We have become an instant society and in this growing age of technology the internet has become an instant source of information. In response to this reality, law firms have created their own websites to market themselves and their services to both current and prospective clients. The websites often provide a variety of information, from areas of practice, to firm and attorney overviews, recent settlements and verdicts, FAQ’s, and contact pages. This information is designed to inform and attract potential new clients to the firm.

However, the website and contents may be viewed differently by your Professional Liability carrier.

When you apply for or renew your coverage, your firm’s website will be reviewed by the underwriter, who will compare the information supplied on the application to the information listed on the website. The website should represent the law firm in a way consistent with the application. The underwriter is looking for risk exposures and red flags.

Points of concern:

Does the website list additional attorneys who are not listed on the application?

If so, the underwriter will need to request the additional information on the attorney(s) and include them in the review process. The underwriter needs an accurate picture of the firm as a whole in order to price the coverage accordingly.

Does the website list affiliations with other law firms?

More likely than not, this would be perceived by visitors to the website that the firm is larger and/or has more experience in handling particular types of cases. The underwriter will have to address concerns that the website’s implied affiliation would create vicarious liability issues and may need to exclude or deny coverage for the acts of these affiliated law firms.

Do the areas of practice set out in the website coincide with the application or does the firm list additional areas of practice on its website?

Additional areas of practice listed on the website could indicate the firm dabbles in these areas of law, a red flag indicator of additional malpractice risk. Depending on the type of practice area in question, the underwriter may decide that additional premium is necessary to cover this risk.

Does the overview of the firm, as stated on the website, coincide with the firm’s application?

That is, does the website and application paint the same picture of the law firm? Variances between what the website proclaims the firm to be, and what it claims to be in the application are additional red flags for the underwriter.

Does the website show lawyers licensed in states not listed in the application, and does the firm have offices in those states?

The concern is one of additional malpractice liability exposure from these offices.

Does the website carry additional information such as news and media coverage about the law firm, past settlements and verdicts obtained, additional legal resources or an FAQ’s section (which could be construed as legal advice), links to other websites, or statements about the firm’s approach to client relationships?

Any one of these can potentially create in a visitor to the site a false idea about the value of their case, or create expectations about how the firm will handle their matter. When the visitor becomes a client and these ideas and expectations are not met, the website can be a source for establishing what the client believed they were going to receive when they hired the law firm.

Does the firm’s website carry a disclaimer?

Disclaimers should comply with the ethical rules and state that legal advice is not being given, the information exchanged is not confidential, and no attorney-client relationship exists. The underwriter will recommend use of a disclaimer on the website.

It is important to remember that the underwriter will evaluate the information contained on the firm’s website and incorporate it into the underwriting analysis which can have an impact on the pricing or even cause an application to be declined.

If you have a website or are contemplating developing a website and would like further information, our Risk Management Department is here to assist you. Please feel free to contact us at 800-843-2277.
Important Reminder: Missouri Fictitious Names Must Now Be Renewed

Patrick O’Leary - Vice President and General Counsel
The Bar Plan Mutual Insurance Company

Section 417.210 of the Missouri Revised Statutes, as amended in 2004, now places a five-year time limit on fictitious name registrations. Prior to this amendment, fictitious names did not expire and renewals were not required. Fictitious names were only removed from active records if the registration had been withdrawn or cancelled.

For all active fictitious name registrations filed prior to August 28, 2004, they shall remain active on the record of the Secretary of State (“SoS”) for a period of five years. This means they expire on August 28, 2009, unless a renewal is filed. For all fictitious name registrations filed after August 28, 2004, they shall remain active for five years.

A renewal filing may be filed with the SoS within six months prior to the expiration date. This means that, for all the active fictitious name filings prior to August 28, 2004, the period for filing renewals opened on March 1st. The renewal will remain in effect for five years from the date the effective registration would otherwise expire.

If a business is operating under a name other than its true name or the actual name of the company, it must register a fictitious name with the SoS. The SoS is supposed to send a reminder notice to all fictitious name holders with their expiration date and renewal information. Secretary Carnahan encourages all individuals and businesses to register online or download the registration form and mail it to the Corporations Division of the Missouri Secretary of State’s Office.

If an individual or business does not file their renewal, their registration will expire and they will not be able to legally conduct business in Missouri.

Once established, attorney-client relationships do not terminate easily. Lawyers should take an act inconsistent with a continuing relationship in order to end the relationship. See, e.g., SWS Financial Fund A v. Salomon Bros., Inc., 790 F.Supp. 1392 (N.D.Ill.1992) and Jones v. Rabanco, 2006 WL 2237708 (W.D.Wash.). The Bar Plan recommends its insureds utilize a Closing Letter in every representation to prevent a client from reasonably believing the insured continues to represent the client.

The Bar Plan Foundation Announces 2008 Scholarship Recipients

Christina M. Lewis - Risk Manager
The Bar Plan Foundation

The Bar Plan Foundation was established in 1993 with the goal of promoting and improving ethics and professionalism in the practice of law. To further this objective, the Foundation annually awards scholarships to several 3rd year law students who have demonstrated an exceptional level of professionalism and ethics. The students are nominated by their law school deans and selected based on their outstanding credentials.

The Foundation Scholarships are supported by proceeds from the risk management seminars and the Foundation's annual golf tournament. In addition to the scholarships provided by the Foundation, the Roy A. Larson Memorial Scholarship fund provides two scholarships to University of Missouri-Kansas City law students. The Roy A. Larson and Richard P. Sprinkle Scholarships were established by the families of Roy A. Larson and Richard P. Sprinkle in recognition of their accomplishments in the legal profession. Both attorneys were regarded as men of the highest character and respected by everyone they met.

We are pleased to announce the following recipients of The Bar Plan Foundation’s 2008 Scholarships:

Saint Louis University - Justin Farishon

Justin Farishon is a 3rd year student at Saint Louis University School of Law. After graduating magna cum laude from The University of Notre Dame, Justin accepted a position with KTRS 550 AM in St. Louis with the goal of fulfilling his childhood dream to become a sportscaster. He soon set his sights on becoming a lawyer and enrolled in law school. While in school, Justin has spent a significant amount of time serving the community. As a 1L, Justin traveled to New Orleans to provide legal services to displaced survivors of Hurricane Katrina. That summer, he spent five weeks volunteering at an orphanage in rural Kenya. Justin is also an active member of the Public Interest Law Group and is Chair of the Light the Night Committee. In addition to being ranked in the top 5 percent of his class, Justin is the Executive Editor of the Saint Louis Law Journal.

University of Kansas School of Law - Julie M. Larson

Julie M. Larson was selected as a recipient of The Bar Plan Foundation Scholarship based on her sincere commitment to public service and social justice. She received her B.A. in English and Sociology from North Park University in Chicago, Illinois. While completing her undergraduate degree, Julie volunteered with the WorldRelief Immigrant Legal Services, Cabrini Legal Aid Clinic, and the Chicago Homelessness Relief Team. Upon graduation, Julie traveled to the Czech Republic
to teach English through the Fishnet Language Institute. Since entering law school, Julie has continued her commitment to public service by participating in the Paul E. Wilson Defender Project and the Refugee and Asylum Law Research Workshop. In the summer of 2007, she traveled to Sudan to intern for Mutaunat Legal Aid and currently serves as a mentor for Somali refugees through Catholic Charities.

University of Missouri - Columbia - Joshua Michael Jones
Joshua Michael Jones is a 3rd year law student at the University of Missouri - Columbia. He obtained his B.A. in Political Science from Truman State University where he graduated magna cum laude. Throughout his law school career, Joshua has balanced academics with community service. Joshua is an associate member of the Journal of Dispute Resolution and an active member of the MU Law Board of Advocates. Recently, Joshua competed in the Midwest Regional Arbitration Competition where his four person team won first place. He has also clerked with prosecutor's offices at the federal and state level.

Washburn University School of Law - Kari R. Burkes
Kari R. Burkes is a 3rd year law student at Washburn University. Kari’s outstanding academic performance and involvement in law school activities makes her an ideal recipient of The Bar Plan Foundation Scholarship. She obtained her undergraduate degree in Justice and Policy Studies from Pittsburg State University. Kari is currently ranked number ten in her class and serves as a Washburn Law Student Ambassador to prospective students. She is a member of the Moot Court Council where she recently placed second in the Best Oralist category at the National Moot Court Competition.

Washington University School of Law - Michelle Weltman
Michelle Weltman is a 3rd year dual degree law and social work student at Washington University. Michelle maintains a strong academic record while working to strengthen the community. She received her B.S. in Business Administration from Washington University’s Olin School of business. While in law school, Michelle has served as research assistant and participated in the law school’s Civil Justice Clinic. In the summer of 2007, she interned with the Youth Advocacy Unit of the Missouri Public Defender’s System. This past summer, Michelle advocated on behalf of abused and neglected children at Voices for Children in St. Louis, Missouri.

University of Missouri - Kansas City - Roy A. Larson Scholarship - Brittany Boswell
Brittany Boswell is the recipient of The Bar Plan Foundation’s Roy A. Larson Scholarship. Prior to attending law school, Brittany received her B.S. in Business Administration from Eastern Nazarene College in Quincy, Massachusetts. Brittany exemplifies professionalism through her academic performance and extracurricular activities. She has made the Dean’s List every semester and serves as Note and Comment Editor if the UMKC Law Review. Brittany is also a member of UMKC’s Moot Court Team and a member of the school’s ABA Negotiation Competition Team. While attending law school, Brittany has volunteered with the Special Olympics, Habitat for Humanity, and the Youth Volunteer Corps of Greater Kansas City.

Richard Sprinkle Scholarship - Robert Clarke
Robert Clarke is a 3rd year law student at University of Missouri-Kansas City School of Law and the recipient of the Richard P. Sprinkle Scholarship. Robert earned his B.A. in Public Policy and Administration from the University of Missouri-St. Louis. While attending school, Robert has clerked with Legal Aid of Western Missouri and with the Jackson County Prosecutors Office. Upon graduation, Robert intends to continue serving the community by becoming a prosecutor.

Mark Your Calendars!

The 16th Annual Bar Plan Foundation Golf Tournament
Greenbriar Hills Country Club
Kirkwood, MO
October 12, 2009

The 16th Annual Bar Plan Foundation Golf Tournament will be held on October 12, 2009 at Greenbriar Hills Country Club in Kirkwood, MO.

Since starting the tournament, the sponsors and the participants of The Bar Plan Foundation Golf Tournament have raised more than $100,000 for various charities throughout Missouri.

Team Prizes, Raffles, Putting Contest and Attendance Prizes!

For More Information:
Contact Mark Bockius at 314-965-3333, ext. 150.
or
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