

DC Bar – Lunch & Learn

Malpractice Insurance for Solo & Small Firms



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Agenda



- The Policy
- Prior Acts
- Who is Insured?
- Are all policies the same?
- ****Cyber Insurance****
 - Why the need?
 - What is it?
- Selecting Appropriate Coverage
- Selecting a Carrier

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

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.

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

Are all insurance policies the same?



- Deductible Options (Per Claim vs. Aggregate)
- Expense Allowances (Inside Limits vs. Outside Limits)
- Definition of Professional Services
- Consent to Settle Provision
- Exclusions
- Supplementary Coverages
 - Disciplinary Proceedings
 - Subpoena
 - Loss of Earning
 - Public Relations Expense*
 - Breach Notification Expense*



CYBER LIABILITY; COVERAGE, UNDERWRITING AND CLAIMS

USI 2018 Cyber



AFFINITY

Why Law Firms?

- Why are law firms at risk?
 - Rich collection of confidential information
 - Security vulnerabilities
 - Lack of technology sophistication
 - Failure to detect a breach
 - Smaller law firms are easier targets than larger law firms

Data Security Gaps

- Lost or stolen devices
- Wireless access
- Staff training
- Insider threats
- Cloud computing
- Encryption
- Lack of patching

Insurance Coverage Gaps

	Property	General Liability	Crime/Bond	K&R	E&O	Cyber / Privacy
1st Party Privacy / Network Risks						
<i>Physical Damage to Data</i>	■	■	■	■	■	■
<i>Virus/Hacker Damage to Data</i>	■	■	■	■	■	■
<i>Denial of Service attack</i>	■	■	■	■	■	■
<i>B.I. Loss from Security Event</i>	■	■	■	■	■	■
<i>Extortion or Threat</i>	■	■	■	■	■	■
<i>Employee Sabotage</i>	■	■	■	■	■	■
3rd Party Privacy/Network Risks						
<i>Theft/Disclosure of private Info</i>	■	■	■	■	■	■
<i>Confidential Corporate Breach</i>	■	■	■	■	■	■
<i>Technology E&O</i>	■	■	■	■	■	■
<i>Media Liability (electronic content)</i>	■	■	■	■	■	■
<i>Privacy Breach Expense</i>	■	■	■	■	■	■
<i>Damage to 3rd Party's Data</i>	■	■	■	■	■	■
<i>Regulatory Privacy Defense/Fines</i>	■	■	■	■	■	■
<i>Virus/ Malicious Code Transmission</i>	■	■	■	■	■	■

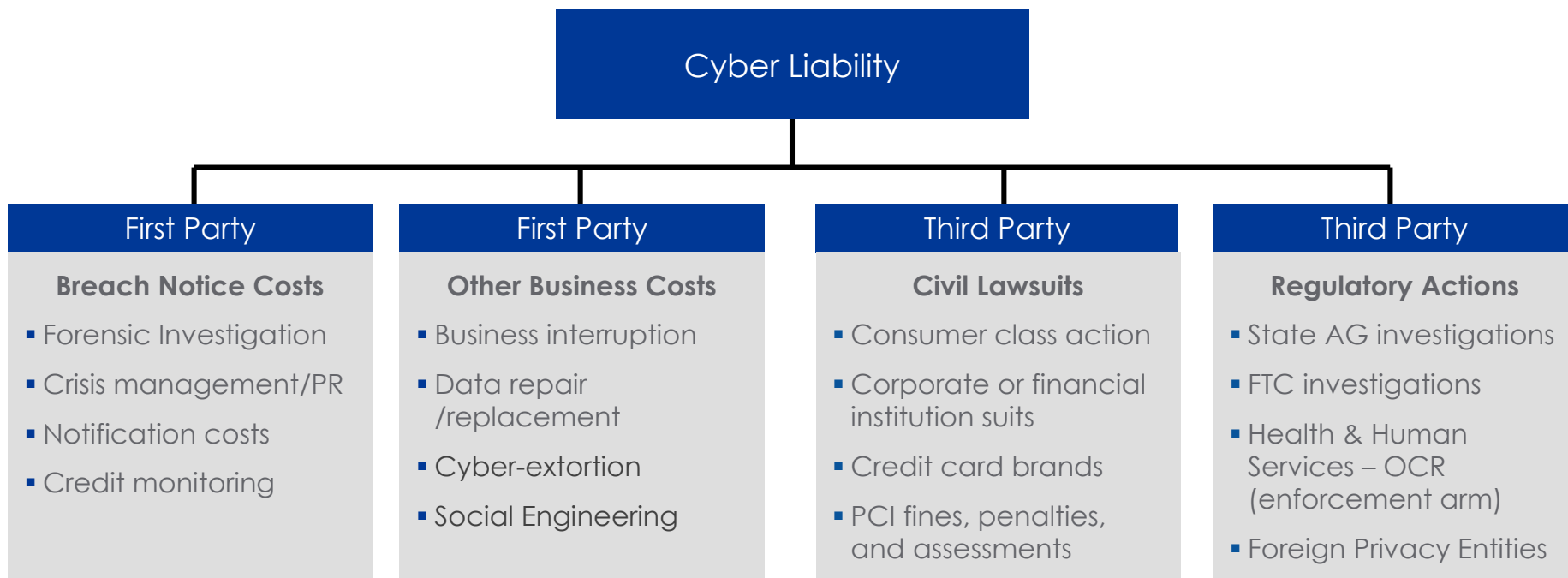
Coverage Provided:	■
Limited Coverage:	■
No Coverage:	■

Traditional Insurance Gaps to name a few:

- Theft or disclosure of Third Party Information – GL
- Security & Privacy – “intentional act” exclusion – GL
- Data is not tangible Property – GL, Prop. and Crime
- Bi/PD Triggers – GL
- Value of Data if corrupted, destroyed or disclosed – Prop & GL
- Contingent Risks from external hosting, etc .

- Commercial Crime policies require “intent” and only cover “money securities and other Tangible Property”
- Territorial Restrictions
- Sublimits or long waiting periods applicable to any virus coverage available – Prop.

What Does Cyber Insurance Cover?



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

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

Contact Information



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Thank you!

