

ACCOUNTANT EXPERT REQUIREMENTS, CONT'D

multiple causes at various dates.

If for example, the investment advisor violated duties to the Agency starting in 1999, and the prior auditor by negligently did not detect those violations and thereby allowed them to continue starting in 1999 both forms of negligence and at work in 2006 when the defendant auditor is engaged. Reliable expert testimony as to the relative importance of these causes is difficult if not impossible. What kind of expertise or learning would qualify anyone to be an expert as to when, how and why the defendant auditor became the “primary” cause of a loss? What qualifications, training, or expertise permits admissible expert testimony as to when and why one form of concurrent negligence, as opposed to others, became the dominant cause of certain losses? How are those issues reliably identified? These questions suggest that it is not clear that loss causation in RIRRC was able to be competently and reliably proved



Paul Boylan is a member of **LeClairRyan PLLC** in its Boston office. He is part of the firm’s professional liability defense practice group. He represented the auditor against the claims of accounting malpractice in the RIRRC case. Paul may be reached at paul.boylan@leclairryan.com.

Editor’s Note: We will be having a Wellness Initiative feature as a new addition to the PLDF Quarterly. Patty Beck of the MLM will be taking the lead. It will focus on wellness-related material and will include content such as practice tips, information about the benefits of meditation/mindfulness, techniques for meal planning, and the like.

PRACTICING WELL: UNPLUGGING 101 BY PATTY BECK

In a professional world that encourages and often demands immediate responses to email, how do we strike a balance between providing prompt professional services with the need to step away and have personal time outside of work? For starters, we need to be mindful of the fact that it is “okay” to “unplug” and devote time to our personal lives, especially during weekends, holidays and vacations.

In fact, taking time for ourselves is vital to our professional success as studies show that productivity and quality of work increase when we are rested. The next step is to practice unplugging on a small scale before attempting to unplug for an extended period of time (i.e., a week-long vacation). For example, for one month, spend 15-30 minutes during each workweek away from your computer and email (disable cell phone/device notifications).

During this time, do something you enjoy while making the conscious decision to be present in that moment and not be interrupted by work. This can mean going for an afternoon walk or jog, eating lunch away from your desk, reading a book for pleasure, etc. Once you have experienced that everything will be “okay” even if you are unavailable for a short period of time, start adding more of these brief periods of “me time” to your weekly routine until you eventually feel comfortable taking a full day away from work (pro tip: start with a weekend day where email traffic is likely minimal).

Although there will certainly be times where you need to be plugged in, training yourself how to be unplugged for short periods of time can have noticeable impacts on mental health and professional success. Remember, the key is to start small – most people do not respond well to large or sudden changes, so the slower you go, the more successful you will be.

Tips for Vacations: 1) decide how “unplugged” you plan to be (i.e., completely unplugged, checking email once per day, available by phone for emergencies only, etc.); 2) manage expectations by setting an auto-reply one week in advance of your vacation to alert clients and colleagues of your anticipated absence and availability; 3) arrange for a colleague to cover your files during your absence; and 4) be open with colleagues regarding your “availability” to help foster a workplace environment that encourages taking time to unplug and recharge.



Patty Beck is a Claim Attorney with Minnesota Lawyers Mutual Insurance Company where she manages litigation involving legal malpractice claims, advises attorneys facing existing and potential ethical dilemmas, and resolves complex pre-suit malpractice claims on behalf of MLM insureds. She is Co-Chair of the MSBA’s Life & The Law Committee. Prior to joining MLM she worked as a litigator focusing on employment law for a large law firm in Minneapolis, MN.