

# AN OFFICE SYSTEMS AUDIT

(Adapted from the 30-minute audit recommended by the Lawyers Mutual Liability Insurance Company of North Carolina)

## Calendar Control

- Do you have a reliable system for tracking calendar dates and deadlines?
- Does your system include at least two of these features:
  - Computerized calendar system
  - Tickler system
  - Attorney's calendar
  - Matching secretary's calendar
- Do you have a backup calendaring system, e.g., computerized calendar plus synchronized or print copy of the current calendar?
- Do you calendar advance warnings prior to ultimate deadlines?
- Do you schedule adequate time to get the work done by the deadline date?
- Do you follow up to see that the work was actually completed?
- Do you routinely enter important dates such as:
  - Tort claim notice deadlines
  - Statutes of limitation
  - Court appearances and litigation deadlines
  - Discovery dates
  - Real estate deadlines
  - Administrative hearings and deadlines
  - Procedural deadlines
  - Client-imposed deadlines
  - Billing dates
  - Deadlines set by you and your staff
  - Dates you will be out of the office
- Do you have a designated employee in charge of the calendaring system?
- Is everyone from senior partners to receptionist trained to use the calendaring system?
- Do you keep a long-range calendar (*i.e.*, 1-year, 5-year, 10-year, 20-year) for future work and/or tickle dates?
- Does your system produce daily or weekly activity calendars that are distributed to the responsible attorney and staff member?
- Are spam and junk e-mail filters of Internet Service Provider and e-mail program set to allow receipt of e-notices from courts?
- Are you aware that some electronic case filing systems do not permit staff e-mail addresses or firm addresses ([docketing@doelawfirm.com](mailto:docketing@doelawfirm.com)) to be used for receipt of e-notices?
- Do you create agents or rules in your e-mail program to duplicate and forward copies of court notices from the attorney-of-record to appropriate staff?

## Case Management

- Do you decline cases outside your areas of expertise or realistically assess whether you can provide competent representation, as defined by Rule 1.1 Competence, after study or association with a more experienced attorney?

- When you accept a new case from an existing client, do you open a separate file for the matter and provide a memorandum of the applicable fee agreement?
- Do you follow a standard procedure for opening files that includes checking for conflicts and calendaring deadlines?
- Do you discuss the pros and cons of communicating with clients via e-mail, cell phone, landline phone, fax, and mail and obtain the clients' permission for the communication methods used?
- Do you routinely provide clients with electronic or hard copies of all file documents?
- Are paper records stored in a central location in safe, secure, fire-resistant cabinets?
- If one of your files was pulled at random for review, would it be well-organized – even if it was in electronic form?
  - Labeled and indexed by date, subject matter, or client name
  - Well documented and neat
  - In chronological order
  - Subfiles for pleadings, discovery, legal research, correspondence and e-mails, etc.
  - Signed fee agreement, copies of client bills, trust account information
  - Telephone conversations documented
  - No loose or misfiled documents
- Do you have a standard file closing procedure that includes sending a closing letter, returning all client property and documents, remitting a final bill, and closing out the trust account?
- Do you have a written policy governing retention, destruction, and storage of client files including electronic data? (e.g. e-mail communications, word processing documents, digitized evidence, etc.)
- Do you have an adequate computer backup system in place? Do you perform periodic test restores to ensure the system is working? Is the system secure?
- Do you use a case management software program?

**Conflicts of Interest**

- Do you have a reliable system for screening new clients and cases for potential conflicts of interest?
- Do you screen for conflicts before receiving confidential information and fees from your potential new clients?
- Do you use conflict checklists to help you to evaluate potential conflicts?
- Have you reviewed Rule 1.7 Conflict of Interest: Current Clients and Rule 1.8 Conflict of Interest: Current Client: Specific Rules?
- Have you reviewed Rule 1.9 Duties to Former Clients and do you use disengagement letters that make the client aware that the attorney-client relationship has changed, e.g., no longer a current client?
- Have you reviewed Rule 1.10 Imputation of Conflicts of Interest: Screening?
- Do you decline cases where there is an actual conflict with the client, the subject matter, or some other aspect of the case?

- Do you make written disclosure in cases where there is a potential conflict and obtain written consent from clients to continue representation?
- Do you screen new attorneys and staff when they join the firm for potential conflicts arising from their prior employment?
- Do you provide conflict information to attorneys who depart the firm so they can screen for potential conflicts arising from their new employment?
- Do you routinely circulate new case information to all attorneys and support staff to screen for potential conflicts not detected by your conflict system?
- Are you aware that conflict information must be kept for the duration of your career to ensure that you have a complete record of all the clients whom you have represented?
- Do you know how to run a conflicts check?
- Does your conflict system capture:
  - Current clients
  - Former clients
  - Declined clients
  - Adverse parties
  - Other persons or entities related to the case (subsidiaries, affiliates, officers, directors, key employees, experts, lay witnesses, etc.)
- Have you reviewed the PLF practice aid, *Conflict of Interest Systems?* (Available at [www.osbplf.org](http://www.osbplf.org). Click on Practice Aids and Forms, and follow the link to Conflicts of Interest.)
- Do red flags go up when you're asked to:
  - Serve as an officer or director of a client corporation
  - Engage in business with a client or acquire a financial interest in a client matter/business
  - Represent adverse parties in "friendly" suits
  - Represent multiple parties with differing interests
  - Represent multiple parties seeking recovery from a fixed pool of money

### **Time and Billing**

- Do you have a written fee agreement in all cases?
- Are you diligent about sticking to the billing schedule (*i.e.*, monthly, quarterly) set out in your fee agreement?
- Do your billing statements contain an itemized record of what you've done for the client and how long it took?
- Do you and your staff keep accurate time records in all matters, including fixed fee, contingent, pro bono, and other cases that aren't necessarily billed by the hour?
- Do you and your staff make time entries contemporaneously?
- Do you have a collection procedure that tracks delinquent accounts and sends payment reminders?
- Are you aware that a good way to invite a malpractice claim is to sue a client for fees?
- Are you aware of the fee arbitration program offered by the Oregon State Bar?

## **Time Management**

- Do you manage your time wisely by:
  - Using forms and checklists
  - Making to-do lists
  - Delegating and prioritizing work
  - Finishing one task before moving to another
  - Getting assistance when needed
  - Blocking time out each day for returning phone calls
  - Using e-mail filters, folders, and flags to organize incoming e-mail
  - Blocking out your peak energy time for working on important projects
  - Establishing goals and objectives
  - Reviewing time logs to see where your energy is expended
  - Planning your day in advance

## **Trust Account**

- Have you recently reviewed ORPC 1.15-1 and 1.15-2 relating to lawyer trust accounts?
- If you accept credit card payments for retainers, have you reviewed Oregon Formal Ethics Opinion No. 2005-172?
- Have you taken the time to educate your staff on the handling and accounting of trust funds?
- Are employees who deal with the trust account carefully supervised?
- Do you prepare written disbursement statements when money is removed from the trust account, and are clients given copies of these statements?
- Do you follow proper accounting procedures, such as:
  - Trust account reconciled monthly
  - Reconcile individual client funds with total amount in trust account
  - Clear trail of whose funds are disbursed and when
  - No commingled funds
  - No "borrowing" from trust account
  - No checks drawn on the trust account to cash
  - Proper crediting of retainers paid by credit card, e.g. merchant fee to be paid from the law firm's general business account
- Are all records relating to your trust account kept for a period of five years?

## **Office Management**

- Do you have an office personnel manual setting policy on topics ranging from absenteeism to e-mail and Internet use?
- Do you have an office procedures manual that explains how to perform functions such as running conflict checks, docketing, tickling, setting up new client files, closing client files, storing client files, and destroying old client files?
- Do you have adequate insurance coverage to protect you and your office? (Business interruption, premises liability, valuable papers, property and casualty coverage, etc.)
- Do you have an information security program in place to ensure that your confidential data is properly secured?
- Do you support your staff through:
  - Training and education
  - Encouraging their professional development
  - Communication and feedback

- Promoting teamwork
- Practicing courtesy and respect
- Holding regular staff meetings
- Do you take time with staff to explain why things must be done in a certain way as opposed to “do this” and “do that” orders?
- Do you sometimes allow staff to attend court hearings, motions or real property closings with you?
- Are you current on law office technology and aware of software possibilities for docket control, time and billing, and other systems?
- Is your office safe, healthy, and comfortable with:
  - Disabled access
  - Adequate security
  - Client-friendly
- Do you have a disaster plan that includes data breach response plans?
- Do you teach and practice telephone and e-mail etiquette?

**Ethics**

- Have you reviewed the Oregon Rules of Professional Conduct?
- Do you read the current ethics opinions?
- Do you review ethical issues such as preserving client confidentiality and avoidance of unauthorized practice of law with support staff?
- Do you require your staff to sign confidentiality forms acknowledging that they understand the necessity of safeguarding client confidences?
- Do you know who to call and what to do when an ethics problem arises?