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Week of June 23, 2009

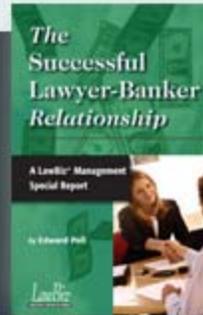
Should Malpractice Insurance Be a Cost-Cutting Target?

For law firms today, the survival equation is simple: Profits equal revenue minus expenses ($P = R - E$). When recession cuts revenue, cutting expenses is often seen as the most feasible way to preserve profitability. The largest expenses for small and mid-size law firms are people, facilities and insurance, but these cannot easily be reduced. That is especially true for malpractice insurance contracts.

The cost of malpractice insurance is an issue for every lawyer. Annual malpractice premiums range from \$3,000 up to \$7,000 per lawyer, often well beyond the ability of small firms and sole practitioners to purchase. These lawyers, for whom 1% or 1.5% of gross revenue spent on malpractice premiums might be reasonable, may feel they cannot afford to spend 10% or more of their income on a product they likely do not need.

In today's business conditions, small and solo practices must scrutinize every dollar in expenses. To do that for malpractice insurance premiums, it's important to understand how insurance rates are set. Basically, three factors are involved: losses (which for most carriers is 5% to 10% of premiums paid), cost of reinsurance (meaning how much insurance risk insurers can pass off to other carriers), and investment income (from stocks, bonds and other financial instruments in which carriers invest their excess premiums).

With the current financial crises unfolding, even if losses remain the same or go lower, and the cost of reinsurance remains stable (an unlikely event given the financial problems of the world), the investment income earned by the carriers is likely to plummet. As investment losses mount, the carriers likely will have to increase premiums to make up the shortfall in their portfolios.



*The Successful
Lawyer-Banker
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A LawBiz®
Special Report

Law firms today are moving toward operating in a more businesslike fashion, rather than just as a group of professionals—and those that are truly businesslike will recognize that a key to responsible management is establishing a strong banking relationship. Importantly, banks are looking for profitable new niches so law firms and banks are natural allies in today's competitive world.

When you have the right relationship, a good banker will be creative in helping you become aware of opportunities to grow your business in ways you didn't know existed.

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When premiums do rise, lawyers will have to make a cost/benefit analysis of affordability, balancing cost against benefit. The cost factors include the basic insurance premium, the nature of the coverage (more coverage, greater cost), and whether defense costs reduce the face value of the policy. Benefits come down to a question of how much protection is provided. A key issue is whether the face value of the policy assures that the personal assets of the lawyer will not be subject to claim. Lawyers often have valuable assets to protect, such as a house, stocks and bonds, etc. What would be the financial impact of a judgment against the lawyer if malpractice insurance does not offer full coverage?

As with much else in "The Business of Law[®]," the market calls the shots. Even if a lawyer can afford malpractice insurance, marketplace factors beyond the lawyer's control affect the final cost - and purchasing decision.

Personal Commentary

The Forum, previewed at the ABA TechShow, is now "live." Lawyers are invited to join at no cost and participate with their questions and support for other lawyers. We are creating a community, unique in the legal world.

Best wishes,

Ed Poll

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If you have a colleague who could benefit from having a coach on their side or know of a law firm that could benefit from elevating their profits and effectiveness in these challenging times, [please let us know](#).

What Readers Are Saying...

"The practical steps that Ed Poll provides in this little volume cover everything from how to choose a bank that's right for you, to how to improve your credit score and how to negotiate the best commercial loan to meet your needs."

"This LawBiz[®] Special Report is a must-read if you want to take your law firm to a higher plateau."

-Howard Putnam, Former CEO of Southwest Airlines and Braniff Airlines