



AFTER DISASTER STRIKES: A CHECKLIST

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1. Begin the assessment process. Photograph or videotape all damage for claim documentation purposes. To avoid flash fires, make certain that all containers to be examined (file cabinets, etc.) are cold to the touch and safe to open. Start a diary or log of the ways in which the office has been affected by the disaster.

2. Contact all employees to first ascertain their health & safety and current home address and contact information. Provide them with a status report and assign tasks. Be mindful of their family obligations at this time. As needed, appoint liaisons from your office to work with each of the following entities:

- Building management
- Fire department
- Police department
- Health department
- Emergency Management Agencies – KY Division of Emergency Management:
- Other governmental agencies - See Also the Federal Emergency Management Agency website and its related sites
- Utility companies, including electric, gas, water, phone
- Insurance agent
- Banker
- Key vendors
- Post office
- Other vital services

3. If you are unable to access your electronic calendar begin to re-establish your calendar focusing on upcoming CRITICAL dates, i.e., dates on which tasks are due that if not met will result in financial loss to the client, substantial delay in achieving the client's objectives for the representation, or material disadvantage to the client's legal position and which are not subject to being continued by consent of the parties or court order. Formulate a written plan for addressing how to meet CRITICAL deadlines tasks.

4. Establish an emergency communication system to help the firm communicate with the courts, other lawyers, staff, clients, and vendors. This could involve setting up an emergency hotline and recorded message, or arranging for a forwarding number. Keep in mind that after a disaster, it is often easier to make outgoing calls than to receive incoming ones. Therefore, it may be necessary to designate a contact outside the disaster zone who can act as a clearinghouse for information.



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5. If you cannot occupy your office, consider alternate working arrangements for you and your staff until safe, permanent office space becomes available again. Work from home capabilities may already be in place following COVID lockdowns last year. If remote work is not feasible for your office staff, arrange for temporary office space. Depending on the size and location of your firm, possibilities include hotels, motels, trailers, recreational vehicles, space in other law firms with which you have reciprocal agreements, space in your satellite office(s), or other suitable space in your existing building or home. If temporary office space is needed, ensure appropriate office supplies are provided, including stationery, business cards, legal pads, and pens.

Contact your cyber liability insurance carrier for recommendations on avoiding possible technology security gaps related to new remote working environments.

Post a sign at your old office directing people to your temporary location, if one has been created. If attorneys and staff are working remotely, designate a specific individual as the contact person for inquiries and provide that person's name and contact information at your old office with any other instructions clients or vendors might need to make contact.

Consider using social media and the local newspaper and broadcast media to advertise your office's current working arrangements and encourage clients to contact you to touch base.

Be sure that anyone answering the phone informs all callers of your office's changed circumstances, including the location of a temporary office if one has been arranged.

Contact your property manager and determine your obligations under the existing lease during the time your space cannot be accessed or used.

If necessary, make arrangements for security protection for your damaged space.

6. Contact vendors to lease equipment or permanently replace damaged items (computers, network servers, printers, fax machines, copier, postage meter, desks, chairs, dictation equipment, typewriters, etc.)

7. Locate the off-site copy of your active client list and start contacting clients. Make appointments for those whose records you must recreate.

8. If you don't have an off-site client list, write down the names of all the clients and pending matters you can remember before too much time passes. Home computers, personal digital assistants (PDAs), and personal calendars may help you recreate this information. Have all staff do the same thing -- and update the list as new names are remembered over the next few days. Start keeping a phone log of all incoming calls and use this as a source to help rebuild your client list.

9. If you can't access an off-site backup of your calendar, start a fresh one. Begin filling in important appointments and deadlines as they become known. If possible, review the physical court dockets or other appropriate on-line court dockets and match this information against your client list.

10. Contact the courts and opposing counsel as needed for continuances, postponements, and the like. If you have moved to a temporary location, send out postcards or similar announcements with your new address, telephone, and fax numbers. Notify the state bar and your malpractice carrier.



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11. To ensure the financial health of the office, give priority to collecting outstanding accounts receivable. Until the office is fully up and running, expect to have ongoing work disrupted and to have difficulty bringing in new clients.
12. Contact the post office about an alternate delivery location.
13. Access extra checks stored off-site. Contact your bank for replacement checks.
14. Contact your payroll service regarding continuation of service and issues related to employees not utilizing direct deposit and their receipt of pay if they have been dislodged.
15. Subject to your duties per Ky. R. Sup. Ct. 3.130(1.6), get immediate professional assistance to help in the recovery and repair of your computer system. Make it clear that your top priority is the data, not the equipment itself. A reputable repair shop can clean and test the system and, if necessary, use a software package designed to recover your data. Keep in mind that while motors and circuitry in your system may have been damaged by the elements, the hard drive itself is likely vacuum-sealed. More likely than not, the data stored on the drive can be recovered. If the above efforts are not sufficient, it may be necessary to send your drive to a data recovery company. See also, KBA Ethics Opinion E-446 Issued: July 20, 2018 for additional discussion regarding your duties to maintain client confidentiality when utilizing the services of third-parties.
16. Subject to your duties per Ky. R. Sup. Ct. 3.130(1.6), gather up all available paper records and begin the process of assessing damage, sorting, and prioritizing restoration. Paper records damaged by water will begin to deteriorate within two to three hours; mold, fungal, and bacterial growth will occur within 24 hours. Specific procedures must be followed in order to properly dry or freeze documents. Consider bypassing restoration if back-up records are available. See also, KBA Ethics Opinion E-446 Issued: July 20, 2018 for additional discussion regarding your duties to maintain client confidentiality when utilizing the services of third-parties.
17. Subject to your duties per Ky. R. Sup. Ct. 3.130(1.6), keep an inventory of anything that must be destroyed or removed from the premises for drying by a commercial service. For client documents, track:
 - Client/matter name
 - Client/matter number
 - Items destroyed
 - Inclusive dates
 - Reason destroyedSee also, KBA Ethics Opinion E-446 Issued: July 20, 2018 for additional discussion regarding your duties to maintain client confidentiality when utilizing the services of third-parties.
18. Subject to your duties per Ky. R. Sup. Ct. 3.130(1.6), begin replacing lost paper records and client documents. Besides clients, other sources for reconstructing records include the courts, opposing counsel, administrative agencies, and the firm's CPA and payroll service. See also, KBA Ethics Opinion E-446 Issued: July 20, 2018 for additional discussion regarding your duties to maintain client confidentiality when utilizing the services of third-parties
19. Repair, sterilize, and dry the areas where records are to be stored -- shelving, cabinets, desks. (Carpet, carpet padding, or liners must be dried and treated for mold and mildew or replaced.) Investigate tile or other flooring for similar damage. Continue inspecting damaged areas for mold, mildew, and other damage for at least one year.



20. Exercise case and client control. Resist the urge to take on all new matters that may come to you until you can adequately screen for conflicts.

21. Submit an insurance claim for the damages your office sustained.

22. Determine your eligibility for other forms of emergency relief and submit a claim if appropriate.

23 Contact KYLAP as appropriate for counseling and support resources for you and your employees.



ABOUT THE BAR PLAN:

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