

Planning for Disaster

by Stuart Adams

The sky is falling! The sky is falling! So said Henny Penny in the children's fable. As I write this chapter of the book, approximately a month after the 11th of September, 2001, I still have a visual memory of some of the first pictures I saw of the horrific event. That vision, aside from the primary and most significant memory, that of human suffering, was of a seemingly endless "snowfall" of paper. In the wake of the destruction of the World Trade Tower complex, hundreds of high level offices involuntarily poured pieces of their most confidential and important documents onto the streets below, and miles beyond. While the "snow" continued to fall, rescuers searched for victims in the rubble, climbing over the unrecognizable puddles of plastic and metal, which were the remains of the victims' computers, files cabinets and fireproof vaults.

This occurred despite the best efforts of those companies to safeguard those important documents and assets. "Top secret" documents, kept by high level government agencies, as well as financial statements and stock portfolios from the offices of stockbrokers, strategies for an upcoming trial from the offices of prestigious law firms, and even large quantities of gold and other precious commodities from the offices of traders in the buildings, found their way into the air or were buried under thousands of tons of debris. These losses, considered unfathomable to many, were nothing compared to the loss of key individuals, or perhaps even the loss of all individuals working in particular organizations.

No matter how much we plan, no matter how smart we think we are, there obviously may come a day, when some form of disaster strikes.

Time played tricks. It would be hard to explain to someone who wasn't there. Events outside him seemed to be happening at a frantic pace, but his own perceptions had slowed; seconds were like minutes. He had no idea how much time had gone by. Two minutes? Five? Ten? It was hard to believe things could have gone so much to hell in such a short time.

Mark Bowden, *Black Hawk Down*, Penguin Books, 2000, New York, NY, p19.

This excerpt is from an account of the early part of the battle of Mogadishu, Somalia, between highly trained United States Rangers and Delta Force soldiers, pitted against the native warlords. It is, destined to become a military classic. It may also be destined to become a business classic, just as has Sun Tzu's *The Art of War*, even though it is ascribed to an author who wrote it somewhere between 300

and 500 B.C. Quoting from Bowden's afterward:

None of the steps that led us to the Battle of Mogadishu were wild departures from the normal course of post-cold war foreign policy. The battle came at the end of a chain of eminently defensible decisions made carefully by sensible people... To dismiss the incident as a blunder and those who were responsible as fools assumes that different leaders would have seen things more clearly and know better what to do... The... lesson I take from this story is like the old prayer. "Lord, grant me the strength to change the things I can, to accept the things I can't, and the wisdom to know the difference."

Bowden, pp 354-355

They say hindsight is 20/20. This chapter is not devoted to what could have been, the failings or shortcomings of those who planned, planned insufficiently, or who even forgot to plan at all. It is dedicated to those who were the victims of the events referenced above, in the hope their tragedy will have not been in vain. Let us try to learn and move forward, better able to cope with whatever may lay in our future.

What the ancients called a clever fighter is one who not only wins, but excels in winning with ease...

He wins his battles by making no mistakes.

Sun Tzu, The Art of War, Dell Publishing, 1983, New York, NY, p 20

THE CALL: "INTO EACH LIFE, A LITTLE RAIN MUST FALL"

Let's get to work by remembering the snowfall of charred and tattered paper which fell upon New York City on September 11th, 2001. Lawyers are probably the worst at letting go of paperwork. I probably still have some paper related to every file I've opened in nearly thirty years of practicing law. An errant sprinkler system in my storage area last year, however, gave me a major boost on my journey to find the true paperless office.

When remodeling was going on in my office building I got a call on my cell phone around 7:30 one evening. Of course, I happened to be in Chicago at the time, and my office was in Louisville. I was just finishing up talking to a client of mine at the corporate office of a computer company involved in an upcoming trial. Just as I was about to leave to head back to the airport, the call came in:

Mr. Adams?

This is Bob. (Not his real name.)

Bob who?

Bob, the custodian.

Hi, Bob. What can I do for you?

I'm in your office.

Yes?

It's got a lot of water in it?

What do you mean? (I'm concurrently starting to hear the sound of what sounds like someone sloshing though the shallow end of the baby pool.)

Well, Mr. Adams, when I came to clean up your office this evening and opened the door, a bunch of water rolled out. You've got about a foot of water in your reception area and we're not sure where it's coming from.

Bob, I'm in Chicago, but I'll be there in a couple of hours. Can you find somebody to find where the water is coming from and get it turned off?

When I got back to town around midnight that evening, I found an associate from my firm, who I called as soon as I hung up from talking to Bob, as well as some other lawyers on the floor and found that the building manager had already brought in a restoration crew. They had pulled up much of my carpeting and removed it, and had made an attempt to move much of the furniture in the swampy part of my office.

It seems repairmen working on the building HVAC system had somehow managed to cause what ultimately became a reverse of water flowing through the sprinkler system in the storage area adjacent to my office. The system ruptured around the end of the normal business day, and was not detected until hours later when "Bob" came on the scene. Fortunately, Bob found my cell phone numbertaped to the inside of the reception desk, right after the mini tsunami hit him as he opened the door to start his custodial duties in my office. Bob and I had often exchanged pleasantries late in the evening, when I was sadly still at work pushing around the piles of paper in my office, and he felt comfortable calling me on my cell phone.

I spent several unexpected hours at the office that evening, shaking water out of the surge suppressors for the computers, moving boxes of files and whatever else I could get out of harms' way. Others on the floor did the same, although some were definitely worse off than I was. We probably all left that night, exhausted and feeling pretty sorry for ourselves. We could only imagine what a "hassle" was in store for us as we tried to dry out our offices and eventually put them back together.

Water does normally flow downhill, so guess who really got the worst of it. A day or so later I got the news the “rescue crew” had not been informed, that first evening, there were also offices in the basement of the building. The leak had occurred on the second floor where my office was. The first floor, underneath me, was unoccupied at the time, so there wasn’t much for them to do there. There was apparently a rather strange scream the next morning, however, when the basement tenants arrived to start their day, only to find something in excess of an Olympic size pool replacing what had been their offices.

I’m definitely a pack rat. In the weeks that followed the “Great Flood,” I finally started to learn the lesson that less paper can be better. This is an exceedingly hard lesson for a lawyer to learn. I also learned just how long a box of twenty year old files can retain moisture, even in the face of extra ventilation fans and a dehumidifier, but that’s another story.

CLEANING TIME

Over the next few weeks, if not months, my office had the pleasure of mandatory spring cleaning. There were literally boxes of documents which, when you picked them up, either fell apart or spilled gallons of water onto the already wet and musty concrete floor of the storage area where the flood had started. You can only do so much to dry out twenty year old files which, in essence, have spent a day or two inside a fish tank. They’re never quite the same. In fact, they lose much of their appeal. Fortunately, I didn’t lose any appeals (you saw this coming, didn’t you?) as a result of this early rainy season.

I was pretty lucky. Most of my archived files were on shelves a few feet from the water line that burst. Another lawyer on my floor, whose files were directly underneath “Old Faithful” (so called when the same line burst again weeks later during further repairs) ended up with a gigantic pile of paper mache’. I hired a company which left an industrial recycling container for me and would shred my sensitive, yet soggy files. I could even watch them being recycled on the Internet if I wanted, as part of their certification and verification program for sensitive documents.

Weeks later, we had “managed” to dry out everything we could and destroyed what we couldn’t, reducing the number of storage boxes of archived files by a factor of something like four to one. We then set upon the “dry” files which had not really been affected by the water leak. Having inventoried the damaged files, it seemed like a logical step to continue culling down the unnecessary bulk of undamaged files.

The next step was better protection for the “finalists” in our recycling program. We reshelfed the files in a better and, hopefully, more secure location. That, however, had to only be an interim step. We had several scanners in the office which were woefully underutilized. This was partially because some of them caused some computer problems when they were run, and partially because we simply did not have a program in place to fully utilize their potential.

The next step was to do a little work to get the scanners in a more useable condition and to put a scanning program in place. We already had a sheet feeder for a scanner, for larger jobs, but also acquired some Visioneer Paperport® Strobe scanners. These seemed perfect for the size office we had, because they were small enough and inexpensive enough to affordably put one on everyone’s desk. When you slipped a piece of paper into the slot in the front of the scanner, the software automatically activated, bringing an easy file manager to the forefront of your computer screen. All you had to do was determine where on your hard drive (or other connected storage media) to drop the image file and what to name it, presuming you wanted to use something other than the default time and date stamp. Additionally, it was configurable and optimizable for OCR, e-mailing or faxing of the documents.

This simple addition to our office made it amazingly easy for everyone in the office to simply slip any paper worth saving into the scanner slot as they finished reading it and then file or, hopefully, discard the paper itself. With a simple backup routine, all of the paper we cranked out could already be captured on magnetic storage media. Now, the paper others cranked out and sent in our direction, could likewise be scanned and electronically filed for retrieval later. Better yet, when a client called and the file I needed was elsewhere, I could simply use my computer file manager software to call up any paper or electronic documents without leaving my desk.

To make management of the mountains of paper even easier, there are many software programs out there, including Worldox, iManage and Hummingbird, to name but a few, which specialize in document management. If you don’t like the software which came with your scanner, there are lots of nice, affordable choices.

Presuming we’ve gotten our paper in the office under control, the next step is to put a backup program in place. As with the scanning and document management software mentioned above, there are many excellent, easy to use, but powerful backup software programs available at affordable prices. Likewise backup hardware is getting more reliable and capable of keeping up with increasingly large

hard drives full of sensitive data.

Invest in solid, current backup software and hardware. Put a plan in place, if you haven't already, to automatically backup all data several times a day. Your backup program should also backup your entire system on no less than a weekly basis, and the backup media should be taken off site from the computers which have been backed up. This backup media may be rotated periodically, but most experts will probably recommend that at least a couple of sets of the complete system backup be retained off site, at any given time, in case one set is defective or damaged.

Also be sure not to rely too heavily on older backup systems. You may find that they are seemingly working pretty hard, only to learn, when there is a need to restore a file, that what is contained on the backup media is incapable of being used for restoration. You may also find, in the event of the loss of a computer and backup system to a fire or flood, that the off site storage media cannot be read by a more "modern" replacement. As the computer industry "consolidates" in the wake of the Dotcom crash, many of the old legacy systems are no longer supported. Imagine an 8 track tape you would like to play in your fancy new BMW's sound system. I know. What's an 8 track?

THE DISASTER "PLAN"

We all know we can't necessarily plan for every contingency. We likewise know we can certainly plan for many of them. It is probably unlikely that any business will never have some sort of major challenge to its survival. The dinosaurs never saw that meteor coming. I, on the other hand, now more vividly remember seeing expensive oriental rugs draped over parking meters in front of another office I once occupied. Years ago, I arrived at work one early spring day, a Monday as I recall, and saw some rather unusual stuff lying out on the sidewalk in my block. It seems a sprinkler pipe had burst, due to a weekend freeze and the building next to mine had undergone something approaching what Old Faithful was to do to mine years later.

I obviously didn't learn my lesson sufficiently from my neighbor's misfortune. My answer then was to not get office space in a building which had sprinklers placed in areas where my desk, my files or my computers would get soaked. Who was it who said "those who don't learn from their mistakes are bound to repeat them?" What I didn't think about was the water pipe in the storage area next to my office. Duh! I had obviously only learned part of the lesson. Well, we ought to be able to

prepare for at least some of these sorts of things.

One way to start to prepare is to assess. Inventory what the "stuff" of your organization is, starting with your most valuable asset, your employees, and continuing all the way down to the paper clips. Did I say paper? Try to imagine all the ways the normal workings of your business could be interrupted, either temporarily, or permanently. Obviously, if there were an earth quake, fire, flood, terrorist attack, electrical surge, burglary, gas line explosion, tornado, or the like, your physical location could be damaged or totally removed from the face of the earth. Suppose it was a lesser problem, such as your Internet Service Provider going bankrupt (a situation apparently on the rise), your phone system being severed, or key individuals in the office being injured or killed in a traffic accident. How would you survive? In the next chapter we'll build our disaster checklist and start putting together our recovery plan. Remember, there may be a test on this lesson!

© 2001 by Stuart Adams. This is the 19th installment in the Author's online book. Your comments and input would be appreciated in helping the Author make this an "organic book," which will continue to grow and adapt to change, just as any business itself must do. E-mail your comments and suggestions to the author at biz-law@juristechnology.com.