

MALPRACTICE INSURANCE REPORT



Even as the frequency of malpractice suits in the state continues to rise, the good news for California attorneys is that during the past year malpractice insurance rates fell by as much as 10 percent because of increased competition. At the same time, two-thirds of insurance carriers offered additional, premium discounts.

But before doling out those discounts, a growing number of carriers required firms to implement sophisticated, rules-based legal-calendaring software to reduce the threat of missed deadlines—the most frequently cited reason for malpractice claims. “Many carriers will give some level of premium discount for having it in place,” says Mark Bassingthwaighe, risk management coordinator at ALPS RRG. “These discounts help push firms a little further a little faster.”

Seven out of ten firms report receiving rate concessions for having rules-based software, according to Joseph C. Scott, general manager and vice president at CompuLaw

and Deadlines On Demand. Scott says that if firms can show why they won’t be missing deadlines, that will impact their chances of obtaining a lower premium.

Meanwhile, the California State Bar is considering requiring attorneys to inform their clients whether they have malpractice insurance coverage. If the regulation passes, Scott expects even more attorneys to implement rules-based calendaring software to keep down their premiums.

For now, though, sophisticated software is not essential to getting good rates (although industry experts predict it may become a requirement for discounts in the future). In fact, firms that have a computerized calendar with a docket-control system that’s *not* rules based still can expect considerable markdowns—which may continue for perhaps another couple years. Moreover, with market conditions as soft as they are, firms may continue to see flat rates for awhile, even after a claim is filed against them.

The carriers in the chart below offer professional liability coverage to attorneys in California. —*Helen Christophi*

COMPANY	BEST'S RATING*	RESTRICTIONS BASED ON FIRM SIZE/SPECIALTY/PRACTICE AREA	LIMITS OF LIABILITY	DEDUCTIBLE	IS INPUT ALLOWED IN SELECTION OF COUNSEL?	IS THERE A PROGRAM TO PREVENT MALPRACTICE SUITS?	YEARS COVERING CA LAWYERS	ADMITTED IN CA?
ADMIRAL INSURANCE COMPANY 847/806-6590, www.monitorliability.com	A+	Firms with three or more attorneys	Up to \$5 million	\$5,000 or higher	Yes, if provided by endorsement	Yes, malpractice hotline	14	No
ARCH INSURANCE COMPANY 800/343-0132, www.proliability.com/lawyer	A	None, but available deductible and limit-of-liability options may vary depending on size of firm, areas of practice, and claim history; special rates available for new admittees entering solo practice	Up to \$10 million per claim/annual aggregate	Up to \$250,000 per claim; loss-only and annual aggregate deductibles available for qualifying firms	Yes	Yes, seminars in cooperation with the State Bar, risk-management website, and a toll-free hotline	6	Yes
ATTORNEYS' INSURANCE MUTUAL RISK RETENTION GROUP INC. James Belding, 201/460-6726, or Bruce Wilson, 203/655-1639 www.aimrrg.com	Not rated	Firms with 45 or more practicing attorneys	\$25 million to more than \$100 million	\$500,000	Yes, insured has choice	Yes	22	Yes
ATTORNEYS' LIABILITY ASSURANCE SOCIETY INC. (ALAS), A RISK RETENTION GROUP Nancy Montroy, 312/697-6900, www.alas.com	Not rated	Firms with 35 or more practicing attorneys	Up to \$75 million per claim/\$150 million aggregate	Retention: \$175,000 per claim/\$350,000 aggregate to \$3 million per claim/\$6 million aggregate	Yes, firm selects defense counsel subject to approval by ALAS	Yes, including Loss Prevention Journals; email hotlines; firm seminars; Loss Prevention Manual; videos; management guides; and practice area consultation groups	29	No
AXIS U.S. INSURANCE COMPANY Adam Sharaf, 860/707-1701, www.axiscapital.com	A	Firms with ten or more attorneys	Up to \$25 million	Minimum of \$25,000	Yes	Yes, risk-management services and hotline for primary insureds	4	Yes
CAROLINA CASUALTY INSURANCE COMPANY 847/806-6590, www.monitorliability.com	A	Firms with three or more attorneys	Up to \$5 million	\$5,000 or higher	Yes, if provided by endorsement	Yes, malpractice hotline	14	Yes

*A.M. Best's Financial Strength Rating is an independent opinion, based on a comprehensive quantitative and qualitative evaluation of a company's balance sheet strength, operating performance, and business profile.

China Daily/Reuters/Corbis

The grades measure Best's opinion of the insurer's ability to meet its obligations to policyholders. See Best's website (www.ambest.com) for more information, such as financial size of the companies.

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CONTINENTAL CASUALTY COMPANY (CNA) Mitchell & Mitchell (1 to 34 attorneys), Dan McKenna, 800/247-1403, www.mitchellandmitchell.com; CNA Pro (35 or more), Stuart Pattison, 212/440-7447, www.cnapro.com	A	None	Up to \$15 million	\$5,000 or higher	Yes, on an exception basis by endorsement	Yes, risk-management seminar programs, malpractice hotline, and semiannual periodicals	24	Yes
FEDERAL INSURANCE COMPANY (part of the Chubb Group of Insurance Companies), Myles Alonzo, 415/433-7700, ext. 10, www.cmiprorisk.com	A++	Firms with two to nine full-time attorneys; no class action or securities work, no mass tort litigation, no entertainment	Up to \$5 million	Varies	Selection from list of Chubb-approved counsel	Free CLE seminars jointly sponsored by Cooper & McCloskey and Chubb touching on various legal malpractice issues	10+	Yes
FIRST MERCURY INSURANCE COMPANY Andrew Biggio, 800/982-1151, ext. 18, www.firstindemnity.net	A-	None	\$100,000/\$300,000; up to \$5 million	Minimum of \$1,000	Yes	Yes	8	No
GOTHAM INSURANCE CO. (parent company NYMAGIC Inc.) Edwin Skoch, 212/551-0600 www.nymagic.com	A	Firms under 30 attorneys	Up to \$2 million	N/A	N/A	Yes, toll-free help line	5	No
GREAT AMERICAN INSURANCE COMPANY (GAIC) Mari Gaines, 800/299-4531, www.greatamericanlawyer.com	A	Yes	Up to \$5 million	From \$1,000	Yes	Yes	17	Yes
HARTFORD SPECIALTY Kristin Stein, 860/520-2212, www.hfpinsurance.com	A+	No intellectual property or plaintiff class action work	Up to \$15 million per claim/aggregate	Minimum of \$25,000	Yes, mutual choice	No	N/A	Yes
JAMES RIVER INSURANCE COMPANY John Clarke, 804/289-2715, www.jamesriverins.com	A-	Firms with 25 or fewer attorneys; limited appetite for intellectual property and certain types of securities practices	Up to \$5 million	\$2,000	Yes	No	4+	No
LAWYERS' MUTUAL INSURANCE COMPANY Cathleen Sargent, 800/252-2045, ext. 3237, www.lmic.com	A	None for standard program or Strong Start program for lawyers in practice less than 36 months. Specialized lower-premium programs for appellate, immigration, criminal, insurance defense, and arbitration/mediation lawyers.	\$100,000 per claim/\$300,000 aggregate, up to \$5 million per claim/\$7 million aggregate for standard program	\$1,000 to \$100,000 per claim for standard program	No	Yes, loss-prevention and risk-management seminars, online products, bulletins, CDs, and MCLE website	30	Yes
LAWYER'S PROTECTOR PLAN (underwritten by Greenwich Insurance Company, a member of XL Capital Group) Danielle Hardiman, 800/336-5529, ext. 4207, www.lawyers.protectorplan.com	A+	None	Up to \$5 million per claim/aggregate	Up to \$100,000	Yes	Yes	20+	Yes
LLOYD'S OF LONDON (underwritten by Egloff Risk Management Systems) Al Hernandez, 818/992-5744, www.egloff.com	A	None	\$250,000/\$250,000 to more than \$20 million/\$20 million	Minimum of \$5,000	Yes, but selection must be approved by the underwriters	Yes, tailored risk management for law firms	30+	No
NAVIGATORS PRO Godfrey Brown, 212/613-4261, www.navg.com	A	Firms with up to 150 attorneys	\$10 million	Minimum of \$10,000	Option is available	No loss-prevention program	7	Yes
NEW YORK MARINE AND GENERAL INSURANCE CO. (parent company NYMAGIC Inc.) Dirk Kruidenier, 925/680-4747, ext. 2015, www.iris-ins.com	A	No entertainment, SEC, or intellectual property	Up to \$1 million	\$5,000 and up	Yes	Recommend attorneys subscribe to the continuing legal education program offered by Consumer Attorneys of Los Angeles	5	Yes
ONEBEACON INSURANCE COMPANY Kim Pinistrom, 312/821-4710, www.onebeaconpro.com	A	Firms with 10 to 50 lawyers on a primary basis; no limitation for excess participation	\$10 million per claim and aggregate generally available	Minimum of \$5,000; maximum varies depending on firm size	Yes	Yes	2	Yes
PILOT LEGIS, RPG (Aon is exclusive broker), Margaret Hepper, 201/460-6723 www.pilotlegis.com	Not rated	Available to general commercial, intellectual property, and insurance defense firms with 20 to 200 attorneys; membership contingent upon successful completion of risk review	Up to \$30 million	Negotiable	Yes	Yes, annual member risk-management conference, on-site programs, and periodic risk reviews	17	Yes
STATE NATIONAL INSURANCE COMPANY (a member of the State National Insurance Group) Andrew Biggio, 800/982-1151, ext. 18, www.firstindemnity.net	A	None	\$100,000/\$300,000; up to \$6 million/\$6 million	Minimum of \$1,000	Yes	Yes	8	Yes
THE ST. PAUL TRAVELERS COMPANIES INC. Patti McCarron, 651/310-8765, www.travelersbond.com	A+	Minimum 51 percent defense-related work required; firms up to 50 attorneys	Up to \$2 million	Minimum of \$2,500	Yes, mutual choice is written into the contract	No, pending	10+	Yes
TWIN CITY FIRE INSURANCE COMPANY (Hartford Company, underwritten by Target Insurance Services) Shawna Reidy, 800/692-5752, ext. 214, www.target-capital.com	A+	No patent or class action work; 5% cap for copyright/trademark; 5% cap for SEC work; 5% cap for entertainment work; 10% cap for oil/gas/mineral work; will consider 100% plaintiff without class action; plaintiff and medical malpractice needs to be no more than 30%	Up to \$10 million	Minimum of \$5,000	Yes, mutual choice	Yes, confidential risk-management hotline available	26+	Yes
UNDERWRITERS AT LLOYDS Michele McCrohan, Synergy Professional Associates, 973/995-0519 www.synergy-ins.com	A	No more than 25% patent AOP; this program is for hard-to-place law firms. Firms with claims frequency/severity, ethical issues and/or tough areas of practice.	\$100,000 to \$2 million/\$4 million	\$5,000	No	No	10+	No
XL SELECT PROFESSIONAL, A DIVISION OF XL AMERICA INC. (endorsed by the Bar Association of San Francisco and the San Diego County Bar Association) Greg Hayden, 972/383-7152, www.xlinsurance.com	A+	No	Up to \$10 million	\$2,000 to \$100,000	Yes	Yes	8	Yes
ZURICH NORTH AMERICA (California administrator) 800/848-7160, www.danielshead.com	A	Underwriting guidelines apply; firms from 1 to 50 attorneys considered	Up to \$5 million	Up to \$100,000 (underwriting guidelines); loss-only and aggregate deductibles are an option	Input allowed but carrier has final decision	Yes	13	Yes