

The Lawyers' Lawyer Newsletter

Lawyers for the
Profession®



Recent Developments in Risk Management

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Client Service Continuity Strategies for Law Firms Responding to Coronavirus Pandemic

On March 11, 2020, the World Health Organization declared the Coronavirus COVID-19 outbreak a pandemic. Reactions to this declaration and the spread of the virus are in a state of flux, and include prohibition of events with more than 250 people, the indefinite suspension of the National Basketball Association's season, suspensions of operations by Major League Baseball and the National Hockey League, and deployment of the National Guard in New York to enforce quarantine regulations.

During this period of uncertainty, the health and welfare of your lawyers, staff, and clients is a top priority. However, attorneys must also be prepared to continue to provide legal services to clients regardless of measures taken by any government or oversight organization. In addition, the need to potentially self-quarantine has to be taken seriously. The best and only time to prepare for an interruption in practice—whether self-imposed or by a third party—is before it happens.

Risk Management Issue: One of the primary risks for law firms in a quarantine situation are missed deadlines. Accordingly, lawyers should consider the following points, and law firms should consider communicating these points to their lawyers:

Calendaring Dates and Deadlines

- ◆ Ensure your calendar is up-to-date and complete.
- ◆ If you rely on another person to maintain your calendar, be prepared to take personal responsibility for it if that person is unavailable for any reason.
- ◆ Have a backup copy of your calendar available both at home and at work. If your primary calendar is electronic, keep a backup paper copy in both locations and keep it up to date.
- ◆ Immediately review upcoming deadlines for the next 60 days and consider how you will meet those deadlines should you be quarantined. Such considerations include:
 - ◆ Evaluate who might assist in meeting your deadlines.
 - ◆ Should that person be unavailable, identify a secondary backup.
 - ◆ Communicate with your primary and secondary back-up, inform them of your backup plan, and how to access your calendar and deadlines.
 - ◆ Include those individuals in your calendar entries as a backup to cover in your absence.

Electronic Filing

- ◆ Many states permit or require electronic filing. If you've never filed electronically from your home, then you should promptly test your capability to do so. If you are unable to file, take reasonable steps to correct the situation. Keep your filing credentials available at home and at the office.
- ◆ If you rely on someone else to electronically file for you, consider:
 - ◆ Notifying that person well in advance of the filing due date. Do not wait until the last minute to have a pleading, paper, or document electronically filed. Be aware that those available to electronically file may experience a marked increase of filing requirements and be unable to handle last-minute requests.

- ◆ Evaluate and identify potential backups to your primary electronic filer in case the typical filer becomes unavailable.
- ◆ Many organizations are now offering additional training on electronic filing and electronic attendance, so consider taking advantage of those opportunities.

Mail Delivery

Consider arrangements to have mail delivered to your home or scanned and sent to you if you are out of the office. Again, do not rely strictly on your legal assistant in the event he or she is unavailable for any reason. Identify a backup for that task.

Working Remotely

- ◆ Realistically evaluate your ability to work remotely; don't be shy in asking for help.
- ◆ If you have not worked remotely within the last 60 days, or do not frequently work remotely, immediately test your ability to do so.
- ◆ Every day, take your laptop (if you have one), power cords, and whatever paper calendar backups you have, home with you in case of a quarantine situation.
- ◆ If for any reason you feel ill, go home, but take your laptop (and your power cord) with you.

Data Security and Privacy

Review and consider the privacy and security of any client records and documents, as well as your ability to meet the requirements of outside counsel guidelines when working remotely. This typically means client information should not be placed or stored on home computers, personal storage devices, or in the cloud, which violate most—if not the majority of—standard outside client guidelines.

Depositions and Court Appearances

- ◆ In anticipation of potential quarantine or travel situations, evaluate your ability to attend by video or telephone, or have another lawyer attend in your absence.
- ◆ Contact the court clerk to see if the judge will permit attendance by conference call.

The challenges we face are unprecedented. Planning is necessary in order to continue uninterrupted delivery of legal services to your clients. If you have more detailed questions, please get in touch with [Hinshaw's team of risk management and ethics counselors](#).

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