Ames & Gough
8300 Greensboro Drive, Suite #980
McLean, VA 22102

News Release

LAW FIRMS SEE RISE IN MALPRACTICE CLAIM FREQUENCY, SEVERITY

Ames & Gough Survey: Most Leading Law Firm Insurers See Spike in all Claims

For further information, contact:
Dan Knise, 703-827-2277, or
Al Modugno, 917-414-4569

WASHINGTON, DC, June 18, 2013 – Although the frequency of legal malpractice claims appeared to be leveling off a year ago, most insurers of U.S. law firms now report the number of such claims is increasing, including those involving multi-million-dollar payouts. A new study by insurance broker Ames & Gough finds most leading legal malpractice insurers had more claims in 2012 than the prior year, including a significant increase in claims in excess of $50 million.

In its third annual survey of lawyers' professional liability claims, Ames & Gough examined the trend by polling seven of the leading Lawyers' Professional Liability insurance companies that on a combined basis insure more than 80 percent of the AM Law 250 firms. Five of the seven insurers indicated their company has more than 21 claims of $50 million; one has more than 11 such claims.

Altogether, six of the seven insurers reported a year-over-year increase in the number of claims of $50 million or greater. Of the six insurers, three indicated the number had increased by 11 percent or more; and of the three, one reported a 50 percent increase in such claims.

"There's no question that the number of large legal malpractice claims is increasing," said Eileen Garczynski, partner and senior vice president of Ames & Gough. She traced the increase in large claims to the growing complexity and sheer size of the underlying matters being handled by law firms, as well as the higher defense costs associated with complex malpractice suits.

Five of the seven insurers (71 percent) in the survey indicated the number of new claims filed in 2012 rose from the prior year; 40 percent of those with more claims indicated the frequency has grown by 21 percent or more, and another 20 percent experienced an increase of 11 – 20 percent.

What’s driving the claims volume?

“The key impetus is the recession of 2007 to 2009,” said Ms. Garczynski, although many of these claims are still working their way toward resolution.

During the recession, a spate of malpractice claims developed around failed transactions as well as failed litigation. In the latter, when suits brought against other parties didn’t obtain the anticipated recovery, clients subsequently took action against their legal counsel. Heightened M&A and lateral movement between firms is also driving an increase in claims.

“Today, there’s no question law firms are operating in an intensely competitive landscape,” said Ms. Garczynski. “The imperative for survival and the drive for growth are leading to more firm mergers and the hiring of attorneys from other firms. Unfortunately, these initiatives often bring greater risks.”

Indeed, five of seven insurers surveyed attributed the rise in claims to mergers and lateral hires. All five of the insurers experiencing claim increases cited new, lateral-hired attorneys – who continue to work on clients of their former firms while employed at their new firm – as creating potential claim issues.

To help manage lateral hire risks, Ms. Garczynski advises: “Ask attorneys for documentation of their former firm’s insurance coverage. Make sure they report any potential claims related to their prior work to their former firm’s insurer. And be sure they disclose fully any past work or carry over work when joining their new firm.”

For the third consecutive year, “real estate” was cited by insurers as the practice area generating the largest number of legal malpractice claims. Meanwhile, “trusts and estates,” which ranked second along with “corporate and securities” work (involving M&A and corporate finance transactions), saw the most significant surge in claims in 2012.

“Conflict of interest” continues to be the most frequent alleged malpractice error, ranked first or second by five of the seven insurers. Two insurers listed “procedural error” as first or second.

“While the lawyers’ professional liability landscape and the claim environment continue to evolve, one thing is certain,” Ms. Garczynski said. “Solid risk management and active claims monitoring are more critical than ever and can pay off – both in terms of helping firms reduce the likelihood of malpractice suits and keeping rising insurance costs under control.”

The insurers participating in the Ames & Gough survey were: AIG/Lexington, Alterra, AXIS, Beazley, CNA, Ironshore, and Swiss Re Corporate Solutions. Copies of the survey, *Lawyers’ Professional Liability Claims Trends: 2013*, may be obtained free of charge by emailing requests to: info@amesgough.com. Those requesting the survey should include their name, title, affiliation, and phone number, and state “LPL Claims Survey 2013” in the subject line.

# # #

About Ames & Gough

Ames & Gough, founded in 1992, has established itself as a committed, superior resource for law firms, design professionals, and other consulting firms and professional organizations and associations in need of professional liability insurance and risk management assistance. In recent years, the firm has expanded its capabilities to include management liability, employment practices liability, kidnap & ransom and related insurances; as well as more typical property and casualty insurances. The firm has offices in Boston, Philadelphia, and Washington, DC. Visit the Ames & Gough Website at www.amesgough.com.