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BY R. SCHRIER & A. TORRES

Before Midnight

Deadlines, Diligence, and the Practice of Law

In legal practice, deadlines matter. Neglect has consequences. We associate the term deadline with time limits and due dates, which govern the practice of law. But the word harkens back to the American Civil War, when it was used to refer to designated do-not-cross lines in prisoner-of-war camps.¹ Guards keeping watch over imprisoned soldiers had orders to fire upon and kill any inmate who touched, fell on, or crossed these boundaries, known as “dead-lines.” To the prisoners, a dead-line portended certain death. And so the word entered our lexicon: a veritable dead-line. Cross it, and suffer fatal consequences.

External deadlines, such as filing deadlines and statutes of limitations, govern the time in which attorneys must act. Internal deadlines, including a supervising attorney’s request to draft a document or to answer a pressing question, are

equally significant. Missed deadlines and errors caused by poor time management are the subject of countless malpractice claims. And in today’s legal landscape, where lawyers face increasing pressure to add value and become trusted advisers, such mishaps could signal the decline of your professional career.² In benign cases, you may be counseled by your employer. In egregious cases, you risk losing a case, your client, your job, and even your license.

Your legal education prepared you to analyze cases, dissect statutes, and ponder slippery slopes. But unless you enrolled in an externship or a clinic, the only deadlines that concerned you involved final exams or writing assignments. The lack of exposure to time and practice management partially accounts for the recent surge of time-management books for lawyers.³ But who has time to read them?

Drawing on the wisdom of judges, elite practitioners, and innovative thinkers, this article offers new and seasoned practitioners guidance on meeting external and internal deadlines. First, we explore the courts’ lack of tolerance for missed deadlines and the consequent harm to clients. Second, we discuss the career-related consequences of missing deadlines, whether external or internal. Third, we consider the role of communication skills, self-awareness, and relationship intelligence in managing an effective legal practice. But if you are too busy putting out fires, skip ahead to our final takeaways for advice on managing deadlines with diligence and establishing—or regaining—control over your practice.

External Deadlines: Playing by the Rules

“Failure to meet an external deadline can cause you to lose a case, create a significant client relationship problem, and put you on the wrong end of a malpractice action,” states Patricia Lowry, a senior partner with Squire Patton Boggs. External deadlines permeate all practice areas: a judge issues a case management order imposing deadlines for discovery, pretrial motions, and mediation; a client needs a contract reviewed overnight; a statute of limitations dictates that a negligence suit be filed within four years from when the claim arises. And the list goes on, defining fixed periods in which administrative charges, corporate documents, pleadings, motions, notices of appeal, and appellate briefs must be filed.

How does a lawyer miss a critical deadline? The American Bar Association identifies common deadline-related errors that morph into legal malpractice claims: failure to know or ascertain deadlines correctly; failure to calendar properly; failure to react to the calendar; and procrastination in the performance of services or lack of follow up.⁴ Instead of being the trusted adviser to a client, the lawyer who misses a critical deadline becomes the respondent in a bar grievance or malpractice claim.

Once the deadline was set, we assumed everyone would do whatever it took to make sure it was met. If we needed to, we worked nights and weekends. —U.S. Court of Appeals Judge Adalberto Jordan

In contrast, attorneys who diligently meet external deadlines convey the trustworthiness and professionalism necessary to cultivate productive relationships with clients, colleagues, and courts. “As a young lawyer, I was taught to treat external deadlines as sacrosanct,” states Judge Adalberto Jordan, who now sits on the U.S. Court of Appeals for the Eleventh Circuit. This lesson is perhaps more valuable today, given the professional pressures of an increasingly competitive legal market.

Are external deadlines harsh? Indeed. “But you cannot win Wimbledon if you show up a day after Rafael Nadal gets the trophy,” notes Lowry. And legal rights that are not asserted within the time limits prescribed by law are often forfeited because the legal system would “groan under the weight of a regimen of uncertainty in which time limitations were not rigorously enforced.”⁵

Although deadlines and fixed dates may be “inherently arbitrary,” the U.S. Supreme Court has recognized that they are “essential to accomplish necessary results.”⁶ In the litigation context, the Court has emphasized that “filing deadlines, like statutes of limitations, necessarily operate harshly and arbitrarily with respect to persons who fall just on the other side of them, but if the concept is to have any content, the deadline must be enforced.”⁷ In *United States v. Locke*, the Court held that a claimant who missed a filing deadline by one day effectively abandoned his claim under the Federal Land Policy and Management Act. Rejecting the lower court’s determination that a one-day delay substantially complied with the deadline, the Court concluded that this “surprising notion” is “without limiting principle.” The Court reasoned that if one-day late filings were acceptable, 10-day late filings might be equally acceptable, and “so on in a cascade of exceptions that would engulf the rule erected by the filing deadline.”⁸

If the circumstances that cause the delay are foreseeable and avoidable, expect little sympathy from the court. In *Toshiba America Information Systems v. New England Technology*, a federal district court in California entered judgment in favor of plaintiff Toshiba for approximately \$480,000, plus fees and costs, to be resolved by motion. Toshiba’s counsel moved for attorneys’ fees in the amount of \$996,865.83, but the million-dollar motion was filed one day after it was due. On the due date, although plaintiff’s counsel knew the courthouse closed at 4 p.m., counsel gave the motion to a courier service at 3:14 p.m. The courier was caught in heavy rush-hour traffic on the way to the courthouse and even had to wait at a railroad crossing for a passing train. And time kept on slipping. When the courier reached the courthouse, the office was closed.

The court was unsympathetic: Toshiba’s failure to timely file the motion did not result from “excusable neglect” under Federal Rule of Civil Procedure 6(b). “[T]he entirely foreseeable obstacle of traffic in Southern California in the late afternoon cannot justify an enlargement of time.”⁹ Even though the opposing party suffered no prejudice from the brief delay, Toshiba failed to establish good cause for the late filing.

Although computing a due date can get thorny, when the rules are unambiguous, a district court’s decision that the delay was inexcusable is “virtually unassailable.”¹⁰ Otherwise, every lawyer who missed a deadline would plead an inability to understand the law. This is so even if a lapsed deadline is caused by a district court’s improvidently granted extension. For instance, if a court extends the time allowed to file a motion, but a statute or rule expressly prohibits such an extension, the court order does not necessarily stop the clock. In *Pinion v. Dow Chemical*, a lower court extended the time allowed for filing two post-trial motions: a motion for judgment as a matter of law under Federal Rule of Civil Procedure 50(b) and a motion for new trial under Rule 59.¹¹ But the plain language of Rule 6(b) explicitly prohibits such enlargements of time. Counsel for the defendant assumed that the court had the power to extend the deadlines and filed the two motions based on the newly extended deadlines. The lower court denied both motions. The defendant then appealed, believing that the time to file a notice of appeal had been tolled by the post-trial motions.

Neither party questioned the timeliness of the appeal, but the Eleventh Circuit determined *sua sponte* that the late-filed motions did not toll the time for filing a notice of appeal. Although the defendant-appellant had complied with the lower court’s extended deadlines, its reliance on the trial court’s order enlarging time was unreasonable given the clear language of Rule 6(b). “Counsel’s admitted inadvertence in simply failing to read Rule 6(b) cannot engender the kind of reasonable reliance contemplated by the [Supreme] Court’s ‘unique circumstances’ exception, especially in light of the mandatory and jurisdictional nature of the filing rules at issue.”¹² Because the notice of appeal was late, the appellate court dismissed the case for lack of jurisdiction.

These cautionary tales stand among countless examples of the courts' strict enforcement of deadlines. And while the courts will occasionally excuse attorney neglect, such exceptions typically require compelling circumstances, such as "illness, injury, or death" of counsel or family members, or "fire, flood, vandalism, or destruction of counsel's law office."¹³

On the rare occasion when a court excuses an attorney's failure to meet a deadline, it may come at a reputational cost. *Maples v. Thomas* is illustrative. The defendant, Cory Maples, was found guilty of murder and sentenced to death in Alabama state court. Two associates from the New York office of Sullivan & Cromwell agreed to represent him *pro bono*. Maples' attorneys filed a petition for post-conviction relief, alleging ineffective assistance of trial counsel. While the petition was pending, his attorneys left Sullivan & Cromwell without notifying Maples of their consequent inability to represent him. The trial court denied Maples' petition and sent notices to Sullivan & Cromwell. But no one acted on Maples' behalf, and the period for him to file an appeal expired. The Alabama assistant attorney general then sent a letter directly to Maples, informing him of the missed deadline and the four-week window for him to file a federal *habeas* petition. One of Maples' relatives immediately contacted Sullivan & Cromwell, prompting new attorneys from the firm to seek relief for Maples in state and federal court. The state court, federal district court, and Eleventh Circuit Court of Appeals denied relief due to Maples' failure to file a timely appeal.

The Supreme Court reversed, holding that Maples established the requisite cause to excuse his procedural default. When a procedural default occurs, the Court recognized, cause for excusal exists if something *external* to the petitioner—something that cannot fairly be attributed to him—impedes his ability to comply with the procedural rule. In general, attorney negligence does not constitute cause because the attorney is the petitioner's agent, and thus the petitioner is bound by the attorney's neglect. But a different situation arises when the attorney "*abandons* his client without notice, and thereby occasions the default."¹⁴ Because the attorney-client relationship was severed in *Maples*, his attorneys' omissions could not be attributed to him.

Although the extraordinary circumstances in *Maples* were sufficient to establish cause for extending a deadline, the missed deadlines that result from garden-variety neglect or oversight often will not satisfy the applicable threshold for judicial relief. Oft-cited reasons for late filings—including errors in calendaring, delays in obtaining transcripts, commitments to other matters, or personal emergencies—generally do not constitute cause. The bottom line? There is no substitute for your own judgment and diligence.

Internal Deadlines: Setting the Parameters

Because external deadlines define the outer limits by which action must be taken, they dictate internal limits for the designated attorneys. Court or other legally imposed requirements are the most common, but not the only, drivers of internal deadlines. For example, a multilawyer team working on a complex matter may collectively agree on interim deadlines by which specific assignments must be completed. Or a senior attorney may delegate a nonbillable assignment to be completed by a specific date. Even if the internal deadline appears soft or arbitrary—"I want this memo by 8:00 a.m. tomorrow"—you should not treat it as such.

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respect. Whether a deadline arises from a judge's scheduling order, a client demand, or even what may seem like someone's personal caprice, seasoned practitioners treat deadlines solemnly and expect junior attorneys to do the same. "I regard all deadlines as absolute and do not presume that they will be extended at the last minute, regardless of the reasonableness of the request," states John Kozyak, founding partner of Kozyak Tropin and Throckmorton. "I personally view internal deadlines the same as external deadlines, even though the lawyers in my firm and my clients are typically more understanding and flexible than judges," Kozyak adds.

Kozyak's views are shared by Lowry, who reminds novice lawyers that internal clients—the attorneys who give you the work and training on which your position depends—expect the same diligence demanded by external clients. "Senior attorneys are just as much 'clients' in every real sense as your external clients." They will decide not only the assignments you will receive in the future, but also "whether you continue to work at the firm, whether you get a positive or negative review, whether you get a salary increase or bonus, and whether you are promoted within the firm."

For junior lawyers in particular, your timely work often triggers a cascading chain of events toward the completion of your team's final work product. For example, the junior attorney responsible for the initial draft of a dispositive motion cannot wait until the 11th hour to submit that draft to her supervising attorney. Rather, she must allocate sufficient time to research, write, self-edit, and submit the draft to the lead attorney well before the filing deadline. "Engaging in self-editing is essential to producing an excellent work product," counsels Lowry. "Self-editing is the process of writing a first draft, letting it 'rest,' and subsequently reviewing it with fresh eyes to identify any gaps in reasoning or poor flow." The lead attorney will expect a self-edited and polished draft at least one week before the filing deadline, leaving sufficient time for the litigation team to review and revise the motion. That editing process should yield a client-ready version. After another cycle of reviewing, commenting, and editing, the motion is ready to be filed.

Like formal attorney-client relationships, relationships with your internal clients should be premised on mutual respect, trust, and confidence. A junior lawyer who scrupulously submits timely, polished work is more likely to develop constructive working relationships with internal clients. As her career progresses, she will earn the trust of senior attorneys and also reap the rewards: greater responsibility, sophisticated work, exposure to external clients, and the potential for career advancement.

In contrast, attorneys who treat internal deadlines as malleable undermine the potential for trust. Although missing an internal deadline will not result in a malpractice claim or bar grievance, attorneys who fail to appreciate an internal deadline's significance do so at their own peril. From a junior attorney's perspective, the failure to meet a deadline may be a one-time occurrence; a senior attorney, however, may perceive that single failure as symptomatic of a broader lack of diligence and professionalism. Attorneys who fail to manage their time proactively may notice a decline in the amount or quality of assignments delegated to them. Indeed, repeat offenders may be relieved of their positions or, at a minimum, left to wither on the vine. And withering vines eventually get pruned.

In the quasi-Darwinian practice of law, selective pressure abounds, senior attorneys are disinclined to "feel your pain," and only the fittest succeed.¹⁵ This is true even in firms that purport to

offer a better work–life balance. The law is an honorable profession, but the practice of law is a business, with the attendant pressures to maximize profitability, expand client base, optimize efficiency, and develop strategic plans.

“Communicate, communicate, communicate”

When you get a new assignment from a supervising attorney, make sure you understand what he or she expects of you, in terms of both substance and timing. “To ensure that you understand the project and the deadlines involved, ask the assigning attorney the right questions,” counsels Lowry. Do not assume that if an assignment is due tomorrow, you can send it at 11:59 p.m. the next day. And if you truly have too many irons in the fire, consider declining a new assignment.

If you are struggling to meet the deadline for a project assigned to you, tell the assigning attorney before—not at or after—the deadline. “If a lawyer were to miss a deadline without communicating with the assigning attorney, that would raise concerns about the lawyer’s reliability,” states Judge Jordan. And an internal client’s doubts about a junior attorney’s reliability will adversely impact that attorney’s exposure to external clients. Kozyak similarly advises practitioners: “If you are approaching a deadline and are not ready, immediately tell someone else in your firm so that she or he can help you address the problem.” A supervising attorney may be able to reassign the work and avert a catastrophe. And a mentor may offer advice about how to prevent similar situations in the future. As Facebook executive Sheryl Sandberg writes in *Lean In*, mentors will not only help you avoid mistakes—they will help you clean up the ones you were not smart or savvy enough to avoid.¹⁶

New associates may not be accustomed to working on multiple projects for various supervising attorneys and juggling all the related deadlines. “Associates in my firm have ‘gatekeepers’ to help deal with this very predictable problem,” states Kozyak. In fact, because the best associates are often in high demand, they value the important role that a gatekeeper plays in helping them manage their work. “When one of my associates is working on my matters and gets pulled in another direction, I expect her to tell me, ‘I am glad partner X asked me to work with him. I need two days before I can complete your project. How would you suggest I respond?’”

What if you simply need a few more hours or additional guidance to complete your assignment? “Communicate, communicate, communicate,” counsels Lowry. And make your case in professional terms. Does an amendment to a statute require additional research into legislative history? Is the law unsettled? Have new facts surfaced that require you to probe further? Whatever the circumstances, Lowry recommends maintaining a positive attitude toward the work entrusted to you. Be cautious about using or oversharing details about your personal life as an excuse for not completing work on time, and avoid complaining that you cannot finish a project because other attorneys or clients are “overworking” you. Even when you are feeling “swamped” or “slammed,” you should demonstrate a desire to meet the expectations of everyone involved.

When you are managing court deadlines, the need to submit a timely request for extension applies with equal, and perhaps greater, force. Judge Jordan reminds us that “Judges, as a general rule, do not like surprises and want things to work as expected. The rules exist for a reason.” He cautions that while a request for an extension of time might seem routine to the filing attorney, the presid-

ing judge is managing hundreds of cases. A single extension might seem innocuous in isolation, but various extension requests over a complex court docket will cause a multiplier effect that disrupts the court’s administration and efficiency. Moreover, an extension and the ensuing scheduling changes will impact the other litigants and attorneys involved in the case. Because “[d]eadlines mean something for everyone involved,” Judge Jordan urges attorneys to file extension requests with as much advance notice as possible. Requests filed after a missed deadline are strongly disfavored and should be filed only in the event of a bona fide emergency.

Practice Groups and Relationship Intelligence

Since the “great recession” began in 2007, the legal market has become increasingly complex and competitive. Lawyers sense an urgency to adapt, rethink the traditional model, and drive innovation. Within this framework, the need to create effective practice groups is perhaps greater than ever. And a lawyer’s ability to manage deadlines within a practice group will make that lawyer a trustworthy and valued member of a high-functioning team.

No lawyer works in isolation. Because the practice of law is collaborative, law practice managers recognize that relationship intelligence—knowledge about the collective relationships among their lawyers and staff—is a critical component of the firm’s intellectual capital.¹⁷ When creating practice or client teams, managers recognize the paramount importance of evaluating the individual and collective strengths and weaknesses of the various players. A successful practice group is like a “firm within a firm,” and requires the same entrepreneurial approach. On a macro level, the team must pursue goals that are clearly defined and understood. On a micro level, every team member must know the specific tasks to be performed; when, by whom, and in what order they will be performed; how team members can best work together; and what internal and external deadlines must be met. A high-functioning team depends on each member’s ability to faithfully adhere to established timelines.¹⁸

As a member of a practice team, you should assess your strengths and areas for improvement. Consider not only your substantive legal knowledge, but also your procedural and tactical intelligence: knowing what to do, when to do it, and how to do it well. Procedural intelligence involves not only knowing your deadlines and similar lines of demarcation, but strategically managing the process to achieve your client’s goals.

Procedural intelligence is essential to success in any discipline. Malcolm Gladwell develops a similar, albeit broader, concept in *Outliers: The Story of Success*, describing the critical difference between “general intelligence” and “practical intelligence.” Unlike analytical or general knowledge, which can be measured by an IQ test or LSAT score, practical knowledge is procedural in nature, including “knowing what to say to whom, knowing when to say it, and knowing how to say it for maximum effect.” Practical knowledge “helps you read situations correctly and get what you [or your clients] want.” General intelligence and practical intelligence are orthogonal: the presence of one does not necessarily imply the presence of the other. Although exceptional people may have “lots of both,” most people are dominant in one or the other.¹⁹

Like general and practical intelligence, substantive and procedural intelligence in law practice are orthogonal. While some lawyers have both substantive and procedural intelligence in abun-

dance, many are dominant in one (i.e., they have great substantive legal knowledge but deficient practical skills, or vice versa). Even if you have developed expertise in a substantive area of law, your degree of professional success will likely depend on your ability to master the related procedural framework or, at a minimum, to work closely with colleagues whose strengths complement yours. With a modicum of self-awareness, you can diagnose your own strengths and weaknesses and create practice teams with colleagues who possess complementary talents. Developing synergistic teams is equally important—perhaps even more so—in small firms that face increasing pressure to do more with less.

Takeaways: Developing Successful Time-Management Strategies

1. Treat all deadlines as absolute. Your clients expect you to submit your work on time, without delays or excuses. “It does not matter how good your work product is if it is not delivered timely,” states Lowry. To avoid being caught unaware, create an alert in your calendar before the ultimate deadline. Manage your workload effectively, and meet deadlines faithfully. “You may delay, but time will not.”²⁰

2. Implement an effective calendaring system. Given the abundance of calendaring and docketing software, there is no excuse for miscalendaring or missing a deadline. Use these technologies to your advantage, but remain vigilant. As a young lawyer, Judge Jordan learned not to rely blindly on deadlines that had been calendared exclusively by someone (or something) else. “It is fine to have an assistant, paralegal, or another attorney calendar it, but you need to verify it and keep your own personal calendar. You should never face the situation of asking a court to excuse a missed deadline that someone else miscalendared.” You, not your assistant or your central docketing system, are ultimately accountable for ensuring that your deadlines are calendared correctly. Your diligence protects your clients, your colleagues, and your professional reputation.

3. Be proactive. Lawyers often lament that they spend their days putting out fires and operating in crisis mode. But being reactive serves neither your clients nor your health. Instead, take a proactive approach to your time and work management. Develop strategies to accomplish your clients’ objectives. Review your calendar and active files at the beginning of each month and again each week. Prioritize. Identify the assignments that must be completed and set a feasible timeline for each. Allocate sufficient time to complete all assignments as scheduled, allowing for unexpected interruptions. Use interim deadlines to ensure continued progress, and tackle your most challenging tasks when your energy level is at its peak.

4. Use technology strategically to promote client satisfaction. The immediacy of new technologies has the potential to create an accelerated work environment that threatens your ability to think, research, and write with few interruptions. If used wisely, however, workplace technology can enhance your productivity and promote client satisfaction. Most clients expect their attorneys to respond to e-mails or calls with little or no lag time. A failure to promptly respond may be perceived as intentional, cautions Ms. Lowry, and perhaps even signal a lack of respect for the client. To avoid this misunderstanding, tell the client that you are unavailable at the moment but you will respond by a specific time. Smartphones and tablets allow you to respond to calls, texts, and e-mail messages during times that might otherwise be underutilized. And voice-recognition applications, such as Dragon Dictation, save valuable

time drafting lengthy messages, thus freeing you for more daunting tasks. Beyond enhancing your productivity, workplace technology can alert you to any troubling *lack* of activity; use your billing software to generate monthly reports of matter inactivity.

5. Create tweet-free interludes. Back in the day, a do-not-disturb sign and voicemail sufficed. Today, when you really need to focus, untether yourself from Twitter, Facebook, and fantasy football. If the lure of social media is just too tempting, use an application that blocks electronic distractions and creates intervals of uninterrupted time: (a) Freedom disables the Internet for a specified time period; (b) Anti-Social blocks social media and other designated sites; and (c) RescueTime tracks your web activities to make you mindful of the nonproductive time you lose daily.

6. Be flexible when life happens. Despite your best efforts to plan and prioritize, emergencies—real or perceived—can wreak havoc on your schedule. When the unexpected interferes with your to-do list, do not panic. Recalibrate. Evaluate the pending tasks, rank them in descending order of importance, and tackle the highest priority first.

7. Ask for permission first, not forgiveness later. If all else fails and you realize that you are unable to meet an imminent deadline, communicate as soon as practicable with the assigning attorney or gatekeeper. He or she may be able to reassign your work or offer additional time to complete the project. If the matter is before a court, request an enlargement of time before the deadline, show good cause for your request, and try to secure opposing counsel’s consent.

8. Face the music. If you find yourself wishing you could turn back time, move forward. Accept reality and responsibility. Act to avoid—or at least minimize—the adverse consequences of your delay. The mark of a true professional is not the absence of mistakes but, rather, the maturity to hold oneself accountable and learn from the experience.

9. Know thyself. Developing a successful practice requires more than intellect and passion. Have the self-awareness to develop practice groups with colleagues whose talents complement yours. Seek out mentors and sponsors: learning how successful attorneys manage the pressures of practice to better serve clients will help you enhance your own tools and strategies. Scout for formal or informal mentors in your firm, at bar functions, specialized conferences within your field, or other networking opportunities.

10. Do not become paralyzed with the pursuit of perfection. As professional writers, lawyers occasionally succumb to an editing spiral—endlessly revising work, creating different versions, and refusing to declare any version final. Hemingway rewrote the last page of *A Farewell to Arms* 39 times before he was satisfied with the words. But lawyers do not have this luxury; our work is client and result oriented. Remember that good writing is never done: it is just due. ☺



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Endnotes

¹See *Civil War Prisons* 26-27 (William B. Hesseltine ed., 1962).

²Richard Susskind predicts, "There will be five types of lawyer in the future," with the most elite being the expert trusted advisers: the purveyors of bespoke legal services retained by clients facing novel, complex, or high-value challenges. Richard Susskind, *The End of Lawyers? Rethinking the Nature of Legal Services* 271 (2008).

³See, e.g., Mark Powers and Shawn McNalis, *Time Management for Attorneys: A Lawyer's Guide to Decreasing Stress, Eliminating Interruptions & Getting Home on Time* (2008).

⁴See Dan Pinnington, *The Most Common Legal Malpractice Claims by Type of Alleged Error*, LAW PRACTICE Vol. 36 No. 4 (2010).

⁵See *Silivanich v. Celebrity Cruises, Inc.*, 333 F.3d 355, 367-68 (2d Cir. 2003).

⁶*United States v. Locke*, 471 U.S. 84, 94 (1985).

⁷*Id.* at 101.

⁸*Id.*

⁹*Toshiba Am. Info. Sys. v. New England Tech.*, No. SACV 05-00955-CJC, 2007 WL 8089815 at *1 (C.D. Cal. Nov. 14, 2007).

¹⁰*Halicki v. Louisiana Casino Cruises, Inc.*, 151 F.3d 465, 470 (5th Cir. 1998) (holding that lower court did not abuse its discretion in denying motion to extend time for filing notice of appeal).

¹¹*Pinion v. Dow Chem.*, 928 F.2d 1522 (11th Cir. 1991).

¹²*Id.* at 1524.

¹³*Committee for Idaho's High Desert v. Yost*, 92 F.3d 814, 824 (9th Cir. 1996).

¹⁴*Maples v. Thomas*, 132 S.Ct. 912 (2012).

¹⁵See Lee Stapleton, *I Don't Feel Your Pain: A Partner's View of Associates*, 39 LITIG. 43, 45 (Spring 2013); Andrew Hartman, *The Six-Minute Marathon: A Guide to Life as a Lawyer* 31 (2011).

¹⁶Sheryl Sandberg, *Lean In: Women, Work, and the Will to Lead* 67 (2013).

¹⁷Carol Schiro Greenwald and Steven Skyles-Mulligan, *Build Your Practice the Logical Way: Maximize Your Client Relationships* 54 (2012).

¹⁸See Paul G. Ulrich, *My Solo and Small Firm Point of View*, FOR THE DEFENSE 60, 65 (November 2010).

¹⁹Malcolm Gladwell, *Outliers: The Story of Success* 101 (2008).

²⁰Ben Franklin.

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should specify which parts of the home are accessible and what changes to the home can be made. It should also provide a few buffer days in case filming is delayed by conflicting production schedules or circumstances beyond human control, like weather.

If the scene involves extensive structural changes to the home, an escrow account can be helpful. The account will hold monies, paid by the production company, which are intended for use in returning the home to its prior condition. The client is thereby assured that he will receive the funds necessary to make repairs to his home.

The fee paid by the production company for use of an individual's home varies based on factors such as the number of days the home is used and the degree of changes required. The decision to use a particular home involves several visits from production company representatives, including location scouts, location supervisors, and even the director. Consultation with a certified public accountant is also advised, because, depending on certain factors, there may be various tax advantages for your client. The state or city film office can often provide real estate agents who specialize in listing homes for use as locations.

That's a Wrap

Entertainment opportunities are everywhere. Regardless of your specialty, you never know when or how they may make their way into your practice. The key is to recognize the potential for entertainment law to arise in any case or from

any client. Remind yourself—everything is negotiable, and you must get any agreement in writing. Now you are ready for that close-up. ACTION! ☺



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¹Trischitta, Linda. *Broward Judge Reviewing Female Deputies' Reality TV Show Contracts*, SUN SENTINEL, Aug. 29, 2011. Located at: articles.sun-sentinel.com/2011-08-29/news/fl-police-women-contracts-folo-20110829_1_tv-show-detective-andrea-penoyer-police-women.

²*Ibid.*

³Norman, Bob. *Public Defender 'Police Women of Broward' Show Is 'Cop Porn,'* LOCAL 10 NEWS, Oct. 12, 2011. Located at: www.local10.com/news/Public-Defender-Police-Women-Of-Broward-Show-Is-Cop-Porn-Video/3074148.