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Law Firm Risk Management: What Every Firm Should Know

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When thinking about the risks that law firms may encounter on a day to day basis, your mind may go straight to malpractice. But the truth is, the risks that attorneys face go far beyond negligence. Good risk management in law firms is one of the most important factors insurance companies look for when determining if such a firm would make a good risk. Whether it's a solo attorney or a 100-attorney firm, risk management matters.

There are two main types of risks law firms will face: the firm's clients and the firm's lawyers. Not surprisingly, these two go hand in hand.

Risks Associated with Clients

When an individual becomes a client, the risk management process should begin immediately. First, is the client's matter within the scope of expertise of the attorney? While it would make sense for a family law attorney to handle some trusts and estates work, it would be unwise for that same lawyer to dabble in securities or patent prosecution. Every attorney must identify his/her area of expertise and accept clients only in those areas.

Secondly, the attorney must assess whether they have the available resources to take on a client's case. By taking on a client when the firm too busy, or there are potential deadlines that could be missed, the firm is exposing itself to additional risk.

Lastly, the attorney must consider whether there are any conflicts of interest the client may present. Having stringent conflict of interest protocols in place is extremely important, not only in a risk management consideration, but also from an ethics standpoint. Every firm should be mindful of its future, realizing that the larger a firm gets, the more opportunities for conflicts of interest. No matter the size of the firm, the use of conflict-checking software should be employed rather than relying on human memory.

When an attorney is ready to take on a client, proper engagement letters and fee agreements should be provided and agreed upon. Disengagement and non-engagement letters are just as important, so the client knows when and why an attorney refuses or concludes their services. Clear communication is key.

Risks Associated with Lawyers

Lawyers are human. Even the most experienced lawyers can make mistakes or not perform to the highest level. Some attorneys may wish to handle everything themselves, instead of delegating a matter to another, more suited attorney. Sometimes stress or unexpected complications arise, and things can go wrong.

New attorneys joining the firm may also present risks. One big risk is that the attorney may not be who they say they are in terms of their character or their expertise. Some attorneys leave their prior firms for reasons that are not always clear, and consequences may follow them to the new firm. New conflicts of interest could emerge with the addition of a new attorney, potentially causing a current relationship or existing case to suffer.

When an attorney leaves a firm, there is always a risk of confidential client information and property being compromised. In addition, losing a valuable attorney could create a gap in an area of expertise, causing current and future relationships with clients to change.

How to mitigate these risks:

-Implement and/or enhance policies and procedures

Have the firms review their procedures and see where these, or perhaps stricter, protocols are needed. Risks are constantly evolving, and each practice should as well.

-Encourage training for attorneys and staff

Continuing education and professional development is crucial. All staff should be on the same page and each employee must be clear what he/she should and should not be doing.

-Monitor and test

Policies and procedures should be monitored periodically to make sure everyone is adhering to them, and any changes that are needed should be made.

Lawyers are busy, and for many the thought of taking time out of their day to work on their practices may not seem practical. However, taking a little time to address these issues proactively can greatly lessen a firm's chances of being hit with a claim.

About the Author



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