

MALPRACTICE INSURANCE REPORT

Continuing the trend away from the hard market conditions that prevailed a few years ago, legal malpractice insurance rates appear to have plateaued—and even declined for some lucky lawyers. “This year’s changes in rates have certainly affected the small and midsize firm,” says Michael B. Murphy, head of Severson & Werson’s Insurance Practice Group in San Francisco. Many of the 25-to-200-lawyer general practice firms, says Murphy, are even reporting rate decreases this year of up to 10 percent.

But the benefits of the softening market haven’t affected everyone. Law firms with significant practices in the areas usually considered high risk—IP, class action, and securities work—will probably continue to raise red flags for insurance brokers. And due to the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, attorneys who handle bankruptcies are also of growing concern, says Dan McKenna, program manager for the Mitchell & Mitchell CNA Professional Liability Program. “So far we haven’t been told to put any rate increase into play on that stuff, but that’s an area that could become higher exposure in the future,” he says. As Murphy explains, “Whenever the law changes in discrete areas of practice, it seems that niche practitioners or specialists have to become overnight experts.”

Location matters also, says Kenneth C. Feldman, who co-chairs Lewis Brisbois Bisgaard & Smith’s professional liability department in Los Angeles. “It seems as though, overall, attorneys in San Diego are harder to place now than they have been in the past,” he says. Claims activity in San Diego has been on the rise the past few years, he explains, and some underwriters are concerned that the city’s recent unstable political climate will only contribute to that trend. In addition, because claims historically are more likely to be filed against attorneys in Southern California than in Northern California, “the average rate per lawyer tends to be lower in Northern California than in Southern California, everything else being equal,” says Feldman.

One unknown is what effect, if any, last year’s hurricanes will have on legal malpractice rates. “As with 9/11, although those losses are not in the E&O (errors and omissions) market, this could have an overall impact on the market as reinsurers may increase their rates,” notes Feldman.

Following is our yearly review of the carriers that offer professional liability coverage to California attorneys. For more information, consult the American Bar Association’s annual guide, *Selecting Legal Malpractice Insurance*. The guide costs \$15, plus shipping, and can be ordered through the ABA publications order line at 800/285-2221 or online at the ABA publications website, www.ababooks.org. The product code for the current (2005) edition is PC # 4140040. An online version is also available at www.abanet.org/legalservices/lpl/insurancedirectory.html. —*Laura McClure*



COMPANY	BEST'S RATING*	RESTRICTIONS BASED ON SPECIALTY/PRACTICE AREA/FIRM SIZE	LIMITS OF LIABILITY	DEDUCTIBLE	INPUT ALLOWED IN SELECTION OF COUNSEL?	IS THERE A PROGRAM TO PREVENT MALPRACTICE SUITS?	YRS. COVERING CA LAWYERS	ADMITTED IN CA?
ADMIRAL INSURANCE COMPANY 847/806-6590 www.monitorliability.com	A+	Firms with three or more attorneys	Up to \$5 million	\$10,000 or higher	Yes, if provided by endorsement	Yes, malpractice hotline	12	No
ARCH INSURANCE COMPANY (sponsored by the State Bar) 800/343-0132 www.proliability.com/lawyers	A-	None, but available deductible and limit of liability options may vary depending on size of firm, areas of practice, and claim history	Up to \$10 million per claim/annual aggregate	\$0 to \$250,000 per claim; loss-only and annual aggregate deductibles available for qualifying firms	Yes	Yes, seminars in cooperation with the State Bar and a toll-free malpractice hotline available to policyholders	4	Yes
ATTORNEYS' INSURANCE MUTUAL RISK RETENTION GROUP, INC. (Aon affiliate) James Belding, 201/460-6726, or Bruce Wilson, 203/655-1639 www.aimrrg.com	Not rated	Firms with 45 or more practicing attorneys	\$15 million to more than \$100 million	\$500,000	Yes, insured has choice	Yes	20	Yes
ATTORNEYS' LIABILITY ASSURANCE SOCIETY, INC. (ALAS), A Risk Retention Group 312/697-6900 www.alas.com	Not rated	Firms with 35 or more practicing attorneys	Up to \$75 million per claim/\$150 million aggregate	Retention: \$100,000 per claim/\$300,000 aggregate to \$3 million per claim/\$6 million aggregate	Yes, firm selects defense counsel subject to approval by ALAS	Yes, extensive program for members, including quarterly Loss Prevention Journals, frequent email hotlines on new issues, and firm seminars	27	No
AXIS U.S. INSURANCE COMPANIES Adam Sharaf, 860/707-1707 www.axiscapital.com	A	Firms with ten or more attorneys	Up to \$25 million	Minimum of \$25,000	Yes	Yes, risk-management services and hotline to primary insureds	2	No
CALIFORNIA AON ATTORNEYS' ADVANTAGE INSURANCE PROGRAM (L.A. County Bar Association sponsored program) Dan Miller, 215/773-4546 www.attorneys-advantage.com	A	None, but underwriting guidelines apply	\$100,000 per claim/\$300,000 aggregate through \$5 million per claim/aggregate	\$1,000 to \$100,000	No provision, but insured's input will be considered	In development	15	No
CAROLINA CASUALTY INSURANCE COMPANY 847/806-6590 www.monitorliability.com	A	Firms with three or more attorneys	Up to \$50 million	\$10,000 or higher	Yes, if provided by endorsement	Yes, malpractice hotline	12	Yes
THE CHUBB GROUP OF INSURANCE COMPANIES 860/408-2000 www.chubb.com	A++	Firms with ten or more attorneys. Does not cover intellectual property firms.	Up to \$10 million per claim. Limits up to \$20 million available on a case-by-case basis. Excess limits also available.	\$25,000 minimum per claim. No aggregate retentions offered at present.	Insured has the right to choose counsel, but no defense expenses may be incurred without underwriter's consent	Advice from Risk Management Counsel available to insureds upon request; e-newsletter, handbooks, and seminars	11	Yes
THE COLONY GROUP Art Davis, 480/889-5804 www.colonyins.com	A	No more than 40 lawyers per practice. Real estate development, syndication, or investment visa work is prohibited.	Up to \$6 million each occurrence/\$8 million aggregate on select accounts	\$5,000 to \$100,000	Insured's input will be considered	No	10+	No

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CONTINENTAL CASUALTY COMPANY (CNA) Mitchell & Mitchell (firms with 1 to 34 attorneys) Dan McKenna, 800/247-1403 www.mitchellandmitchell.com; CNA Pro (firms with 35 or more attorneys) Stuart Pattison, 212/440-7447 www.lawyersinsurance.com	A	None	Up to \$15 million	\$5,000 or higher	Yes, on an exception basis by endorsement	Yes, risk-management seminar programs, malpractice hotline, and semiannual periodicals	22	Yes
FEDERAL INSURANCE COMPANY (part of the Chubb Group of insurance companies) L. Myles Alonzo, 415/433-7700, ext. 10 www.cmiprorisk.com	A++	Firms with two to nine full-time attorneys; no class action, no securities, no tax, less than 60 percent plaintiff work	Up to \$5 million	\$5,000 or higher	Yes, in certain situations	Risk-management contacts are available	10+	Yes
FIRST MERCURY INSURANCE COMPANY John Biggio, 800/982-1151, ext. 18 www.firstindemnity.net	A-	None, firms with 1 to 200 attorneys	Up to \$5 million	Minimum of \$1,000	Yes	Yes	6	No
GE INSURANCE SOLUTIONS (underwritten by Westport Insurance Corporation) 800/221-2236, ext. 4114 www.geinsureslawyers.com	A	Limited interest based on size of firm, areas of practice, and geographic location	Up to \$10 million	Minimum of \$1,000	Limited	Free, confidential line to a defense firm; newsletter; and website	34	Yes
GREAT AMERICAN INSURANCE COMPANY (GAIC) 800/299-4331 www.greatamericanlawyer.com	A	None	Up to \$10 million per claim/aggregate	Minimum of \$2,500, maximum of \$500,000	Yes	Yes, newsletter; advisories on specific topics, online CLE at website, seminars, audiotapes, and law firm audits	15	Yes
HARTFORD SPECIALTY 212/227-0746 www.thehartford.com	A+	No intellectual property, no plaintiff class action	Up to \$15 million per claim/aggregate	Minimum of \$25,000	Yes, mutual choice	No	N/A	No
INTERSTATE FIRE & CASUALTY COMPANY (a member of Fireman's Fund Specialty under Interstate Fire & Casualty) Beth Graham, 800/692-5752, ext. 136 www.target-capital.com	A	Niche market for firms that have an area of practice that no longer fits the standard market. Includes securities, copyright, patent, trademark, entertainment, some class action. Approved broker access only.	Maximum of \$5 million. Excess limits are also available.	Minimum of \$5,000	No	No	3	No
JAMES RIVER INSURANCE COMPANY John Clarke, 804/289-2700 www.jamesriverins.com	A-	Firms with 1 to 15 attorneys; no firms with large intellectual property practices or that do SEC work involved with publicly traded companies	Up to \$4 million	Varies	No	No	2	No
LAWYERS' MUTUAL INSURANCE COMPANY 800/252-2045, 818/565-5512 www.lawyersmutual.com	A	No restrictions for standard program and Strong Start program for lawyers in practice less than 36 months. Specialized lower premium programs for appellate, immigration, criminal, insurance defense, and arbitration/mediation lawyers.	\$100,000 per claim/\$300,000 aggregate, up to \$5 million per claim/\$7 million aggregate for standard program	\$1,000 to \$100,000 per claim for standard program	No	Loss-prevention and risk-management seminars, bulletins, tapes, and MCLE website	27	Yes
LAWYER'S PROTECTOR PLAN (underwritten by Greenwich Insurance Company, a member of XL Capital Group) 800/336-5529, ext. 4207 www.lawyersprotectorplan.com	A+	No automatic declinations; program is for firms with 1 to 10 attorneys but also able to broker 11-plus	Up to \$5 million per claim/aggregate	Up to \$100,000	Yes	No	20+	Yes
LIBERTY SURPLUS INSURANCE CORPORATION (member of the Liberty Mutual Group) Justin Camara, 415/983-4520, or Chris DePuy, 212/208-4157 www.libertyiu.com	A	Firms with 5 to 75 attorneys (primary), firms with 5 attorneys and up (excess)	Up to \$10 million	Starting at \$25,000 per claim	At underwriter's discretion, insured's input considered	No	12	No
LLOYD'S OF LONDON (underwritten by Egloff Risk Management Systems) Al Hernandez, 818/992-5744 www.egloff.com	A	None	\$250,000/\$250,000 to more than \$20 million/\$20 million	Minimum of \$10,000	Yes, but selection must be approved by the underwriters	Yes, tailored risk management for law firms	30+	No
N.I.C. INSURANCE COMPANY Sarah Chang, Mark Chiu, or Chris Duca, 212/244-2333 www.navg.com	A	Firms with up to 75 attorneys. No SEC, IP/patent, or class action work	Up to \$5 million	Minimum of \$15,000	Insured's requests will be considered	No	5	Yes
PILOTLEGIS, RPG (Aon is exclusive broker) Margaret Hepper, 201/460-6723 www.pilotlegis.com	Not rated	Available to general commercial, intellectual property, and insurance defense firms with 20 to 200 attorneys; contingent upon successful completion of risk review	Up to \$30 million	Negotiable	Yes, insured has choice	Yes, annual risk-management programs, on-site risk-management presentations, and annual risk reviews	15	Yes
PROSECURE® LAWYERS RISK PURCHASING GROUP Mary Whisenand, 800/371-2246 www.prosecure-lawyers.com	Not rated	Covers solo lawyers and small law firms that have difficulty placing coverage in the current market due to claims, practice areas, or other underwriting restrictions	Up to \$2 million per claim/aggregate	Minimum of \$5,000, maximum of \$250,000 per claim	No, unless specifically underwritten	Education and risk-management seminars	3	Yes
QUANTA SPECIALTY LINES INSURANCE COMPANY Jerry O'Dwyer, 212/373-1874 www.quantaholdings.com	A-	Firms with 5 to 100 lawyers, firms with more than 100 on an excess basis only. Firms with significant practice in medical malpractice plaintiff, class action plaintiff, entertainment, or patent practices will be selectively considered for excess options only.	Up to \$10 million	Minimum of \$25,000	Yes, mutual choice	No	1	No
STATE NATIONAL INSURANCE COMPANY (a member of the State National Insurance Group) John Biggio, 800/982-1151, ext. 18 www.firstindemnity.net	A	Firms of 1 to 200 attorneys	Up to \$5 million	Minimum of \$1,000	Yes	Yes	6	Yes
ST. PAUL FIRE & MARINE INSURANCE COMPANY (endorsed by Defense Research Institute) Nicole Croteau, Willis of New Hampshire, 603/334-3084 www.willis.com	A	Minimum 51 percent defense practice required	Up to \$2 million per wrongful act	Minimum of \$5,000 per wrongful act	Yes	Risk-management materials and visits may be arranged	10	Yes
UNITED NATIONAL INSURANCE COMPANY (underwriting agent) Michele McCrohan, Black/White & Associates, 973/995-0519 www.bwins.com	A	None, but company specializes in hard-to-place firms with claims, practice area, or ethics problems	Up to \$2 million per claim for primary coverage; up to \$2 million per claim for excess coverage	Minimum of \$5,000	Negotiable	No	15	No
XL SELECT PROFESSIONAL, A DIVISION OF XL AMERICA, INC. (endorsed by the Bar Association of San Francisco and the San Diego County Bar Association) Greg Hayden, vice president 972/383-7152 www.xlprograms.com	A+	Firms with 11 to 100 attorneys	Up to \$10 million	\$5,000 to \$100,000	Yes	No	6 (3 as XL, 3 representing Kemper Insurance)	Yes
ZURICH NORTH AMERICA California administrator, 800/848-7160 www.danielshead.com	A	None for standard program (full time), although underwriting guidelines apply; part-time and "moonlighting" policies available to qualified attorneys	\$100,000 per claim/\$300,000 aggregate, up to \$10 million per claim/aggregate	Depends on policy form and firm size; many options available, including \$0 (zero) deductible and loss-only deductibles	No provision, but suggestions considered	Loss-prevention advice hotline, and VersusLaw Legal Research Database on Internet, both at no charge to policyholders	11	Yes

*A.M. Best's Financial Strength Rating is an independent opinion, based on a comprehensive quantitative and qualitative evaluation of a company's balance sheet strength, operating performance, and business profile. The grades measure Best's opinion of the insurer's ability to meet its obligations to policyholders.

See Best's website (www.ambest.com) for more information, such as financial size of the companies in their statutory surplus and related accounts.