

Ethics & Issues

by Carole R. Richelieu, Chief Disciplinary Counsel

Begin the new year right by taking control of your calendar and docket to avoid the most common complaint of clients about their attorneys - failure to communicate, lack of diligence, and failure to expedite litigation - also known as neglect. "One of the highest duties of an attorney is to act with reasonable punctuality and promptness in advancing his [or her] client's interest and protecting his [or her] rights." *In re Trask*, 53 Haw. 165, 172, 488 P.2d 1167, 1171 (1971).

Taking control begins with properly handling incoming mail. One or more support staff members should be responsible for opening mail. The mail should be opened in a centralized fashion as soon as it is received and date-stamped. The responsible staff member should then review each piece of mail for deadlines and enter the deadlines and reminders on the firm's master calendar (that includes all attorneys and all matters) and verify each of these entries against the original. Only after this process is completed should the responsible staff member deliver the mail to the attorney or other recipient.

The attorney should review his or her mail for dates and double check these dates against the entries on the firm's master calendar. The attorney should next enter the dates on his or her own calendar - duplicate, independent calendars are crucial. Finally, the attorney can attend to the mail and

respond substantively.

While this process can be reversed with the attorney first handling the mail, the most important aspect is the double-check system. If staff is not available, such as on a weekend or holiday, and the attorney wishes to take mail home, the original should stay in the office; only a copy should be taken off premises.

What should be calendared? At a minimum, expected completion dates for any matter should be recorded. Each matter should have at least one date calendared so that it does not get "lost in the shuffle" or in the back of a file drawer. In order to keep clients timely informed, status reports for matters expected to take over a month to complete should also be calendared. Reminders that a due date is approaching, as well as due dates for the work of others, both within and outside of the firm, should be calendared. The calendar should also include any administrative deadlines, such as government filings and personnel matters, as well as the ubiquitous meetings, appointments, and conference calls both on and off site. Litigators must also calendar all time-barring constraints, court deadlines, procedural deadlines under the latest version of applicable court rules, and due dates of others in the matter, such as outstanding discovery requests or motions and research. Do not forget dates and deadlines obtained as a result of telephone calls or a prehearing

or pretrial conference or court proceeding.

Whatever the firm decides needs to be calendared, the calendaring itself must be standardized.

This process is not nearly so cumbersome as it sounds. And it is an essential preventative tool to meet statutes of limitations, litigation schedules, and other deadlines, and for detecting weak links in the office's personnel or processes that can cause harm. The process will not work, however, unless the staff and attorney review the calendar daily and monitor compliance.

Mahalo to Mark Bassingthwaight, Esq. of ALPS who inspired this article and provided its gist.

Discipline Notice

The Hawaii Supreme Court granted suspended Hilo attorney BRENDA L. CARREIRA's request to resign from the practice of law in lieu of discipline effective November 20, 2006.

An attorney may resign from the practice of law in lieu of discipline by delivering to the Disciplinary Board an affidavit acknowledging that he or she knows that if disciplinary charges were predicated upon matters under investigation, or if formal disciplinary proceedings were prosecuted, he or she could not successfully defend himself or herself.

The Supreme Court's Order is a public record. Carreira's affidavit, which sets forth the factual allegations against her, however, remains confidential. Resignation from the practice of law in lieu of discipline is akin to disbarment for all purposes under the Supreme Court Rules, including reinstatement.

Carreira will not be eligible to practice law in Hawaii until reinstated by the Supreme Court. She cannot accept any new retainers, clients, or legal matters.

Carreira, 47, was admitted to the Hawaii bar in 1984, and is a graduate of the William S. Richardson School of Law.

ODC COMPLAINT?

Need a lawyer with experience defending ODC prosecutions?
Need expert testimony on an ethics issue?

23 Years Combined Experience
in Professional Licensing Matters

•ODC Complaints •Reinstatements •Admissions

ADAMS & CLARK, LLC

A Limited Liability Law Company
68-1845 Waikoloa Road, Suite 223
Waikoloa, Hawaii 96738
Tel: 808-883-0016
thefirm@adamsclark.com

Free initial consultation: on your island, at your office