

Case Management – Art and Science

By Amy Koorn

Science, loosely defined, encompasses the study of facts learned through experiments and observation. Art, in arguable contrast, embodies the use of skill and creative imagination in the production of an aesthetic object. Sound case management practices combine the two mediums to yield a finer work product for clients, comport with the ideals of justice and make life easier for everyone concerned.

This article aims to explain what drives a case from the time a client walks in the lawyer's door to the time he or she departs the Courthouse steps. When judges and lawyers consistently keep these driving forces in mind, experience suggests the steps needed to manage a case unfold sequentially.

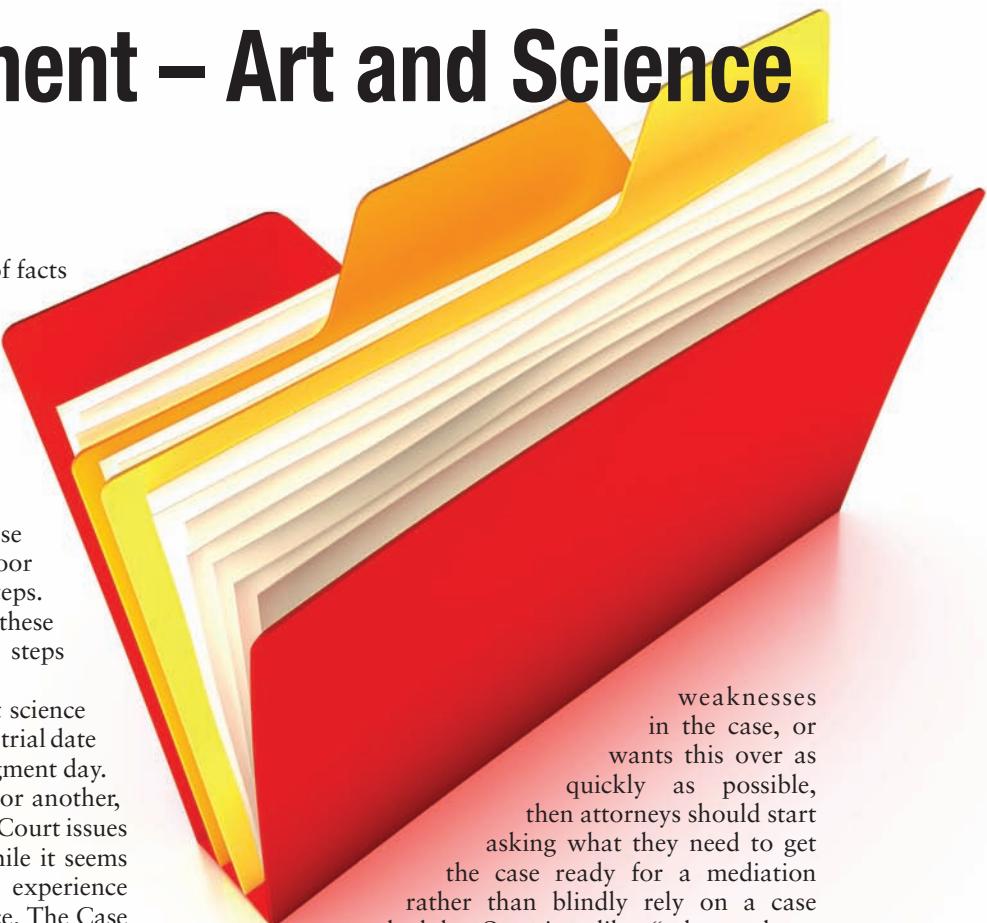
When it comes to litigation, the hard and fast science dictates that a trial date will set the dominoes. The trial date should translate in every sense of the term to judgment day. The Court expects the case to resolve, one way or another, by a date certain. In order to accomplish this, the Court issues a case schedule when the complaint is filed. While it seems elementary to focus on this "docketing sheet," experience has shown it warrants more than a passing glance. The Case Management Order sets forth the latest possible date certain responsibilities (such as the disclosure of witnesses) must be completed. When one of those deadlines is "overlooked" the rest of the deadlines are impacted.

At the risk of sounding more like the parent of a teenager than a lawyer, these deadlines, or "rules" if you will, are there for a reason; and first among them is to protect you. When lawyers comply with the dictates of the case schedule, the case gets resolved, whether it is mediated, settled, dismissed, decided, or tried.

When this happens, everyone walks away satisfied – at least with the process. Judges can account to the Supreme Court for the timely disposition of their cases. That has the intentional effect of minimizing the case load, giving the judge more time to focus on the remaining cases. Likewise, when cases resolve, lawyers receive remuneration in exchange and perhaps even appreciation. Somewhere in that equation, judges and lawyers develop a mutual respect because each side receives what it needs to fulfill the respective responsibility. And clients, can go on with their lives... which leads to the second driving force to effective case management.

Clients, not lawyers, represent the art in this equation. This is not to say clients sit in the driver's seat. Again, to invoke the parent of a teenager analogy, no wise parent simply turns over the keys, but rather cautions the teen through every turn. Recognition first, followed by constant consideration of the client's objectives, should help determine the specific steps required to reach a resolution.

Identifying (sooner rather than later) exactly what your client wants out of the case should answer in the abstract what needs to be accomplished. For example, what your client wants, or has suffered, bears on whether mediation may be appropriate for the case. If it appears your client recognizes strengths and



weaknesses in the case, or wants this over as quickly as possible, then attorneys should start asking what they need to get the case ready for a mediation rather than blindly rely on a case schedule. Questions like, "who needs to be deposed, what medical records need to be reviewed and what is truly contested in this case?" – all need to be considered long before the discovery period cut-off date. Alternatively, when the client comes to a lawyer for protection, be it a breach of contract claim, negligence or consumer sales practice violation, you are well served to dig into the defenses available and determine how those are best manifested e.g., by pleading, motion or trial.

When lawyers account for their clients' concerns and adhere to the case schedule, true case management is achieved. To accomplish this, consider the driving forces early in the life of the case in order to allow time to complete the necessary steps. This minimizes the need for continuances and panic; it closes files and nets dismissals or judgments; and, it pays clients and lawyers. In closing, just as an architect combines logarithms with sketches to design a structure, so too does the lawyer combine the case schedule with his or her client's objectives to manage the case.



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