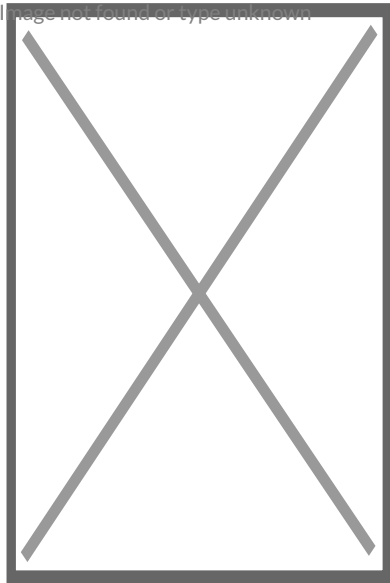


Prevent Professional Malpractice Lawsuits through Research, Relationships, and Robust Contracts



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Special to Business in Savannah

As a professional, you want to provide the best service possible to your clients. But sometimes unforeseen circumstances can expose you to the risk of a malpractice lawsuit.

In an increasingly litigious society, you should be aware of risks and pitfalls associated with your business so that you can take steps to protect yourself from litigation. Professional malpractice suits are rising in the areas of negligence, defamation, and third-party liability.

The first step to avoid a potential lawsuit is to avoid contentious clients. Before accepting a new client, research the client, the company and any affiliates thereof. A simple Google search may reveal whether a potential client is involved in litigation, has financial issues, or a professional or ethical conflict exists. In that case, you may want to steer clear. To mitigate exposure, develop client acceptance and conflict analysis procedures and keep them up to date.

After you have signed a client you should set Google alerts to notify you of any news related to your client. Google alerts can be specifically tailored and can help you in two ways. If you are an early comer to good news related to that client, you can be the first to congratulate them. On the other hand, if your client receives bad press you will know in time to make any necessary advanced business decision. Both are important for building and maintaining a good working relationship.

An understanding of the parameters of your new client relationship is necessary to facilitate a continued relationship with that client. It is important to create a unique engagement letter for each client. The engagement letter should outline the specific services you will and will not provide, limit your damages, list disclaimers and outline dispute resolution procedures. Avoid generic engagement letters, limit client revisions, and make sure they sign the final document.

Once you have entered into an agreement with a client, do your best to avoid undue delays. If you make an error, the client will more easily tolerate the problem if there is time to repair the mistake. If you are running behind, make sure that you communicate the delay to your client and be attentive to the client's concerns.

In the information age, it is imperative to protect any sensitive information you may collect from your clients. Cyber liability claims are increasing across the board as ransomware attacks and data breaches continue to plague the business world. To protect yourself from cyber-claims, develop internal policies to governing sensitive client information and ensure that you and your employees follow those procedures. But, just in case your procedure fails, adding cyber-insurance to your professional liability package is a responsible and cost-effective way to protect yourself in the event of a data breach.

In the same vein, indiscriminate social media presence can increase exposure to defamation or data breach claims. Personal opinions or those inadvertently containing sensitive client information published on social media or on other websites can open the door to soured relationships and potential litigation. It is important to inform employees that anything posted on the Internet in reference to a client could create reflect negatively on the company and lead to potential legal liability. Firms should develop and enforce internal policies to discourage this type of behavior.

Finally, you need to be aware that as professionals, sometimes your work affects parties beyond your client. It is important to make sure that the information you provide is accurate to the best of your ability and your liability is appropriately limited with your client to limit your exposure to these types of suits.

While prevention is key, sometimes a lawsuit is unavoidable. If you receive a summons, demand or threat of legal action, call your insurer first and then call your attorney. Do not talk to anyone else about the claim and avoid creating any additional data related to the claim prior to consulting your attorney.

As with most things in life, a good offense is the best defense. Proactively reducing your risk of exposure to liability will help ensure that you maintain your professional integrity, promote and preserve your business relationships, and continue to serve your clients to the best of your ability.

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Practice Areas

- Commercial Litigation
- Malpractice & Professional Liability