

Evolving Insurance Trends for the Legal Industry

Return to Office Checklist

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Top Post-Pandemic Insurance Issues to Address Today to Protect Your Practice

While return to office planning can be dominated by the preparation of your law firm's physical premises, staff and partner on-site schedules, and new hybrid remote/onsite workflow processes, there is an important item to add to your checklist - being prepared for evolving insurance costs and coverage to protect your practice. Savills Legal Tenant queried an insurance expert on behalf of our law firm clients. While the insurance most in demand, pandemic insurance, is not currently available and may not be for some time, there are four insurance issues that we recommend you review as you compile your return to office checklist.

Business Interruption

Lessons learned from the pandemic should be considered in determining the firm's coverage limits for business interruption insurance coverage. Pre-pandemic, the majority of law firms did not have a formal disaster plan, but many still managed to get back to billing within weeks. Law firms may find that the coverage limit for business interruption can be reduced based on documented real time expenses and lost income - or lack of lost income - from the real-world test case caused by the COVID-19 shutdown. However, for those practices that did lose substantial income and that may still be struggling, partners may conclude that the business interruption coverage limit needs to be increased for any future covered loss.

Business interruption coverage limits are typically best guesses - the estimated loss of business income and the extra monthly expenses incurred over normal operating expenses, multiplied by the months of anticipated loss. In the lease document, we focus on number of months used to make the calculation, which can be stated by language, in the insurance or damage and destruction sections. When firms sustain a covered loss, the payment of that loss is determined when the business is back to normal and can prove the costs. The reason many businesses survived COVID-19 was due to government assistance through PPP and other COVID-19-related resources. In a normally covered loss, the insurance carrier may

advance some interim funding, but insureds need to have funds available that will allow them to continue operating until they get paid by the insurance company.

A fresh review of the risks and components in the business income limit will ensure that your firm is not under-insuring or over-insuring. As you consider the proper coverage limits with your insurance advisor, consider where your firm is located, what risks and costs the firm faces, how quickly you can get staff up to full earning capacity, and whether your firm has the ability to fund its operating and extra expenses during a disaster - whether insured or not.

Currently, **the rates in property insurance are trending up, between 5-20%** depending on location. Multiple factors are driving rate increases - natural disasters, wildfires, hurricanes, as well as hail and ice storms, to name a few. Compounding the losses are the increased costs of materials needed to rebuild. In addition, changes in the risk exposures have limited the capacity of carriers, due to increased costs in reinsurance coupled with unprofitable books of business.

Cyber Liability

Increased remote work dependence makes cyber liability coverage urgently critical to operations, security, and client confidentiality. Risks include the increasing threat of malware and social engineering

- emails or voicemails masquerading as coming from a trusted source. Prior to the pandemic, many firms did not maintain separate cyber policies. Working from home and the subsequent reliance on digital communications have exposed firms to much greater risks. During the last year, cyber liability carriers have seen unprecedented claims arising from extortion (ransomware) and social engineering.

When purchasing cyber policies, several areas should be reviewed with your insurance advisor. The policies have multiple subjects of coverage and each subject will reflect a separate limit and deductible. All cyber policies have an aggregate limit, and the aggregate should represent the total of all subjects of coverage that could be triggered in a cyber event. Careful review of sub-limits in new and existing policies is necessary – especially since many policies have reduced limits available for ransomware and social engineering. The policy language should address the coordination of coverage with a firm’s professional liability policy.

The pricing for cyber coverage has increased by 10-15% for insureds without claims in the last year due to remote work risks and nationwide claims. Insureds with claims are seeing rates increase significantly higher.

Employment Practices Liability

Increased carrier concerns for claims arising from layoffs, furloughs, rehiring, failure to provide protective equipment, discrimination, and terminations have driven significant changes in Employment Practices Liability insurance. Rates have increased, limits have been reduced, deductibles have increased, and

endorsements carving out coverage for COVID-19 related claims were introduced in renewal policies. **Rate increases in employment practices liability coverage vary between 10-200%+** depending on the size of a firm, location, and claims activity.

Workers’ Compensation

Workers’ compensation claims are rising from remote work in professional work environments - with claims related to repetitive stress, lack of ergonomic workstations, and even injuries at home. Insurance carriers have tools available for their clients to assess workstations, and also have guidelines for reducing the risk from work from home exposures. The “New Normal” will be characterized by more employees working remotely. Providing them with the same resources they would have in an office environment, in terms of the right workstations, and other office equipment, will help reduce injuries and keep your professionals healthy, both at home and in the office.

Pricing in workers’ compensation has been relatively flat for law firms, with small increases, between 2-5%.

Conclusion

While the last 15 years could be categorized as a “soft-market” for business insurance, with insurance rates either reducing or remaining flat year over year, we’re now entering a “hard-market,” characterized by rising rates, stricter underwriting, and higher deductibles. Overall costs for insurance policies carried by business are trending up. Talk to your insurance specialist to identify how to protect your practice as you plan for your “New Normal” business operations.

As this industry-wide discussion unfolds and firms learn more through trial and error, Savills Legal Tenant Practice Group will continue to monitor and report on best practices. For more insights, please visit [The Legal Tenant](#).

EXPERT CONTRIBUTOR

Kelley L. Milks, CIC, CRM, RPLU

Executive Vice President, AHERN Insurance Brokerage
kmilks@aherninsurance.com

AHERN Insurance Brokerage is a full-service brokerage firm specializing in the insurance needs of law firms. AHERN has been providing insurance to the legal industry for over 20 years and serves clients nationally.

Mike Catalano

Vice Chairman
mcatalano@savills.com

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