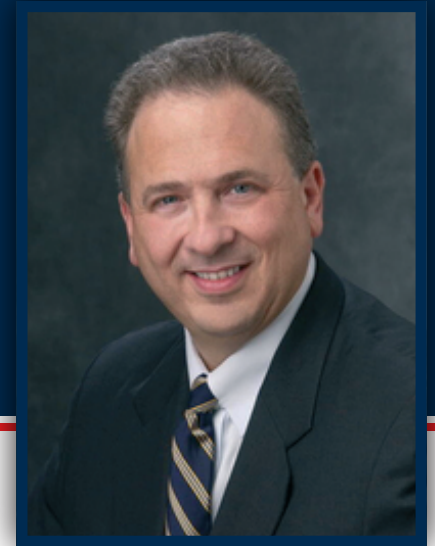


## USING PREMONITION TO BE A BETTER LPL UNDERWRITER

by TY R. SAGALOW<sup>1</sup>



According to a 2016 study by the American Bar Association, 1 out of every 5 lawyers will get sued for malpractice sometime in their career<sup>2</sup>. 70% of malpractice claims are against firms with one to five attorneys. According to insurance brokers, “Improper understanding of the law” is a top reason why lawyers get sued<sup>3</sup>. The Hartford, a major insurer of legal malpractice, recently put it this way “It’s not uncommon for clients to feel their lawyer was negligent or breached their contract or fiduciary duty – especially when they don’t win their case.”<sup>4</sup>

It is no wonder that insuring legal malpractice can be a hazardous job and, historically, an unprofitable one<sup>5</sup>.

Up until very recently, there was not an effective way in which the Lawyers Professional Liability (LPL) underwriter could access hard data as to the relative win-rate of the firm or individual attorney applying for insurance. Furthermore, there was no effective way to ascertain when and how often an attorney would go outside his or her core field of expertise, a red flag to LPL underwriters.

**PREMONITION HAS BEEN CALLED THE “MONEYBALL” METHOD OF INSURANCE UNDERWRITING AND ONE CAN SEE WHY. WITH PREMONITION, LPL UNDERWRITERS CAN, FOR THE FIRST TIME, MAKE DATA-BASED DECISIONS ON THE QUALITY OF AN LPL APPLICANT’S JOB PERFORMANCE.**



Lawyer



Law Firm



Red Flag



Risk



Outcome



Case Duration



Case Type

<sup>1</sup> Ty Sagalow is the Chief Insurance Officer for Premonition and functions as their Insurance Senior Advisor.

<sup>2</sup> “Ways to avoid legal malpractice, as claims rise industry-wide,” Around the ABA, December 2016

<sup>3</sup> “Top Five Reasons Lawyers Get Sued”, Risk & Insurance Insights, Forrest T. Jones & Company, September 18, 2017

<sup>4</sup> “5 Top Reasons Lawyers Could Get Sued”, SmallBiz Ahead, The Hartford, February 27, 2019

<sup>5</sup> According to A.M. Best, the average combined ratio for the LPL carrier in 2008-2011 was 104.6.

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Recently, a data and analytics company, Premonition ([www.premonition.ai](http://www.premonition.ai)), has emerged as the “go to” company for LPL underwriters. Premonition has the world’s largest litigation database holding information on approximately 87% of all state cases plus, 100% of all federal cases. The database not only contains information on the name of the parties, their attorneys, the judge, case type and length of case but the outcome as recorded by the court. Using artificial intelligence Premonition calculates the relative “win rate” for attorneys on both sides of the dispute.

While all of this information can be helpful to the LPL underwriter, three pieces are especially vital: Win-Rate, Case Subject Matter and Average Length of Case.

The theory is as follows: When the LPL underwriter receives an application for insurance from a prospective attorney or law firm, the underwriter will run the name of the attorney(s) through the Premonition system. Win-Rate: The underwriter will then be given the attorney applicant’s win-rate which they can compare to other attorneys in the same jurisdiction doing the same type of work. If the applicant’s win-rate is substantially lower than his or her peers, Red Flag! The underwriter can then refuse to offer insurance or charge a higher rate. Case Subject Matter: The underwriter will also be able to see whether the applicant has actually been practicing outside of his or her expertise, another Red Flag, prompting either a raise in rate, a higher deductible or an exclusion. Average Length of Case: Finally, even knowing that the applicant attorney takes longer than their peers to reach a similar result is relevant as the longer the case goes on the more likely the client will get frustrated and blame his attorney.



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**TURN IT ON.**

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