

# The Importance of a Practice Management Program and How It Can Prevent Malpractice

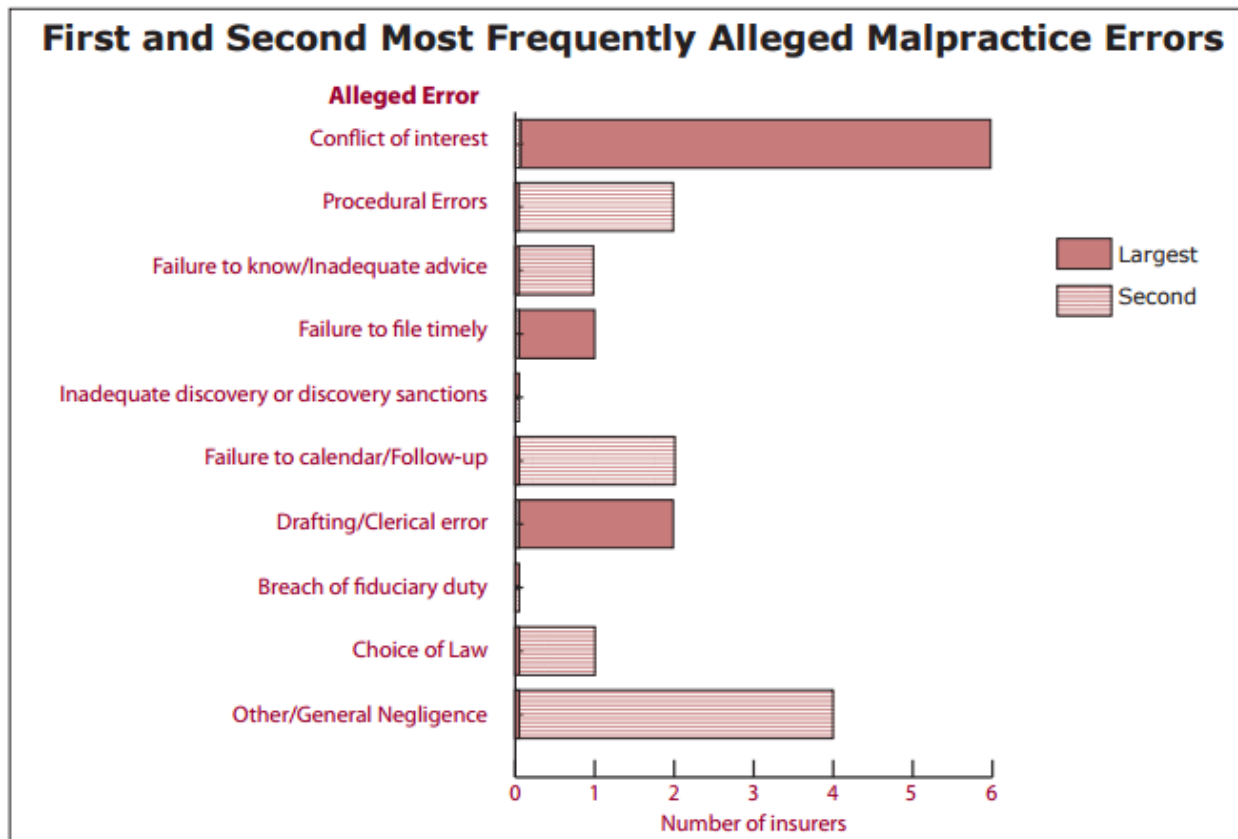
# Substantive vs Administrative Errors

- 46 percent of reported claims
  - failure to know or properly apply substantive law
  - Inadequate investigation or discovery of facts
  - failure to know or ascertain a deadline
  - “dabblers,” or lawyers acting outside of their usual practice area, are far more likely to fail to know or apply the law
- 28.5 percent of reported claims
  - failure to manage time, tasks, firm and staff
  - failure to file documents (#1)
  - failure to calendar
  - administrative errors are probably the easiest to prevent



# Lawyers' Professional Liability Claims Trends: 2015

## Insurer Survey



# Leading Administrative Errors

- Tickler System Errors/Failure To Calendar Properly
- Failure To Supervise / Delegation Errors / Work Delegated To An Employee That Is Not Checked
- Clerical Error
- Document Errors
- Error In Math
- Lost File, Document Evidence
- Preservation of Confidential Information
- Conflict Checks

*Profile of Legal Malpractice Claims studies by the ABA (Oct 2012)*

# How Can Technology Help

- ✓ Manage information by matter
- ✓ Schedule, manage and meet deadlines
- ✓ Manage task
- ✓ Merge into new documents
- ✓ Conflict Checking
- ✓ Track time more accurately
- ✓ Balance accounts
- ✓ Track payments
- ✓ Categorize expenses
- ✓ Manage assets
- ✓ Manage Trust Accounts

a limitation period was known but not properly entered in a calendar; the limitation period was correctly entered but missed owing to a failure to use or respond to the tickler reminder; error either in determining what deadline applies, or in calculating when the deadline occurs; failure to respond to remind

## **FAILURE TO REACT TO CALENDAR OR A DEADLINE**

# Digital Calendaring and Task Management

- Calendaring important dates and deadlines
  - Avoid errors
  - COMMIT
  - Reminders of deadlines and pending and past tasks
  - Auto calculate dates/deadline
  - Chained events
  - Knowledgeable staff vs software tool (Clio Court Rules)
  - Link back to matters to see all completed and uncompleted tasks by matter

- Work delegated to an employee that is not checked or the type of error which would be disclosed by effective proofreading
  - Error in typing a legal description, the transposition of numbers
- Administrative failure to carry out the attorney's instructions
  - Clerk not following instructions to send an item by certified mail
- Staff does not have the technical competence to carry out a task
  - View and remove tracked changes from a document

## **FAILURE TO SUPERVISE / DELEGATION ERRORS / CLERICAL ERROR**



# Managing your Staff

- Automation of document creation minimizes risks of document / content errors
- Using a centralized calendaring and contact database helps with checks and balances
  - Change an address in one place, it changes everywhere
- Delegate and manage tasks using a PMS or Outlook
- Understand what your staff SHOULD know how to do
  - “Word doesn’t do that”

Incorrect address referenced, document number not updated; errors in tax computations, real estate closing statements or interest calculations

# **DOCUMENT / MATHEMATICAL ERRORS**

# Automation

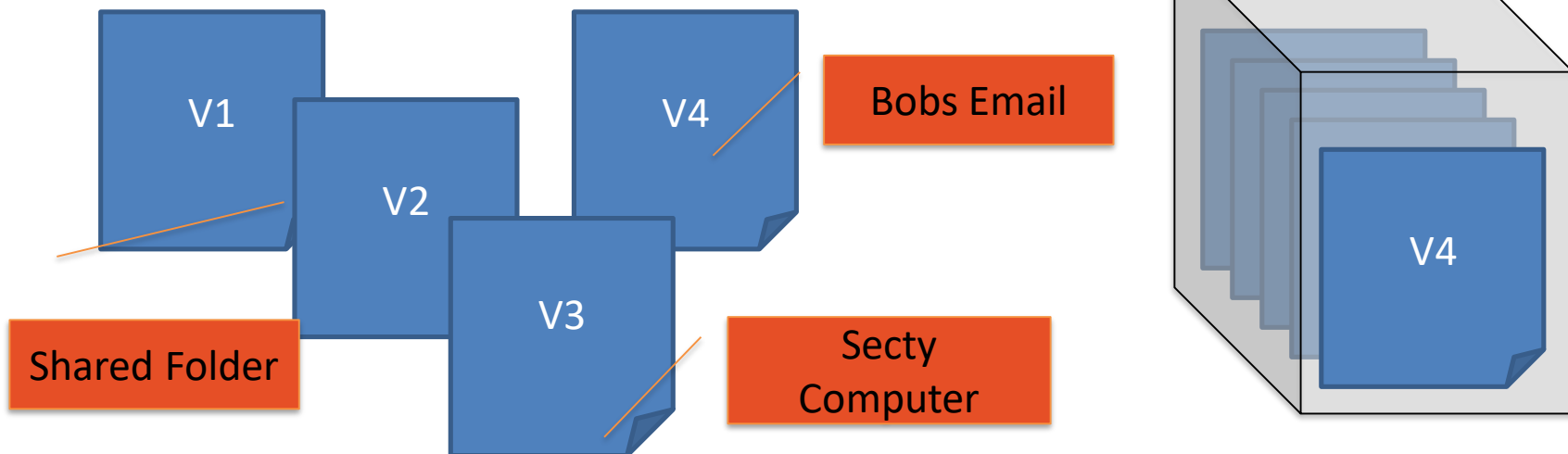
- Automation = Consistency
  - Autotext , Autocorrect
  - Forms, standard docs, correspondence, templates
  - Document assembly
- Benefits
  - Efficiency
  - Reduces Errors
  - Attorney and staff time savings
  - Better, faster client service
  - Knowledge sharing

instances where the alleged error was due to a lost file, document, or evidence

# LOST FILE, DOCUMENT EVIDENCE

# Managing Files with a CMS

- Help with the saving, organizing, searching and retrieval of all matter related files / documents, images, PDFs, emails and even voice mails
- See all parties involved
- Offer version control



"(a) A lawyer shall not reveal information relating to representation of a client unless the client consents after consultation, except for disclosures that are impliedly authorized in order to carry out the representation,..."

# **PRESERVATION OF CONFIDENTIAL INFORMATION**

# Preparing and Sharing Documents

Legal Professionals who do not understand the risks (but often benefits) of document processing and sharing

- “Metadata”
- Comments and Notes
- Track changes
- Reality of PDF Files

the principal error is that the lawyer allegedly had a conflicting interest to that of the client. It applies whether the lawyer knew or did not know of the conflict.

## **CONFLICT CHECKS**



# Can be substantive or admin error

- Have procedures in place for checking conflicts at the *earliest* point in matter development
- an electronic system that includes:
  - client names
  - individuals, entities, corporations, affiliates, officers and directors, partners, trade names related to a client
- Check conflicts relating to the lateral hires



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Adriana Linares is a legal technology consultant with her company, LawTech Partners. Using her practical and personal approach to technology she helps legal professionals use it to maximize their skills and investments through training and consulting. She served as the Chair of ABA TECHSHOW; serves as a technology consultant to the Florida Bar Board of Governors and hosts the [New Solo podcast](#) and on Legal Talk Network.