

2018 NYSBA Risk Management Seminars – Insurance Considerations



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Insurance Considerations



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Agenda



- The Policy
- Purchasing the appropriate coverage
- The insurance application
- Selecting a Carrier
- Selecting a Policy
- Selecting a Broker



Claims Made vs. Occurrence Policy



- An LPL policy generally provides coverage for demands made upon the policyholder for damages brought forth during the policy period resulting from an error or omission within the firms covered prior acts date.

- An “occurrence” policy (such as a homeowner’s policy) normally insures an unexpected event within the policy period that result in bodily injury or property damage.



Prior Acts Coverage



- “Retroactive Date”
- The date continuous coverage was first obtained
- Claims triggered before this date are not covered
- Changing Carriers



What is Covered?



- Professional Services
 - Title Agent
 - Notary Public
 - Activities as an Officer or Director
 - Author or Presenter
 - Investment Advice
 - Pro Bono

- Supplementary Coverages
 - Disciplinary Proceedings
 - Subpoena
 - Loss of Earning
 - Public Relations Expense
 - Breach Notification Expense



Who is Insured?



- The Named Insured
- Is coverage provided to:
 - Shareholders or partners?
 - Employees?
 - Former employees?
 - “Of Counsel” lawyers?
 - Independent contractors?
 - The estate/heirs/executors/administrators of an insured?



Common Exclusions



- Intentional Acts
 - Dishonesty
 - Fraudulent or Criminal Acts
- Bodily Injury / Property Damage
- Insured vs. Insured
 - Unless Attorney Client relationship exists and professional services are being rendered.
- Owned Equity
 - Normally greater than 10%-15%



Proper and timely notice



- Report incidents or situations to your carrier immediately
- Provide written notice of claim
- These circumstances may be considered a claim:
 - A demand is received for money or services
 - Service of suit
 - Institution of alternative dispute resolution or arbitration proceedings
 - Disciplinary action is threatened or filed
 - Notice received by any insured that is the intention of a person or entity to hold the insured responsible for the consequences of an alleged wrongful act
 - Any request to waive a statute of limitations



Extended reporting periods



- “ECRP or Tail Coverage”
- Available for attorneys who retire from the practice of law
- Provides coverage for claims arising from conduct within the policy period which would otherwise be covered by the policy but the claim is first made during the extended reporting period.
- Claim must have occurred while policy was in force.



Are all insurance policies the same?



- Deductible Options (Per Claim vs. Aggregate)
- Expense Allowances (Inside Limits vs. Outside Limits)
- Definition of Professional Services
- Exclusions
- Supplementary Coverages



What is appropriate coverage?



- The dollar value of transactions or cases you work on
- The cost of defending a claim
- The value of assets you want to protect
- Potential billable hours lost



What can cause premiums to be high?



- Step Rating
- Area of Practice
- Dabbling
- Geographic Location
- Attorney to Staff Ratios
- Retainer Agreements
 - Engagement Letters
 - Disengagement Letters
 - No engagement Letters
- Docket Systems
- Fee Suits



The insurance application



The parts of an application:

- About the Firm
- Firm Coverage Information
- Attorney Information
- Areas of Practice
- Firm Operations & Management
- Claim/ Incident / Disciplinary Information
- Requested Coverage



Common Mistakes on an Application



- Area of Practice Grid
- Website Information
- Attorney Information
- Missing Supplements
- Letterhead



What features should I look for when selecting a Liability Carrier?



- Experience
- AM Best Rating
- Claims Handling
- Panel Counsel
- Distribution
- Risk Management Services
 - Website
 - Claims Hotline
 - CLE
 - Newsletter & Email Alerts



What Policy features should I look for on my Liability Policy?



Policy Features

- Consent to settle Provision
- Liberalization Clause
- Extending Reporting Period Options
- Broad definition of legal services
- Limited Exclusions

Supplementary Coverages

- Disciplinary Proceedings
- Subpoena
- Loss of Earnings
- Cyber Coverage



What features should I look for when selecting a broker?



Experience with Lawyers

- Benchmarking
- Claims knowledge
- Advocacy

Endorsements

Client Base

Distribution

Customer Service

Full Service



Questions.....



Thank you!

