

# **Westport Insurance Corporation**

**PROFESSIONALS ADVANTAGE FOR LAWYERS <sup>SM</sup>**

**THIS IS A CLAIMS MADE AND REPORTED POLICY WITH DEFENSE EXPENSES INCLUDED IN THE LIMIT OF LIABILITY. PLEASE READ IT CAREFULLY.**

**Westport Insurance Corporation  
A Missouri Corporation  
Jefferson City, Missouri  
(Hereinafter referred to as the "Company")**

Mailing Address: [ insert address here ]

## **LAWYERS PROFESSIONAL LIABILITY POLICY**

In consideration of the payment of the premium, in reliance upon the statements in the application, its attachments and any materials submitted therewith, and subject to the Declarations and the terms and conditions of this POLICY (including any endorsements hereto), the Company agrees with the NAMED INSURED as follows:

### **I. INSURING AGREEMENTS**

- A. The Company shall pay on behalf of any INSURED all LOSS in excess of the deductible which any INSURED becomes legally obligated to pay as a result of CLAIMS first made against any INSURED during the POLICY PERIOD and reported to the Company in writing during the POLICY PERIOD or within sixty (60) days thereafter, by reason of any alleged WRONGFUL ACT occurring on or after the RETROACTIVE DATE, if any.
- B. If, during the POLICY PERIOD, any INSURED first becomes aware of a POTENTIAL CLAIM and gives written notice of such POTENTIAL CLAIM to the Company during the POLICY PERIOD any CLAIMS subsequently made against any INSURED arising from the POTENTIAL CLAIM shall be considered to have been made during the POLICY PERIOD.

### **II. SUPPLEMENTAL PAYMENTS**

- A. The Company shall reimburse the NAMED INSURED up to \$20,000 per POLICY PERIOD, for reasonable fees, costs and expenses incurred in defending a DISCIPLINARY PROCEEDING first made against any INSURED during the POLICY PERIOD, and reported to the Company in writing during the POLICY PERIOD or within sixty (60) days thereafter. This coverage applies only to such fees, costs and expenses. It does not apply to any retainers for work or expenses not incurred, fines or monetary awards of any kind, judgments or settlements relating to, or directly or indirectly resulting from the institution or disposition of DISCIPLINARY PROCEEDINGS. The deductible shall not apply to this Supplemental Payment A.
- B. Notwithstanding Section IV. Exclusions, if during the POLICY PERIOD, PERSONAL DATA of others is compromised as a result of a BREACH or alleged BREACH of the INSURED'S NETWORK, through hacking, mismanagement, loss or theft due to an INSURED's negligent act, error or omission, we will pay up to \$10,000 per incident of BREACH or alleged BREACH subject to a per POLICY PERIOD aggregate limit of \$20,000 for reasonable and necessary expenses incurred by the NAMED INSURED as a result of any BREACH or alleged BREACH that occurred during the rendition of PROFESSIONAL SERVICES in connection with the NAMED INSURED. The expenses are limited to:
  - 1. consulting with legal counsel on how best to respond to the compromise;
  - 2. consulting with Information Technologists to determine the nature and extent of the compromise or potential compromise; and/or
  - 3. assisting in notification of the individuals who have been affected by the PERSONAL DATA compromise and providing credit monitoring to those individuals.

A \$1,000 deductible applies to each incident of BREACH reported under this Paragraph B. Limits provided by this Paragraph B are part of and not in addition to the limits provided by this POLICY. All compromises of PERSONAL DATA that arise from the same cause or set of causes will be treated as one incident of BREACH.

- C. If, during the POLICY PERIOD, an INSURED first receives a subpoena for documents or testimony arising out of PROFESSIONAL SERVICES performed by an INSURED and the Company's assistance is requested in responding to such subpoena, the Company will pay on the INSURED's behalf reasonable and necessary costs incurred for an attorney the Company retains to provide the INSURED advice regarding the production of documents, to prepare the INSURED for sworn testimony and to represent the INSURED at the deposition provided that:
1. the subpoena arises out of a lawsuit to which any INSURED is not a party; and
  2. any INSURED has not been engaged to provide advice or testimony in connection with the lawsuit and the INSURED has not provided such advice or testimony in the past.

The most the Company will pay per POLICY PERIOD for costs associated with all subpoenas subject to this Paragraph C is \$10,000. No deductible shall apply to this coverage. Limits provided by this Paragraph C are part of and not in addition to the limits provided by the POLICY.

- D. Until the date a CLAIM is made, the Company may pay for all costs or expenses it incurs as a result of investigating a POTENTIAL CLAIM that the INSURED reports to the Company. Limits provided by this Paragraph D are part of and not in addition to the limits provided by this POLICY.
- E. The Company shall reimburse the NAMED INSURED up to \$10,000 per POLICY PERIOD for CRISIS EVENT EXPENSES that result from a CRISIS EVENT first occurring and reported to the Company during the POLICY PERIOD. The most the Company will pay per POLICY PERIOD for CRISIS EVENT EXPENSES associated with all CRISIS EVENTS subject to this Paragraph E is \$10,000. No deductible shall apply to this coverage. Limits provided by this Paragraph E are part of and not in addition to the limits provided by the POLICY.

### III. DEFINITIONS

As respects such insurance as is afforded by this POLICY, the following definitions shall apply:

- A. **"ACCESS DEVICE" MEANS** any device that is used to work with client data including but not limited to desktop computers, laptop computers, smartphones, and flash drives.
- B. **"BREACH" MEANS** any misappropriation or unauthorized access, use, disclosure, modification, publication, theft, disappearance, or destruction of PERSONAL DATA within the care, custody or control of any INSURED. BREACH does not include any misappropriation or unauthorized access, use, disclosure, modification, publication, theft, disappearance, or destruction of PERSONAL DATA within the care, custody or control of a third party to whom any INSURED has intentionally provided the PERSONAL DATA.
- C. **"CLAIM" MEANS:**
1. a demand made upon any INSURED for LOSS, including, but not limited to, service of suit, or institution of arbitration proceedings or administrative proceedings against any INSURED; or
  2. a request for any INSURED to toll or waive a statute of limitations.
- D. **"CLAIMS EXPENSES" MEANS:**
1. fees charged by any lawyer, designated by the Company or required by law, to defend the INSUREDS; and
  2. if authorized by the Company, all other fees, costs and expenses resulting from the investigation, adjustment, defense or appeal of any CLAIM, including but not limited to:

- i. all costs taxed against any INSURED and all interest which accrues after the entry of any judgment and before the Company has tendered or deposited, in court or otherwise, such judgment amount for which any INSURED is liable; and
- ii. premiums on appeal bonds, in an amount not to exceed the Company's Limits of Liability, which are required for the appeal of a covered CLAIM. The Company shall have no obligation to apply for, guarantee or furnish any such bonds.

CLAIMS EXPENSES shall not include salaries and expenses of regular employees or officials of the Company or the NAMED INSURED.

- E. **"CLIENT DATA" MEANS** everything pertaining to the representation of the client.
- F. **"COUNTERFEIT" MEANS** to forge, falsely create, copy or imitate a document, without proper authority or right, by passing the document forged, falsely created, copied or imitated as original or genuine
- G. **"CRISIS EVENT" MEANS** any:
1. death, departure or debilitating illness of the managing partner, owner of a sole proprietorship, or practice group head,
  2. potential dissolution of the Named Insured,
  3. incident of workplace violence, or
  4. filing of an involuntary bankruptcy petition against the Named Insured.
- H. **"CRISIS EVENT EXPENSES" MEANS** reasonable fees, costs, and expenses incurred by the NAMED INSURED for consulting services provided by a public relations firm to the NAMED INSURED in response to a CRISIS EVENT.
- I. **"DISCIPLINARY PROCEEDING" MEANS** any proceeding before a bar association, disciplinary board or similar entity or official to investigate charges alleging professional misconduct as a lawyer or other matters relating to attorney licensing and/or discipline. DISCIPLINARY PROCEEDING does not include any proceeding related to charges, investigations or actions filed with a regulatory agency or official, including without limitation, Securities Exchange Commission, the Internal Revenue Service, the U.S. Patent & Trademark Office or any similar agency.
- J. **"INSURED" MEANS:**
1. the NAMED INSURED;
  2. any lawyer who is a past or present partner, officer, director, stockholder, shareholder, employee or "of counsel" of the NAMED INSURED, but only for PROFESSIONAL SERVICES rendered on behalf of the NAMED INSURED;
  3. any lawyer listed in the application who is a partner, officer, director, stockholder, shareholder or employee of the NAMED INSURED at the time the CLAIM is made, but only for PROFESSIONAL SERVICES rendered by such individual while associated with a PRIOR FIRM;
  4. any lawyer who has retired from the NAMED INSURED, but only for PROFESSIONAL SERVICES rendered prior to the date of retirement;
  5. any past or present non-lawyer, employee or independent contractor attorney of the NAMED INSURED, but only for PROFESSIONAL SERVICES rendered on behalf of the NAMED INSURED; and

6. the heirs, executors, administrators and legal representatives of any INSURED, but only in their capacity as such in the event of any INSURED'S death, incapacity or bankruptcy, and only for CLAIMS based on PROFESSIONAL SERVICES rendered prior to such INSURED'S death, incapacity or bankruptcy, and only to the extent that such INSURED would otherwise be covered by this POLICY; and
- K. **"LOSS" MEANS** the monetary and compensatory portion of any judgment, award or settlement, provided always that LOSS shall not include:
1. civil or criminal fines, penalties, fees or sanctions;
  2. matters deemed uninsurable by operation of law;
  3. punitive or exemplary damages;
  4. the multiplied portion of any multiple damages;
  5. the return by any INSURED of any fees or remuneration paid to any INSURED; or
  6. any form of non-monetary relief.
- L. **"NAMED INSURED" MEANS** the person or entity listed in the Declarations and PREDECESSOR FIRM thereof.
- M. **"NETWORK" MEANS** the INSURED'S interconnected computer systems including servers, laptop computers, desktop computers, software and smartphones. NETWORK shall not include the Internet, telephone company networks or other public infrastructure network.
- N. **"PERSONAL DATA" MEANS** all electronic information:
1. which can be used to distinguish or trace an individual's identity, including but not limited to, their name, social security number, biometric records, alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, or mother's maiden name;
  2. concerning an individual that would be considered protected health information as defined within the Health Insurance Portability and Accountability Act of 1996; or
  3. that would be considered nonpublic personal information within the meaning of the Gramm-Leach Bliley Act or similar state, federal and foreign identity theft and privacy protection legislation applicable to the breach.
- O. **"PERSONAL INJURY" MEANS** assault, battery, false arrest, detention, imprisonment, wrongful entry, eviction or other invasion of private occupancy, or abusive litigation (criminal or civil), abuse of process, libel, slander, defamation and violations of the right of privacy arising out of the performance of PROFESSIONAL SERVICES
- P. **"POLICY" MEANS** this current Professional Advantage for Lawyers form, the Declarations and the endorsements listed in the Declarations issued by the Company to the NAMED INSURED;
- Q. **"POLICY PERIOD" MEANS** the period stated in the Declarations, unless terminated earlier pursuant to the TERMINATION section of this POLICY.
- R. **"POTENTIAL CLAIM" MEANS:**
1. any act, error, omission, circumstance or PERSONAL INJURY which might reasonably be expected to give rise to a CLAIM against any INSURED under the POLICY; or
  2. any breach of duty to a client or third party which might reasonably result in a CLAIM against an INSURED.

- S. **"PREDECESSOR" MEANS** any legal entity to whose financial assets and liabilities the firm listed as the NAMED INSURED in the Declarations is the majority successor in interest.
- T. **"PRIOR FIRM" MEANS** any law firm or professional corporation engaged in the private practice of law for which any lawyer listed in the application was a sole proprietor, partner, officer, director, stockholder, shareholder or employee prior to such lawyer joining the NAMED INSURED.
- U. **"PROFESSIONAL SERVICES" MEANS** services rendered to others in the INSURED'S capacity as a lawyer, either for fee or pro bono, and arising out of the conduct of an INSURED'S profession as a lawyer, or as a lawyer acting in the capacity of an Arbitrator, Mediator, or other neutral, as a Notary Public, or as a member, director or officer of any bar association, its governing board or any of its committees, or as a member of a formal accreditation, ethics, peer review, licensing board, standards review or similar professional board or committee relating to the practice of law, or as an Author, Publisher, or Presenter of legal research papers or materials, but only where direct compensation per publication or presentation is less than \$5000.00. When an INSURED on behalf of a client acts as a title agent, administrator, conservator, executor, guardian, trustee, escrow agent, receiver or other court-appointed fiduciary, the INSURED'S acts in such capacity shall be deemed to be the rendition of PROFESSIONAL SERVICES for others in the INSURED'S capacity as a lawyer.
- V. **"RETROACTIVE DATE" MEANS** the date(s), as specified in the Declarations or in any endorsement attached hereto, for the NAMED INSURED and for the individual lawyers on or after which any WRONGFUL ACT must have occurred in order for CLAIMS arising therefrom to be covered under this POLICY. CLAIMS arising from any WRONGFUL ACT occurring prior to this date are not covered by this POLICY;
- W. **"TOTALLY AND PERMANENTLY DISABLED" MEANS** the INSURED is wholly prevented from working in his or her profession as a lawyer and the disability has continued for at least six (6) months, and an independent medical examiner opines that the disability will be continuous and permanent, and the disability did not result from self-inflicted injury, attempted suicide, or alcohol or drug abuse.
- X. **"WRONGFUL ACT" MEANS:**
1. any act, error, omission, circumstance, PERSONAL INJURY or breach of duty in the rendition of PROFESSIONAL SERVICES for others or
  2. any BREACH OF PERSONAL DATA arising out of the rendering of PROFESSIONAL SERVICES, but only if the INSURED has implemented current and commonly accepted technologies and methodologies designed to secure PERSONAL DATA that are appropriate to the size and complexity of the firm including but not limited to physical restricted access to all servers, edge devices (routers, hardware firewalls, and modems), RAID arrays and other hardware if maintained at the law firm, installing and maintaining all edge devices to protect against CLIENT DATA exposure, encrypting all PERSONAL DATA transmitted over the internet, encrypting all CLIENT DATA stored on any ACCESS DEVICE, password protecting every ACCESS DEVICE containing CLIENT DATA, disabling any ACCESS DEVICE when the proper password is not provided within seven (7) attempts, weekly anti-virus and anti-malware scanning, password protecting access to the INSURED'S wireless connection, securely deleting all CLIENT DATA from any retired ACCESS DEVICE, and any retired machine that may store CLIENT DATA including fax and copy machines; provided, however, that any such technologies and methodologies must comply with privacy regulations found with the Health Insurance Portability and Accountability Act of 1996 or any other similar federal or state law or regulation.

#### IV. EXCLUSIONS

This POLICY shall not apply to any CLAIM based upon, arising out of, attributable to, or directly or indirectly resulting from:

- A. any BREACH of PERSONAL DATA resulting from:
  - 1. any act committed by an individual or individuals acting in an effort to coerce the civilian populations of the United States or to influence the policy or affect the conduct of any federal, state, provincial, or local government;
  - 2. any failure of the INSURED to implement current and commonly accepted technologies and methodologies designed to secure PERSONAL DATA that are appropriate to the size and complexity of the INSURED firm including but not limited to physical restricted access to all servers, edge devices (routers, hardware firewalls, and modems), RAID arrays and other hardware if maintained at the law firm, installing and maintaining all edge devices to protect against CLIENT DATA exposure, encrypting all PERSONAL DATA transmitted over the internet, encrypting all CLIENT DATA stored on any ACCESS DEVICE, password protecting every ACCESS DEVICE containing CLIENT DATA, disabling any ACCESS DEVICE when the proper password is not provided within seven (7) attempts, weekly anti-virus and anti-malware scanning, password protecting access to the insured's wireless connection, securely deleting all CLIENT DATA from any retired ACCESS DEVICE, and any retired machine that may store CLIENT DATA including fax and copy machines; or
  - 3. any failure of the INSURED to comply with any applicable privacy regulations found in the Health Insurance Portability and Accountability Act of 1996 or any other federal or state law or regulation, governing any industry in which the INSURED is rendering PROFESSIONAL SERVICES.
- B. any WRONGFUL ACT occurring prior to the effective date of the POLICY PERIOD for this lawyers professional liability policy issued by the Company to the NAMED INSURED if, (a) the WRONGFUL ACT had previously been reported to any other insurance company or (b) if the INSURED at the effective date of the POLICY PERIOD for this lawyers professional liability policy issued by the Company to the NAMED INSURED knew or could have reasonably foreseen that such WRONGFUL ACT might be expected to be the basis of a CLAIM.
- C. bodily injury to, or sickness, disease or death of any person. This exclusion does not apply to mental illness, emotional distress or humiliation directly arising from the rendition of PROFESSIONAL SERVICES.
- D. injury to, or destruction of tangible property or loss of use thereof. Tangible property includes but is not limited to any item of physical property on which data or programs are recorded, electronic data processing media, data, electronic data, programs and electronic computer programs.
- E. the certification or acknowledgment by any INSURED, in his or her capacity as a Notary Public, of a signature on a document which the INSURED did not witness being placed on the document or collect information required by law.
- F. any CLAIM made by any INSURED under this POLICY against any other INSURED under this POLICY unless such CLAIM arises out of PROFESSIONAL SERVICES by an INSURED rendered to such other INSURED as a client.
- G. any INSURED'S capacity as the beneficiary or distributee of any trust or estate or recipient of any non-probate transfer.

H. any intentionally criminal, dishonest, malicious, or fraudulent:

1. act, error, omission; or
2. PERSONAL INJURY committed by an INSURED.

This exclusion applies to any INSURED who is adjudged or admits to have committed such acts. This exclusion does not apply to any INSURED who did not commit, know or acquiesce in such WRONGFUL ACT which is the basis of the claim.

- I. any INSURED'S activities as an officer, director, partner, manager or employee of any company, corporation, operation, organization, partnership or association other than the NAMED INSURED or PRIOR FIRM, unless indicated as an additional INSURED or unless the activities are deemed to be the rendition of PROFESSIONAL SERVICES in the INSURED's capacity as a lawyer.
- J. any conversion, misappropriation or improper commingling of client funds. This exclusion applies only to any INSURED who is adjudged or admits to have committed such acts.
- K. any PROFESSIONAL SERVICES rendered or that should have been rendered to or on behalf of any entity other than the NAMED INSURED, which, at any time, was (1) ten percent (10%) or more owned by any INSURED or combination of INSUREDS and/or any spouse(s) of any INSURED or combination of INSUREDS; or (2) held, controlled, managed or operated by any INSURED or combination of INSUREDS and/or any spouse(s) of any INSURED or combination of INSUREDS.
- L. any violation or breach by any INSURED of the responsibilities, obligations or duties imposed by the Employee Retirement Income Security Act, the Fair Labor Standards Act, the National Labor Relations Act, the Worker Adjustment and Retraining Notification Act, the Consolidated Omnibus Budget Reconciliation Act, the Occupational Safety and Health Act, the amendments thereto, the rules and regulations promulgated thereunder, or any similar provision of any federal, state or local statute, regulation or ordinance or common law. This exclusion shall not apply if any INSURED is liable solely by reason of legal services rendered to clients.
- M. any conduct by any INSURED committed within the scope of or while acting in a capacity as a public official or an employee of a municipality or governmental body, subdivision, agency, department or unit unless the INSURED'S conduct is deemed to be such solely because the INSURED has rendered PROFESSIONAL SERVICES to such governmental body and remuneration for such legal services inures to the benefit of the NAMED INSURED.
- N. any INSURED having gained in fact any personal profit or advantage to which he or she was not legally entitled.
- O. the disbursement of funds:
  1. as the result of the deposit of a counterfeit check, or
  2. without written verification from the issuing bank that the funds are valid and available, or
  3. as the result of a fraudulent scheme conducted by a non-insured.

## V. CONDITIONS

### A. TERRITORY

This POLICY applies to WRONGFUL ACTS that occur anywhere in the world, but only if a CLAIM is made and brought in the United States of America, its territories or possessions or Canada.

### B. REPORTING AND NOTICE

As a condition precedent to coverage under this POLICY, if a CLAIM is made against any INSURED, or if any INSURED becomes aware of any CLAIM, the INSURED(S) shall, as soon as practicable, but no later than sixty (60) days after termination of the POLICY PERIOD, provide written notice to the Company.

The INSURED(S) shall include within any notice of CLAIM or POTENTIAL CLAIM a description of the CLAIM or POTENTIAL CLAIM, the alleged WRONGFUL ACT including date(s) it was committed, a summary of the facts upon which the CLAIM or POTENTIAL CLAIM is based, the alleged or potential damage that may result, the names of actual or potential claimants, the names of INSURED(S) against whom the CLAIM was or may be made, and the date and circumstances by which the INSURED(S) first became aware of the CLAIM or POTENTIAL CLAIM.

Notice to the Company under the POLICY shall be given by confirmed facsimile, prepaid express courier, or U.S. Mail to:

**For Facsimile:**

877-880-1590

Attn: Specialty Claims Imaging

**For US Mail:**

Westport Insurance Corporation

Specialty Claims

P.O. Box 29221

Shawnee Mission, Kansas 66201

Attn: Specialty Claims Imaging

**For Express Services:**

Westport Insurance Corporation

5200 Metcalf

Overland Park, Kansas 66201-1391

Attn: Specialty Claims Imaging

Except as provided in Section IV. CONDITIONS, I., any notice shall be effective on the date of receipt by the Company at either of the above addresses or facsimile number.

**C. DEFENSE, INVESTIGATION AND SETTLEMENT OF CLAIMS**

As respects such insurance as is afforded by this POLICY:

1. the Company shall have the right and duty to select counsel and arbitrators and to defend any CLAIM for LOSS against any INSURED covered by Section I. Insuring Agreement A., even if such CLAIM is groundless, false or fraudulent, and shall have the right to make such investigation, negotiation and settlement, subject to Section V. CONDITIONS C.2. below, of any CLAIM as it deems expedient. If no coverage exists for the CLAIM, the Company shall have the right to recover from the NAMED INSURED any LOSS paid and/or CLAIMS EXPENSES paid to defend the CLAIM.
2. the Company shall not settle any CLAIM without the written consent of the NAMED INSURED, which consent shall not be unreasonably withheld. If, however, the NAMED INSURED refuses to consent to a settlement recommended by the Company and elects to contest the CLAIM or continue legal proceedings in connection with such CLAIM, the Company's liability for the CLAIM shall not exceed the amount which would have been paid if the CLAIM could have been settled, including CLAIMS EXPENSES incurred up to the date of such refusal, or the applicable limit of liability, whichever is less.
3. the Company shall reimburse up to \$500 to each INSURED for each day for his or her attendance at the Company's request at trial, court-imposed hearing or arbitration proceeding involving a CLAIM, but the total amount so payable for all INSUREDS shall not exceed \$15,000 per CLAIM. The deductible shall not apply to this Section V. CONDITIONS C.3. However, any payments made by the Company under this Section V. CONDITIONS C.3 shall be included within the applicable limit of liability and not in addition thereto.

The Company shall not be obligated to pay any LOSS or CLAIMS EXPENSES or defend or continue to defend any CLAIM after the "Per Claim Limit of Liability" or "Aggregate Limit of Liability" under this POLICY has been exhausted by payment of LOSS and/or CLAIMS EXPENSES, or the deposit in a court having jurisdiction of sums exhausting the "Per Claim Limit of Liability" or "Aggregate Limit of Liability."

Except for reasonable fees, costs and expenses incurred in responding to a DISCIPLINARY PROCEEDING, no INSURED shall, without the prior written consent of the Company, incur any CLAIMS EXPENSES, make any admission or payment, admit liability, settle any CLAIMS, assume any obligation, agree to arbitration or any similar means of resolution (unless to resolve a fee dispute), or waive any rights.

If an INSURED is entitled to independent counsel (in those instances where the Company agrees to defend a CLAIM, and the Company reserves its rights to deny coverage on grounds which create a conflict of interests between an INSURED and the Company, and the INSURED does not waive the conflict), then the INSURED may select independent counsel. Such counsel shall have at least five (5) years of experience in the defense of similar CLAIMS, and maintain error and omissions insurance coverage. The INSURED and independent counsel shall provide full information, documentation and cooperation with respect to the defense, investigation and settlement of any CLAIM. The Company shall be liable only for reasonable and necessary defense costs at rates customarily paid by the Company for the defense of similar CLAIMS in the geographic area where the CLAIM is being defended.

#### D. COOPERATION

1. All INSUREDS shall cooperate with the Company in providing information requested by the Company regarding any CLAIM, POTENTIAL CLAIM or DISCIPLINARY PROCEEDING reported under the POLICY. All INSUREDS shall cooperate with the Company in the investigation of any DISCIPLINARY PROCEEDING and in the defense, investigation and settlement of any CLAIM. Upon the Company's request, the INSURED shall submit to examination or questioning under oath, attend hearings, depositions and trials and assist in effecting settlements, securing and giving evidence and obtaining the attendance of witnesses in the conduct of suits.
2. All INSUREDS shall assist the Company in effecting any rights of indemnity, contribution or apportionment available to any INSURED or the Company, including the execution of such documents as are necessary to enable the Company to pursue claims in the INSUREDS' names, and shall provide all other assistance and cooperation which the Company may reasonably require.
3. The Company shall be subrogated to all INSUREDS' rights of recovery against any person or organization. The INSURED shall execute all papers required by the Company and shall do everything that may be necessary to preserve, secure and pursue such rights for the Company, including the execution of such documents as may be necessary to enable the Company to bring suit in the name of the INSURED. All INSUREDS shall cooperate with the Company and do nothing to jeopardize, prejudice or terminate such rights.

#### E. LIMITS OF LIABILITY

All limits of liability shall apply in excess of the deductible. Amounts paid by the Company for all CLAIMS EXPENSES and amounts paid in satisfaction of CLAIMS are subject to and reduce the applicable limit of liability.

All CLAIMS EXPENSES shall first be subtracted from the applicable "Per Claim Limit of Liability," with the remainder, if any, being the amount available to pay LOSS. The liability of the Company for the combined total of all LOSS and CLAIMS EXPENSES for a covered CLAIM shall not exceed the amount stated in the Declarations as "Per Claim Limit of Liability."

The liability of the Company for the combined total of all LOSS and CLAIMS EXPENSES for all covered CLAIMS shall not exceed the amount stated in the Declarations as "Aggregate Limit of Liability."

**F. DEDUCTIBLE**

The deductible, as stated in the Declarations, shall apply to each CLAIM and shall be paid by the NAMED INSURED. The deductible shall be first applied to all CLAIMS EXPENSES with the remainder, if any, being applied to LOSS. CLAIMS EXPENSES shall be included within the deductible and the limit of liability and not in addition thereto. Payment of the deductible shall be made by the NAMED INSURED within thirty (30) days of receipt of demand by the Company.

The deductible, as stated in the Declarations, will be reduced by 50% not to exceed a reduction of \$12,500 for each CLAIM that is resolved within 365 days of receipt by the Company of the written notice of the CLAIM, or within 365 days of receipt by the Company of the written notice of the POTENTIAL CLAIM, whichever occurs first, from the INSURED and for an amount recommended to the INSURED by the Company, except if the CLAIM is resolved after the commencement of:

- i. a trial for the full adjudication of the CLAIM in a court of law; or
- ii. the first motion for summary judgment by any party for the full adjudication of the CLAIM against the INSURED in a court of law; or
- iii. the first evidentiary hearing in binding arbitration of the CLAIM.

The reduction in deductible applies to per claim deductibles and aggregate deductibles. If the CLAIM is not fully and finally resolved within the period of time described above, there shall be no reduction in the deductible. If the CLAIM is resolved and the INSURED has paid more than 50% of the deductible, the Company will reimburse the INSURED the amount paid in excess of 50% of the deductible within sixty (60) days of receipt by the Company of written request by the INSURED.

No deductible shall apply to any CLAIM that results from pro bono PROFESSIONAL SERVICES rendered for the public interest at no fee to persons of limited means or to public service or charitable groups or organizations.

**G. MULTIPLE INSURED, CLAIMS AND CLAIMANTS**

The inclusion of more than one INSURED in any CLAIM or the making of CLAIMS by more than one person or organization shall not increase the limits of liability or the deductible. Two or more CLAIMS arising out of a single WRONGFUL ACT or a series of related or continuing WRONGFUL ACTS, shall be a single CLAIM. All such CLAIMS whenever made shall be considered first made on the date on which the earliest CLAIM was first made arising out of such WRONGFUL ACT and all such CLAIMS are subject to one "Per Claim Limit of Liability" and deductible.

**H. OTHER INSURANCE**

If there is other valid and collectible insurance under any other policy or policies applicable to a covered CLAIM under the POLICY, the POLICY shall be deemed excess insurance over and above the applicable limits of liability of all such other insurance unless such other insurance is specifically written as excess insurance over the limits of liability provided in the POLICY.

**I. TERMINATION**

The POLICY shall terminate at the earliest of the following:

1. if the POLICY is terminated for failure to pay a premium when due, upon the effective date of cancellation stated in a written notice of termination from the Company to the NAMED INSURED, provided such notice is received by the NAMED INSURED at least ten (10) days prior to the effective date of cancellation. The mailing of such notice shall be sufficient notice and the effective date of cancellation stated in the notice shall become the end of the POLICY PERIOD. Any earned premium shall be computed pro rata;
2. if the POLICY is terminated by the company for any reason, other than the reason stated in Section V. CONDITIONS, I.1., upon the effective date of termination stated in a written notice of termination from the Company to the NAMED INSURED, provided such notice is received by the NAMED INSURED at least sixty (60) days prior to the effective date of termination. The mailing of such notice shall be sufficient notice and the effective date of termination stated in the notice shall become the end of the POLICY PERIOD. Any earned premium shall be computed pro rata;
3. upon the receipt by the Company of the POLICY surrendered by the NAMED INSURED. Any earned premium shall be computed in accordance with the customary short rate table and procedure;
4. upon the transmittal to the Company of written notice of termination from the NAMED INSURED stating when thereafter such termination shall be effective. Any earned premium shall be computed in accordance with the customary short rate table and procedure;
5. upon expiration of the POLICY PERIOD as set forth in the Declarations; or
6. upon the effective date of termination stated in the written notice of the Company of their intent not to renew the POLICY in accordance with applicable law.

In the event of any termination of coverage except as provided in this Paragraph I.1. above, there is an Automatic Sixty (60) Day Extended Claim Reporting Period commencing upon POLICY termination for CLAIMS first made against any INSURED during the POLICY PERIOD.

Not later than thirty (30) days after the termination of coverage, the Company will mail or deliver to the NAMED INSURED written notice of the Automatic Sixty (60) Day Extended Reporting Period and the availability of premium for, and importance of purchasing one of the additional Extended Reporting Period options offered. If the POLICY has been cancelled by the Company because the NAMED INSURED has failed to pay a premium when due, and if the POLICY has been in effect for less than one year, the Notice will be sent as above, but indicating that no additional Extended Reporting Period options are available to purchase, due to cancellation for non-payment.

**J. EXTENDED REPORTING PERIOD**

If the Company or the NAMED INSURED shall cancel or non-renew the POLICY, the NAMED INSURED shall have the right to extend the time for reporting CLAIMS made against any INSURED under the POLICY per the following schedule. The additional premium for the Extended Reporting Period shall be:

<u>Extended Reporting Period</u>	<u>Additional Premium</u>
12 months	100% of the last annual premium of this POLICY
24 months	150% of the last annual premium of this POLICY
36 months	185% of the last annual premium of this POLICY
Unlimited	300% of the last annual premium of this POLICY

If the NAMED INSURED exercises the Extended Reporting Period option, the coverage shall apply only to CLAIMS for WRONGFUL ACTS which occurred prior to the end of the POLICY PERIOD and on or after the RETROACTIVE DATE, if any, which are otherwise covered by the POLICY and which are first made against this INSURED and reported to the Company during the Extended Reporting Period.

This right to purchase the Extended Reporting Endorsement is subject to the following conditions:

1. the INSURED exercising the Extended Reporting Period option has not had his or her professional license to practice law suspended or surrendered at the request of any disciplinary or regulatory authority;
2. the POLICY was cancelled or non-renewed for reasons other than non-payment of premium;
3. any deductible amounts due the Company have been paid;
4. the INSURED has complied with all of the terms and conditions of the POLICY; and
5. the NAMED INSURED must send written notice to the Company of the intention to purchase the Extended Reporting Endorsement accompanied by the additional premium. Written notice and premium payment must be received by the Company no later than sixty (60) days after the termination date of the POLICY PERIOD.

Separate or new limits do not apply to the Extended Reporting Period. This option to extend the reporting period does not extend the POLICY PERIOD. The purchase of the Extended Reporting Period shall not in any way increase the limit of liability stated in the Declarations. If the Extended Reporting Period option is exercised, then such period shall be part of and not in addition to the last POLICY PERIOD. Any CLAIM made during the Extended Reporting Period shall be deemed to have been made during the immediately preceding POLICY PERIOD. The entire premium for this option shall be deemed fully earned at the commencement of the Extended Reporting Period.

**K. NON-PRACTICING EXTENDED REPORTING PERIOD OPTIONS**

1. Subject to the conditions stated below and in Paragraph 5. of this Section K., any individual owner, partner, officer, director, stockholder, shareholder or employee of the NAMED INSURED who, during the POLICY PERIOD, retires or voluntarily ceases, permanently and totally the private practice of law, shall be entitled, at no additional premium, to an unlimited period for reporting CLAIMS first made against this INSURED. The right to this retirement Non-Practicing Extended Reporting Period is subject to the following conditions:
  - a. the INSURED exercising the Non-Practicing Extended Reporting Period option has not had his or her professional license to practice law suspended or surrendered at the request of any disciplinary or regulatory authority;
  - b. the INSURED has been continuously insured by the Company for at least three full consecutive years;
  - c. the POLICY was not cancelled for non-payment of premium or non-renewed;
  - d. the INSURED exercising this option has complied with all of the terms and conditions of the POLICY; and
  - e. the INSURED gives written notification of retirement or the termination of the private practice of law within sixty (60) days after the termination date of the POLICY PERIOD.

This Non-Practicing Extended Reporting Period option is provided until the INSURED resumes the private practice of law.

2. Subject to the conditions stated below and in Paragraph K.5., any individual partner, officer, director, stockholder, shareholder or employee of the NAMED INSURED who, during the POLICY PERIOD, retires or otherwise ceases the private practice of law, and who has not been continuously insured by the Company for at least three full consecutive years, shall have the right to extend the time for reporting CLAIMS first made against this INSURED per the following schedule. The additional premium for this Non-Practicing Extended Reporting Period shall be:

<u>Extended Reporting Period</u>	<u>Additional Premium</u>
12 months	100% of per lawyer annual premium of this POLICY
24 months	150% of per lawyer annual premium of this POLICY
36 months	185% of per lawyer annual premium of this POLICY
Unlimited	300% of per lawyer annual premium of this POLICY

If an INSURED exercises this Non-Practicing Extended Reporting Period option, the coverage shall apply only to CLAIMS for WRONGFUL ACTS which occurred prior to the end of the POLICY PERIOD and on or after the RETROACTIVE DATE, if any, which are otherwise covered by the POLICY and which are first made against this INSURED and reported to the Company during this Non-Practicing Extended Reporting Period.

This right to purchase this Non-Practicing Extended Reporting Endorsement is subject to the following conditions:

- a. the license of the INSURED exercising the Non-Practicing Extended Reporting Period option to practice his or her profession has not been revoked, suspended or surrendered at the request of any disciplinary or regulatory authority for reasons other than the INSURED exercising the Non-Practicing Extended Reporting Period option becoming TOTALLY AND PERMANENTLY DISABLED, by the time that the right could be exercised;
  - b. the POLICY was not cancelled for non-payment of premium or non-renewed;
  - c. the INSURED exercising this Non-Practicing Extended Reporting Period option has complied with all of the terms and conditions of the POLICY;
  - d. the INSURED exercising this Non-Practicing Extended Reporting Period option must send written notice to the Company of the intention to purchase this Non-Practicing Extended Reporting Endorsement accompanied by the additional premium. The Company must receive written notice and premium payment no later than sixty (60) days after the termination date of the POLICY PERIOD.
3. Subject to Paragraph K.5. below, if an INSURED dies during the POLICY PERIOD as a result of reasons other than self-inflicted injury, suicide, or alcohol or drug abuse, then the period for reporting CLAIMS is extended at no additional premium until the executor or administrator of the estate is discharged, provided that the estate, heir or administrator gives written notification and written proof of the date of death to the Company within 60 days of the death of the INSURED. The deductible requirement of the POLICY will be waived for CLAIMS first made against the INSURED during the Non-Practicing Extended Reporting Period.
4. If an INSURED becomes TOTALLY AND PERMANENTLY DISABLED during the POLICY PERIOD, and has been continuously insured by the Company for at least two (2) consecutive years, then the period for reporting CLAIMS is extended at no additional premium until the death of the INSURED or until the INSURED is no longer TOTALLY AND PERMANENTLY DISABLED, provided that:
- a. the INSURED or the INSURED'S legal guardian provides written notice of the disability to the Company no later than sixty (60) days after the termination date of the POLICY PERIOD;

- b. the INSURED or the INSURED'S legal guardian provides a physician's written certification of the disability including the date the disability commenced; and
- c. the INSURED agrees to submit to a medical examination at the Company's expense by any physician(s) designated by the Company.

The deductible requirement of the POLICY will be waived for CLAIMS first made against the INSURED during the Non-Practicing Extended Reporting Period.

- 5. The provisions in 1., 2., 3., & 4. above that extend the reporting period do not extend the POLICY PERIOD. Any Non-Practicing Extended Reporting Period option shall be part of and not in addition to the last POLICY PERIOD. Non-Practicing Extended Reporting Period shall not in any way increase the limit of liability stated in the Declarations. Any CLAIM made during this Non-Practicing Extended Reporting Period shall be deemed to have been made during the immediately preceding POLICY PERIOD. The entire premium for this option shall be deemed fully earned at the commencement of this Non-Practicing Extended Reporting Period.

The additional premium and deductible requirement for this Non-Practicing Extended Reporting Period will be waived for an INSURED who is leaving the private practice of law to become either a state or federal judge.

**L. ACTION AGAINST THE COMPANY**

No action shall lie against the Company unless, as a condition precedent thereto, all INSUREDS shall have fully complied with all the terms and conditions of the POLICY, and not until the amount of all INSUREDS' obligations to pay has been finally determined either by judgment against all INSUREDS after actual trial or by written agreement of the NAMED INSURED, the claimant and the Company.

Any person, organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this POLICY to the extent of the insurance afforded by this POLICY.

Nothing contained in the POLICY shall give any person or organization any right to join the Company as a co-defendant in any action against any INSURED to determine any INSURED'S liability. Bankruptcy or insolvency of any INSURED or any INSURED'S estate shall not relieve the Company of any of its obligations hereunder.

**M. CHANGES**

No change or modification of this POLICY shall be effective except when made by a written endorsement to this POLICY.

**N. ACQUISITIONS AND MERGERS**

If during the POLICY PERIOD, any of the following events occur:

- 1. the NAMED INSURED merges with or acquires any other law firm or group of attorneys who practiced together at another law firm, or
- 2. the NAMED INSURED has fewer than 5 attorneys and the number of attorneys increases by more than 3 attorneys, or
- 3. the NAMED INSURED has 5 or more attorneys and the number of attorneys increases by more than 50%,

the NAMED INSURED shall give written notice to the Company within 60 days. The Company shall have the right to modify the terms and conditions of the POLICY, including premium.

**O. NO ASSIGNMENT**

Neither this POLICY nor any INSURED'S interest in this POLICY may be transferred or assigned.

**P. APPLICABLE LAWS**

Any terms of the POLICY which are in conflict with any laws and regulations governing the POLICY are hereby amended to conform to such laws and regulations.

**Q. WAIVER**

The Company's failure to insist on strict compliance with any of the terms, provisions or conditions to coverage of the POLICY or the failure to exercise any right or privilege shall not operate or be construed as a waiver thereof or of any subsequent breach thereof or a waiver of any other terms, provisions, conditions, privileges or rights.

**R. LIBERALIZATION**

If the Company adopts any revision that would broaden coverage under this POLICY without additional premium at any time during the POLICY PERIOD, the broadened coverage will immediately apply to this POLICY except that it will not apply to CLAIMS that were first made against the INSURED prior to the effective date of such revision.

**S. ENTIRE AGREEMENT**

By acceptance of this POLICY, all INSUREDS reaffirm as of the effective date of this POLICY that (a) the statements in the application(s) and all information communicated by the INSUREDS to the Company, and all INSUREDS' agreements and representations, are true and accurate, (b) this POLICY is issued in reliance upon the truth and accuracy of such representations which are material to the Company's issuance of this POLICY and (c) this POLICY embodies all agreements between all INSUREDS and the Company or any of its agents relating to this insurance. No representations by any person shall have any force or effect, except as included within this written agreement. Notwithstanding any provision in the POLICY or application, the application should not be considered part of the POLICY.

**This POLICY is not valid unless completed by the attachment of the Declarations.**

WESTPORT INSURANCE CORPORATION

*Facsimile signature to be inserted*

President

*Facsimile signature to be inserted*

Secretary