

# **Avoiding Ethical Disaster When Natural Disaster Strikes**

## **Steps to Take in Recovery Effort**

*By:*

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# STEPS TO TAKE IN RECOVERY EFFORT

## Disaster Recovery

### Damage Assessment

1. Stabilize the Situation
  - a. Turn off gas, electricity, water
  - b. Pump out standing water
2. Secure the premises
  - a. Replace doors and windows; install fencing or barriers to keep unauthorized persons out of the space
  - b. If possible reactivate alarm system
3. Assess damage to file servers, equipment, critical documents and client files and begin recovery efforts immediately. (See Sections A&B of course materials for information about the recovery of client records.)
4. Assess damage to office and other contents to determine what, if anything is salvageable and how long recovery efforts will take
5. Take photos of damage
6. Contact property/casualty insurer
7. Contact owner of building or building management to determine the steps that need to be taken to limit further damage to the space and obtain approval to begin salvage operations
8. Contact E&O carrier to inform of disaster; degree of damage and potential impact on client services
9. Contact local emergency operations center, if a natural disaster, to register claim for relief

### Business Continuation

#### Recovery Site

1. Locate a temporary recovery site where recovery of critical client documents can immediately take place; where critical equipment and systems can be secured and services re-established.
2. Obtain supplies needed for recovery effort.

#### Communication

1. Contact all firm members and employees to inform them of the disaster, the degree of damage to the office and when and where the recovery site will be located to meet and begin recovery efforts. Sources of information are as follows:
  - a. Employee list/Telephone tree
  - b. Message boards
  - c. Local newspapers
  - d. Radio stations
2. Retrieve the firm's client list and opposing counsel information. If this information is not available, you may recreate this information by using some or all of the following tips:
  - a. Write down the names of all of the clients you can remember
  - b. Have your staff write down the names of all of the clients they can remember

- c. Log phone calls from clients and add them to the list
  - d. Look at ABA, state and local bar sites for attorney-client message boards
  - e. Place ads in local newspapers letting the public know where the lawyer's office is, how to contact the office and ask that clients contact the office immediately.
  - f. Place ads on local radio stations re: contact information
  - g. Provide contact information on your firm's web site.
  - h. Access recent e-mail from your ISP
  - i. If possible access the ABA, state and local bar web sites to determine the status and new location of the courts in your jurisdiction
3. As client information becomes available, communicate with Clients, Courts and Other Counsel. Inform all parties of the incident, the degree of damage, its impact on operations; provide contact information and the address of the recovery site and/or temporary office.
  4. Retrieve the firm's docket and calendar information. If the information is not accessible, recreate the list by using some or all of the following tips:
    - a. Start a fresh calendar, filling in important dates as they become known.
    - b. Obtain copies of correspondence from clients to find deadlines and dates
    - c. If available, review court dockets
    - d. Obtain dates from opposing counsel
    - e. If your ISP provider maintains e-mails for a specific period of time, get access to those to find dates and deadlines
  5. Upon retrieval and review of the firm's docket and calendar information . . .
    - a. Contact courts and other counsel to reschedule meetings, hearings, court appearances if needed
    - b. Give clients a status report of any immediate critical dates/deadlines for meetings, hearings, etc. and whether those will go forward or be postponed.
    - c. Assure clients of the firm's ability to be up and operational quickly.
  6. After alternative work space has been secured . . .
    - a. Provide clients, courts and other counsel new contact information and temporary office location
    - b. Contact mail and courier services to re-direct mail to the temporary office location
    - c. Contact vendors with new contact and temporary office location
  7. Contact your webmaster to set up a disaster status page and direct clients to your site for updated information

### **Human Factor**

1. Assess the need for and provide counseling needs that may occur at the time of the disaster and during the process of recovery
2. Assess and fill after-disaster staffing needs

## Office Space/ Furnishings

1. Clean-up affected office, equipment and furnishings before moving back in
  - a. Floors, walls, ceilings, carpets, furniture, equipment, draperies or blinds, and records housing must be thoroughly cleaned and disinfected.
  - b. All traces of moisture, soot, smoke damage, chemical residue and odor must be removed.
  - c. Damaged file housing, retrieval equipment and computers must be repaired or replaced.
  - d. Prepare new hard copy file folders and sort documents to re-file.
2. If damaged office is not salvageable, identify alternative work locations.
  - a. Additional space in current office building
  - b. Call local realtor to find office space.
  - c. Share space with others temporarily (lawyers, accountants, hotels)
3. Obtain (rent, borrow or purchase) furnishings (desks, chairs, lamps, filing cabinets, bookshelves)
4. Alternative: employ professional business continuity firms for space and furnishings

## IT Recovery

1. To provide the best chance of recovery of hard drives and removable media, follow these tips:<sup>1</sup>
  - a. Never assume that data is unrecoverable, no matter what it has been through;
  - b. Do not attempt to power up visibly damaged devices;
  - c. Do not shake, disassemble or attempt to clean any hard drive or server that has been damaged;
  - d. Do not use common software utility programs on broken or water-damaged devices;
  - e. When preparing devices to be sent to the manufacturer or to a recovery service:
    - i. Package them in a box that has sufficient room for the device and packaging;
    - ii. Place wet media in a container that will keep the shipping packaging from getting wet;
    - iii. Ship multiple devices separately
2. Refer to the firm's "process plan" to begin to reconstruct the system
3. Acquire additional server(s) with enough capacity to run your applications
  - a. Back-up servers at a geographically separate location (mirror data centers/servers)
  - b. Personnel available and mobile to install and manage server operations at a remote site
  - c. Back-ups of server configurations
  - d. Data and application changes backed up
4. Obtain network map to begin reconstructing the network
5. Acquire desktop computers and printers

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<sup>1</sup> Ontrack DataRecovery (1-800-872-2599) [www.ontrack.com](http://www.ontrack.com)

## Insurance<sup>2</sup>

1. Review business insurance, computer equipment, valuable papers policy language; talk with representative about coverage. Specifically discuss:
  - a. Loss of income/extra expense and business interruption coverage
  - b. Discuss how to record and submit expense information for reimbursement
  - c. Understand how “loss of income” coverage is calculated
2. Set up disaster account codes to distinguish disaster purchases and expenses from normal operating expenses. Include such expenses as overtime, special supplies/materials, and temporary personnel.

## Financial Matters

1. Contact banks to request replacement checks and deposit books; copies of prior bank statements and other records, if needed.
2. Determine any short-term cash flow needs that might be needed and discuss/arrange with insurance company/bank. Sources for short-term financial assistance:
  - a. Short-term, unsecured loans (FDIC urging banks to provide)
  - b. SBA
  - c. FEMA
  - d. Disaster unemployment assistance
  - e. Hurricane Katrina Relief Fund (MSBAR)
3. Recover trust account transactions from:
  - a. Bank’s copies of checks and deposit slips and bank statements
  - b. Individual client ledger transactions records
  - c. Client’s checking account transactions
  - d. Bank tracking deposited checks back to the account from which they were withdrawn to identify the client/matter
4. Be sure your payroll service will not be interrupted and that the service has your temporary address for the delivery of checks

## Office Operations

1. Telephone
  - a. Use cell phones for communication until temporary service is obtained
  - b. Arrange temporary service with local telephone company at temporary location
  - c. Arrange to have phone calls forwarded to new number; or
  - d. Arrange for a telephone answering service with a prepared message to answer the old number until new system is in place.
  - e. Arrange for fax and internet use.
2. Mail/Courier Services ([www.usps.com](http://www.usps.com))
  - a. If disaster is widespread, affecting postal service as well, check to see that anything mailed with a required deadline was/is received on time.

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<sup>2</sup> Go to [www.abanet.org/katrina/lawyerspractice.html](http://www.abanet.org/katrina/lawyerspractice.html) for property and BI insurance checklists, claims calculation worksheet.

- b. Notify other courts and counsel of damage to postal service and obtain an extension of deadlines due to circumstances
  - c. Contact postal office and courier services of new, temporary address.
3. Equipment
- a. Contact equipment vendors re: existing leases/contracts and your/their performance obligations under the terms of lease or contract.
  - b. Types of replacement equipment needed:
    - i. Computers
    - ii. Printers
    - iii. Fax machine
    - iv. Copier
    - v. Dictation equipment
    - vi. Typewriters
    - vii. Computer network
    - viii. Portable computers
    - ix. Hand-held devices
    - x. Cell phones
  - c. Identify portable computers/home computers that might be pulled back from home use during recovery period.
4. Office Supplies
- a. Contact supply vendor to obtain office supplies
  - b. Contact printer to print stationery, business cards, etc.
  - c. Contact forms vendors (billing forms, other forms)
5. Recover Client Documents
- If documents/files have been lost with no hope of recovery:
- a. Opposing counsel/clients/Secty of State's office/Registrar's office can assist with copies and reconstruction of events, dates, deadlines.
  - b. Forensics experts may be willing to donate time to help retrieve e-documents from damaged hard drives.
  - c. ISP provider may have e-documents that were recently e-mailed to opposing counsel or clients.
6. Assess Damage to Documents
- a. Extent of damage
  - b. Recovery – internally or will recovery services be required?
  - c. Cost benefit of recovery
  - d. What stabilization techniques are going to be necessary?
  - e. What and how much personnel will be required to recover and restore documents?
7. Client-Related Documents to recover:
- a. **Original Wills\***
  - b. Agreements
  - c. Settlements
  - d. Corporate records
  - e. **Docket and calendar records\***
  - f. Pleading files and court papers
  - g. Current address of client's counsel and contacts
  - h. Correspondence
8. Recover Firm Documents

- a. Leases/Subleases (landlord, leasing companies may have copies)
  - b. Maintenance/licensing agreements (other party may have copy)
  - c. Insurance policies, broker information (insurance company has policy)
  - d. Inventory of physical assets\***
  - e. Partnership/shareholder agreement\***
9. Recover Financial Records
- a. Client list of names, addresses, phone numbers\***
  - b. Client billing records \***
  - c. Accounts receivable information (clients may can provide copy)
  - d. Work in process information\***
  - e. **Financial statements** and tax returns (CPA/IRS can provide copies)\*
  - f. Payroll and employee records (payroll service, employees may be able to provide information to reconstruct)
10. Library
- a. Assess damage
  - b. Evaluate possibility/cost of repairing books.
  - c. Identify subscriptions/volumes to be replaced immediately.
  - d. Arrange with other firms/universities to use library facilities.
  - e. Establish link with electronic research providers, etc.
  - f. Publish a resource list for attorneys re: where to go for library services.

**\*The firm may be the single source for these documents. It is critical that the firm maintain updated copies of these documents off-site in order to continue business.**