

# BAR BULLETIN

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ASSOCIATION

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THE  
*Doom Issue*

Volume 30 • Issue 5 • \$2.00  
January 2012

## Be Prepared for When Disaster Strikes

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As chair of the ABA/TIPS Disaster Task Force and chair of the ABA Committee on Disaster Response and Preparedness, we would like to talk briefly about the practical aspects of disaster preparedness for law firms.

TIPS this year is featuring a yearlong initiative on Disaster Preparedness and Response, which started with 10 teleconferences in September to commemorate the 10th anniversary of 9/11, continued through the fall leadership meeting in Seattle on cyber-terrorism, and includes three more upcoming national meetings: the ABA mid-year meeting in New Orleans on disasters caused by negligence; the spring meeting in Charleston on disasters caused by acts of nature; and the ABA annual meeting in Chicago on disasters caused by terrorism. [Please see related articles on pages 4, 9, 12 and 13.]

Today, disasters monopolize our news. Whether it is hurricanes along the Gulf Coast or Atlantic Coast, tornadoes and floods in the Midwest, earthquakes on the West Coast or anywhere terrorists may strike, we live today in a world of increasing natural and human-made actions that require preparedness. A disaster can happen anywhere at anytime and we all need to have a plan to survive one.

After a disaster strikes, it's too late to prepare; there is nothing one can do at that point to change or augment the preparations already made. You are stuck with what you had — your prior decisions.

Your decisions on insurance, backing up servers, storing paper files, and safeguarding exhibits and valuables are irrevocable once a disaster hits. Preparation requires planning. Being prepared can mean the difference between business continuity and failure of your law practice. Now is the time to make those decisions moving forward.

### Insurance

It is wise to secure insurance to cover potential disasters, but you need to make sure insurance includes business interruption coverage, even though it will not readily cover the loss of your client base. Get the most insurance you can for all perils and watch out for gaps in coverage between policies.

All business interruption policies are not the same. For example, there are gaps between flood policy coverage and business interruption/wind/fire policies. Make sure you get the coverage you need and review your policy annually for any changes. Keep all insurance papers in a separate, distinct location. Put insurance papers in a safe place at a distant location.

Have a financial reserve set aside to remain in business until the insurance premiums are paid out. In a major disaster, it takes time to settle all of the claims. One must be able to sustain cash flow for several months out of savings whether or not one settles or files suit. Be prepared for payment delays. You must be ready to survive for six months or longer on savings for both practical and claims-related reasons.

### Backup Servers

Keep your hard drives, office data and client files electronically backed-up on servers located in another state, out of the way of the path of a natural disaster. There are businesses now that specialize in selling you

use of space for your remote office on backup servers. There are also companies providing backup servers on cloud computing websites.

You want to ask whichever vendor and server backup system you select to provide data backup and protection, including storage management and support, disaster recovery services including data replication and recovery, as well as hosted document, email and records management services. Stay in regular contact with your vendor representative so you feel confident about your preparations.

### Other Office Locations or Satellite/Affiliate Office

Some practitioners will develop business out of town and either establish a satellite office or affiliate with another law firm in a different city to use its offices as a backup in case of a disaster. Plan now to have a backup office with another firm or rent space to house your law office or staff. A satellite office where you have some business will help justify the expense of one.

Establish a referral contact with another firm so that you can ask it to handle such key practice matters as requesting a continuance or rescheduling a deposition. Either way, the satellite office in another city should be a place where bare essentials are located, such as phone lines, fax, copy machine, scanner, desks, office supplies and forms (this is somewhat outdated now with the Internet-capable phones and data pads).

It takes time to get a new post office box, stationery, business cards, computers, fax machines, phones, phone lines and DSL lines installed and functioning. Think of a satellite office as insurance to save the law practice you worked to build.

If you work with a larger law firm, that firm should make arrangements to transfer operations to other nearby offices in the event of a disaster striking the local office. Develop a communications tree and make sure all firm offices know the processes that will be employed in a disaster — designate a backup office for each firm location in the event of a disaster. During Katrina, for example, firms moved operations to Baton Rouge or Houston, and had their attorneys, where needed, work out of those offices.

### Website and Communication

Have a good firm website and use it to communicate with your clients and to keep your business up and functioning when a disaster strikes. Make sure your clients have your web address. Be sure that the site can be updated to facilitate communication and give new information to clients, especially when your location, phone numbers and mailing address change.

A disaster will not damage the Internet. Provide contact numbers and email addresses for the attorneys on your website so clients can reach them. Set up a toll-free hotline number that plays a recorded status message and directs callers to your firm's website to retrieve information.

Ensure that the firm's internal website has electronic copies of internal phone lists, and that key personnel also have paper and electronic copies. Develop an emergency "phone tree" in which firm members have pre-assigned responsibilities to contact each other and report their condition and whereabouts. Remember, text messaging will still be operational, if cell phones are not.

### Laptops, Cell Phones and External Drives

Keep important deadlines and client information stored on individual laptops, on an external drive and stored on a remote server offsite. Copy your essential information to your laptop in pdf format and always take it with you, including your insurance information. Consider purchasing laptops, Netbooks or iPads for attorneys in your offices.

Keep valuable information on your portable computer, including 800 numbers and insurance policy numbers. Keep your insurance information safe and accessible. Consider changing to laptop computers for all staff and for yourself. You can operate your office from your cell phone and your laptop. You should backup your office data on offsite servers to give you and your staff instant portability to get up and running quickly on remote devices.

Important, open paper files and documents should be downloaded/ stored on external drives or on CDs that you can take with you. All paper files and closed files should be stored electronically and kept offsite.

### Inventory

Inventory and take pictures of your offices' contents. Keep an inventory of the office on your laptop and pdfs of the insurance policies so you can file your notarized sworn proof of loss as soon as possible to get your claim paid. Most policies require that a notarized proof of loss be filed within 60 days of the casualty loss.

You will need to digitally photograph and videotape the damage of the entire loss for insurance purposes. Most claims in large disasters are handled electronically. Having digital photos in a small format that an adjuster can easily download will facilitate reimbursement.

All inventory records, photographs, etc., should be copied, with one copy at home, one offsite and one copy in a safe-deposit box. Prepare a complete inventory of all personal property that includes date of purchase, place of purchase, purchase price and condition. Take photographs and a video inventory of your building and its contents.

### Staff

Put a retention policy in place to retain staff in the event of a disaster and communicate this policy to your staff. One should do everything possible to retain your employees and delay layoffs until the situation can be better evaluated; otherwise, you may not be able to replace qualified staff when the business returns, and it will.

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These are just some ideas. The ABA has prepared a booklet — available at <http://www.americanbar.org/groups/committees/disaster.html> — detailing the steps law firms should take to prepare for a disaster. We encourage you to download the booklet and start your firm's own disaster preparedness today.

The mission of the ABA Committee on Disaster Response and Preparedness is to assist lawyers, law firms, bar associations and the justice system to prepare for and respond to disasters; to assist lawyers as needed to recover from a disaster; and to ensure that the rule of law is respected and protected in times of major disasters. ■