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News Release

LAW FIRMS FACE LARGE MALPRACTICE CLAIMS AS RISKS EXPAND

Ames & Gough Survey: Most Leading Law Firm Insurers Cite Trusts & Estates as Practice Area Generating Most Claims

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WASHINGTON, DC, July 9, 2015 – As law firms adjust to the realities of the current business environment, they continue to fall victim to malpractice claims, which can be costly to defend and may result in enduring reputational damage. A new study by insurance broker Ames & Gough finds most leading legal malpractice insurers continue to see a steady flow of new claims, including those in excess of \$50 million.

In its fifth annual survey of lawyers' professional liability claims, Ames & Gough examined the trend by polling nine of the leading Lawyers' Professional Liability insurance companies that on a combined basis provide insurance to approximately 80 percent of the AM Law 100 firms.

Claims frequency unchanged. Five of the insurers indicated the frequency of malpractice claims is similar in 2014 to the prior year, two reported seeing greater claim activity and two saw fewer claims. While the number of claims has been stable for the past two years, it is down from the highs of 2011 and 2012. Nonetheless, the current frequency of legal malpractice claims remains above pre-recession levels.

Meanwhile, six of the insurers surveyed either paid or participated in paying a claim of \$20 million or greater, including three with a payment between \$50 million - \$100 million and one involved in a claim exceeding \$100 million. Six of the nine insurers surveyed reported having more claims with reserves of \$500,000 or greater in 2014 than 2013.

“These are dynamic times for the legal profession in the U.S. as law firms drive for growth or stability in an environment marked by intensifying competition,” said Eileen Garczynski, partner and senior vice president of Ames & Gough. “As firms evolve, they need to keep a sharp focus on how their decisions might result in added risks, including those of malpractice claims.”

Trusts and estates practice now largest source of claims. Among specific practice areas, trusts, estates and probate law was viewed by two-thirds of the insurers as the most significant

source of claims, followed by corporate and securities law, business transactions, and real estate. The latter dropping to fourth, after four consecutive years of being cited as the leading source of malpractice claims. According to the survey, it appears a large percentage of the real estate-related claims initiated during the recession have now worked their way through the system.

Conflicts are the leading cause of claims. Year over year, conflict of interest remains by far the single leading alleged legal malpractice error. This year, six of the nine insurers surveyed cited conflicts as the top driver of malpractice claims. When asked specifically about firm mergers or lateral hires, the same number of insurers cited an uptick in claims arising from the melding of staff at law firms.

“Conflicts are a growing concern today as increasing numbers of law firms seize opportunities for growth and expansion either through mergers and acquisitions or by bringing in lateral hires,” Ms. Garczynski noted. “Unfortunately, the potential conflicts arising from these initiatives often are not addressed early enough in the process. And when conflicts finally are realized, they are frequently either ignored or overlooked.”

Meanwhile, cyber exposures – at least on the surface – do not appear to be driving as many malpractice claims for law firms. Three of the insurers surveyed reported having a lawyers’ professional liability insurance claim arising from a cyber or network security event. Nonetheless, the finding may be misleading.

“There have been a number of reports along with a great deal of anecdotal information of law firms either being hacked and not yet aware of it or otherwise reluctant to make that information public,” said Ms. Garczynski. “What’s clear is that given how rapidly technology is evolving, it’s virtually impossible to be completely insulated from cyber and data security risks.

“As their business expands, law firms need to constantly assess how they exchange information and the type of client data they handle or maintain on their own systems,” she added. “Once they understand their risks, they need to act quickly and do what’s necessary to manage their exposures.”

The insurers participating in the Ames & Gough survey were: AIG/Lexington, AXIS, BRIT, CNA, Catlin, Huntersure, Ironshore, Markel, and Swiss Re Corporate Solutions. Copies of the survey, *Lawyers’ Professional Liability Claims Trends: 2015*, 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 2015” in the subject line.

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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.