

RMQ

Risk Management Quarterly

<http://www.myPII.com.my>

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Editorial

The Bar Council, through the Professional Indemnity Insurance (PII) Committee, recently concluded negotiations with the lead reinsurers for the 2008 PII Scheme. This was approved by the Bar Council on 8 September 2007. On behalf of the PII Committee, I am pleased to inform that the negotiated terms are in line with our objectives of a fairer and more equitable Scheme for all members.

2007 marked the first transition year for the revamp and restructuring of our Scheme, wherein the PII Committee pushed through the removal of the punitive and arbitrary claims loading structure. We strived to improve on this in 2008, as the main objective is to preserve the present structure wherein a member is only loaded upon the insurer paying out on a claim!

In addition, the PII Committee extensively reviewed the 2007 PII Scheme terms to ensure a further improvement on the terms. We have now included the following amended/new terms for 2008:

- ♦ Extension of the notification period for a circumstance or claim to **60 days**.
- ♦ Removal of the sub-limit for Defamation.
- ♦ Increase in the sub-limit for Dishonesty of Partner.
- ♦ The Reduced Excess Option is no longer limited to certain firms, it is now available to all firms.
- ♦ World wide coverage option.
- ♦ Mitigation of Loss Rider Clause – this clause is to protect a law firm's trust monies.

The above terms will be described in more detail in a Bar Council Circular which will be issued to members soon.

We are hopeful that members will support this move to improve our Scheme on the basis that it remains sustainable and ensures fairness and equity for all.

I reported to members at the 2006 Annual General Meeting that we are looking at the next stage of our transition to a Self-Insured Fund (SIF). This proposed move is not new nor is it revolutionary, it is but a natural step forward in the evolution of our Scheme, as it has been for most well-run PII Schemes around the world.

We understand the issues and complexities involved in making this quantum leap. Not only would it involve a major overhaul in the structure of our Scheme, the transition process itself from our present Scheme to a SIF will be a monumental task, requiring careful and thorough study. The first step is to focus on the viability of such a scheme. The PII Committee has already carried out a preliminary study on this proposed change.

Additionally, we have invited the three (3) main brokers in Malaysia for a tender exercise on 21 September 2007. The PII Committee will carry out a thorough evaluation of all proposals before appointing a SIF Broker. The appointed SIF Broker will be tasked to take the PII Committee through the entire transition period should the SIF Feasibility Study indicate that such a move is indeed viable for the Malaysian Bar's PII Scheme.



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The SIF Feasibility Study will involve high costs, and the preliminary indication is that it would cost approximately RM 400,000.00, right up to its implementation date which is targeted for 2010. The costs involved will be staggered over three (3) years.

To finance this study and ensure members are not burdened, the funding for this study will be derived from any excess funds on the agreed RM15.60 million Premium Pool for 2008, and the capping of the 2008 PII Scheme Broker's fees.

The PII Committee met with Bank Negara in July 2007 to discuss the viability of setting up such a fund and we are encouraged with their position that they are open to this idea. Bank Negara has requested that a detailed proposal be forwarded for their consideration. A second meeting with Bank Negara has been tentatively scheduled for end September 2007.

As part of the Bar Council's Risk Management Program is to enhance standards in our profession, we need to address the needs of our members. The PII Committee is looking to introduce fresh programs which we think would be helpful to our members in their daily practice.

August 2007 marked the launch of a unique, first of its kind workshop for lawyers entitled **Getting Started!** This intensive one-day workshop was held on 17 August 2007 at the Bar Council Auditorium. Our target audience was lawyers setting up practice or joining a partnership. We invited senior lawyers, and consultants to speak at **Getting Started!**; business solution providers were also invited as an added feature. Response to **Getting Started!** was very good, as such, another session will be held in mid-December this year. Do call the PII & RM Department if you would like more information.

In December 2006, we launched the Litigation and Conveyancing Checklists to assist our young lawyers. We urge members to actively utilise these

Checklists in their daily practice. The PII Committee is now looking into the possibility of issuing standard templates for Conveyancing practices to ensure that there is a minimum threshold for compliance by members. The insurers are supportive of this proposal as it would reduce a member's exposure to negligence suits. Claims arising from Conveyancing are the highest in our scheme.

Other ongoing projects under the PII Committee are the Annual PII & RM Survey and Practice Review. The Survey was posted out in August with the May/ Jun issue of Praxis, it is also available online. We urge your cooperation in responding to our Survey as your feedback is important and will benefit both the Bar and PII Scheme in the long term.

The Practice Review is also ongoing, our PII & RM Department Officers have so far visited 17 firms. The Review will cover four (4) areas of your practice – office management, accounts management, civil litigation and conveyancing. Our Officers would be happy to visit any interested law firms, simply write in with your details.

Renewals have begun, may I take this opportunity to encourage members to start applying early to avoid the usual last minute headaches! The PII Proposal Form has been sent out and is also available online at www.myPII.com.my. Members who have yet to receive their Proposal Form can either download it from the abovementioned website or you can submit your Proposal Form directly online. If you have any queries regarding PII 2008, please call/ write in to the PII & RM Department or Jardine Lloyd Thompson Sdn. Bhd., either team would be happy to address any issues or concerns that you may have.

Our dedicated PII & RM Department is always ready to assist members, please do not hesitate to contact the Officers if you require any assistance or clarification on PII or risk management matters.

My contact details as well as the PII & RM Department Officers' are as follows:

No.	Name	Tel	Email
1.	Mr. Ragunath Kesavan, PII Committee Chairman	03 2095 2299	ragunath@kesavan.com.my
2.	Ms. Corrinne Wong, Risk Manager	03 2072 1614	corrinne@malaysianbar.org.my
3.	Ms. Wong Li Chin, Executive Officer	03 2032 4511	lcwong@malaysianbar.org.my
4.	Cik Nazihah Abdul Rahim, PII Officer	03 2032 1870	nazihah@malaysianbar.org.my

Ragunath Kesavan
Chairman
PII Committee

Fire Your Clients. Or Your Staff. Or Yourself

by Mary L. C. Daniel

“Fire Your Clients. Or Your Staff. Or Yourself” by Mary L.C. Daniel published in *GPSOLO*, Volume 23, No. 5, July/August 2007. Copyright © 2007 by the American Bar Association. Reprinted with permission.

I can't take it. Not another day! No money, no time, missing yet another family obligation. Burnout, frustration, whatever you call it, it seems to be an inevitable part of the package for the solo and small firm practitioner. Yet, many of our colleagues think this is the best way to live and wouldn't change a thing. Assuming they are not delusional from lack of sleep, the rest of us really want to figure out how to get from here to where those “happy” lawyers are.

So, what interferes with the joy of practicing law? Clients. Staffing problems. That overwhelming feeling of drowning in work, of running as fast as you can to stay where you are. Here are three practical suggestions for things to *do* to address the most common causes of stress and subsequent burnout.

Fire Your Clients

Assuming you are honest and can balance your checkbook, the number-one obstacle to a fulfilling (or at least tolerable) law practice is your very own client list. Every malpractice insurance company tells us that managing our clients reduces our claim risk. It also reduces our stress and increases our own job satisfaction.

I make it an annual event every October to “fire” at least three clients. They are chosen and the “no thank-you for your business” letter is drafted as early in October as possible, with follow-up in two weeks. By December I am retiring the files as my own Christmas present to me.

Other lawyers often ask me how I choose those clients. It soon becomes apparent that those other lawyers already have their desired “ex-clients” identified but want a really good and palatable reason to get rid of them. I don't know why a “good reason” is so hard to define for lawyers, who seem as quick and happy as the rest of society to dump a romance that's gotten unpleasant or sell off an investment that's just plain flat. But, good reason or not, my

fired clients generally fall into two categories.

First, I eliminate the unprofitable cases. In my office, many of these are simply old cases at very old rates that need to be updated. A few years ago, I found several cases being billed at \$50 per hour less than my current hourly rate, simply because I was originally hired for serial representation many years ago and never got the clients to agree to the increased rates.

I sent these clients a simple letter advising them of the great bargain that they had been receiving, along with a notice that the rate would be going up unless they wanted to come get their files and hire a new attorney. Not one client complained, and only one hired a new attorney, with great compliments to my office in the process. I do not miss that one client, personally or financially, because that was the client who was already complaining about the bills at the lower rate. Essentially, I suppose he thought he fired me, which is even better.

The other cases I close out by this process are those made unprofitable by requiring far more time and resources than they could cover. Clients who are behind on their bills are the first to go. The rule in my office is that lawyers have three options: Work and get paid, which is fine; don't work and don't get paid, which is also fine; and work and don't get paid, which has to be carefully monitored and controlled.

If certain clients can't get loans from MasterCard or their own families, why do you extend them credit? Are their legal issues more important to the world than your kid's college tuition? Than the workout you're missing to attend to the matter? Than returning your mother's phone call or ordering flowers for Secretary's Day? No, of course not. But by continuing to work these cases, you are telling your clients, your staff, and your family that *you are not worth the fee you charge*. Every state has rules and

“The number-one obstacle to a fulfilling (or at least tolerable) law practice is your very own client list”

limitations on terminating representation for nonpayment, but those rules do not force you to work pro bono indefinitely. Follow the rules, incorporate them into your written fee agreements, treat your client fairly, and even the toughest judge and state bar will allow you to terminate representation in a reasonable period of time.

Finally, the true gift to yourself: Fire the client that you really hate working for. This is not financial management, it's stress management. You know the client: He complains about every bill, sometimes itemizing what he will not be paying for. She calls your cell phone on the weekend, when she is neither in danger nor in jail. He sends an e-mail, then a fax to tell you to check your e-mail, then he phones three times leaving messages telling you to check your faxes and e-mails, all before ten in the morning. She whines and complains that things are just not being done as fast as she expected, because this is really just a simple case that you allow other people to delay and complicate.

You have to get rid of these clients. They suck the life out of you. Atticus Finch never had these people hanging around, and they never show up in those TV lawyers' waiting rooms. They aren't just bad for you; they are bad for the entire legal profession. They frustrate you and your staff. You become an angry and difficult person because of them, and your family and staff do not deserve that.

Start with the letter. Write it today, detailing every annoying thing that ticks you off. Mostly, this first draft is therapy, and you can edit out the profanities and insults later. When done, replace the unpleasanties with the euphemisms that our profession teaches us. For example, "You're an obnoxious jerk who calls too much" changes to "I appreciate your interest and involvement in your case, and I believe you will be better served by counsel who can respond to your concerns in a more timely manner." I have several letters that I have written through the years and keep on hand for examples of appropriate language. I also try to include three references to other counsel, along with the state bar's lawyer referral phone number.

The fact is, you are not serving these clients well anyway. You are probably doing fine legal work, but there is far more to the attorney-client relationship than competent professional advice. These clients

need to find the right fit for a lawyer, and it is not you. Give them a way out, and save your own sanity in the process.

Fire the Help

Your practice requires that you are surrounded by other people with parallel and dependent employment. Some of us have actual employees, some don't. But all of us rely on independent people to support our practices in some way. Are they truly helpful? Or are they hurtful to your practice and your life?

Starting with actual employees, there comes a point when we have to confront problems in the office. And let's be honest: Lawyers are generally the worst, most cowardly bosses in the professional world. Until there is money missing from the trust account or a

bullet hole in the wall, we will generally do anything to avoid dealing with personnel issues. But, *because* we work in small offices, it is even more important that we handle these matters promptly and decisively.

Our employees are not mere co-workers operating independently in overlapping office space. They are part of our work environment, and they usually have a fairly close involvement with our families and our

friends as well. They are our clients' primary contact with our legal representation. They are so intimately related to our whole lifestyle choice that serious issues must be identified and confronted before they become a problem.

A bad or incompetent employee must be terminated. This is easy in an "employment at will" state. But other states make it quite feasible to get these employees out—and require it when they compromise the legal representation of your clients. Document and act before it is too late. Sure, it means two weeks of stress, but you save an eternity of stress beyond that point. Plus, you can stop avoiding your office.

More difficult are the "good" employees who are not performing up to par or who have suddenly changed their performance for the worse. By working in a solo or small firm, your employees have made a lifestyle choice similar to the one you made. If they don't realize that, it is your obligation to clue them in on the significance, the earlier the better. They deserve that their choice be recognized or acknowledged. They are part of a team with a

“Fire the client that you really hate working for. This is not financial management, it's stress management”

common goal. They are working with people who know more about them and depend on them more than in other office settings.

These matters need to be discussed openly. My friend David Kauffman in Fairfax County, Virginia, refers to this as the “Come to” talk. Potentially or previously good employees need to know that their sins are revealed but that they have the chance for redemption if they make appropriate choices. And you need to listen because the confessions you hear will educate you about the quality of life for your employees, which directly affects the quality of your life and practice. Sometimes you will learn that your employee is at the end of her time with you but just hadn’t gotten around to telling you yet. Sometimes you will learn that this job is the best thing going in your employee’s life right now, and he is surprised that outside issues have affected his work. He wants to improve and typically welcomes your interest, your confidence, and your encouragement with difficult personal matters that the job helps him to escape for a few hours per day.

Now, about those other people who work for you but aren’t your employees: the computer guy, the answering service, the office supply company, the accountant. Are they truly helpful to your practice and your lifestyle? Do they have your full confidence? Can you count on them to do what you need them to do? Do they tell you the truth, even when it’s painful?

If the answer to any of these questions is “no,” you need to fire these nonemployees as well. Find a new marketing company, a new computer technician, a new insurance agent. Even in a small town like mine, there are people competing for business. Separate yourself from being a lawyer long enough to be your own law office manager. Between the yellow pages, the chamber of commerce, and your contacts with other lawyers and professionals, you can get the word out that you are in the market. Do your research and find the right fit. Are you willing to pay more for a computer guy who actually shows up when he says he will? Or do you simply want to keep the bill as low as possible? There is no eHarmony for locating vendors, but it sure helps if you know yourself and know what you’re looking for. Feel free to date around, too, before you commit.

No abusive or one-sided relationships should be tolerated, from either side of this equation. Paying someone else to address your issues should be a relief, not a burden or source of conflict.

Finally, speaking of the chamber of commerce, eliminate memberships to voluntary organizations that do not serve your needs. Trade associations, civic clubs, committees, and volunteer groups are all excellent and valuable uses for your resources and efforts—until their expenses or time commitments create an unmanageable burden on your life. Has your chamber involvement resulted in enough legal work to cover the membership fee?

Has your volunteer work left you with a sense of doing good or just the stress of conflict? Have you gotten enough value from the bar’s CLEs? Practice saying “no” out loud, then say it loud and clear when you are asked to be on just one more board of directors or committee. Take an inventory of those expenses, both of time and money. Weigh these against the benefits you receive, material or karmic. Then make your decision and

follow through on eliminating those distractions that didn’t make the cut.

“The hardest analysis is self-analysis. Are you the employee that you want to have? Is your attitude part of the problem with the office environment?”

Fire Yourself

Perhaps the hardest analysis is self-analysis. Are you the employee that you want to have? Do you contribute to the team? Is your attitude part of the problem with the office environment? If you just can’t stand another day with those miserable people whining at you all the time, and you consider yourself so grossly underpaid and overworked that you regret going to law school, it’s time to fire *yourself*.

I fire myself regularly, though not as often as I used to. Here’s how the conversation usually goes:

Me-Boss: *Frankly, I don’t like your attitude, and your work quality is really going downhill lately!*

Me-Employee: *What do you expect? You nag me all the time. I never get a day off.*

Me-Boss: *I pay you. I let you take that time off when your sister was sick. What do you expect?*

Me-Employee: *You don’t pay c**p! I could make more across the street, and without all the headaches.*

Me-Boss: *You are unreliable! You don’t get your work done! You’re a terrible employee! I can’t stand your being here!*

Me-Employee: *S***w you! I quit!*

Me-Boss: *You're fired! Get the h**l out of my office!*

A day or so later, I always come crawling back to me, full of apologies and wanting things to go back to the way they were. Really, we can make this work. But how?

Take a scheduled vacation. Your staff and clients can live without you just fine, you will be surprised to know. With advanced warning, all crises either will be managed or postponed until your return. My favorite trick, learned from my CPA brother: Send out your bills the day before you leave. You get to return to a mailbox full of cheques! Although you did not, technically, get paid for having fun, it sure seems that way.

Another way to de-stress and change the attitude is to get some exercise. My associate, Chuck, is really dedicated to his lunch-hour workout at the fitness center up the street. I have no such discipline and doubt that you do either. But I have a friend, Sarah, who calls me once a week to walk two miles through the local cemetery. And my husband, Bill, loves to go bike riding on the weekends. So, if I can hit the ski machine or walk the dogs after dinner once or twice a week, I have an exercise program.

Finally, acknowledge that sometimes you are so annoyed with whatever is happening at the office

that you feel ready to explode. You've seen your toddler when she is just too tired and stressed out to be reasonable. In fact, you may very well have sent her to a "time out." How often do you call "time out" on yourself? Occasionally, I take the cemetery walk without Sarah, putting on the walking shoes and then announcing that I am out for an hour. One of the few perks of being the boss in the solo/small firm setting is being able to just walk out the door once in a while. Whether it's 15 minutes for the decompress decaf or three hours for a matinee, sometimes you need to get away. Just knowing that you can step out restores that feeling of calm. You must be grown-up enough to know when it is time to simply leave—before you do or say something rash that causes a big problem later.

Conclusion

Like Kennedy's space program, we choose to do this job because it is hard. It is rewarding, beneficial to others, and a justification of our existence. But it does not have to be draining, frustrating, and our own demise. Hopefully, addressing these three large areas will help you manage your work environment so that you begin to like your job again. Get excited about what you do! Get fired up!

Mary L. C. Daniel is president of The Daniel Group, Attorneys at Law, P.C., in Winchester, Virginia, where her practice focuses on judgment executions.

PII & RM Department

Nazihah Bte Abdul Rahim, PII Officer

Nazihah was appointed as PII Officer in August 2007. Her main responsibilities include the following:

- ◆ Provide assistance and support in delivery of Risk Management Projects.
- ◆ Liaising with members/public in respect of PII and claims related matters.
- ◆ Handling PII Committee work.
- ◆ Prepare minutes of meeting and follow up for the PII Committee.

She was previously an Insurance Executive in the National Trade Union Congress (NTUC INCOME) Singapore specialising in Healthcare Insurance. Her responsibilities then included handling claims processing, attending to queries from policyholders and assisting trainers in conducting training.

Nazihah continued her post-secondary studies in Pahang Islamic College and was awarded with a Diploma in Comparative Law. Thereafter, she received her L.L.B (Hons.) from International Islamic University Malaysia in October 2006.



Amnah Bt Mat Yaman, Administrative Assistant

Amnah received her Degree in Business Administration from Universiti Utara Malaysia in 2003. She started her career at Guardian Pharmacy as a Retail Executive. In August 2006, she accepted the role of Administrative Assistant at the Bar Council in the Membership Department. In March 2007, she was transferred to the PII & RM Department.

Her current job scope includes assisting three (3) Officers with the Department's day-to-day administrative work, handling queries and actively assists with the various risk management and the PII projects.

CALENDAR

of Events: 2007

January '07

9 January: *RMQ Dec '06*

17 Jan: Bar Council CLE

Ethics Lecture: RM Session

18 Jan: Johor Bar CLE

Ethics Lecture: RM Session

February '07

28 Feb: Bar Council CLE

Ethics Lecture: RM Session

March '07

2 Mar: ISO 9001:2000

Certification Audit

NQA External audit for PII & RM Department

26 Mar: PII & RM

PII 2007 & RM Briefing for Bar Council Secretariat Officers
(Follow-up Session)

April '07

5 Apr: *RMQ Mar '07*

5 & 12 Apr: RM

RM Training @ KL Legal Firms:
Risk Management for Practitioners

14 Apr: Penang Bar CLE

Ethics Lecture: RM Session

20 Apr: Broker Tender 2008

Open Tender for Broker Services for the MBC's PII Scheme 2008 Begins
(Advertised in NST)

18 & 25 Apr: RM - JLT Interactive

RM iRIS Meeting

30 Apr: RM Brochure

Reinventing Your File Transfer System

30 Apr: Broker Tender 2008

Deadline to participate in Broker Tender.

May '07

4 May: PII Committee Meeting

RM Training @ State Bars:

Risk Management for Practitioners

4 May : KL Bar

18 May : Malacca Bar

24 May : Kedah/Perlis Bar

25 May : Penang Bar

5 May: RM Training @ Legal Firm

Risk Management for Practitioners

9 May: Bar Council CLE

Ethics Lecture: RM Session

10 & 28 May: RM - JLT Interactive

RM iRIS Meeting

15 May: Broker Tender 2008

Deadline for Submission of Broker Tender Proposal

June '07

1 Jun: PII Committee Meeting

5 - 8 Jun: LawAsia

20th Biennial LawAsia Conference,
Hong Kong

11 Jun: *RMQ Jun '07*

16 Jun: RM Training @ Legal Firm

Risk Management for Practitioners

26 Jun: Follow-up Review 2007 (KL)

29 Jun: RM - JLT Interactive

RM iRIS Meeting

July '07

6 Jul: PII Committee Meeting

11 Jul: Bar Council CLE

Professional Standards Course

18 Jul: Johor Bar CLE

Professional Standards Course

19 Jul: RM

Legal Practice Review 2007 (Johor)

19 Jul: RM Training @ Johor Bar

Risk Management for Practitioners

20 Jul: RM - JLT Interactive

RM iRIS Meeting/Training

24 - 25 Jul ; 30 - 31 Jul:

Legal Practice Review 2007 (KL)

August '07

1 Aug: RM

Legal Practice Review 2007 (KL)

2 Aug: RM - JLT Interactive

RM iRIS Meeting

3 Aug: PII Committee Meeting

8 - 10 Aug: RM

Legal Practice Review & Follow-up Review 2007

(Seremban, Melaka & Kluang)

14 Aug: PII & RM

Survey 2007 Begins

15 Aug: Bar Council CLE

Professional Standards Course

17 Aug: *Getting Started!*

Workshop for lawyers setting up practice

22 - 23 Aug: RM

Legal Practice Review 2007 (Penang)

24 & 30 Aug: PII

PII Committee Meeting

26 Aug: RM

RM Training @ Kelantan Bar

September '07

5 Sep: Bar Council CLE

Professional Standards Course

10 Sep: PII Proposal Form 2008

By Post/ Available online @ myPII.com.my

10 - 12 ; 18 - 20 Sep:

Legal Practice Review 2007 (KL)

13 - 14 Sep: JLT/PII Workshop

17 Sep: RM - JLT Interactive

RM iRIS Training

21 Sep: Self Insured Fund Broker Presentation

Newsletter: *RMQ Sep '07*

October '07

3 Oct: Bar Council CLE

Professional Standards Course

5 Oct: PII Committee Meeting

29 - 31 Oct: 14th MLC

50 Years of Independence

31 Oct: PII & RM

Survey 2007 Ends

November '07

2 & 30 Nov: PII Committee Meeting

21 Nov: Bar Council CLE

Professional Standards Course

December '07

12 Dec: Bar Council CLE

Professional Standards Course

RM: *Getting Started!*

Workshop for lawyers setting up practice

RM: Practice Area Checklists

RM 2008 Calendar

Newsletter: *RMQ Dec '07*

GUIDE TO PROPOSAL FORM 2008

PROFESSIONAL INDEMNITY INSURANCE

PAGE	QUESTION	REMARKS		
Page 1	Question 1 DETAILS OF FIRM	(a) Indicate the name of the Firm as approved by the Bar Council via their "letter of no objection" (b) Indicate date the Name of Firm was approved unconditionally by the BC. (c) Indicate latest correspondence address of the Main Office. (d) Indicate latest telephone numbers, facsimile and the Firm's e-mail address of the Main Office.		
Page 1	Question 2 (a) DETAILS OF LEGAL PRACTITIONERS	Please state name of each and every (1) Sole Proprietor/Partner (2) Consultant (3) Legal Assistant Other staff/personnel e.g. pupils in chamber, interns, office manager, clerical, secretarial, despatch, etc. are to be part of the headcount in Question 3. <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> Note: Please list the name of every legal practitioner who is currently with the Firm. </div>		
Page 2	Question 2 (b) INFORMATION ON PREVIOUS FIRM	You <i>NEED</i> to <i>REPEAT</i> the names indicated in Question 2(a) IF the legal practitioner was from another firm and JOINED your Firm AFTER 1 January 2003. Include details of the legal practitioner's previous firm, date joined and left and also the designation/status (e.g. partner, legal assistant, etc) whilst he/she was at that previous firm.		
Page 2	Question 3 NON-ADMITTED STAFF	Indicate the number of staff on payroll excluding the names from Question 2 (a). <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> Note: All staff who are NOT legal practitioners </div>		
Page 2	Question 4 GROSS ANNUAL LEGAL FEES	Please provide information based on the Gross Annual Legal Fees billed the last Financial Year (2006) and the estimate for the Current Year (2007).		
Page 3	Question 5 NATURE OF WORK	Please provide a breakdown of the Fees based on the type of work that your firm is doing. <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> <u>(a) Company Work</u> X 100% Total Gross Annual Legal Fees <u>(b) Insolvency Work</u> X 100% Total Gross Annual Legal Fees <u>(c) Conveyancing Commercial</u> X 100% Total Gross Annual Legal Fees <u>(d) Conveyancing Residential</u> X 100% Total Gross Annual Legal Fees </td> <td style="width: 50%; vertical-align: top;"> <u>(e) Taxation</u> X 100% Total Gross Annual Legal Fees <u>(f) Civil Litigation</u> X 100% Total Gross Annual Legal Fees <u>(g) Criminal Litigation</u> X 100% Total Gross Annual Legal Fees <u>(h) All other work</u> X 100% Total Gross Annual Legal Fees (Please describe 'All other work') </td> </tr> </table> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> Note: If you are a new firm, please complete based on estimates for the type of work you expect to do. </div>	<u>(a) Company Work</u> X 100% Total Gross Annual Legal Fees <u>(b) Insolvency Work</u> X 100% Total Gross Annual Legal Fees <u>(c) Conveyancing Commercial</u> X 100% Total Gross Annual Legal Fees <u>(d) Conveyancing Residential</u> X 100% Total Gross Annual Legal Fees	<u>(e) Taxation</u> X 100% Total Gross Annual Legal Fees <u>(f) Civil Litigation</u> X 100% Total Gross Annual Legal Fees <u>(g) Criminal Litigation</u> X 100% Total Gross Annual Legal Fees <u>(h) All other work</u> X 100% Total Gross Annual Legal Fees (Please describe 'All other work')
<u>(a) Company Work</u> X 100% Total Gross Annual Legal Fees <u>(b) Insolvency Work</u> X 100% Total Gross Annual Legal Fees <u>(c) Conveyancing Commercial</u> X 100% Total Gross Annual Legal Fees <u>(d) Conveyancing Residential</u> X 100% Total Gross Annual Legal Fees	<u>(e) Taxation</u> X 100% Total Gross Annual Legal Fees <u>(f) Civil Litigation</u> X 100% Total Gross Annual Legal Fees <u>(g) Criminal Litigation</u> X 100% Total Gross Annual Legal Fees <u>(h) All other work</u> X 100% Total Gross Annual Legal Fees (Please describe 'All other work')			

Page 3	Question 6 CLAIMS EXPERIENCE	<p>(a) Please confirm the claims history of <i>BOTH the Firm and ALL</i> the legal practitioners named in Question 2 including any previous notifications to Insurers.</p> <p>(b) Same</p> <div style="border: 1px solid black; padding: 5px;"> <p>Note: When completing this Question please note the following: -</p> <ul style="list-style-type: none"> ▪ If YES is ticked for (a) and/or (b), please provide details for each claim or threatened claim. ▪ Please declare the claims experience even if the claim was described in the 2007 Proposal Form or previously notified to Insurers from 1.1.2003 ▪ Please declare claims against your Firm and/or any of the legal practitioners named in Question 2. ▪ Please declare claims against any of the legal practitioners at his/her previous firm. ▪ The DECLARATION requires the firm to obtain WRITTEN CONFIRMATION from each legal practitioner named in this Form that he/she is aware and responsible for the accuracy of the answers. </div>
Page 3	Question 7 NOTIFIABLE CIRCUMSTANCES	<p>To declare any circumstances that the Firm/Legal practitioners may be aware of and which may give rise to a claim. This includes any circumstance against the legal practitioner, any predecessor/principal/consultant/professional assistant, or the legal practitioner's previous firm and/or the firm's predecessor.</p> <div style="border: 1px solid black; padding: 5px;"> <p>Please refer to the Note in Question 6 as a guide to complete this question. The same criteria apply to Notifiable Circumstances.</p> </div>
Page 4	Question 8 TOP-UP QUOTATIONS	<p>Complete this question if you wish to obtain quotations for Top-Up insurance.</p>
Page 4	DECLARATION	<p>EXCEPT for sole proprietorships, any one Partner/Principal may sign the Proposal Form on the Firm's behalf. However, ALL parties named in the Proposal Form must ensure that they are aware of all information stated in the Proposal Form.</p> <div style="border: 1px solid black; padding: 5px;"> <p>Note: Prior to signing the Declaration, the Partner/Principal signing should obtain WRITTEN CONFIRMATION from each of the persons named in Questions 2(a) and 2(b) for the answers to Questions 6 and 7. Subsequent claims of ignorance or inaccuracy with regard to the answers in the completed Proposal Form will not be accepted as all legal practitioners/partners are deemed to have sighted and declared the requisite information. Insurers reserve the right to <u>deny any claim</u> that is notified AFTER submission of the Proposal Form if it is established that you were aware of the claim/circumstance on or before the date when the Proposal Form was received by Insurers.</p> </div>
Page 4	EXECUTION OF PROPOSAL FORM	<p>Please ensure that the Proposal Form is signed by the Sole Proprietor/a Partner of the firm ensuring the following information is CLEARLY STATED:-</p> <ul style="list-style-type: none"> ▪ Full name of the signatory ▪ Date Proposal Form is signed ▪ Firm stamp must be legible <p>Please Post/Courier the ORIGINAL PROPOSAL FORM to JLT so we may process and send the Mandatory Invoice to your Firm.</p>



Effective Practice Management – Assuring the Quality of Your Firm's Work

Prepared on behalf of Chubb by Anthony E. Davis and David J. Elkanich, Partners, *Lawyers for the Profession*® Practice Group of Hinshaw & Culbertson LLP.

No two law firms are identical; they differ in an almost infinite number of variables: size, culture, practice concentrations, clients, etc. All firms, however, share one interest in common, namely that all clients receive the highest standard of service, on every matter, at all times.

To make this a reality, all firms need to have in place effective systems of practice management, which in turn requires them to consider how best to supervise and oversee every lawyer's work product, on an ongoing basis. Creating the appropriate policies and procedures to maintain consistent and effective practice management has additional benefits for law firms. In addition to helping to ensure a uniformly high quality of work product, it inevitably reduces the risk of legal malpractice claims, and even of fee disputes.

By contrast, the failure to oversee the nature and quality of the work produced by each lawyer in a firm can have disastrous consequences. The legal media all too frequently contains stories regarding sanctions imposed on lawyers and law firms - situations which are avertable with proper oversight and firm management.

For example, a firm which permits its satellite offices to operate essentially unchecked and removed from firm headquarters is at risk because of the inability to manage or control what is being done in the firm's name. Likewise, a lawyer's conduct in litigation, if not supervised and monitored by other lawyers, can lead to sanctions for unchecked discovery and related litigation abuses, or even an adverse verdict for malicious prosecution. By looking the other way, and therefore emphasizing profits over effective oversight procedures, firms are at risk that the actions of a few may affect the entire firm.

Primary Approach: Practice & Specialty "Teams"

While not practicable in every firm, the ideal system for effectively overseeing the quality of all work performed in a law firm involves breaking down the firm's practice groups into smaller "teams" or "groups."

- ❖ Where possible, teams should be at least eight to ten strong, and should involve lawyers with varying levels of experience, including paralegals, associates and partners.
- ❖ Since groups of lawyers, as well as individuals, can lose their independence if they are too closely bound to single clients, ideally firms should try to avoid team structure that is purely client based, and instead move towards specialty and practice based groups. (Obviously, within teams or practice groups, individual client matters can and should be assigned to small units within the practice team.)
- ❖ Where firms have multiple offices, firms should strive to structure teams to span different offices, so that work is regularly being reviewed based on shared expertise, and not based on the location of the lawyers who happen to be in day-to-day charge of the matter.
- ❖ All matters assigned to the team should be regularly reviewed at meetings of the whole team. The primary lawyers assigned to the matter should provide the team with regular reports at these meetings.
- ❖ Any pleadings, or equivalent substantive work product should also be reviewed by at least one team member in addition to those who drafted the document before being issued to clients or third parties.

There are a number of *benefits* associated with developing practice and specialty teams on this model. From the clients' perspective:

- a. They will receive the best practices of the firm, rather than of an individual lawyer;
- b. They will have access to multiple people within the firm who have familiarity with the case; and
- c. The regular review process should translate into faster results, because the review process is likely to promote progress.

From the perspective of the individual lawyers on a team, the regular meetings will provide an important and *continuous* form of training in all aspects of the team's practice specialty. In addition, firms that have adopted this approach have uniformly reported a general improvement in lawyer morale, because

of the way it promotes sharing of the burdens and stresses of law practice that would otherwise be borne by each lawyer individually, as is the norm in many firms. Another benefit of this approach is that lawyers' quality of life is improved, because it enables lawyers to take vacations and other personal time knowing that clients' needs will be appropriately and timely responded to by other members of the team.

From the law firm's perspective, the most important benefit of the team approach is the institutionalization of work – clients cease to be “mine” or “yours” and instead become “ours”. In particular, lateral hires (or lawyers who join through merger) and their clients are quickly assimilated into the firm. In addition, review of matters as they progress necessarily allows firms the opportunity to catch and correct errors before the client is harmed. Finally, the benefits to the clients described above are very likely to increase firm profits – since happy clients tend to pay their bills, to send additional work, and to refer new clients.

2 Avoiding “Solo Practitioners” Within Large Firms

One tangential but important issue that should be apparent from the discussion of the need for practice oversight is that there is an omnipresent risk whenever firms have only one expert practitioner in a given practice area.

In a large firm, a single lawyer in a single practice could easily get lost in the mix. A possible solution to this problem is what may be called the “Noah's Ark” policy, namely that there should always be at least 2 lawyers skilled in any practice area. Where possible, large firms may wish to consider shedding specialties where that level of staffing cannot be achieved profitably.

3 Alternative Approaches to Ensuring Adequate Lawyer Supervision

Some firms may conclude, for a variety of reasons, that a full-fledged team structure is not workable, or at least not workable in all parts of the firm. Even firms that reach this conclusion, however, can still strive for some of the benefits that flow from practice management and oversight. The following three approaches may be considered as alternative approaches to adequate lawyer supervision.

The first potential approach may be to establish a policy and practice structure that requires that all substantive work product (as opposed to minor tasks) to be reviewed by at least one pair of

knowledgeable eyes in addition to the lawyer – however senior – who is principally working on the matter. If all matters are regularly reviewed on an ongoing basis by a lawyer who is not the billing or responsible attorney on the matter, the client, the lawyer responsible for the handling of the matter, and the law firm can all receive at least some of the benefits of the team approach described above.

An objection to this approach which is sometimes voiced is that it is not “economic,” because clients will not pay for the review process. In our view, this response raises a fundamental question: if a client will not pay for what a firm deems an appropriate level of supervision, or if the “matter won't warrant the cost of such supervision,” then the firm should ask whether it should be taking on the matter at all. Only if firms are prepared to insist on some form of practice management and review for all significant matters can the important benefits of practice management be achieved.

A second approach is an update to a procedure that was traditional in many firms before their expansion made it seem anachronistic, namely regular firm – or, today, practice group, or office – meetings in which all lawyers attend and at which at least selected matters are reviewed. Although not as complete and comprehensive as the suggested primary approach, lawyers and firms can receive the benefits of group analysis and support, while those clients whose matters are reviewed in this way can all be certain to receive the firm's best work product.

A third alternative, which has fallen into disfavor, is the traditional peer review system. This procedure was almost invariably unpopular with lawyers, and therefore firms, because it tended to create a hostile environment. This feeling that it involved lawyers attacking each other's work derived from the backwards looking nature of the process. This kind of audit of files usually did little to provide constructive criticism to the lawyer being “reviewed”, and even less to assist and protect the clients on a going forwards basis. In contrast, the modern approaches described above are designed to focus on how current matters are and will be handled going forward, not to second guess earlier decisions in the representation.

Conclusion

All firms need to consider how they can best develop and implement policies for effective practice management, including at least some level of ongoing oversight of the work product of each of their lawyers.

What's New?

PII 2008

The 2008 Proposal Form is now available online @ www.myPII.com.my for download & printing!

PII/ RM Survey 2007: We want to know what you think!

2007 has seen many positive changes to our PII Scheme, e.g. a different claims loading structure and removal of the No Claims Bonus. Echelon CC has been managing the Scheme's claims since early 2006, and our Risk Management Programme has expanded rapidly. As such, we would like to know what you think of all these changes and developments!

The PII/RM Survey 2007 is designed to

- ♦ Gauge the Malaysian Bar's level of awareness of the PII Scheme
- ♦ Find out what members think of the 2007 PII Scheme terms and conditions as well as the claims management process, and
- ♦ Determine members' perception on the level of service provided by our PII Scheme Brokers, Echelon CC, and PII & RM Department.

The Survey has already begun! A copy was sent to *all* members in the **May/Jun, Praxis**. The Survey form is also available @ the Malaysian Bar website's Resource Centre (search for **Circular 146/2007**) or visit www.myPII.com.my.

Closing date for the PII/RM Survey is **31 Oct 2007**.

Why Participate in the PII/RM Survey?

- ❖ The Malaysian Bar benefits from your feedback!
- ❖ The Survey *only* takes 3 minutes to complete!
- ❖ The questions require only "Yes/No/Don't Know" answers.

Next Edition:

- ❖ PII & RM Survey 2007 Results
- ❖ RM Report: Practice Review of Legal Firms 2007
- ❖ RM Programme: 2007 Highlights

Coming to you in December 2007!

- ! **2008 Risk Management Calendar**
- ! **Getting Started! Workshop:**
Back due to popular demand!

Disclaimer:

In compiling the information contained in this newsletter, the Malaysian Bar Council and Jardine Lloyd Thompson Sdn Bhd have used their best endeavours to ensure that the information is correct and current at the time of publication. We do not accept any responsibility for any error, omission or deficiency.

Material in the newsletter is intended to provide general information and should not be considered a substitute for the applicable PII Master Policy and Certificate of Insurance together with its Schedule. We strongly advise that you refer to the applicable Master Policy and Certificate for the full terms and conditions.

For more details and information, please contact PII & RM Department.

We are always looking at ways to improve this newsletter and work towards ensuring that any areas of interest which concerns Risk Management will be highlighted in this newsletter. We therefore welcome hearing from you on matters relating to this newsletter and the PII Scheme.



It is the moment of our decisions that our destinies are created

Anthony Robbins



Contact us:

PII & RM DEPARTMENT

Risk Manager: Corrinne Wong
Tel: 03 - 2031 3003 Ext 190
Direct Line: 03 - 2072 1614
corrinne@malaysianbar.org.my

Executive Officer: Wong Li Chin
Tel: 03 - 2031 3003 Ext 150
Direct Line: 03 - 2032 4511
lcwong@malaysianbar.org.my

PII Officer: Nazihah Abd Rahim
Tel: 03 - 2031 3003 Ext 141
Direct Line: 03 - 2032 1870
nazihah@malaysianbar.org.my

Fax: 03 - 2031 6124

MALAYSIAN BAR COUNCIL

No.13, 15 & 17, Leboh Pasar
Besar, 50050 Kuala Lumpur
Malaysia

Peti Surat 12478, 50780 Kuala
Lumpur, Malaysia

Tel: 03 - 2031 3003 (Hunting Line)
Fax: 03 - 2034 2825,
2026 1313, 2072 5818

Email:
council@malaysianbar.org.my

