

Procrastination's Dark Side

by Mark Bassingthwaighte

All right, I'll admit it. I am a procrastinator. If there is a Procrastinator's Anonymous, I should probably be a member. In fact, I wonder if an organization such as this actually exists. I've always thought about checking into that, but somehow I never got around to it. Now, my excuse for never checking has been that I tend to perform well under the gun. In fact, some of my best work often occurs when I'm working under a time crunch. I am able to produce when I must. Even better, I like the feeling of satisfaction that I get when it's all over having met the deadline with a job well done. It feels good. I have earned my place.

What's the problem then? A false sense of security is the problem and this is the dark side of procrastination. I've pulled it off at the last minute so many times before that I'm certain I can do it again and often this is true. Of course this can only happen if no unforeseen circumstances arise; and note that I have not shared the stories of when I didn't make the deadline. I assure you that I have had them. That said, while my missing a deadline from time to time might mean that I will need to ask for an extension, for an attorney in practice, a missed deadline can be disastrous.

Consider Rule 1.3 (a) of the ABA Model Rules of Professional Conduct and commentary. The rule states: "A lawyer shall act with reasonable diligence and promptness in representing a client." Comment [3] to this rule reads "Perhaps no professional shortcoming is more widely resented than procrastination. A client's interests often can be adversely affected by the passage of time or the change of conditions; in extreme instances, as when a lawyer overlooks a statute of limitations, the client's legal

position may be destroyed. Even when the client's interests are not affected in substance, however, unreasonable delay can cause a client needless anxiety and undermine confidence in the lawyer's trustworthiness."

Procrastination can be a dangerous choice in the practice of law and it is so easy to do. The reasons behind procrastination are many. An attorney may assume that someone else is taking care of the matter, may not have a complete understanding as to how to best handle a matter, or may simply have too many matters open. Being afraid of imparting bad news, not wanting to deal with a "problem client," or hoping that with enough time the problem will go away are other reasons that attorneys procrastinate. Sometimes the problem is an inability to organize work and a matter has been overlooked or forgotten about. Sometimes there is an inability to appropriately prioritize work coupled with a failure to appreciate the importance of completing the work on a given matter in a timely fashion. At other times procrastination arises for reasons that are more personal. An attorney may be depressed or burned out, thus unable to find the energy to finish a matter, or perhaps is impaired and not thinking clearly.

These examples all point to the dark side of procrastination. Anyone could easily rationalize his or her way through them in order to reach a false sense of security. Who among us has never had at least one of the following thoughts now and again?

"I don't need to worry about it because someone else will eventually take care of it."

"Next week I will have the time to do the research or I can call in a favor then if necessary."

"I can handle all this work now because I was able to do it before."

"The client doesn't really want to hear this bad news."

"The client wouldn't be able to handle the bad news."

"The client isn't going to be able to understand this and so doesn't need to know."

"If I wait long enough, this problem will eventually go away."

"I'm pretty sure I'm on top of everything so why worry?"

"I can get to this anytime."

"I just don't have the energy today, but I'll make sure to do it tomorrow."

"This really isn't that important so it doesn't matter if I don't get to it for a while."

"I need to spend my time on this important matter so these other matters can wait."

"I don't have anything going on next week so I'll get to it then."

"I'll deal with this after I hear from them."

Statements such as these are rationalizations that bring a false sense of security and nothing else. Admittedly, many times things work out just fine. The problem did go away, the difficult conversation with the client eventually occurred, someone else took care of it, or you benefited from having an extremely competent staff person make certain that you finished the work on time. But what if it doesn't? Unfortunately at ALPS, we deal with those times when things didn't work out as planned. Something unexpected happened and time ran out.

My intent here is not to share all the various systems that could be put in place to help you complete all matters in a timely fashion; and truth be told, no system can force you to do the work anyway. They can only remind you of what needs to be done. For example, a number of malpractice claims are classified as “failure to respond to the calendar.” With these types of claims the system apparently worked. It was the attorney who dropped the ball. The point is simply to remind you that we

as attorneys have an ethical obligation to be diligent in the handling of all client matters. Recognize procrastination for what it is, an excuse. There is real value in remembering that and, more importantly, in learning how responsibly address whatever is behind the need to create the excuse because, sooner or later, the unexpected will happen and the fallout can get ugly. The bottom line is this. Never put off until tomorrow what can and should be done today.



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