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Defusing Disaster – Firms Need a Detailed Recovery Plan to Handle Calamity

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September 11, 2001, over 14,000 attorneys were displaced as a result of the destruction of the World Trade Center towers and surrounding buildings. This represented almost 20 percent of all attorneys in New York City. Fortunately, many firms were prepared given prior experiences from the 1993 World Trade Center bombing and events leading up to the Y2K scare.

This article will outline what a disaster plan needs to include enabling you to be prepared for a disaster of any origin. In addition to providing for the safety of your employees and property, you must also plan for the uninterrupted continuation of business—the business of providing legal services. Your clients’ business and litigation activities will not stop and you cannot afford significant down time. The primary ingredients of your plan include personnel, insurance, information systems, client records and ongoing considerations.

Personnel. First and foremost, you need to include your key employees in the planning effort. You need to have people take responsibility for all areas in the firm that could be affected by a serious calamity. At a minimum, these will be employees in the areas of technology, accounting, library, records and facilities. In addition, the firm’s senior management, i.e. partners, needs to be aware of the ramifications of not having a comprehensive plan including loss of clients and resulting lost revenue. It is interesting to see that some larger firms have Business Continuation Specialists among its staff.

Insurance. Undertake a critical review of your insurance policies and amounts of coverage—at a minimum this includes business interruption, valuable papers, extra expense, and replacement policies. Ask you agent or other specialist key questions. Check to see if your business interruption coverage includes lost profits. Valuable papers covers you for the cost of reconstructing certain paperwork—would this cover the reconstruction of current client files? Extra expense insurance covers added costs for alternate technology resources and renting additional facilities—would you have enough if it took a year or longer to renovate your premises? Determine what replacement value means—will you have coverage to purchase the newest technology models and systems?

Office space. On a worst-case basis, your plan should encompass the scenario if you main office was destroyed. Contract for back up space with a disaster recovery company or make reciprocal arrangements with another law firm or business in your community. Other resources for facilities would include hotels and warehouses. This is also a good time to re-evaluate the need to have all departments housed under the same roof. Departments that can function at any location include accounting, information systems (including certain aspects of the library

function), records, telecommunications and maybe word processing. Moving these key areas off site would prevent significant downtime and perhaps no downtime.

Information systems. Given our recent experience with Y2K and the all too often virus threats, this is an area that should have the best laid plans already in effect. Most firms back up their files each day and send the back ups offsite. Examples include document management systems, management information systems (accounting, conflict, marketing), e-mail and special files for litigation support systems, calendaring and dockets, etc. Make sure you use a vendor that has a secure, environmentally sound offsite storage facility. Determine if you have a certain amount of redundancy built in to your technology systems. In layman's terms, this would include having multiple servers or servers with multiple disk drives. Most firms also have a separate, reliable power source for their primary computer room. Disaster recovery firms can also provide resources in this area. In addition, many of the larger financial system vendors have back up resources. Last, this is one area that needs frequent testing of the back up systems employed.

Client Records. This is where the rubber meets the road. Even though you have experienced a disaster, it is probably likely that most of the business community, i.e. your clients, have not. The loss of information is more damaging than the loss of office space and equipment. A quick walk around your office will tell you that this is the most difficult area to plan—reconstruction of current client files. How do you reconstruct work product? How about your handwritten notes? Many firms might feel content that they could reconstruct files by obtaining copies from clients, opposing counsel or the courts but this would not include your handwritten notes. If these notes are critical to the firm's ability to resume active client services, you must develop a process to capture these notes electronically. One possible solution is imaging, which is considered by many to be a logical choice in capturing non-electronic, mission critical documents.

Ongoing. As I mentioned previously, you need to test your back up systems and plans frequently and not less than semi-annually. In addition to testing, you should annually review your recovery plan and state of readiness. Keep thinking about contingencies and possible scenarios for loss of resources. Evaluate your plan for asset recovery and limiting financial losses. Communication of your plan is vital. It should be part of new employee orientation and mentioned periodically at staff and attorney meetings. Communicate your plan to clients and display your ability to continue operations. Some firms who suffered the recent World Trade Center disaster used their web site to communicate their situation. Again, it will be more likely than not that your clients have not suffered from the same catastrophe.

This article should provide you with some of the basic elements and considerations for your plan. This topic cannot be addressed in a short article—many periodicals and seminars are offered on this topic. There are numerous resources, and some are free, to assist you in your efforts and I encourage you to get moving on a new plan or critically review your current plan.

