

THE CASE OF THE DELAYED WILL

The Crucial Role of Time Management for Lawyers: A Cautionary Tale in Ontario

In the legal profession, time management is a critical component of risk management. Effectively managing time, from handling daily tasks to progressing case files, can greatly impact the quality of legal services provided. Yet, achieving effective time management is often easier said than done, given the pressures of a packed schedule, unexpected urgent matters, and the need to balance personal life.

Time management involves more than just diarizing deadlines; it includes providing timely service to clients. This is illustrated by the case of an Ontario lawyer who delayed drafting a will, resulting in the client's family making a claim against the lawyer's insurance after the client passed away. This incident underscores the importance of timely action and the potential consequences of delays in legal practice.

The Case of the Delayed will

Consider the case of John, a reputable wills & Estates lawyer in Ontario. John was approached by a client, Ms. Smith, who expressed the need to draft a will due to her deteriorating health. Ms. Smith was in the process of separating from her spouse. John advised that Ms. Smith should consider finalizing the separation agreement prior to executing the will. Ms. Smith agreed to do so along with thinking about if her son would be the sole beneficiary of her entire estate or if she would leave a small cash legacy to her only other child, her daughter. Days turned into weeks and John had not heard back from his client. John got busy with other files and failed to follow up. Ms. Smith lost capacity and John encouraged the designated power of attorney for Ms. Smith to execute

the completed, but unsigned, separation agreement. The power of attorney signed it which settled the family law matter. Ms. Smith passed away shortly thereafter, dying intestate.

The son of Ms. Smith, aware of his mom's intention to formalize her wishes, filed a claim against John for professional negligence. He argued that his delay directly led to his financial loss of 50% of the value of the estate as the estate would be split 50-50 between the son and daughter of the deceased under intestacy rules. A payout to the claimant was made based on the quantum of damages; in this case, John should have advised Ms. Smith to execute a will promptly, regardless of the separation agreement being outstanding, due to Ms. Smith's deteriorating medical condition and her certainty that she did not want her husband to inherit anything, except the joint assets, and her daughter to inherit little to nothing.

The Legal Implications of Time Mismanagement

This case highlights the critical importance of time management in legal practice. Clients rely on their lawyers to handle their legal affairs efficiently. Delay can have severe consequences and erode the trust a client has for their lawyer and damage the lawyer-client relationship. The legal framework in Ontario holds lawyers accountable for failing to meet their clients' needs in a timely manner, especially when such failures result in tangible harm.

Lawyers in Ontario are bound by rules that underscore the importance of timeliness. The Law Society of Ontario's Rules of Professional Conduct mandate that a lawyer shall provide service that is "courteous, thorough, and prompt". This rule is not merely a guideline but a requirement that emphasizes the obligation to avoid procrastination, meet deadlines, respond to communications, and keep clients informed.



Effective Time Management: Strategies and Tips

To circumvent the pitfalls exemplified by John's case, lawyers must adopt effective time management strategies. Here are some practical tips:

- 1** **Prioritize urgent matters:** Identify tasks that require immediate attention, especially those with significant implications, such as drafting wills for clients with serious health concerns;
- 2** **Set clear deadlines:** Establish and adhere to strict deadlines for each task. Use tools like calendars, reminders, and project management software to keep track of deadlines;
- 3** **Delegate tasks:** Where possible, delegate routine or less critical tasks to junior colleagues or support staff, freeing up time for high-priority client matters;
- 4** **Supervise delegated work:** Regularly check-in and review delegated tasks to ensure quality and timely completion. Remember, lawyers are ultimately responsible for the work done by others under their supervision;
- 5** **Limit distractions:** Minimize interruptions during work hours by setting specific times for checking emails and returning phone calls, allowing for uninterrupted periods of focused work;
- 6** **Review files regularly:** Conduct regular reviews of ongoing matters to ensure that no task is inadvertently delayed; and
- 7** **Communicate with your clients:** Maintain open lines of communication with clients, keeping them informed about the status of their matters and managing their expectations regarding timelines.

By incorporating the suggested strategies, lawyers can better manage their time, fulfill their professional and ethical obligations, and uphold the integrity of the legal profession. Time management in the legal profession is about more than efficiency; it's about safeguarding clients' interests and recognizing the profound impact that timely action, or the lack thereof, can have on their clients' lives.

In a field where time is often of the essence, managing it well is not just a skill but a professional imperative. ■