



FRONTERION<sub>LLC</sub>

*Presents*

**LAW FIRM  
LIABILITY  
REPORT**

# Law Firm Liability Report

## A Summary Overview

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Fronterion L.L.C. is a leading international consulting firm exclusively focused on advising law firms and corporate counsel on outsourced legal services and alternative legal delivery. For more information on how your can firm benefit from Fronterion's experience working with some of the largest global law firms or these emerging liability trends contact [info@fronterion.com](mailto:info@fronterion.com) or +1.312.204.7250

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# Law Firm Liability Report: A Summary Overview

The *Fronterion Law Firm Liability Report* is a must-read for legal professionals and risk managers of any law firm that engages or supervises third-party legal vendors. The complete Report is now available online for \$495 USD at [www.fronterion.com/liability](http://www.fronterion.com/liability).

## A GLANCE AT NEW LEGAL REALITIES

Tom Franks, the head litigation partner at one of the world's oldest and most prestigious law firms, exited the long bank of elevators. The click of his heels was the only sound to break the late-night silence in the marble foyer as he exited his firm's office building. As a seasoned litigator, he was accustomed to being one of the last to leave the office – particularly during the past several months of turmoil and heavy workload. As he settled into the back of the cab, Tom pulled out his Blackberry to find an e-mail message from the firm's general counsel with devastating news.

Two years ago, Tom had hired an outside legal support vendor with a bundled offering of e-discovery and document review services to assist with a large case for an important pharmaceutical client. It was standard practice in the legal industry to outsource certain aspects of a case, and the vendor came strongly recommended. Tom had largely trusted the vendor; and, as a result, the day-to-day supervision and management of the vendor was handled by one of Tom's senior associates. With so many other tasks commanding Tom's attention, he had minimal direct interaction with the vendor firm despite relying extensively on its work. However, Tom's law firm was recently targeted in a malpractice lawsuit based on alleged errors made by the vendor when it was reviewing thousands of documents, and now the vendor's previous work on the underlying case consumed Tom's thoughts.



The e-mail message from the firm's general counsel reported that the firm had just received a letter from the law firm's professional liability insurer. The letter advised the law firm that the conduct alleged in the malpractice lawsuit was not covered by the law firm's insurance policy. While the general counsel disagreed with the insurance carrier's analysis, it was clear that securing coverage for the liability exposure presented by the malpractice lawsuit would be an uphill battle. Tom's tired mind raced through the potentially ruinous consequences of an uncovered settlement, including the mass departures of top performing partners, the resulting financial drag on the firm's profits per partner and even the potential dissolution of the partnership.

In the back of the cab watching the shadows of the city slowly turning to night, Tom wished that he had considered these issues when he retained the third-party legal vendor and when his law firm had purchased its professional liability insurance...

## **THE CHANGING LIABILITY LANDSCAPE**

Clearly, the legal profession is undergoing profound change and the risk exposures from legal vendors are indeed more fact than fiction. The adoption of third-party legal vendors and their increasingly sophisticated services are fundamentally reshaping the liability equation for law firms. Risks posed by today's legal vendors are dramatically different than the risks posed by legal vendors of the past. As a result, these new risks are far beyond what many existing law firm professional liability policies were designed to insure. Failing to account for these changing risks can result in uninsured liability exposures and potentially catastrophic consequences for law firms.

Importantly, the most exposed firms are not those operating on the fringe of the legal profession, but rather the most prominent and global law firms. Nor are the vendors in question limited to any specific genre or geographic location. The reality of these exposures is readily visible in the allegations cited in a malpractice suit brought against a prominent AmLaw firm featured in detail in this report. Regardless of the outcome or the merits of this particular lawsuit, Fronterion is confident this will not be an isolated incident. Insurers and law firms are now paying attention.

Now, more than ever, firms must confront the nuanced coverage implications created by more autonomous, sophisticated and often global third-party providers of legal support services. This report provides a valuable first step.



## REPORT SPECIFICATIONS

At 40 pages and over 14,000 words, the *Fronterion Law Firm Liability Report* is the most comprehensive resource available on legal vendor liability exposures to law firms. The Report specifically addresses potential and current gaps in law firms' professional liability coverage, as well as explains how to mitigate third-party vendor risk through the employment of industry best practices and negotiated professional liability policy coverage.

Additional topics covered include:

- Standard policy clauses that may be limiting law firms' coverage of vendors
- Drivers reshaping legal vendor liability exposures
- Nuanced contractual and vendor engagement structures
- Risk mitigation procedures every law firm should consider
- Actionable steps to prepare for interactions with insurers to secure appropriate professional liability coverage

See Table of Contents on the following page for additional details.

Fronterion is uniquely positioned to provide commentary on these complex and emerging liability issues. As an objective advisor to global law firms on issues of legal outsourcing and vendor liability, Fronterion delivers an unrivaled depth of real-world industry knowledge and experience. Fronterion staff contributing to this seminal Report include insurance lawyers, certified public accountants, insurance executives, and university professors.

The *Fronterion Law Firm Liability Report* is available online for \$495 USD at [www.fronterion.com/liability](http://www.fronterion.com/liability).



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James Pinkstaff has extensive experience counseling clients across the spectrum of professional liability risks. An attorney and certified public accountant, Mr. Pinkstaff previously worked at Sidley Austin LLP where he specialized in counseling policyholders, insurers, reinsurers, investment banks and hedge funds on a variety of insurance products and risks. His experience includes structuring professional liability programs on behalf of corporate policyholders, underwriting professional liability risks on behalf of insurers, advising insurers and policyholders on various aspects of effective claim resolution and transferring insurance risks via securitizations to capital market participants. As a result of his wide-ranging experience in the industry, he knows and understands the global insurance markets, including those in the United Kingdom, the United States and Bermuda.

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David Sinow is a co-founder and principal of Fronterion legal outsourcing advisory. With 37 years of experience as an attorney, Mr. Sinow advises on the complex structuring of legal outsourcing engagements, including the review of master service agreement terms and conditions. He brings rigor and business know-how to the risk management approaches which underpin legal outsourcing initiatives. In addition, Mr. Sinow is the Director of the Office of Risk Management & Insurance Research at the University of Illinois where he specializes in enterprise risk management.

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Mark Vonnahme directs the risk management and insurance advisory at Fronterion legal outsourcing advisory. As the former CEO of a publicly traded United States insurance firm, Mr. Vonnahme brings unrivaled experience to the risk management and professional liability issues which arise when using third-party legal vendors. Based on his extensive relationships in the insurance industry, he is able to work directly with brokers and underwriters in order to help Fronterion clients with coverage issues in the array of scenarios encountered when engaging third-party legal vendors. Prior to his work with Fronterion, Mr. Vonnahme held senior executive positions at Arch Insurance Group and served as the President and CEO at CNA Surety Corporation.

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## ABOUT FRONTERION

How can your firm benefit from Fronterion's experience working with some of the largest global law firms on issues of legal outsourcing and vendor liability?

Fronterion is a leading international consulting firm that advises legal professionals on the emerging liability trends impacting their organizations and helps firms discover opportunities that capitalize on the changing legal landscape. The risks and exposures outlined in this report are as inevitable as they are real. At Fronterion, we understand the pressures, dilemmas, and resulting risk exposures that arise when navigating the legal vendor environment. Our skilled professionals possess a unique intersection of expertise of the legal vendor industry and the nuanced professional liability risks.

Fronterion provides a number of resources to legal professionals as they address the professional liability risk exposures outlined in this report. For more information about Fronterion, contact [info@fronterion.com](mailto:info@fronterion.com) or +1 (312) 204-7250. More details are also available at [www.fronterion.com](http://www.fronterion.com) and [www.fronterion.com/liability](http://www.fronterion.com/liability).