


Law firms
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Natural Disasters: One Is on Its Way

Toward

By Mara M. Erlach and Michael Shklovsky



Strong, warm winds blew the evening of Oct. 8, 2017. California's North Bay residents went to bed Sunday evening looking forward to starting their workweek the next morning. Little did they know their world would change overnight. People were awakened by smoke, by neighbors, by worried phone calls and law enforcement officers banging on their doors. Thousands of people escaped through the smoke and flames. Early the next morning the community faced the shock of an unprecedented and life-changing disaster. Entire neighborhoods had been destroyed by wildfires, and many local landmarks and businesses were razed. Cellphone towers were rendered nonoperational, and power was out in many locations. Co-workers lucky enough to have internet or cellphone service emailed and texted each other—Is everyone okay? Did your house survive? Do we have to come into the office today?—often without a response. As the legal community struggled to hold together and maintain its obligations to clients and employees, many wondered, What do we do now? And could we possibly have planned for this?

While we cannot control when and where natural disasters strike, law firms can take some steps to attempt to effectively manage any interruption of their business, promote the safety and morale of their employees and fulfill their ethical obligations to clients.

You

BEFORE THE DISASTER

The foundation for disaster planning, of course, is actually having a plan! Before disaster strikes, one should evaluate the firm's existing circumstances, assemble critical information and formulate comprehensive procedures and policies to minimize business interruption, confusion, impact on client matters and possible loss of information or physical injury. Here are three important steps to take before a disaster strikes: (1) evaluate the firm's needs and readiness, (2) assemble critical information and supplies and (3) create a written disaster plan.

Evaluate the firm's needs and readiness. It is imperative to review all of your insurance policies, including natural disaster insurance, property insurance, renter's insurance, umbrella coverage and loss of productivity insurance, among others. Make sure you have adequate coverages for your current business; if not, contact your malpractice insurance carrier to find out if it has any "best practices" to follow in the event of a disaster.

Once you have reviewed your insurance policies, analyze your office lease for landlord's and tenant's respective duties and obligations in the event the leased premises or common areas are damaged or destroyed in a natural disaster. In addition, take time to evaluate your office "waterproof" or "fireproof" safes. What levels of damage or stress are they designed to withstand? Be sure to test or consider adding security alarms, smoke detectors, fire extinguishers, surge protectors, generators or another uninterruptible power supply and other safety equipment.

For those of you who still keep paper client files, accounting records, employee records, case lists, calendars, etc., perhaps it's time to consider going paperless and keeping copies of these items in storage remotely or in the cloud. For those who are already "paperless," make sure you back up your data regularly. Moreover, it's a good practice to test your off-site storage by accessing it from a remote and secure location to determine if you are

able to securely, confidentially and easily access your files. Oftentimes, the data stored is so voluminous that downloading it would take days; it may be easier, in that case, to have the company overnight you hard drives containing your data.

Assemble critical information and supplies. Now that you have evaluated the firm's needs, you must gather information and contact numbers and store them in one centralized location. This information includes not only the members of your firm and clients but also identifying local emergency services and alert systems and making that information available to your employees. Ensure you can dial 911 from the office because some Voice-over-Internet-Protocol phone services are unable to dial 911, and investigate regional emergency alert services such as Nixle. Inform your employees of these services so they can sign up in advance (or during the disaster, if necessary). It's also helpful to prepare an inventory of client property and original documents that are stored in the office. These inventories can also be stored remotely or in the cloud.

Another recommended practice is to establish a forwarding number or arrange for the firm's incoming calls to be routed to a mobile phone. By establishing an emergency recorded message for the main phone line to be used in the event of a disaster, clients and employees are able to contact the firm and get status information. Also contact your bank to arrange for emergency checks and ask them about their procedures and services during a disaster.

Oftentimes we have emergency kits prepared for our home and/or car; however, we tend to overlook having a natural disaster kit for the place we spend a great deal of time—work. Ideally, have a "go bag"—a bag or box to take with you if you have to evacuate the office—and a "stay bag"—a bag or box to use in the event of a disaster where it is unsafe or not feasible to evacuate the office. The go bag should contain a complete list of partners', employees' and

key people's contact information; bank, software (including data storage login and access information) and vendor information; payroll and accounts payable information; a list of clients and case files; and a list of contact information for opposing counsel and courts.

The stay bag should contain all of the go bag items plus emergency supplies of food and water for all employees, medical supplies and other emergency supplies necessary for a variety of situations. For example, during the wildfires, the air was so smoky that masks were recommended; however, they were sold out throughout the region and difficult to obtain.

Create a disaster plan. Having a written disaster plan will let all members of your firm know and understand the firm's policy and protocol during a disaster. Store the written plan electronically, and keep a copy in a password-protected file on your smartphone since your mobile phone is usually with you all the time. Many local and state bars provide law firm disaster plan templates. If not, your written firm disaster plan should include the following:

- Contact information for all employees, partners and key people so the firm can stay in communication.
- Contact information for banks, insurance agents, key vendors, service providers and storage providers.
- A list of responsible people at the firm who will act as "point person" to handle a number of tasks such as removing essential items and the go bag from the firm, contacting employees, contacting clients, making insurance claims, interfacing with information technology and service providers, retrieving and reviewing mail, and accessing data storage.
- A list of the locations in the office where important documents and files are kept.
- A "salvage priority list" that contains a list of assets and files to save, in order of importance.
- A check-in procedure for all employees to use.
- A designated site to meet in case the firm is inaccessible.

- A list of insurance policies that the firm carries as well as the key person to contact at the office building that houses the firm, if applicable.
- A company policy regarding attendance at work. Employees should know when they can focus on their health and safety in the event of a disaster rather than being worried about coming to work and risking their safety.
- Partners/shareholders/directors should have an expanded version of the disaster plan that includes passwords as well as detailed banking, payroll and other important information.
- Ensure that payroll and mail service will not be disrupted by setting up alternate procedures such as a forwarding address.
- Arrange ahead of time for office space in the event of an emergency so you can set up a base of operations and keep working. Consider entering into a mutual agreement with another attorney or law firm to provide office space for a short time.
- Develop a to-do list in the event advance warning of a natural disaster is possible, including removing and safeguarding important assets and files, physically protecting the building (e.g., nailing plywood over windows, wrapping cabinets in plastic, disconnecting electronic equipment that may be damaged if left plugged in) and shutting off utilities.

After creating a written plan, you should have regular emergency drills with your employees, establish an evacuation plan and have natural disaster employee training on a regular basis so your employees are as prepared as possible. Also determine whether your office building has an evacuation plan, and evaluate the building's security and integrity in the event of a disaster.

If you are a solo practitioner, consider having a limited power-of-attorney document with another attorney you trust, effective only in the event of a disaster, which ensures that someone will handle

important tasks if you are unable to do so yourself.

DURING THE DISASTER

Once disaster strikes, the first priority is the health and safety of the employees and their families. If the disaster occurs during nonwork hours, contact all employees to ensure that they are safe and their immediate needs are being met. If the disaster occurs during work hours, follow the natural disaster drill and ensure all employees' health and safety. Conduct a roll call and make sure all employees are accounted for, and determine whether it is safe to stay in the office or safe to leave, and direct employees accordingly.

Once the imminent danger is over, set up a base of operations so there is a central location for managing the disaster response and for continuing to work, if safe and necessary. Be certain to immediately document all damage to the firm's premises, assets or files for insurance purposes. Check in with all employees daily and advise them whether it is safe to come to work. Also, any clients with pending emergency or time-sensitive matters should be contacted and informed as soon as possible, and all efforts must be made to handle their matters to the best of your ability.

AFTER THE DISASTER

After the disaster, employees and clients will have different needs than before

the disaster occurred. Submit insurance claims and claims for emergency relief, if applicable, in a timely fashion and, if professionally competent to do so, assist clients with insurance and emergency relief claims. Although it may be difficult, try to have a weekly firm meeting to discuss disaster issues and physical or emotional support needs.

While balancing these different priorities, ensure your business runs as smoothly as possible. Contact clients, courts and opposing counsel to arrange for continuances, accommodations or postponements of meetings or depositions. Keep clients fully informed of the status of their cases. Pay expenses with temporary checks, if necessary. Prioritize collecting accounts receivable to ensure continuous cash flow. A natural disaster is an unforeseen event that affects everyone in the firm; thus assign tasks to employees to ensure that all matters are handled in compliance with all ethical rules.

CONCLUSION

Comprehensive assessment of needs, together with thorough planning and preparation, help to manage and address shock, pain and the disaster recovery. Using these tips, law firms can effectively manage the interruption of their businesses, promote the safety and morale of their employees and fulfill their ethical obligations to clients during a natural disaster. **LP**



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