MINNESOTA LAWYERS MUTUAL
INSURANCE COMPANY

Managing Practice Disruptions

Law Firm Planning & Recovery from Natural Disasters

MINNESOTA LAWYERS MUTUAL IS COMMITTED TO BEING AN EFFICIENT, ACCOUNTABLE AND PERMANENT RISK MANAGEMENT RESOURCE TO MEMBERS OF THE LEGAL PROFESSION. RISK MANAGEMENT ENCOMPASSES THE ENTIRE RANGE OF PRODUCTS AND SERVICES, INCLUDING INSURANCE, WHICH ARE EMPLOYED TO MITIGATE OR REMOVE THE DANGER TO LAWYERS FROM ERRORS AND OMISSIONS OR OTHER PROFESSIONAL RISKS.

CONTENTS

INTRODUCTION 1

DISASTER PLANNING 2

ETHICAL CONSIDERATIONS 2

IMPORTANCE OF BACK-UP 4

INSTRUCTIONS FOR A DISASTER RECOVERY KIT 6

CHECKLIST TO PROTECT CLIENT FILES AND DOCUMENTS 7

DISASTER PLANNING RISK ASSESSMENT 8

DISASTER PLANNING TEMPLATE 10

DISASTER RECOVERY 16

BEGINNING THE RECOVERY PROCESS 16

MITIGATING WATER DAMAGE 20

INSURANCE PROTECTION 22

TIPS TO ENSURE INSURANCE NEEDS WILL BE MET 23

DISASTER PREPARATION AND RECOVERY RESOURCES 24

INTRODUCTION

Disasters can strike at any time and can come in many different forms. Hurricanes come with advanced warning allowing time to prepare; others happen so quickly they are over before you have time to think. No matter what type of disaster you face, careful planning can make surviving more likely. Proper leadership makes surviving a disaster easier. Avoiding or reducing the severity of disasters begins with assessing the risks associated with location and office procedures. Once risks are assessed, the disaster recovery plan can be developed so that processes for minimizing damage and recovering afterwards can be established. After the dust has settled, it's time to get to work putting the pieces back together.

This following provides guidance on the disaster recovery process. Natural disasters include:

- Flooding or Water Damage
- Fire
- Snow, Blizzard, Sleet, Hail or Ice Storm
- Tornado
- Hurricane
- Severe Thunderstorm
- Prolonged Drought
- Earthquakes
- Infrastructure Disasters: Power Failure; Telecommunications Failure

Connect with Our Dedicated HelpLine Staff
When you have claims avoidance or coverage questions, call our dedicated HelpLine staff.
HELPLINE
(855) 692-5146

Apply Today
Not an MLM Insured? Get a quote today.
Our process is fast, convenient, and confidential.
www.mlmins.com
(800) 422-1370

This material is intended as only an example, which you may use in developing your own forms. It is not considered legal advice and as always, you will need to do your own research to make your own conclusions with regard to the laws and ethical opinions of your jurisdictions. In no event will Minnesota Lawyers Mutual be liable for any direct, indirect, or consequential damages resulting from the use of this material.

ETHICAL CONSIDERATIONS WHEN PLANNING FOR LAW FIRM DISASTERS

On the subject of disasters, law firms are unlike most other businesses. A disaster may have destroyed and scattered the firm's entire inventory (things such as files, paper, and computers) but losing the inventory is not as big of a problem as the loss of information that is contained within it. It can be a difficult and stressful thing when a member of a firm loses a client file, but can you imagine what it's like to have all of your files scattered over a distance of a few miles?

There are a few ethical considerations that come to the forefront for lawyers who are trying to make quick and significant decisions about their clients, their firm, and their files when responding to a disaster. Preserving your client's confidential information may be a challenging matter in the aftermath of a tornado, fire, or flood.

Lawyers faced with the challenges posed by natural disasters and other unexpected calamities often find themselves grappling with these ethics considerations:

- **ABA Model Rule 1.6 Confidentiality of Information** – By far the most frequent and perplexing among the ethics considerations for lawyers struggling with the aftermath of a disaster is trying to preserve the confidentiality of their client information. Most of the tough decisions involve the question of what to do with damaged files that need to be disposed of in a way that preserves the confidential information in the client file. Rule 1.6 calls for a lawyer to, "Not reveal information relating to the representation of a client unless the client gives informed consent." The problem is, lawyers undergoing a massive cleanup due to a natural disaster may not have all the options that they normally would have to make sure that their client's information is not left exposed in some massive garbage dumpster where anyone can find it. For those lawyers whose files have been scattered due to high winds, hurricane or tornado, even getting to the point of making a decision based on Rule 1.6 Confidentiality of information wasn't even an option.

- **ABA Model Rule 1.4 Communication** – Deciding on whether a lawyer has an affirmative duty to tell their clients they have been through a disaster is not an easy thing. For the lawyers, just trying to find their client's contact information can be a difficult thing, and with so many people to contact, who do you call and what do you tell them? Under Rule 1.4 Communications, a lawyer has a duty to, "Keep the client reasonably informed about the status of the matter." Suffering through a firm-wide disaster is something that could likely affect the lawyer's ability to adequately manage their legal services so it is important that the firm's current clients be informed about the status of things at the firm. For some clients, the set-back may significantly affect the status of their legal matter so it is important for the attorney to be as forthright as possible when relaying to the client information about their case. Although it may not be necessary under Rule 1.4 Communications to contact former clients about the loss of a closed file, but some lawyers will still do so if they have the means as a good business practice to keep all their clients, including former ones, as informed about the status of the firm as possible.

- **ABA Model Rule 1.15 Safekeeping Property** – Even clients who previously had matters with the firm may have to be put on notice about the firm's loss if some of the loss pertains to records or items that were the property of the client. Original documents are by definition the property of the client, so it is important that the client is informed about the loss of these items. Adding to the lawyer's stress is the possibility that the lawyer could be found at fault for the loss under certain circumstances. Rule 1.15 calls for property the firm is holding to be "appropriately safeguarded" and no distinction is made in the rule as to how the loss of the client's property will be treated if it is due to circumstances beyond the lawyer's control. It may become a question for a finder of fact if a lawyer loses important client documents that could have been kept in a fire-proof file cabinet, but the lawyer chose not to do so.

Every disaster situation is different and the ethical challenges for a lawyer can be difficult that handle under tough conditions. When trying to understand the right thing for a lawyer to do under these conditions, it is probably a good idea to err on the side of keeping clients informed about the status of the firm as reasonably possible. If a lawyer can show that a good faith effort was made to contact the firm's clients in a way that was available to the firm under the circumstances, then it is likely the firm has taken the proper steps to comply with the principles of ethics found in the Rules of Professional Conduct. If communication is limited and the lawyer can only make a more thorough announcement to clients at some future point in time, then the lawyer should recognize that the duties involving client communications are continuing duties and further, more informative communications should be made when it is reasonably possible.

IMPORTANCE OF BACK-UP

It is important to take appropriate steps to make sure your law practice will survive a disaster. Every year, a handful of attorneys experience a total loss of their computer data because of a natural disaster or some other event that destroyed the hard drive on their firm's computer server.

To avoid the steep cost of forensic data recovery, it is important for every lawyer to make sure they have properly backed up their computer data. The best method of computer back-up is whichever one the firm will adhere to consistently. Usually, that is online, cloud-based back-up.

Backing up firm data to a cloud-based storage service is the preferred method because it immediately removes the data offsite. Although safe online cloud-based back-up has been available to lawyers for some time, many lawyers still question whether storing data off- site is safe and ethical solution since it involves transporting confidential client data to a third-party cloud-based server.

If you are at all concerned about the security of backing-up your client's data to a cloud-based, third-party server, you should consider reading one of the many ethics opinions issued by attorney licensing regulators throughout the United States that advise lawyers how to perform cloud-based backups safely and ethically. In short, online backups are considered safe as long as the cloud-based vendor encrypts the stored data, the data is mirrored and stored on servers in multiple geographic locations, and the vendor provides the firm with written assurance that the stored data will remain confidential.

If you do prefer to manually back up your firm's data by other means such as a removable, portable hard drive, it is essential that put some distance between the source of the back-up and the place where you are storing the digital media – every night. To safely store data manually, at the close of every work day you must remove the portable back-up drive and transport it off-site to a secure location. By putting distance between the source of the data in your firm and the off-site storage, you significantly increase your chances of ensuring that the firm data will not have suffered the same loss as the equipment where the data originated after a disaster strikes.

Storing your computer data online can also be safe and affordable. There are many online data storage services that comply with the ethical considerations mentioned previously, and you may already be using some of these services for your firm. Microsoft OneDrive for Business contains many safety features and will store up to 50 gigabytes of documents and files (about 175,000 documents) for $1.99/month. For $15/month Dropbox Business also contains the safety features most legal ethics authorities recommend and it will store 3 terabytes of data which is enough storage capacity for more than 100 million documents.

Both Microsoft OneDrive and Dropbox Business are considered cloud document storage services, which means that they are meant to be used as an extension of the storage capabilities of your computer or computer network server. In the alternative, true cloud back-up

services go beyond that and are preferred for disaster recovery because they are capable of hassle-free, programmable fully automated and continuous back-ups. What that means is that a cloud back-up service will not only backup your documents and data files, but it will also perform full, automatic back-ups of your software applications, continuously. Examples of secure cloud back-up services are Mozy, Carbonite, and iDrive and will typically provide multiple terabytes of secure, full data back-ups for prices ranging from $6/month to $50/month depending on your service needs.

Finally, to make sure your firm gets back on its feet after a disaster strikes, we have one more, very low-tech piece of advice for you. You should create a disaster recovery kit for your firm, and you can start by purchasing a large Rubbermaid type, tote container. The container with the recovery kit should remain at the home of an attorney or key employee of the firm, and it will likely be the first thing you look for if you are in the unfortunate position of having to re-start the firm after there has been a total loss. You should supply the kit with essential documents on flash drives and paper, since you may not have access to computers in the wake of a significant disaster. Documents to be included are current client lists, employee home address lists, insurance policies, computer warranties, lease agreements, spare bank checks, a list of key recovery contacts like insurers and computer technicians, and important recovery information such as bank account numbers, login and passwords, computer suppliers. Back-up software and spare technology components would also be a good thing to include in the kit. It is important that the contents of the kit are kept up-to-date on an annual basis.

We all tend to think that a disaster is something that will affect someone else. It is important not to forget that disasters come in all forms – beyond a natural or environmental catastrophe. It is also important not to forget what an ounce of prevention can do for the future of your law practice.

INSTRUCTIONS FOR A DISASTER RECOVERY KIT

Every law office should have an off-site disaster recovery kit and it should be maintained regularly. Once your kit is put together, make sure it is off-site at an employee's residence and everyone knows where the kit is located.

The kit is relatively easy to put together and taking the time to do so can mean the difference between having your firm up and running, or coming to a total stand-still during your next disaster.

Here is what should go inside:

- **A current client list (in paper format) with detailed client contact information.** You will want to use this list immediately to contact your clients and let them know you are working off-site.

- **A list of key recovery contacts to help get your firm up and running.** The list should include information about IT service venders, off-site file storage, courthouse personnel, office supply venders, state bar association, and most importantly, all employee contact information.

  Compile a list of key recovery information, such as:
  - network passwords;
  - software licensing information;
  - location of safe deposit boxes;
  - other key banking information;
  - attorney ID information for all members of firm;
  - vender account numbers; and
  - web site passwords.

- **A list of all conceivable business disruptions and recovery strategies.** This document takes some forethought by a few of the firm employees, but it can be extremely helpful when you are busy recovering from the disaster, or if a key employee is not able to help with the recovery.

  Key spare parts, such as:
  - data back-up tapes or data zip drives;
  - office letterhead, office envelopes;
  - key office software;
  - notary stamps; and
  - any other essential device that may take you more than a few days to replace during a disaster.

CHECKLIST TO PROTECT CLIENT FILES AND DOCUMENTS

Your client files contain irreplaceable information. Reconstructing a lost file is a very time-consuming process. In most cases you will never be able to completely reconstruct everything that was in a lost file. Take the following steps to protect the contents of your client files:

- ☑ Keep active files up-to-date and well-organized: This will help you, or your replacement, find file information when resources are limited and stress is high.
- ☑ Properly store files and documents: Don't leave your files on desks, chairs, the floor, or windowsills. Anything left out is more susceptible to theft, fire, water or smoke damage. They should be placed in a fire-resistant filing cabinet.
- ☑ Take extra precautions with irreplaceable documents: Client originals and other irreplaceable documents should be stored in a fire-proof safe (not a fire-resistant one).
- ☑ Don't put critical documents or files on or near the floor: This can help minimize the potential of water damage.
- ☑ Store photographs and negatives separately: Keeping them separate may be a lifesaver in the event one set is damaged or destroyed.
- ☑ Keep your calendar up-to-date: Almost all areas of law practice are deadline driven to some degree. Areas such as litigation live and die by deadlines. For this reason it is critical for lawyers to keep an up- to-date calendar.
- ☑ Have a current calendar in at least two different places: This can include at your office and/or at home.
- ☑ Make sure others have access to it: In addition to your own support staff, one or more other staff, or lawyers at your firm should have access to your calendar in case both you and your staff are unavailable.

For additional information see MLM's Law Practice Management Booklet – The Basics of Client Files.

DISASTER PLANNING RISK ASSESSMENT

As part of the disaster recovery process, it is useful to plot a matrix of risks and their potential consequences. It is key in noting vulnerabilities. This need not be an elaborate and complicated process. In fact, the simpler the chart, the more useful. Noted below are a couple of examples. After having listed the risks and their probability and consequences, one can then turn their attention to preventative measures and the disaster plan itself.

	5	4	3	2	1
Probability Rating	Very High	High	Medium	Low	Very Low
Impact Rating	Terminal	Devastating	Critical	Controllable	Annoying

Risk	Probability Rating	Impact Rating			Resources		Preventative Measures
		Human	Property	Practice	Internal	External	
Flood	4 Floodplain, record snow fall	4	4	4	- Home offices	- Lots of rental space available - Office equipment can be purchased	- Need proper insurance - Proper backup systems - Client files - Ensure home office is compatible

Protecting Your Practice Is Our Policy.®
www.mlmins.com

Risk	Probability Rating	Impact Rating			Resources		Preventative Measures
		Human	Property	Practice	Internal	External	
Fire	1 Modern building, well protected	4	5	5	- Home offices	- Lots of rental space available - Office equipment can be purchased	- Need proper insurance - Proper backup systems - Client files - Ensure home office is compatible

Protecting Your Practice Is Our Policy.®
www.mlmins.com

Theft of Office Computer	2 (Except for laptops which would be a 4)	1	4	4	- Other computers in the firm and old one at home - Not sure if partners have the same data	- Can purchase a new computer quickly	- Ensure computers in firm are all compatible - Regular and complete backup of OS, software and files - Plan should include vendor contact info

This chart was reprinted with permission from the Canadian Bar Association

DISASTER PLANNING TEMPLATE

Without current contact lists, your ability to communicate with staff, clients, and other concerned parties will be limited, if not impossible. Create contact lists for each of these groups. Update these lists regularly. Key partners and employees, as well as emergency team members, should have access to these lists at work and at home.

Disaster Team

Name	Address	Home Phone	Cell Phone	Add'l Info	Area of Responsibility

Employees

Name	Address	Home Phone	Cell Phone	Add'l Info	Department/ Title

PROTECTING YOUR PRACTICE IS OUR POLICY.®
www.mlmins.com

Attorney Licenses & Personal Information

Attorneys Name	DOB	License No.	State	License No.	State	SSN

Alternative Work Location

Location	Address	Contact	Contact Info

List of Critical Functions (in order of importance)

Function	Timeframe for Restoration	Alternatives Until Restored	Responsible Person

Protecting Your Practice Is Our Policy.®
www.mlmins.com

Crucial Contacts

Vendor	Service Provided	Contact Person and Info

Access to Restricted Information/Passwords

Information / Passwords	Person with Access/ Location of Access Info	Contact Info

Critical Documents

Document	Location	Location of Copies	Issuing Organization/ Contact
Incorporation Papers			
Contracts			
Partnership Agreements			
Stocks/Bonds			
Insurance Policies			
Bank Account Info			
Accounting Records			
Computer Back-Ups			
Equipment Inventory			
Deeds			
Leases			
Wills			
Client Lists			
Client Records			

Insurance Information

Type	Broker/Agent	Contact Person	Address	Phone No.	Policy No.	Effective Dates
Professional Liability Insurance						
General Liability & Property						
Fidelity Bond						
Commercial Property Insurance						
Employment Practices						
Flood Insurance						
Automobile Policy						
Excess Liability						
Internet Liability						
Workers Compensation						
Health						
Disability						
Life						

Active Clients

Name	Key Contact Person	File No.	Phone No.	Cell No.	E-mail	Address

Services Needed in Emergency

Services	Phone No.	Cell No.	Fax	E-mail	Other Contact Info	Address	Key Contact Person
Ambulance							
Fire							
Police							
Plumber							
Electrician							
Locksmith							
Carpenter							

Protecting Your Practice Is Our Policy.®
www.mlmins.com

Power utility							
Gas utility							
Other lawyers (to provide support)							
Security							
Landlord or building security							
Office supply contact							
Computer supply contact							
IT support personnel							
Computer Recovery Service							
Document Recovery Service							

Computer Inventory

Description	Criteria	Model	Serial No.	License No.	Version/ Update	Date of Purchase/ Lease	Cost	Supplier
Hardware								
Peripherals such as zip drives, modems, scanners, etc.								
Software								

Protecting Your Practice Is Our Policy.®
www.mlmins.com

Other								

Suppler and Vendor Contact Information

BEGINNING THE RECOVERY PROCESS

The recovery process starts as soon as the emergency ends. Implement the appropriate steps outlined in your plan for managing disasters and/or business interruptions:

- Begin the assessment process.
  - Photograph or videotape all damage for claim documentation purposes.
  - To avoid flash fires, make certain that all containers to be examined (file cabinets, etc.) are cold to the touch and safe to open.
  - Start a diary or log of the ways in which the office has been affected by the disaster.

- Contact all employees to provide them with a status report and assign tasks. As needed, appoint liaisons from your office to work with each of the following entities:
  - Building Management
  - Fire Department
  - Police Department
  - Health Department
  - Emergency Management Agencies
  - Other governmental agencies
  - Utility companies, including electric, gas, water, phone
  - Insurance agent
  - Banker
  - Key vendors
  - Post Office
  - Other vital services

- Establish an emergency communication system to help the firm communicate with the courts, other lawyers, staff, clients, and vendors. This could involve setting up an emergency hotline and recorded message, or arranging for a forwarding number. Keep in mind that after a disaster, it is often easier to make outgoing calls than to receive incoming ones. Therefore, it may be necessary to designate a contact outside the disaster zone who can act as a clearinghouse for information.

- If you cannot occupy your office, arrange for temporary office space. Depending on the size and location of your firm, possibilities include hotels, motels, trailers, recreational vehicles, space in other law firms with which you have reciprocal agreements, space in your satellite office, other suitable space in your existing building, or space in your home.

  - Post a sign at your old office directing people to your temporary location.
  - Consider advertising that temporary location in the local newspaper, and encourage clients to contact you to touch base.
  - Be sure that anyone answering the phone informs all callers of your new location.
  - Contact your property manager and determine your obligations under the existing lease during the time your space cannot be accessed or used.
  - If necessary, make arrangements for security protection for your damaged space.

- Get office supplies for your temporary office, including stationery, business cards, legal pads, and pens.
  - Contact vendors to lease equipment or permanently replace damaged items (computers, network servers, printers, fax machines, copier, postage meter, desks, chairs, dictation equipment, typewriters, etc.).
  - Locate the off-site copy of your active client list and start contacting clients. Make appointments for those whose records you must recreate.
  - If you don't have an off-site client list, write down the names of all the clients and pending matters you can remember before too much time passes. Home computers, personal digital assistants (PDAs), and personal calendars may help you recreate this information. Have all staff do the same thing – and update the list as new names are remembered over the next few days. Start keeping a phone log of all incoming calls and use this as a source to help rebuild your client list.
  - If you can't access an off-site backup of your calendar, start a fresh one. Begin filling in important appointments and deadlines as they become known. If possible, review court dockets or and match this information against your client list.
  - Contact the courts and opposing counsel as needed for set-overs, postponements, and the like. If you have moved to a temporary location, send out postcards or similar announcements with your new address, telephone, and fax numbers. Notify the state bar.
  - To ensure the financial health of the office, give priority to collecting outstanding accounts receivable. Until the office is fully up and running, expect to have ongoing work disrupted and to have difficulty bringing in new clients.

- Contact the post office about an alternate delivery location.
- Access extra checks stored off-site. Contact your bank for replacement checks.
- Contact your payroll service.
- Get immediate professional assistance to help in the recovery and repair of your computer system.

  - Make it clear that your top priority is the data, not the equipment itself. A reputable repair shop can clean and test the system and, if necessary, use a package such as Norton Utilities to recover your data. Keep in mind that while motors and circuitry in your system may have been damaged by the elements, the hard drive itself is vacuum-sealed. More likely than not, the data stored on the drive can be recovered.
  - If the above efforts are not sufficient, it may be necessary to send your drive to a data recovery company, such as Ontrack Data Recovery, www.ontrack.com/datarecovery, (800) 872-2599, or DriveSavers DataRecovery, www.drivesavers.com, (800) 440-1904. If you can recover your data, transfer it to a new system as soon as possible.

- Gather up all available paper records and begin the process of assessing damage, sorting, and prioritizing restoration.
  - Paper records damaged by water will begin to deteriorate within two to three hours; mold, fungal, and bacterial growth will occur within 24 hours. Specific procedures must be followed in order to properly dry or freeze documents. (Freezing will preserve paper for up to six years for later drying.)
  - For help with document reclamation procedures, contact your insurance agent, who can refer you to a professional service. Consider bypassing restoration if back-up records are available.

- Keep an inventory of anything that must be destroyed or removed from the premises for drying by a commercial service. For client documents, track:
  - Client/matter name
  - Client/matter number
  - Items destroyed
  - Inclusive dates
  - Reason destroyed

- Begin replacing lost paper records and client documents. Besides clients, other sources for reconstructing records include the courts, opposing counsel, administrative agencies, and the firm's CPA and payroll service.

- Repair, sterilize, and dry the areas where records are to be stored – shelving, cabinets, desks. (Carpet, carpet padding, or liners must be dried and treated for mold and mildew or replaced.) Investigate tile or other flooring for similar damage. Continue inspecting damaged areas for mold, mildew, and other damage for at least one year.

- Rebuild your form library. The MLM has many forms online at its website on www.mlmins.com. If you do not have Internet access as a result of the disaster, call our office at (800) 422-1370 for assistance.

- First on your priority list should be an intake or new client information form, which can be used in recreating existing client files or interviewing new clients who need your help as a result of a problem that arose from the disaster. The data on the forms can then be used for reestablishing conflict and other office systems.

- Rebuild your law library. Assess the damage and determine the cost of repairing or replacing books and materials. Identify the items to be replaced as soon as possible. Get sources for legal research on the Internet (Lexis, WestLaw, etc.) up and running. In the meantime, arrange to use the local law library or university library–or coordinate with another law firm in the area.

- Exercise case and client control. Resist the urge to take on all new matters that may come to you until you can adequately screen for conflicts.

- Submit an insurance claim for the damages your office sustained.

- Determine your eligibility for other forms of emergency relief and submit a claim. If appropriate, identify counseling and support resources for employees.

(This article was reprinted with permission from the Oregon State Bar Association Professional Liability Fund, and can be found in its original form at www.osbplf.org.)

Protecting Your Practice Is Our Policy.®
www.mlmins.com

MITIGATING WATER DAMAGE

Water damage is a frequently occurring event, be it as a result of rain, flooding or pipe damage. The reason for focusing on its effects here is because water damage is a preventable occurrence, the damage from which can often be mitigated.

The most common sources of water damage are sprinklers, flooding and storms. Frequently this is one of those "quiet catastrophes." Generally, water damage is very messy and may require a lot of time to address.

Compounding the problem is future damage from mold and mold spores, which grow quickly in proper conditions and are highly toxic.

One of the first steps to mitigating water damage is to dry out the building. You are fighting an uphill battle if you are trying to dry out objects when the structure is still wet. Here are some tips:

- Remove as much from the building as practical, such as curtains, stationary, etc. You may need to remove the carpet. Check the underlay as it acts as a giant sponge.
- Find areas where water has the opportunity to gather, such as behind shelves, under furniture and in backrooms and closets. Work with your wettest items first.
- Get the air circulating. Open windows and install fans and dehumidifiers. You can use cardboard to build simple wind tunnels to direct the flow of air to where you want it directed. Try and maintain the temperature 50 to 60 degrees with a humidity level of 25 to 33 percent. Do not add heat until dehumidification and circulation is complete.
- Cover surfaces you wish to dry with absorbent paper, and change it regularly.

Air Drying

When air-drying books, try and remove plastic covers and insert paper towels in regular intervals (but not all the way to the spine) within the book and stand it up with the wettest end up. If it will not stand, let it lie flat. Do not interleave every page, as this will cause the book of the spine to swell and create permanent damage. Change the paper towels regularly. Many legal texts have thick covers. In this case, place a water-resistant film to prevent moisture from migrating to inner pages. You may hang books, papers, magazines and photographs from a line unless heavily sodden.

TIP As a general rule, if you cannot dry something out within 48 hours – freeze it.

Freezing will preserve paper up to six years. Commercial blast freezers are best as they have lots of capacity and can drop temperatures quickly. A household chest type freezer with a temperature of -10 ºC is adequate for a small amount of material.

Unless extremely wet, most paper-based items will be able to be restored to an acceptable moisture level within 48 hours. Do not freeze paintings, furniture, stone, glass, ceramics, metal, photographs and negatives, or veneered wood objects.

Generally, furniture can be air-dried. Do not rub dirt and mud into the furniture — just rinse and air dry.

There are many professional service firms that can assist in a larger scale flooding clean up, that have access to all the required human resources and equipment. You may be able to handle smaller scale events yourself.

INSURANCE PROTECTION

Having adequate insurance in place is one of the best things you can do to prepare for a disaster. Consider all types of insurance, including:

- **Professional Liability Insurance –** For errors and omissions by the firm attorneys while in the practice of law.
- **General Liability Insurance –** For personal injury that may be the fault of the firm.
- **Fidelity Bonds –** Employee theft.
- **Commercial Property Coverage, First Party –** Replacement cost of building the firms owns, equipment, computers.
- **Employment Practice –** Wrongful termination insurance.
- **Flood Insurance –** Necessary if on a floodplain.

Review and evaluate the adequacy of your coverage, including any policy limits. Pay particular attention to any stipulations, exclusion clauses, and to what extent consequential losses are covered (they likely are not). Consider if you should get any of the following coverage options:

- replacement value;
- valuable papers coverage, including cost to recreate files;
- loss of income;
- all risks, including flood and earthquake;
- cleaning/restoration costs;
- payment of interim rent;
- sprinkler/water damage; and
- personal items (review if your homeowner's coverage covers these items).

Ensuring you are properly insured is an ongoing process. You should regularly review your circumstances and the adequacy of your coverage, ideally annually. Be conservative in making your estimates, and consult with your broker. Some firms tie a coverage review into the renewal process as a way to ensure this task takes place annually. Review your coverage if you make any significant purchases or if there are any changes of circumstance that warrant coverage changes.

TIPS TO ENSURE INSURANCE NEEDS WILL BE MET

Experience is not always the kindest of teachers, but surely it is the best. For both lawyers and claim adjusters, the experience of witnessing losses resulting from a disaster has them in agreement over what lawyers should be doing to make sure they:

- **Have a Good Agent –** An agent who visits your office annually is truly looking out for you when they suggest increasing your insurance coverage. They will often recognize changes in your practice and building contents that could affect whether or not their will be enough in policy limits to restore the firm after suffering a major loss.
- **Have a Good Accountant –** Insurers and lawyers agree that only claims that are put together with the aid of a good accountant are resolved to the satisfaction of the lawyer making the claim. This is especially true when trying to establish a claim for loss of earnings.
- **Understand Their Policy –** Reading the insuring agreement carefully will help you understand subtleties, such as whether valuable papers coverage carries extra limits or not. Waiting until the disaster strikes is not the time to determine whether you have coverage for water damage from a backed-up sewer main.
- **Setting Proper Limits –** There is no rule of thumb to assist you in determining proper limits for commercial property coverage. Insurers will refer you to the first words of advice: have a good agent and re-evaluate coverage yearly.
- **Personal Effects of the Employees –** There never seems to be enough coverage available to replace all the losses of the employees' personal effects. Be aware of what personal articles employees may lose if left on site, including books, and consider increasing the basic coverage limits in this area.
- **Extra Expense Coverage –** The limits of your commercial property insurance policy may be enough to help you pay the rent at your new location, but you may not have enough in coverage to pay for the moving van that will get you there. Extra expense coverage will be necessary if you are in a situation where you have to pay double rent, and all the other costs of getting into your new building.

DISASTER PREPARATION AND RECOVERY RESOURCES

Websites

American Bar Association Post Disaster Resources and Assistance Resources
http://www.americanbar.org/groups/committees/disaster/resources/post_disaster_resources_assistance.html

American Red Cross: *www.redcross.ca and www.redcross.org*
For major disasters the Red Cross can be a helpful source of information and resources.

ABA Crisis Management Resources Bibliography:
www.abanet.org/barserv/disaster/disasterbiblio.html
An extensive list of law firm crisis management resources from the American Bar Association, including books, articles and online resources.

Association for Information Management Professionals: *www.arma.org*
Resources including Emergency Management for Records and Information Programs, The Disaster Recovery Yellow Pages, Manager's Guide to Contingency Planning for Disasters, Trial by Tornado, and Disasters Come in All Sizes.

Association of Legal Administrators (ALA): *www.alanet.org*
Articles and materials on disaster recovery. (Some materials limited to members only.)

Disaster Planning: Protecting Your Firm, Your Clients And Your Family:
http://www.msba.org/departments/loma/articles/officemngmt/disasterplan.htm
By Patricia Yevics, Director, Law Office Management, Maryland State Bar Association, Inc.

Disaster Recovery Journal: *www.drj.com*
There is helpful information on the website of this monthly publication, which is dedicated to the field of disaster recovery and business continuity.

INFOSYSSEC: *www.infosyssec.org/infosyssec/buscon1.htm*
An overwhelming collection of links to business continuity and disaster recovery planning information.

Federal Emergency Management Agency: *www.fema.gov*

Northeast Document Conservation Center: *www.nedcc.org*
A non-profit entity that provides document conservation advice and services. There is information on the site for drying wet documents, and dealing with fire, pests and mold damage.

Books

Disaster Survival Planning: A Practical Guide for Businesses, by Judy Kay Bell; Disaster Survival Planning, 2000

Step-by-step instructions on what you need to do to create, develop, implement, and test your own disaster recovery plans.

Emergency Management for Records & Information Programs, by Virginia A. Jones and Kris E. Keyes; ARMA International; 2001

A guide through the essential phases of emergency management: prevention, preparedness, response and recovery, with a focus on handling electronic records.

Learn how MLM can protect your practice.

Connect with Our Dedicated HelpLine Staff

When you have claims avoidance or coverage questions, call our dedicated HelpLine staff.

HELPLINE
(855) 692-5146

Apply Today

Not an MLM Insured? Get a quote today.
Our process is fast, convenient, and confidential.

www.mlmins.com
(800) 422-1370

MINNESOTA LAWYERS MUTUAL
INSURANCE COMPANY
PROTECTING YOUR PRACTICE IS OUR POLICY.®

© 2018 by Minnesota Lawyers Mutual (MLM). All rights reserved.
Publication Date: June 2015/Revised September 2018