



USI Affinity strongly recommends that you adopt these 10 useful tips as an important part of managing your professional liability risk.



1. Maintain Clear, Consistent Communication

- Establish, at the beginning, the scope of services to be performed and your fees -- in writing.
- Send written notification to clients and potential clients when your firm will not be representing them.
- Before finalizing settlements, discuss with your clients all possible outcomes should they choose to pursue litigation further.
- Confirm your clients' decisions about settlement offers, particular motions, unusual disbursements, etc., in writing.
- Send written notification to clients and potential clients of the statute of limitations in their particular case, and inform them of their right to seek advice from other counsel.
- Respond to inquiries from clients promptly, even if you don't yet have all of the information they requested.
- Relay important information to clients in writing to ensure that clients are kept up-to-date on the status of their legal affairs.

2. Choose Areas of Practice Carefully

- Do not accept cases outside your area of expertise.
- Areas of practice that often pose a greater risk of exposure include Environmental Law, Copyright/Patent Law, Personal Injury and Banking.

3. Set Client Standards

- Establish criteria for the type of client your firm wants to represent.
- Treat all clients in the same manner in which you expect to be treated. Insist that clients also adhere to these standards.

4. Maintain Docket/Calendar Control Systems

- Handle litigation deadlines, dates and events through a central control system.
- Record dates and events, and update your calendar control system on a regular basis. Dates that should be entered routinely include litigation dates, important dates to your firm's business clients, and filing and hearing dates.
- Provide adequate "ticklers" to ensure proper lead time for docket control system entry.
- Implement a system that exceeds your current case level to ensure that it will accommodate your future needs.
- Establish a backup system that is maintained by multiple staff and is cross-checked on a daily or weekly basis.
- Implement a system under which you can run periodic checks to confirm that work was completed.



5. Document, Document, Document!

- Keep accurate records in a proper filing system.
- Document phone conversations, correspondence and meeting notes, and file them where they can be located easily.
- Establish a follow-up and backup system, especially for computers.
- Cross-reference clients to avoid conflict of interest.

6. Use Engagement, Non-engagement and Disengagement letters

- Establish the scope of services (including geographic scope) and representation as well as the communication and fee schedules, and the termination provisions.
- Provide a written explanation of the agreement and your billing process.
- Consider including a binding arbitration clause for disagreements over fees to prevent a cross-complaint alleging malpractice.
- Make sure non-engagement letters (1) clearly state no relationship exists, (2) warn of limitations and/or statutes that require immediate action, and (3) direct the individual/corporation to obtain an opinion from separate counsel in a timely manner.
- Use disengagement letters when withdrawing from a client matter to clearly communicate the terms of the withdrawal and time frame as well as to direct the client to seek other counsel.
- Use disengagement letters when a client matter is included. (i.e., file close-out letter).

7. Recognize Substance Abuse in the Workplace

- Confront any attorneys and staff in your practice who suffer from drug and alcohol addiction or chronic abuse immediately -- early identification can lead to successful treatment.
- Begin damage control immediately to diminish the chance of malpractice claims being filed. Many bar associations offer services that can be of assistance.

8. Participate in Continuing Legal Education

- Attend continuing education seminars, and read advance sheets and other legal periodicals to stay up-to-date on changes in your profession.
- Keep abreast of changes in the state and federal laws, and new techniques and court decisions.

9. Avoid Filing Suits to Recover Legal Fees

- Ascertain if the legal fee in question is worth the risk of a malpractice suit.
- Establish a progressive billing cycle to discourage nonpayment.
- Discuss all foreseeable costs with your clients prior to the engagement of services.

10. Avoid Conflict of Interest

- Avoid representing both sides in the same matter.
- Avoid representing a client who potentially poses a conflict of interest with a current or former client.
- Avoid holding an equity interest in a client's business that may impair professional objectivity and affect your coverage.