

## Eight rules for judicial time management

by Steven Wallace



If there is a seminar that most professionals could profit from it is one teaching time management skills. Inability to maximize one's productive activity during the limited hours available will doom even the most motivated worker. Nor does putting in long hours necessarily translate into getting things done. The simple gist of it is: we each need to develop the ability to get the most out of our day by working effectively, not haphazardly.

The typical time management class

would be of no help to a judge due to the uniqueness of the position. Managing a docket is substantially more complicated, and implicates a lot more people, than the work facing the average office worker or manager. We all know how important to the achievement of justice it is for a judge to do what's fair, but it is equally crucial that judges address the more blue collar subject of docket control. Tempering justice with mercy is a good thing, unless it takes six months to do it when it should have taken only two.

Here are Eight Rules for Judicial Time Management. Some of them are more easily stated than carried out. But they are *de minimus* requirements for keeping up with a caseload. A

judge gets more than enough opportunities to make people unhappy; it ought not be because they had to wait two hours for a five minute hearing!

### Rule 1: Hire the best judicial assistant you can get.

Easier said than done, especially if a judge is looking in the private sector where salaries may more accurately reflect responsibility and workload than does government pay. But a judge who botches this singular staff position choice will suffer, and so will the lawyers and litigants with cases assigned in that division. How important is one's Judicial Assistant (J.A.)? Simply stated, the J.A. sets the court's calendar, and the less time management abilities the judge possesses, the more the J.A. had better have.

If a judge's J.A. loses control, the judge is out of control. The J.A. must be capable of recognizing how much a judge is able to accomplish within the time constraints of each day and live by that limitation. The J.A. must do this with professional charm as he or she deals with pushy legal secretaries, demanding lawyers, and an uninformed public.

The J.A. must have the intelligence to handle complicated procedures and the flexibility to react to each day's emergencies. Since he or she controls the flow of demands upon the judge's time, the J.A. has to be able to distinguish between the ones that should get through and the ones that shouldn't. And the J.A. has to be able to handle or re-direct the ones the judge won't see.

In many respects, a J.A. will be making judge-like decisions, exercising discretion in dozens of ways that

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impact upon the lives of litigants. He or she will be performing this role according to the judge's guidelines but, for the most part, in the judge's absence, and every decision will reflect upon the judge.

All of this will be for pay that's substantially less than what the J.A. ought to get. So while he or she has to be bright enough to function in a stressful, demanding job, the J.A. must also be willing to think that the prestige and the opportunity to serve make it worthwhile.

## Rule 2: Start on time

Too often judges lose track of time and keep a courtroom full of people waiting while they chat on the telephone, drink coffee, finish a smoke, or relax in chambers before returning to the bench. Aside from the damage this does to a judge's reputation in the legal community (and beyond), the impact upon the docket is horrendous.

As a general rule, there will never be enough working hours available for a judge to do what needs to be done. It seems one is always behind, no matter how hard one works. *Caseload* is the readily identifiable culprit, but only up to a point. A judge will lose part of his or her grip on the handle unless making a habit of getting started on time.

And why shouldn't the judge be there when he or she has told everyone *else* to be there? Aside from time management demands, common courtesy dictates that a judge be on time. When a judge announces "recess until 8:30 AM tomorrow" it means that at that time the court reporter will be there, the bailiffs will be there, the court clerk will be there, and the lawyers, litigants, witnesses, and jurors will all be there. The judge ought to be there as well.

When a judge is not on time it has a domino effect throughout the remainder of the day and it puts all the other participants behind in their schedules. It also has an impact upon the other judges. When an attorney has a nine o'clock pre-trial conference in front of a judge who doesn't get to him until eleven o'clock, what

happens at 10:30 when a judge in another courtroom expects that same lawyer for a hearing?

Too often a busy judge fails to appreciate the ripple effect that his or her inability to keep up has upon other judges and the attorneys who must practice in different courtrooms. Aside from those considerations, though, it should be sufficient for a judge's own selfish reasons to note that starting on time will be a big plus in keeping up with the day-to-day docket demands.

## Rule 3: Set priorities for completion.

There will always be work to get done, but which stack should be attacked first? Which case goes to trial and which ones wait in line?

A judge should assign priorities so that he or she controls the work and not visa versa. We'll discuss working a full day in Rule 4, but a judge shouldn't assume that progress is being made just because he or she is putting in long hours. If it's not quality time, it may be wasted time. If the judge is wasting time, the unhappy result is that so is everyone else in the courtroom.

"Setting priorities" is another means of describing the process of deciding which task is most important. For example, there will always be stacks of files in a judge's office requiring attention. If they are allowed to remain stacked randomly while the judge works haphazardly, a disservice may be done. Some of those files will be more important than others; some should be attended to before others due to the nature of the problem or issue awaiting the judge's decision. For instance, if a Motion to Quash Capias sits too long awaiting a judge's attention while he or she reads advance sheets or scans mail from sentenced prisoners, a person may be arrested inappropriately.

A judge may wish to establish a system with his or her J.A. that results in priority stacking. Stack One includes files identified as most important according to whatever criteria the judge determines. Stack Two is impor-

tant, but time is not of the essence. Stack Three includes things a judge needs to look at, but if that's not until next week, no harm is done.

The judge needs to look at them all, though. They cannot be permitted to just sit. "Setting priorities for completion" assumes, in fact, *completion*, and within a reasonable amount of time. The court clerk is the file custodian, not the judge. A judge should never have files stacked up so long that he or she becomes de facto file custodian.

Setting priorities is necessary in the courtroom too. Court time is so precious—and expensive—a judge's position as a public servant mandates that it be used in such a way that the taxpayers' money is well spent. Sometimes that means establishing time limits, or interrupting and re-directing the flow of proceedings. Other times it means making tough decisions regarding which case goes and which case doesn't. There may also be decisions to be made (or which a judge may have to force to be made) with respect to what's done about those cases that don't get the trial time available.

The most basic tenet of any time management scheme must be the setting of priorities as to how a judge spends whatever time is available. This becomes more imperative when we consider how many other participants in the process are affected by the judge's time management abilities.

## Rule 4: Work a full day.

Aside from the political ramifications of leaving early, or the impression it leaves upon one's brethren when a particular judge is always the first one out of the parking lot, one must consider the practicalities of the need to put in a full day: the caseload is like a ravenous beast, gnawing into the future, and swelling as it advances.

There's just no way that a judge can maintain control of a caseload unless committed to putting in the necessary hours. While that black robe may be the symbol of incomparable authority, a judge still works for the community, is paid to perform a

fulltime job, and cheats if unwilling to perform as the work requires.

#### Rule 5: Don't talk too much.

"I have often regretted my speech," wrote Publius, "never my silence." And he wasn't talking on the record most of the day! Of course, there are good reasons for a judge to abide by this maxim that have nothing whatsoever to do with time management: avoidance of error and avoidance of sounding foolish spring immediately to mind.

But our subject here is *avoiding wasting time*. Just being the judge doesn't mean one has to do all of the talking. A judge should recognize the purpose of the proceeding and head inexorably toward the goal of completing it. That may or may not require the judge to talk. Certainly at arraignments a judge speaks constantly to defendants; in trials, lawyers and witnesses do most of the talking.


But even when it is the judge's turn to speak, the judge should limit what he or she has to say to what is essential to accomplish the purpose at hand. That way, the prospect of completing the proceeding in a timely fashion is enhanced, for which all other participants will be grateful.

Justice and brevity are not necessarily incompatible. On the other hand—to lawyers, litigants, witnesses, and jurors—a disorganized or overly garrulous judge may create an appearance of randomly tripping through the quagmire of the docket while accomplishing justice, if at all, at the expense of organization.

People don't come to the courtroom to listen to the judge talk. They come because they have to be there, and they all want to leave as soon as possible. So a judge ought to be succinct. The judge *and* the record will be better off as a result.

#### Rule 6: Don't let the lawyers or litigants run the show.

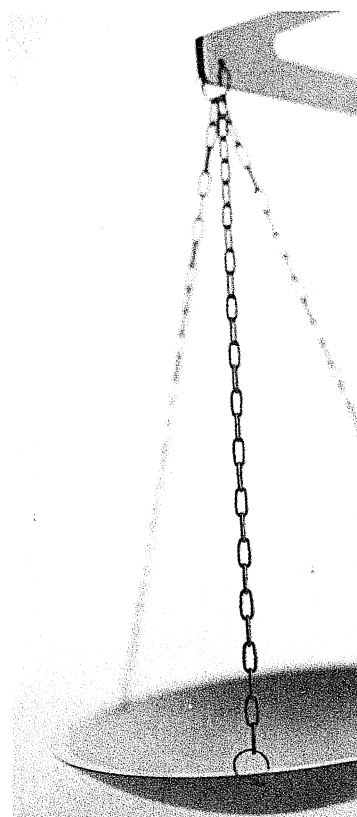
All the different players have different jobs and inconsistent expectations. While the litigants are entitled to "their day in court," does it have to be a *day*? Perhaps fifteen minutes is



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sufficient, depending upon the nature of what's at issue. Don't forget, also, all the other litigants in line want an opportunity to be heard.

It's the judge's responsibility to move the cases along so that all parties have reasonable access to that judge as the decision maker. If a judge grants too much latitude to lawyers regarding the amount of time they take to present a matter, the remaining day's litigants suffer the resultant delay. At times a judge simply has to interrupt a rambling, redundant, or repetitive lawyer. Unfortunately, there are a lot of lawyers who just keep talking, knowing in their gut that as soon as they stop talking, they'll lose. If a judge allows the lawyers to make all the decisions regarding what gets heard, the judge will hear too much.

While attorneys understand a judge's need to keep one eye on the clock, their clients lack the professional acumen to recognize this. Their idea of how much they have to say may be totally at odds with the judge's idea of how much he or she needs to know. I had a trial once that ended when I granted the defense attorney's motion for judgment of acquittal. His client became furious that he never got his chance to testify and tell "his side of the story."

A judge must politely but firmly direct the flow of court proceedings, even if it means abbreviating the opportunity for a client or his lawyer to have the floor. Otherwise, the long hours a judge (and attendant court personnel) expend will be tiring, but not as productive as they ought to be.

### Rule 7: Minimize continuances.

The very nature of the beast is such that a judge can't do away with continuances. They are inevitable. But a judge should have a strict policy that minimizes the times he or she is willing to continue cases. The rules do dictate, after all, that there should be "good cause."

It has always amazed me, as a lawyer and as a judge, how frequently cases resolve themselves when a continuance request is denied. That's due in

large measure to the fact that so many of the requests are not supported by real necessity. "My client can't be brought to justice," goes the defense line, "until he's brought to court."

If a judge falls into the slothful or overly accommodating habit of permitting too many continuances, perhaps even using continuances as a docket control tool, it produces a docket out of control. The contemporary slogan "Just Say No" has more than one application. It's the same as the ostrich hiding its head in the sand; what it's hiding from is still waiting there when it pulls its head out, except there's more of them.

#### Rule 8: Make decisions.

We've all heard the joke about the elevator operator with claustrophobia. But what about the judge who didn't like to make decisions? No joke!

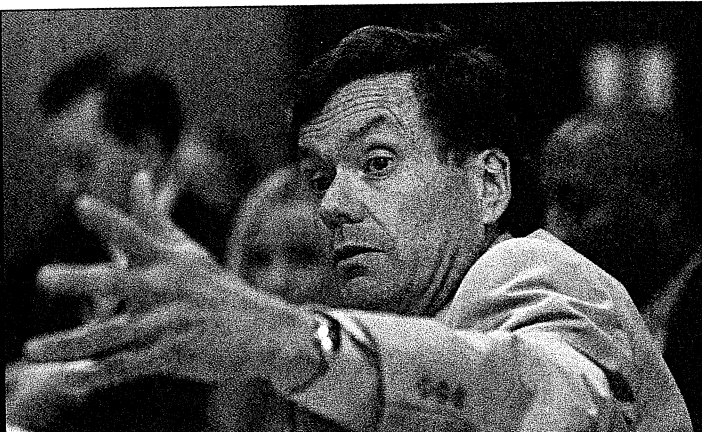
The judge had better be prepared to climb out on limbs, bite bullets, separate the chaff from the seed, and—more simply—say yes or no, then move on. A judge should avoid taking matters "under advisement." A judge should be prepared, listen closely, set his or her jaw firmly, and make decisions! Some judges, incredibly, put off decisions in order to avoid having to decide in front of the lawyers or litigants. Those judges missed their calling; they should have been ice cream counter salespersons. You can't make everyone happy. There will be days, frankly, when a judge will be out of certain flavors. The very nature of decision making involves winners and losers. Whether they like the decision or not, they expect the judge to make it. So, DECIDE.

To misquote Satchel Paige: Don't look back, a motion for rehearing may be gaining on you. ☞

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