

1 MR. McLEOD: I'd like now to introduce our
2 next speaker. This gentleman was contacted in short
3 order. He's standing there in the back, Todd Scott.
4 He's the vice president of risk management and member
5 services for Minnesota Lawyers Mutual. He's going to
6 be speaking today on how you can keep your license if
7 you've been displaced. That's the short version. I
8 called Todd, oh, two days ago, I think, and he just
9 jumped at the task of coming over here, and let's
10 welcome him and he'll have a lot to tell you.
11 Thanks.

12 (APPLAUSE)

13 MR. SCOTT: I have a PowerPoint. I'm not
14 glued to it. Obviously a discussion like this,
15 there's lots of different questions on people's
16 minds, and so by all means, don't be afraid to
17 interrupt my flow or anything like that.

18 I just want to start by saying the obvious,
19 which is on behalf of myself, my colleagues at MLM,
20 our deepest sympathies to the people of this
21 community and the lawyers and their families and
22 everybody. I think it really hit me how significant
23 this was when my -- our insureds in Parkersburg, the
24 ones that I was very relieved that weren't wiped out
25 because of the tornado, or they might have lost parts

1 of their business, but they lived nearby in Waverly,
2 and then to later on get a call from those same
3 people saying that now they're flooded out, and that
4 just really hit home.

5 Every year we get a handful of people that
6 contact us and let us know about a pretty significant
7 situation that happened in their community or just to
8 their building or in their lives that just wiped out
9 everything. And sometimes it's just a hard drive
10 that brings the whole firm to a standstill. But this
11 is obviously a very unique year and I think we're all
12 going to remember the lessons from this for a long
13 time.

14 I'm glad to share with you whatever
15 information that I have that can help out from the
16 insurer's perspective and liability perspective
17 involving malpractice. When I think about talking
18 about disasters, I remember one of the first things I
19 worked on was visiting a lawyer in southwestern
20 Minnesota that had lost their building due to a fire.
21 And I went to go visit this firm -- or this lawyer
22 and, of course, we had to meet off site somewhere
23 else and we were meeting in a cafe and it was this
24 little local town. And his firm was located in a
25 building and he sublet to a small family bakery. And

1 as we were leaving that meeting, on the bulletin
2 board in the local cafe, there was a flyer up there,
3 and it was announcing a fund-raiser for the family
4 that lost their bakery. And he looked at that and he
5 said, I don't think they'll be holding a fund-raiser
6 for me.

7 And that sort of set the sense for me about
8 what is the expectation for lawyers. And there's
9 this -- clients have this sense that the lawyer has
10 taken care of everything. You're ready for this
11 disaster, you're ready for anything that could
12 possibly hit your firm. And they don't look at us as
13 ordinary merchants. And they definitely don't feel
14 like having a bake sale when the law firm is down.

15 In that particular case, just -- to add to
16 the strangeness of the situation, the client's --
17 when he came back to the building, some of them were
18 actually there to see him, but because he wasn't
19 there, they were looking through what was left of the
20 building looking for the files. And so it also gave
21 me the sense of the clients are sympathetic to your
22 situation, but then immediately they're right back to
23 worrying about their own. And so it further adds to
24 the stress and the burden that lawyers have.

25 I've had lawyers -- and maybe it's one of

1 the advantages of being the person from out of town
2 that gets to come in and talk to the lawyers that are
3 faced with this situation, that they get to sort of
4 tell me how they really feel. And talking to a
5 lawyer in East Grand Forks when the Red River
6 overflowed up in North Dakota, that's when you
7 realize that a lot of times the lawyer doesn't have
8 anybody else to talk to because you go throughout
9 your day having to put out a good face. Everybody's
10 looking for their lawyer for the strength to get them
11 through.

12 And so I'll get on to some of this personal
13 stuff a little bit later, too, but I thought I would
14 start with the straight facts. And let's see if this
15 thing's working right here. Here's what I'm going to
16 talk about. Is suffering disaster malpractice? Is
17 it a malpractice claim just because you lost your
18 files? We'll get into that. And files seem to be
19 most of the issues that pop up. There's lots of
20 questions regarding that. So a lot of my stuff here
21 is just relating specifically to the files.
22 Impending client matters. I think most know what the
23 instinct is to do if they've lost significant parts
24 of their system is to go after whatever is the most
25 impending. Issues with displaced attorneys. Just

1 some things that we've learned from other attorneys
2 who have been through your situation to pass along.

3 I apologize if any of the hearsay advice
4 that I'll be passing out in that area is something
5 you've already figured out many days ago or somebody
6 else today mentioned it. But some of these things I
7 really thought was important to bring along.

8 And issues about restarting the firm. In
9 some ways, for the firms that have had a significant
10 loss of data or a system failure that is probably
11 gone for good, there is a strange, interesting
12 feeling that you have when you realize, wow, I
13 actually get to sort of start from scratch. And, I
14 mean, obviously with all the worry and the burden
15 that goes with that, you have the freedom of going,
16 what if I had to start my firm over, what if I
17 graduated from law school this spring, I had to start
18 a firm today, what would I do differently. And we
19 provide lots of assistance for brand-new lawyers who
20 are starting their firms and try to help them in that
21 way. And so a lot of that information might be
22 helpful to people who are trying to figure out how to
23 restart their systems. And just kind of a catch-all,
24 other systems too.

25 This is not meant to be an ethics

1 discussion. However, it is very helpful to look at
2 the Iowa Rules when trying to find some guidance on
3 what to do in some of these areas.

4 But just to get to the basic question, is it
5 malpractice because I've suffered through a disaster?
6 It is not malpractice per se. Meaning just because
7 the whole firm might be gone or a portion of the
8 system might be gone, that doesn't necessarily mean
9 that you have a claim that needs to be reported. And
10 obviously there's more to it than that. But it's not
11 necessarily just the virtue of the fact that the firm
12 has suffered a loss doesn't necessarily trigger that
13 the lawyer needs to contact the malpractice carrier.

14 What really helps is to look at the
15 definition of the claim in your policy. And this
16 is -- the definition of the claim in the MLM policy,
17 obviously I'm going to use that as an example, but
18 most of them read pretty much the same, a demand or
19 communication to the insured for damages of
20 professional services. Okay. That's pretty obvious.
21 A lawsuit served upon the insured seeking damages.
22 That's even more obvious. That might be a claim that
23 needs to be reported.

24 An act or omission by any insured which has
25 not resulted in a claim for damages but which the

1 insured knows or reasonably should know would support
2 such a demand. Now, that one is obviously more the,
3 huh, we got to stop and think about this, but it's
4 designed to be a little bit more broad, and a lot of
5 insurance policies have a little bit broader language
6 in this area so as to encourage the insured to report
7 any matter that might turn into a malpractice claim,
8 and the value for both the insured and the company is
9 that these matters can be pursued more quickly. We
10 find that with malpractice, it's not like a fine
11 wine. Bad matters don't get better with age. And so
12 a lot of times your policy will have built-in
13 language to report -- encourage early reporting and
14 things like that.

15 But having read this and then looking at
16 what might be the situation in your office or an
17 office of a colleague across town or somewhere else
18 in the state, just by losing the files, nobody has
19 made a demand. No clients have walked in and have
20 said, okay, you were supposed to keep my file in a
21 special place that would never get damaged or
22 anything like that. And so that doesn't trigger it
23 at all. And we don't automatically know that these
24 are facts or circumstances that can reasonably lead
25 to a claim.

1 Now, it gets a little bit more complicated
2 when we start talking about the file specifically.
3 Obviously -- and this is one thing that has become
4 abundantly clear to us, is that these are very
5 fact-specific circumstances. Every situation is
6 different. I have a client north of here that lost
7 their basement and every closed file from 1993 to
8 2006 is gone. But then we'll have another client
9 nearby as well that will have just one particular
10 file that has been destroyed, but that was the file
11 that had copies of all the engagement agreements.
12 And so there's different questions that apply to
13 everybody's different situations.

14 And going through the analysis, some of the
15 things that we talk to these people about when they
16 call us and describe these situations, I have up
17 here, and you can kind of get a sense of how we look
18 at these things when they're reported, but so often
19 the issue that's going to trigger the call and get
20 people concerned about the situation is specifically
21 what about my files. Is losing legal files a claim
22 matter? Ordinarily, yes. If somebody would contact
23 us and say, you know, our files were stolen, somebody
24 had them in a vehicle that now they're no longer
25 there, those are the kind of things where it's an

1 unusual circumstance and somebody might allege that
2 the lawyer should have taken better care of the
3 files.

4 This is obviously much different in a
5 disaster setting. In a large-scale disaster setting,
6 it's usually not a claim, as I just described
7 earlier. Everybody's in the same situation. For
8 years to come, and this is the way it is up in East
9 Grand Forks, in years to come there's a presumption
10 that if something is missing from 1997, it probably
11 was gone with the flood. And that's the way they're
12 going to address this situation here in the summer of
13 2008. It will just be an understanding that occurs
14 in the legal community. With the judges and with the
15 lawyers. And we just know that from experience.

16 And so once that understanding kicks in, if
17 anybody alleges sometime, you know, hey, my lawyer
18 really screwed up because I had these certain things
19 that they were supposed to be safeguarding for me
20 and -- well, when did that happen? That happened in
21 the summer of 2008 in Cedar Rapids, Iowa. Well, all
22 of a sudden that understanding starts to kick in.
23 Now, will that prevent a malpractice claim? Not
24 necessarily. But it really drives how everybody
25 looks at the situation from the judge to the jury and

1 everybody else. If it ever gets that far, which I've
2 never seen that happen.

3 Okay. If a client's matter is prejudiced,
4 well, then, yes. There may be certain situations,
5 certain files, certain information that the lawyer
6 was safeguarding that just by sheer fact that that
7 thing is gone, now we know that that minor that you
8 were representing or some sort of property that in
9 and of itself had value is a loss to the client. And
10 by definition, then, yes, that would be a claim. So
11 there's different ways to look at these situations
12 depending on the files and what happens.

13 Okay. Gets a little bit deeper. Should I
14 restore damaged legal files? And this is probably
15 the question I've gotten the most recently. And it
16 is a -- there is no pat answer for all of this.
17 There's -- this is part of the analysis, some of the
18 questions that we go through when we talk to the
19 lawyers about this situation. What was in the files?
20 Were they open or closed files? What would be the
21 cost? If your current property insurer won't help
22 you restore the files that are there, what's it going
23 to cost?

24 In the case of the lawyer that lost the
25 closed claim files from 1993 to 2006, the cost that

1 was quoted was about a quarter of a million dollars.
2 And so at that point we're going, okay, the insurer's
3 not going to pay for that, it's going to cost you a
4 quarter million dollars. We're talking about
5 basically giving up all the firm's profits for the
6 past few years to restore closed files that, because
7 of what nature did, they're probably gone for good
8 anyway.

9 And so a lot of times the analysis helps the
10 insurer as well as the lawyer conclude that there
11 really is nothing else to do. And that's usually the
12 toughest thing -- it's a tough conclusion to come to.
13 And all these conversations -- like I said, it's very
14 fact specific.

15 And one of the things I like to ask lawyers
16 to do is can you make a list of these files that we
17 know are about to go to the landfill. And so at
18 least we know if we can start to put this together
19 that a particular client or maybe a relative of a
20 client that we worked for in 1987 might be contacting
21 us about a file that they really needed something out
22 of that file, if we have some sort of list or
23 something like that, that would be very helpful.

24 In this particular case, no, the files are
25 covered with sewage and the county has declared the

1 basement of the firm a biohazard and the truck is
2 coming and we have one hour to decide this thing.
3 Talk about stress on a lawyer. And all of these
4 facts will play into whether or not -- what's the
5 right thing to do. It might be important just to go
6 and pay for the restoration of just a few particular
7 files, but then we conclude that the rest of them
8 probably got to go. The cost, I mentioned that.

9 Is the option even available? On a wide
10 scale situation like that, it's not always available.
11 What are the number of files? Are we just talking
12 about that one file that has the engagement
13 agreements all in there or are we talking about a
14 whole basement full of files too? And so a lot of
15 that will play into the analysis of, okay, is it
16 worth making the investment to restore that? Should
17 I restore the damaged legal files? This is part of
18 the place where the rules really do help.

19 And actually, I threw confidentiality up
20 there. The next slide will get more into what I
21 meant to say. But confidentiality's important
22 because that's the final part of the analysis. If we
23 decide that there's a bunch of files that we've got
24 to permanently throw away, then at that point what
25 I'm talking to the lawyer about is how can we put

1 them -- destroy them in such a way that nobody's
2 going to read the stuff, nobody's going to be picking
3 it apart to find out who were your divorce clients
4 from the last three or four years. And that's not
5 always easy either. I mean, like I said, so many of
6 these decisions have to be made in a very short
7 amount of time with a very limited amount of
8 resources.

9 But in one particular case, the solution was
10 to bag the files up, double bag them in plastic trash
11 bags, put them on a truck, and bring them out to the
12 landfill and just witness them being bulldozed at
13 that time. That was sufficient. We knew -- at least
14 that lawyer was able to go to bed at night knowing
15 that nobody's sitting here digging through my stuff,
16 you know, they're gone from this earth and they
17 literally received a burial, and so we're going to
18 start over somehow. But at least we don't have to
19 worry about someone coming to me and saying, why is
20 it that somebody's reading about my divorce matter
21 that I never went through with you two years ago.
22 And so you'll never be faced with that question.

23 So that's the last part of the analysis. If
24 we're going to get rid of these things for good,
25 let's see if we can do it in a way that we can feel

1 comfortable that nobody else is going to be able to
2 retrieve that.

3 With the tornado situation, very horrible
4 thing that happened to those firms. An obvious case
5 where there are warranty deeds all over the county,
6 and -- literally. And so there are sometimes
7 situations that happen where we just don't even have
8 control over this last one. But this is the one we'd
9 like to have the most control over, which is, okay,
10 we've made this really difficult decision that we're
11 going to throw away some things that are real
12 important to us, but by God we're going to at least
13 make sure that we're going to do it in a way that not
14 anybody can pick it up and read it. This is the part
15 of -- I guess it wasn't there. Sorry about that.

16 Should I contact my clients about the lost
17 files? This is an interesting one, because this has
18 more to do with client relations. And we are all
19 preprogrammed to be doing the best we possibly can
20 for our client, to be giving them the most
21 information we can about their situation. And
22 sometimes you just go, wow, this is something we
23 never thought would happen. And so should we be
24 attempting to contact clients? How far back do we
25 go? We know that these files that went back to 1979

1 are gone. How would we even get ahold of these
2 people, even if we had the files? How would we get
3 ahold of them? They probably don't live anywhere
4 near their last known address or something like that.

5 But there are a lot of issues raised. This
6 is kind of a yes and no stuff. The legal stuff from
7 an insurer, the answer is always it depends. Here's
8 the yes part of the analysis. If the loss pertains
9 to an ongoing/open matter, you have to communicate to
10 them about anything significant that happened in the
11 progress of your matter.

12 Valuable papers or originals were lost.
13 This is one of those where -- you know, and I'm not
14 trying to say -- to the people that their stuff is
15 blown all over the county or, in some cases, all the
16 way over to Wisconsin, they might not even be able to
17 do that second one even though there are valuable
18 papers. It's just one of those that they literally
19 don't know what people to contact. But valuable
20 papers are just that, what's written on them, how
21 they were endorsed and how they are supposed to be
22 kept. They in and of themselves are valuable papers
23 that the lawyer was safeguarding on behalf of a
24 client.

25 So that raises the threshold, kind of brings

1 you into the territory of, yes, it was something that
2 was valuable to the client, it was in my possession,
3 I do have a duty to contact them about.

4 The third one is not to be wishy-washy, but,
5 yes, if you feel that that's the right thing to do.
6 And so often what we talk about about avoiding
7 malpractice has to do with good client
8 communications. It's amazing what we've seen over
9 the years where a really good relationship, a strong
10 relationship, a good communication relationship
11 between the lawyer and the client, where the lawyer
12 can completely screw something up, blow a statute on
13 a wrongful death matter, but call the client and
14 communicate with the client, you're not going to
15 believe what happened, I'm so sorry, we will do
16 everything we can, that as opposed to something minor
17 going wrong and then not communicating with your
18 client. And the breakdown in client communications
19 can so often lead to a situation where the client
20 starts questioning, why didn't the lawyer start
21 talking to me about this. And then they start
22 talking to other people, start getting bad advice.
23 Yeah, well, my lawyer would have never done that.

24 And so even though you might know it's A-OK
25 to not call the client that you worked on their will

1 back in 2001, but you just happen to know that they
2 are important to you and you're important to them and
3 so for the sake of client communications and
4 preserving that relationship, if you have the ability
5 to call and you feel like calling them, I strongly
6 encourage you to do that.

7 This is the part I was getting into. This
8 is -- well, I guess to be honest, we're mostly aware
9 of this, Rule 31:1.15, a lawyer shall hold property
10 of clients or third persons that is in a lawyer's
11 possession in connection with a representation
12 separate from the lawyer's own property. Funds shall
13 be kept in a separate account. Other property shall
14 be identified as such and appropriately safeguarded.
15 Complete records of such account funds and other
16 property shall be kept by the lawyer and shall be
17 preserved for a period of six years after termination
18 of the representation.

19 I'm just going to direct you to this rule,
20 because this is the area -- this is probably the
21 longest rule of all of them for us -- for a good
22 reason, because there's so many areas where this can
23 go wrong and can really trip a lawyer up.

24 And so if it -- if we've got bank records
25 that are gone and we don't even know how quickly

1 we'll be able to restore certain types of information
2 like that or -- and as I mentioned earlier, certain
3 documents, you know, original documents and things
4 like that, this is where you want to go, is to this
5 rule. This is the one that gives you the -- a sense
6 of what it is that you need to discuss with the
7 client.

8 Communication. This -- I think this is the
9 last rule I've got in here though. A lawyer shall
10 promptly inform the client of any decision or
11 circumstance with respect to which the client's
12 informed consent -- where is the -- keep the client
13 reasonably informed about the status of a matter.
14 These are the things where if you've got open -- if
15 you've got open matters but the file is gone, you
16 know that we're going to experience a significant
17 delay, this is the rule that requires you to actually
18 have to communicate with the client about that.
19 Should I contact them? This is the not necessarily
20 part. And these are lost files. It's not
21 necessarily required to contact the client if the
22 loss pertains to closed matters, and also if the
23 client's future matters were not prejudiced. And we
24 kind of went through that analysis already.

25 Impending client matters. I think a lot of

1 people realize this, but it's worth saying so I'll
2 mention it. Identify the time sensitive matters.
3 You want to try to account for what are the things
4 that are going to immediately trip this firm up if we
5 don't get ahold of the client, get ahold of opposing
6 counsel and find a way to make sure that we're not
7 going to blow a statute date. Can you get a stay,
8 something to pursue, and will it be impossible to
9 file the matter in a timely way? If it is impossible
10 for the firm but you are aware of the firm -- you're
11 aware of the matter that is very time sensitive, this
12 is where you probably have an obligation to make sure
13 that that matter gets to a lawyer that can file the
14 matter in a timely way. And so -- communication with
15 opposing counsel, I mentioned that.

16 Issues involving displaced attorneys. These
17 are just some things that we've learned over the
18 years. Losing the client or the client loses you.
19 This happens quite frequently and sometimes you don't
20 have to be a displaced attorney for this to happen.
21 So we might already be aware of the basics about how
22 to get ahold of a client that we can't find. But you
23 should make every effort to inform the client and
24 notify the client of your temporary location.

25 Advertisement is one suggestion that we

1 recommend. At least that's one way. They may not
2 necessarily see the ad in the local paper about where
3 your new offices are, but at least you've made a
4 reasonable attempt to allow people to know where you
5 are now practicing from if you do it in a public way
6 like that.

7 It's a great thing to do if you can update
8 your firm's web presence as soon as possible. So
9 many times we talk to people who have been through
10 disaster situations, they -- what we come to realize
11 is -- Well, matter of fact, the tornado with the
12 phone lines being down and the power being down,
13 e-mail and internet was the quickest, easiest way to
14 get ahold of somebody because one thing we found out
15 is that people tend to -- if their phone system is
16 not working, the second they get to a computer, they
17 check their e-mail. It's a great way to get ahold of
18 people.

19 When the Twin Towers went down in Manhattan
20 and 23,000 lawyers were displaced in lower Manhattan,
21 the only thing that was still working immediately
22 afterwards, subsequently, was BlackBerrys and e-mail
23 communications. Everything else, even cell phone
24 communications, were down for several hours and
25 several days.

1 And so if you think you have a way to get
2 ahold of people or they have a way to get ahold of
3 you, check your e-mail frequently, because chances
4 are people might be trying to contact you.

5 Long-term relocation. These are slightly
6 different issues than the short-term relocation
7 suggestions. Send the client certified mail, return
8 receipt requested, location of new firm. This is an
9 introductory letter that just says here's where we're
10 at now, here's our new offices, or if I'm going to be
11 practicing with a new firm now, here here's how to
12 get ahold of me now. That way you might know who
13 actually received these. These people might be
14 displaced as well and they don't have the opportunity
15 to get their mail. But you start to get a new sense.
16 Advertising new location. I mentioned that.

17 The letter to judiciary, licensing
18 authority, opposing counsel, notifying them. It's
19 almost like you've brought on a new associate and
20 you're announcing it.

21 Issues involving restarting the firm. We're
22 starting to get away from the malpractice issues, but
23 these are practical issues that we talk to people
24 about okay, if a major system is down in the firm,
25 what's the best thing that we can do to restore that

1 system, get all the lawyers working with each other
2 in a productive way, even if they might be in various
3 locations and what kind of systems are we going to
4 use. So we try to provide people with this kind of
5 help as well.

6 First suggestion, use a common platform that
7 was previously used. One of the things that we
8 recommend when we talk to people and we have articles
9 about this stuff, about what should be in a disaster
10 kit, what should be in the kit that sits offsite is
11 copies of your software and even things like certain
12 backup equipment so that you can restart backup
13 drives and things like that.

14 And so if you're going to set up a temporary
15 location or you're advising somebody or helping
16 somebody that is, to go have similar IT equipment
17 that was in the previous firm is vitally important,
18 because a lot of the things that start to arrive at
19 the temporary location are things that employees had
20 saved and preserved that you can put them up and
21 you're going to want to be able to read them. And if
22 somebody has all of the accounting data on a
23 QuickBooks disk, you're going to definitely need a
24 version of QuickBooks at the new temporary location
25 to be able to restore that information and to be able

1 to work with it, and also to have the employees use
2 it just as though they were back at the old office.

3 Request new and updated software from the
4 manufacturer. This is a helpful hint that we have
5 learned over the years. Just about anybody who's
6 been through any sort of displacement situation as a
7 lawyer, the manufacturers of the most popular law
8 office software will provide you free licenses for
9 the software. It's -- they will get you on the most
10 current version of whatever -- if it's a case
11 management program, a time and billing program or a
12 document management program, most of the time --

13 And this started to happen at the time of
14 the Katrina hurricane. A lot of these manufacturers
15 and also IT consultants and technicians joined
16 together, they started a website called Katrina
17 lawyers dot org, and there were some particular
18 lawyers that were sort of heading the way, and one
19 thing that they negotiated that still goes on to
20 today is that these manufacturers of the law office
21 software will provide you brand-new versions of the
22 software and you don't even have to prove that you
23 were previously an owner of Time Slips or Time
24 Matters or Amicus. If you contact them, tell them
25 your situation, they'll be shipping you a brand-new

1 box of software. So that's one thing that you want
2 to really take advantage of if you've got to
3 reestablish your system.

4 Build in redundancy immediately. Sometimes
5 it's amazing how people forget this. Where we had so
6 much backup in our old systems, but now that we're at
7 the temporary location we don't think about the
8 backup now. And we've had the horrible, horrible
9 circumstance of a building that was surrounded by
10 flood waters that everything was okay because all the
11 redundant systems were up on the fourth floor and
12 then when the building caught fire and the fire
13 trucks couldn't get to the building to put it out,
14 then all of a sudden the stuff on the fourth floor is
15 gone as well.

16 So it's the book of Job, what can happen to
17 people who have been through these horrible
18 situations. And so especially with the kind of
19 weather that tends to come through one thing after
20 another. And so don't forget when you go to a
21 temporary location, to make sure you're still backing
22 up and you've got other copies of this stuff going
23 off into different parts of the city at night when
24 your employees go home. So redundancy is very
25 important.

1 Issues involving restarting the firm, still
2 temporary setting, attorney connectivity. There are
3 lots of interesting ways now that the attorneys can
4 stay in touch with each other through -- tremendous
5 ways, and most of them, as you might guess, are
6 through on-line presence. On-line software for
7 collaboration like Google Docs or Soho. I'm going to
8 show you a couple picks in just a second, but if you
9 haven't looked in a while, just about any software
10 that you can think of that you use every single day,
11 whether it's Excel, Microsoft Word or your calendar
12 program, Outlook, there are free on-line versions of
13 it. So free. What's the catch? It's okay to use
14 this reputable stuff and a lot of times the
15 manufacturers that make the pre-ware that is very
16 good, it's entry level software, and that's the
17 reason why it's free. They're not trying to put some
18 sort of spyware in your computer for getting you to
19 download it. What they're really trying to get you
20 to do is really like your program, and you're going
21 to pay 39 or \$139. The free stuff is amazingly good.

22 Enhance the web presence for the client.
23 Good opportunity, if your clients are having trouble
24 getting ahold of you, to upgrade the website. Have a
25 contact screen where they can put lots of information

1 to send their questions in. An info page where they
2 might want to know specifically what's happened with
3 the firm today, what's going to happen tomorrow,
4 things like that. Be very honest with the clients
5 who might be looking to your website, because that's
6 the only way they can really get ahold of you right
7 now. And a contact field or backlog.

8 This is what I meant by' some of -- this is
9 Google Docs. If you're not familiar with Google
10 Docs, Google Docs is a word processing that is
11 available on line. All you got to do is sign up for
12 Google. And this is their Excel, their spreadsheet,
13 Google Docs, and if I were to show that to you and
14 you're familiar with an Excel program, you go, wow,
15 looks like Excel to me.

16 So it's a great opportunity, if you've got
17 lawyers that are working in multiple locations but
18 you need to collaborate on certain things, on-line
19 software is available. This is an example of an
20 online collaboration software called Zimbra. Looks
21 just like everybody's Outlook calendar. If the firm
22 needs an on-line calendar, there it is, ready to go.
23 We have lots of information about free downloads and
24 if you want to contact the company and ask us, I'll
25 be glad to give you more.

1 Long-term settings, system platforms. I
2 said it was a unique opportunity to start over. You
3 know, try to make lemonade out of lemons, I guess.
4 But it's a good opportunity to envision what will the
5 next generation of this firm look like.

6 How should I start saving my files? One
7 thing I have learned is that a lot of people that
8 previously thought that digitizing and scanning the
9 files is really not for us, if they're forced into a
10 situation where they're starting from scratch of how
11 to store files, all of a sudden now they can't think
12 of any other way to do it. It makes perfect sense to
13 scan the stuff, and if you're starting over from day
14 one it's a lot easier to do.

15 Envision new core applications. Should we
16 finally go to that case management system that we've
17 always been talking about to help organize all the
18 firm calendars, to help organize all the e-mail
19 communications that go to the client? This is a good
20 time to think about it as any. And also a very good
21 time to talk to a consultant. If you want
22 information and need a consultant, give me a call,
23 I'll be glad to tell you who's good.

24 This is the scanning thing. We've been
25 recommending this since 2005 when it first came out.

1 This was written by a Colorado attorney named
2 David Masters, he literally put together the
3 blueprint for if you want to become a digitized firm
4 in terms of a paperless firm. It's got a God awful
5 typo. It's called The Lawyers Guide to Adobe
6 Acrobat. It sounds like it's sort of designed to be
7 a manual. But what Masters did is he tackled a lot
8 of questions that weren't previously answered like
9 what sort of form should they be in, TIF or JPEG or
10 PDF. And, you know, if we were to do it, you know,
11 what do we do with the saved image. How do we save
12 it in a way that everybody in the firm can find what
13 they're looking for and all of that. It reads very
14 easy, it's written in plain language, and so if
15 you're at all thinking of moving to a digitized
16 system where we start to put more and more of our
17 documentation regularly in a digitized format this
18 would be a good place.

19 I just throw the Fujitsu ScanSnap as well.
20 It's a \$450 piece of hardware that comes with a \$250
21 piece of software absolutely free. And it's probably
22 the most popular fast scanner that lawyers are using
23 right now and it's highly recommended.

24 So just those two items is a great way to
25 start if you're thinking about that. We do a whole

1 hour on just this whole topic of scanning and
2 digitizing and the best way to convert the firm if
3 they're going to do it. So there's obviously a lot
4 more to that if you want more information.

5 But just some things to mention. Other
6 issues. One of the saddest things that I've seen as
7 a result of firms going through a disaster is it's
8 the time where sometimes longstanding partners will
9 look at each other and go, you know what, maybe we
10 ought to just go separate ways. And so these things
11 might come up. Firms start to change. And people
12 start to look at their life path a little bit
13 differently. And it might happen to you, where
14 somebody decides that, you know what, I've -- I'm
15 just going to -- and I've always wanted to go off on
16 my own, I think I'm going to do that now. And so be
17 aware of that. I think that you might see more of
18 that in the state of Iowa.

19 Client anxiety. I mentioned this at the
20 beginning with those clients that were digging
21 through the rubble of the burned-out firm. They're
22 thinking of themselves. The -- it is a little bit
23 different when a whole community suffers from a
24 common experience than if one lawyer loses their
25 building to a fire in a downtown location. Because

1 then at least there's sort of this understanding
2 that, you know, we're all going through this
3 together. And so that in a way kind of helps ease
4 the anxiety for everybody. But at the same time,
5 like I said, they kind of think that the lawyers got
6 it all together and that you're going to do okay and
7 they can lean on you as hard as they can. So it's
8 just something to be aware of that they really expect
9 that out of you.

10 Making your property claim. I've got a --
11 two documents, I'm going to set them on the table and
12 you can grab them as you leave. But one of them is
13 an article that I wrote for the ABA GP Solo
14 publication, and it was an interview with lawyers who
15 had recently been through disasters. The most common
16 complaint from these people years later was the
17 trouble that they had making their property claim and
18 specifically for loss of earnings.

19 And so one of the things that they really
20 stressed was it's -- here is where an agent -- and
21 I'm not pushing anything on behalf of my company,
22 we're a direct writer, we don't have agencies, and
23 I'm not talking about our product, we don't sell
24 property insurance. It still is my interest, and I'm
25 not proud of it, but the stories that I heard about

1 the way that -- the way that claims adjusters would
2 treat the lost earnings portion of their property
3 claims was difficult to hear.

4 And so it helps to have a good CPA, somebody
5 to really put together a good document about what the
6 business lost in terms of earnings, and also it
7 really helps if your agent really goes to bat for you
8 and really fights hard. So there's a lot more to it
9 and there's a lot of good results that came of it,
10 but sometimes some people are going to be in for a
11 fight when it comes to some of these property claims.
12 And so I just hear the stories and I try to pass them
13 on to other lawyers as just some sort of helpful
14 information. But if you want to know more about it,
15 the copy of that article will be on the table in the
16 back.

17 Reality time line, this also is really a
18 tough one. A lawyer in Rushford, Minnesota, lost
19 everything to a flood last summer and he's back up
20 and running in a building a block away from where he
21 was and he's operating just like it was 2007. And so
22 that's a tremendous story that moves everything and
23 to be fully functional a year later. But more often
24 I think the reality is it's about a two-year time
25 line before you have that feeling that, wow, it

1 finally feels like we're back to normal and all of
2 that. Of course, it's like everything else.

3 I kind of alluded to this earlier, but the
4 last thing I like to point out are concerns, employee
5 concerns, and by employees I mean everybody in the
6 office, lawyers especially. Lawyers are four times
7 more likely already than the general population to
8 suffer from depression, and eight times more likely
9 to suffer from alcoholism and suicide. And then to
10 go through these kind of tremendous stressful
11 situations, and to have to be that rock solid pillar
12 of strength is a very, very difficult thing. And so
13 I recommend that everybody look out for your peers.
14 And if in any way we can be of help as an
15 out-of-towner, we'll be glad to be there for you.

16 Other just resources, what we're doing as a
17 company, you can call our risk management people.
18 This is not just for our insureds, it's for any
19 lawyer that's suffering from a disaster. Call our
20 risk management assistance people. Our claims
21 counsel. If you have any questions at all whether or
22 not you have a claim and you are insured by us, by
23 all means give us a call.

24 Just reporting a claim does not
25 automatically set up a claim matter. Matter of fact,

1 it's almost like a gold star in the book. Sometimes
2 people think my premium's going to go up if I report
3 a claim. It's strongly encouraged and it turns out,
4 it goes in the system as lawyer reported possible
5 claim out of an overabundance of caution. And that's
6 how it's viewed by the insurance company as well. So
7 if you have any questions about whether you have a
8 claim, contact the claims individuals.

9 We have forms and articles like I mentioned.
10 A mentor program. What I've been doing is trying to
11 get lawyers who have been through this hooked up with
12 other lawyers who went through the same thing six
13 years ago and have seen it all. And so contact us,
14 there's lawyers in Minnesota, there's lawyers in the
15 Dakotas, and there's lawyers in Nebraska who will be
16 more than happy to assist any lawyer who wants a
17 little advice about what's the best way to pull out
18 of this situation.

19 And also I have a post disaster checklist.
20 That's probably one of the best ones I found. It
21 came from the Oregon company, Professional Liability,
22 and I also have a copy of that on the table as you
23 leave as well. So I'm over my time and I want -- I
24 guess you have someone else coming up now. But if
25 you have questions, I'm definitely going to be

1 around. I'll be in the back hallway. Wish you all
2 well and thanks for having me.

3 (APPLAUSE)

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