

Act Now to Avoid Disaster

“What would you do if...?” That is how I began a presentation that I gave earlier this year, just a few short months after my office was ravaged by fire. I then showed pictures of what was left of the office, the computer systems, and the charred remains of files. As of the writing of this article, I am still not back in my office.

My own disaster is a powerful reminder that it can happen to anyone. You, too, could come to work one morning and find that your practice is gone. It does not have to be fire. It could be flood, theft, employee sabotage, the death of a key person in your firm, or your own disability or death. It’s not something any of us wants to think about, but it does happen; and it happens with some frequency, according to the PLF’s practice management advisors. With a little thought and planning now, you can be well prepared when disaster strikes.

Computers and Data

Are you protected? Is your current (i.e., as of *yesterday*, at the latest) data backed up? In today’s technologically advanced law office, much, if not all, of your practice is based on what is in that little box that sits by your desk or that you carry with you. Even if your computer doesn’t contain an electronic version of every file in your office (which is highly recommended, as scanners are fast and relatively inexpensive), you probably still have vast amounts of client data stored digitally, as well as the forms and contacts you rely on every day to run your practice. If you can access that information, you can restart your practice within a day or two. If not, you might never be able to rebuild.

My advice in two words: back up. If you use a laptop, back it up before you are finished for the night. Or back up to a portable drive that you keep in a fire/flood-resistant safe. Or back up to an off-site source, such as over the Internet. But whatever you do, back up repeatedly, often, and in several different ways. In my case, I was in my office when the fire started and was able to grab my computer as I ran out the door, with flames literally rolling across the ceiling. The firefighters were able to quickly protect some of the additional computers and equipment that were left. Even though I lost some computers, I still had my data and my clients’ “files.” I could still practice the next day.

Financial Documents

Hopefully, you have an electronic version of all your financial documents, but where are your business and trust account checkbooks? If they are in your desk drawer, they might not be there tomorrow morning. Instead of your desk drawer, use a fire/flood-resistant safe. If you have any blank check paper, client settlement checks to be distributed, or stocks, bonds, etc., keeping these papers in that safe not only can protect them from fire and flood but also can go a long way toward preventing theft.

Location

Where are you going to practice? Where are you going to store your office items while your office is rebuilt or cleaned? Your insurance company can hire a storage/salvage company to help you with your things, but you are going to need a place to work temporarily and a place to meet clients. For solos and small

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firms, it might be an office or two quickly rented in an office share or small business plaza. Maybe you can work at your home office and meet clients at a conference room you borrow from another attorney. Obviously, the needs of a larger firm will dictate other disaster plans for relocation. It doesn't necessarily have to be a formal arrangement ahead of time, but you would be doing yourself and your clients a service to consider your options and resources in advance.

Having good relationships with fellow members of the Bar helps greatly. In my case, my new home office in our temporary rental home was very quickly furnished with supplies from many members of the Sole and Small Firm Practitioners Section of the Bar. Many members of the legal community have made their conference rooms available to me.

Insurance

Are you adequately insured? Very few of us are. Many of us have the normal loss and liability insurances, but I suggest to you that these are not enough. More and more, many solos are choosing to practice out of their homes. Although this can be a very satisfying work arrangement, many homeowners' insurance policies don't cover "business items." Even if you don't practice out of your house but you take office files or your laptop home with you, you might be very surprised to find that most homeowners' insurance probably won't cover even the value of a single business laptop. Read your policies cover to cover *now*. Don't wait until after disaster strikes, or you may find, as I did, many unpleasant surprises.

Your insurance needs will vary, depending on whether you lease or own your office space. Think about what your needs might be for permanent relocation and what it might cost. If your landlord chooses not to rebuild after a disaster, relocation costs might not be covered by your current business or renters' policy.

Consider buying business disruption insurance. Unfortunately, I had never heard of this insurance before losing my office to fire. I can tell you firsthand that dealing with the aftermath of a disaster is extremely time-consuming and results in a huge loss of productivity, even in the best of cases. A variety of different insurance policies will provide you with a certain level of sustained income if you can't bill hours for a period of time.

Finally, don't forget about life and/or disability insurance. The "loss" to your firm may be you. You and your ability to practice may be *the* source of income. If you are unable to practice because of an illness or injury, will you have the income that you (and possibly others who depend on you) need to survive? If you die, someone will have to be paid to close down your practice for those who survive you. If you

are the rainmaker, your firm may experience a significant loss in income if you are not there tomorrow. Whether purchased individually or by the firm, consider how life and/or disability insurance figures into your disaster planning.

You would be surprised how easy it is to be underinsured. You should have frequent insurance reviews by someone who knows and understands your business; not all insurance agents do.

Transition Planning

As mentioned above, the loss to your practice might be you. Is there someone who is ready to handle your clients' emergencies, fulfill your business obligations, issue billings, and collect earned fees? Just as important, is someone authorized to access funds in your trust or business accounts? Consider the appropriate co-signers or a power of attorney just for this purpose. It doesn't have to be an attorney in your own firm, but someone will have to step in and do these things, and it should not come as a surprise to them when it happens. Having good relationships with other members of the Bar can go a long way toward finding the right person to assist you in the event of a disaster.

Both the Bar and the PLF have extensive resources to help you plan ahead (see the sidebar accompanying this article). I urge you to take some time in the very near future to take advantage of these resources. As I know firsthand, it can happen to you.

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The author is hoping to be back up and operating normally by May 2008, six months after the fire.

Additional Resources

PLF Practice Aids:

Disaster Recovery:

- After Disaster Strikes: A Checklist
- Managing Practice Interruptions
- Protecting Your Firm (includes a list of Web resources)

Technology:

- How to Back Up Your Computer
- Application Service Providers

In Brief Articles:

- Fire in Your Law Office (March 1994)
- Protecting Your Firm (March 2002)
- Technology Tips: Power Fluctuations (May 2004)
- What to Do About Stolen/Lost Client Files (October 2004)

PLF Handbook: *Planning Ahead: A Guide to Protecting Your Clients' Interests in the Event of Your Disability or Death* (2006)

PLF Practice Management Advisors: Dee Crocker, Beverly Michaelis, and Sheila Blackford, are available to help you in the areas of disaster planning and prevention, technology protection, transition planning, file retention and destruction, and safekeeping of client property. Their assistance is free and confidential. Call the PLF at (503) 639-6911 or (800) 452-1639 and ask for one of the PMAs.