



Not If, But When: Prepare a Disaster Recovery Plan Today

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By Edward Poll

There are two types of law firms: those that have experienced a disaster, and those that will. "Disaster" can come in many forms, any of which is unexpected and can ultimately mean the demise of the firm.

The goal of disaster planning is making a recovery that ensures the firm's survival. If, as a lawyer or a law firm, you think of planning for disaster recovery as a luxury you can ill afford in a time of increasing cost and profitability pressure, think again. Considerable research suggests that you are jeopardizing the future of your practice through unpreparedness and through missing an opportunity to gain competitive advantage.



Not every disruptive event is a disaster. Professional liability, malpractice claims, client relations problems and poor business judgment are all problems for the firm, but they are also part of everyday business.

A true disaster is an event or circumstance that can drive the firm out of business: a terrorist attack on your office tower, a pandemic like the SARS scare, a flood or other natural event with prolonged effects.

You cannot survive such an event unless you begin a firm-wide assessment aimed at conceiving and implementing a disaster recovery plan.

How to Conceive the Plan

Review each practice area in the firm separately. Ask how long it can afford to be "out of business" and what resources it would need to get up and running. Create your overall plan to take account of the risk scenarios of each practice area. Transactional lawyers often have timeframes that are measured in hours. Litigators' timeframes may run from the few hours needed to secure a temporary restraining order, to years for bet-the-company disputes.

Assess your firm's readiness, using a multi-step approach. Review (or establish) your insurance coverage, clearly understand what's included, and consider additional liability coverage for natural disasters. Create a complete inventory and photo-

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- Possible Events and Hazard Checklist
- Sample Emergency

document your entire office with all its contents to prove losses. Back up all computer data, and store data backup as well as important records and documents off-site.

- Contact List
- Sample Computer Inventory

Assume a widespread disaster that will overwhelm localized telecommunications or storage facilities of paper and electronic records, as well as the local infrastructure of extra office space to temporary staffing. That's why you should think outside your usual geographic frame of reference. A firm with multiple offices can in principle rely on other locations for emergency data backup and office space. Small firms or sole practitioners can follow the same principle by creating relationships with peers in other cities.

Take off the organizational blinders. Accounting and technology may have off-site backup for their immediate functions, but often neglect to extend it to word processed documents, imaged case files, client relationship data files and personnel records. Often the electronic information in these categories is password protected, and only the people that intimately use them have the passwords. A prepared organization should ensure diversified right-to-know access.

How to Create the Acceptance

Developing a disaster recovery plan would be an overwhelming task for one person. You will need acceptance, involvement and support from a broad cross-section of the firm to create the plan. All key firm stakeholders and leaders must be involved or at least lend their full support; without an investment in the plan's creation, they won't feel an obligation for its implementation. That includes key HR, technology and financial staff, as well as senior management and partners.

Do not, however, make the mistake of creating a large, unwieldy group to create the recovery plan, on the assumption that the more people involved the more acceptance there will be. As in most organizational efforts, such groups merely produce inertia rather than results. I

Instead, put together a small task force, populated with people who have power to make decisions, plus young and innovative firm members, each of whom is known as someone who gets things done. Make the group as diverse as it can be, and treat its work as the most important activity in the firm: pay participants bonuses or some other form of extra compensation, give them resources and treat them with respect.

How to Evaluate Organizational Readiness

No matter how good a disaster recovery plan is on paper, it must be regularly reviewed and tested. Once you do create a plan, review and revise it regularly to keep it from going stale and becoming useless.

More importantly, the firm must periodically pretend there is a disaster, implement the elements of the plan, and change those aspects that didn't work as well as desired.

Checklist for Evaluating Your Disaster Recovery Plan

- Are your disaster recovery plans tested at least once a year?
- Do you review and evaluate both the plans and the test results and make adjustments accordingly?

- Have you conducted a physical site assessment to inventory equipment, examine readiness and identify gaps in preparation?
- Have you put your emergency communication processes to use to see if they function adequately in both technical and organizational senses?
- Do you provide everyone in the organization with at least a summary of the disaster recovery plan, so that they know what should be done?
- Have you established recovery time objectives for critical business functions, and sought both internal and external evaluations of whether these are practical?
- Is senior management fully committed to putting the firm's full resources behind disaster readiness testing, regardless of the cost in time and money?
- When there is a disaster preparedness drill, will senior management and partners participate? Getting everyone to take the plan seriously before a disaster is the best way to ensure that it will be taken seriously if the need arises.

How the Process Should Work

Central to disaster recovery is communication with firm members, clients, vendors, courts, and others who make your practice work. A good disaster recovery plan is a good communication plan, and it must be in place before disaster occurs.

Elements of a Good Disaster Recovery Plan (in order of priority)

- Set up a toll-free hotline number that plays a recorded status message and allow persons from inside and outside the firm to leave messages.
- Develop a "phone-tree" in which firm members have pre-assigned responsibilities to contact each other and establish their condition and whereabouts. Ensure that key personnel have paper and electronic copies of internal phone lists.
- Assign one person to contact clients, tell them what has happened and explain the status of pending matters. Be truthful and credible, and convey that the crisis is being handled properly, and that the firm will do its best to take of needs and concerns. Give them the hotline number and any other available emergency contact numbers.
- Have a standing list of building managers and real estate agents so you can contact them to set up temporary space, including furnishings, computers and phones.
- Establish a referral contact with another firm so that you can ask them to handle such key practice matters as requesting a continuance or rescheduling a deposition.
- Have hard copy and electronic lists of service provider contacts that can help re-establish your

practice: insurance carriers, bar associations, law societies, utilities, data security and Internet services, legal specialists like Lexis/Nexis and West.

- Identify a personal contact at your bank to ask for an emergency operating loan covering rent, payroll, insurance settlements, new office arrangements, supplies and more.

Keeping an emergency contact plan updated is challenging, given how rapidly people change phone numbers, e-mail addresses and employers. Review and revise your plan at least every six months. Otherwise, it may be useless when you need it most.

How to Begin Recovery

Once the nature and severity of the event is evaluated and an assessment of damage is made, you can determine whether operations can continue (perhaps in a reduced capacity) or if relocation to an alternate facility is required. When decision makers have decided the course of action, the information should be given to your emergency team by the most feasible method available.

Communication is the most important element of disaster planning because the human element is both the first concern, and the most difficult to deal with. Effective disaster communication planning can mitigate the impact on the lives of individuals within a firm, by helping ensure the firm's survival.

Putting one's personal and professional lives back together is difficult at best, but having a plan on how to proceed can make it more feasible. Your energy on such effort is like insurance: useless and expensive when not needed, and priceless when needed.

Edward Poll (edpoll@lawbiz.com) is a certified management consultant and coach in Los Angeles who coaches attorneys and law firms on how to deliver their services more profitably. He is the author of *Attorney and Law Firm Guide to the Business of Law: Planning and Operating for Survival and Growth, 2nd ed.* (ABA, 2002), *Collecting Your Fee: Getting Paid from Intake to Invoice* (ABA, 2003) and, most recently, *Selling Your Law Practice: The Profitable Exit Strategy* (LawBiz, 2005).

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