Firm), I acknowledge that I have been instructed regarding the confidentiality of all firm business, activity and records and except as required by law in the course of my duties, or where instructed in writing by management, I am aware that all firm books, records, files and memoranda are to be treated in strict confidence. I pledge that I will not disclose information relating to the firm, its business or its clients during my employment or after the termination thereof whether such termination be voluntary or involuntary. I understand that any breach of confidentiality will be grounds for my immediate dismissal as a firm employee.

This the _____ day of _____, 20__.

Signature

Witness

Telephone Log

MONTH: _____ 20_____ (twentieth to twentieth of each month)

DATE	NUMBER	PLACE CALLED	PERSON CALLED	CLIENT

Law Office Procedures Manual for Solo and Small Firms by Demetrios Dimitriou.
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