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September 20, 2009

A NOTE TO LAWYERS - KEEP TIME AND OTHER RECORDS

I had a hearing the other day as to whether a legal paper was actually served. The attorney who was in charge of the mailing of the legal paper, on my cross-examination, testified that he kept no time records, no calendar, no book keeping records, all of which was admitted by the judge on the issue of credibility. Now the Appellate Division has held that to be afforded a presumption of mailing, the party must present proof of actual mailing or proof of a standard office practice or procedure designed to ensure that items are properly addressed and mailed. Also, Rule 1.5 and Rule 1.15 of the Code of Professional Conduct require attorneys to keep accurate records. Also, if you carry malpractice insurance (which attorneys should and the attorney who testified did not), the carrier will require you to have a record keeping system. My advice to other counsel - keep records, even if you charge a flat fee. My advice to client - make sure your counsel keeps accurate records!

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