

Loss Prevention Resolutions for the New Year

By Anne E. Thar, Vice President and General Counsel, ISBA Mutual

Take these resolutions to heart and reduce your malpractice exposure in 1997:

1. I will resist the temptation to take on every client and every new matter that walks in my door. I have neither the time nor the expertise to be all things to all people. In short, I will know my limitations.

2. I will obtain an updated copy of the Illinois Rules of Professional Conduct and will read them again from start to finish. If I am unsure about my obligations concerning a potential conflict of interest or ethical issue, I will seek advice from a colleague, the ARDC, the ISBA or my insurance carrier before I take action.

3. I will acknowledge that a large percentage of all legal malpractice claims arise out of the way the client was treated. I therefore vow to improve my client relations by listening more carefully to client concerns, communicating with clients more regularly, and returning their telephone calls promptly.

4. I will bite the bullet and confront clients who do not pay their bills as soon as the account becomes delinquent instead of procrastinating until the molehill becomes a mountain.



Resolve not to be a malpractice defendant in 1997.

5. I will remind myself that I am personally liable for the negligence of my partners and associates. I will therefore institute better procedures for monitoring their work product, their client trust funds, and their client-relation skills.

6. I will listen to that nagging voice inside my head when it tells me to decline the wacky potential new client sitting in my office, particularly if I will be the second, third, or fourth attorney to take the matter in question.

7. I will not represent both sides in a divorce or transaction, no matter how “friendly” they profess to be. Period. No exceptions. (If I am tempted to ignore this resolution, I will go back to Resolution No. 2.)

8. I will force myself to document, document, and then document again. In other words, I will finally embrace the advice given by all legal malpractice experts and my insurance carrier and will thoroughly document all aspects of my representation.

9. I will pick up my calendar right now and set aside one afternoon a month for risk management. I will use that time to improve my office procedures on such matters as calendaring, client screening, conflicts checks, file management, and client billing. I will also update my practice checklists and develop new practice forms.

10. I will take the time to be a better, happier human being in 1997. I will be less selfish and more patient. I will not forget those things in life that are truly important. For openers, I will remember that my kid will only sing “Let It Snow” in the holiday school pageant once — and I’ll be there to hear it.

I wish you all a happy, healthy, and malpractice-free 1997.