

# Give a Damn About Your Reputation?

ATL And Embroker's Guide To Saving Your Hide

*Learn lawyers' deepest, darkest, most self-centered fears — if you dare.*

**EMBROKER**

# Introduction

Lawyers these days have a lot of anxiety and angst.

We know because we asked — you may recall, a few months ago [we surveyed legal professionals](#) about what they consider the greatest threat to their careers.

What gives them butterflies and makes them sweat? What keeps them up at night and makes them dread morning? You know — all that fun stuff.

If you saw the results, published in April, you saw that “reputational harm” was legal professionals’ No. 1 fear. It was [very unlike Joan Jett](#) — and very intriguing.

We wanted more info: What kind of reputational risk do you fear specifically, and what steps are y’all taking to protect your reputation?

So, being our nosy selves, we sent out another survey, this one digging deeper.

Is malpractice more frightening than a data breach? Are small firms dreading judicial sanctions, or is it social media that instills the true terror?

Read on to learn lawyers’ deepest, darkest, most self-centered fears — if you dare.

## Methodology:

This survey was conducted between **June and August 2022** by Above the Law in partnership with Embroker.

Over **200 legal professionals** replied from firms massive and miniscule:

35% from large firms

14% from midsize

20% from small firms

11% solo practitioners

In-house legal departments also participated (9%), while 12% were self-described “other,” including judges, law clerks, and civil justice reformers.

# Getting to Know You...

The first part of the survey revolved around respondents' self-perceptions and personal fears. It's basically a front row seat to their psychic trauma and doubt — amazing!





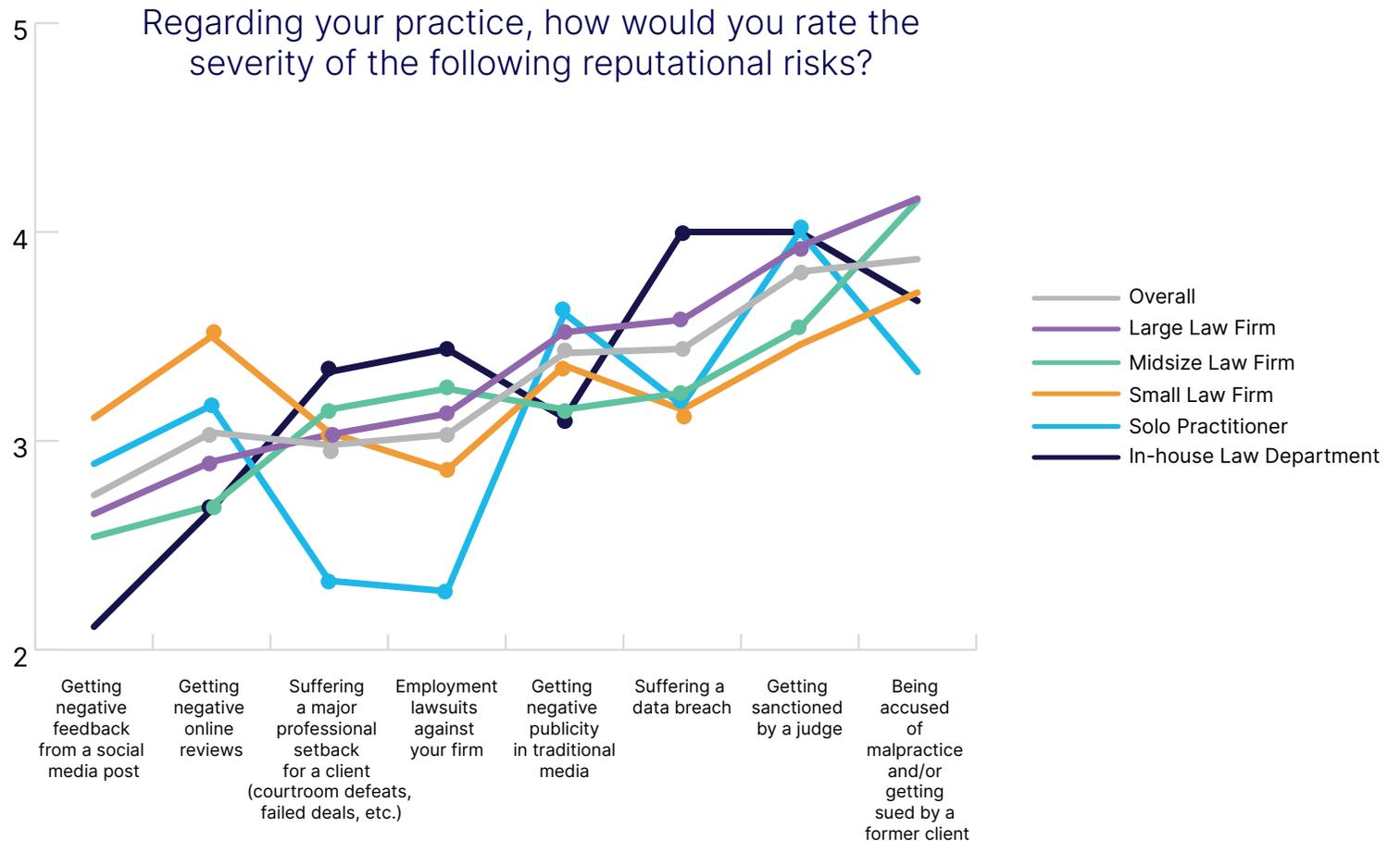
# Getting to Know You...

## Which Is Worse?

As we delved further into the crevasses of your internal agony, we asked respondents to rate the severity of various hypothetical scenarios on a 1-5 scale.

Basically, what is the worst thing that could happen to you or your firm, professionally speaking?

The responses went like so:



# Getting to Know You...

Getting into the nitty-gritty of the data, we learned a few things: While malpractice remains the top concern for professionals across all sized firms, in-house counsel and solo practitioners are most afraid of judicial sanctions.

In reality, though, experts say data breaches may be the most damaging of all.

Above the Law Contributor Sharon D. Nelson, a lawyer and president of the digital forensics team at Sensei Enterprises, points out that while sanctions can sting, most lawyers can recover from that hit if they “take the lessons to heart.”

Data breaches, on the other hand, “can be much more devastating.”

“They are very expensive and may result in loss of clients — this is harder for small-to-midsize firms to recover from.”

There’s another detail we’d like to call out: Attorneys at small firms rated negative online reviews as more devastating than judicial sanctions.

As one small firm’s leader told us:

“I had a disgruntled... client report me to the Bar Association recently. Of course, the Bar dismissed the complaint, but my thought at the time was, ‘Thank God she didn't post a negative Google review instead!’”

While we’re pretty sure there is no God of any sort on the internet, we do get the gist.

# What Are the Odds?

After learning what most makes lawyers' hearts race, we asked respondents what they believe is most likely to happen. In other words, what appears to be the most probable threat?

Again, people responded on a 1-5 scale, with 1 being "Eh, not so likely," and 5 being "Holy crap, we are f-ed."

How would you rate the likelihood of you or your practice facing the following reputational risks?



# What Are the Odds?

Parsing the data, we found a few differences to note:

## DATA BREACHES

Large firms and in-house attorneys think data breaches are most likely.

## ONLINE REVIEWS

Small firms and solo practitioners are most worried about negative social media or online reviews.

## PROFESSIONAL SETBACKS

In fact, the only people more worried about professional setbacks than bad reviews or breaches are midsize firms.

**Those outliers aside, note that most lawyers' biggest fears are tech-centric. And rightly so, it seems.**

# My Feed, Myself:

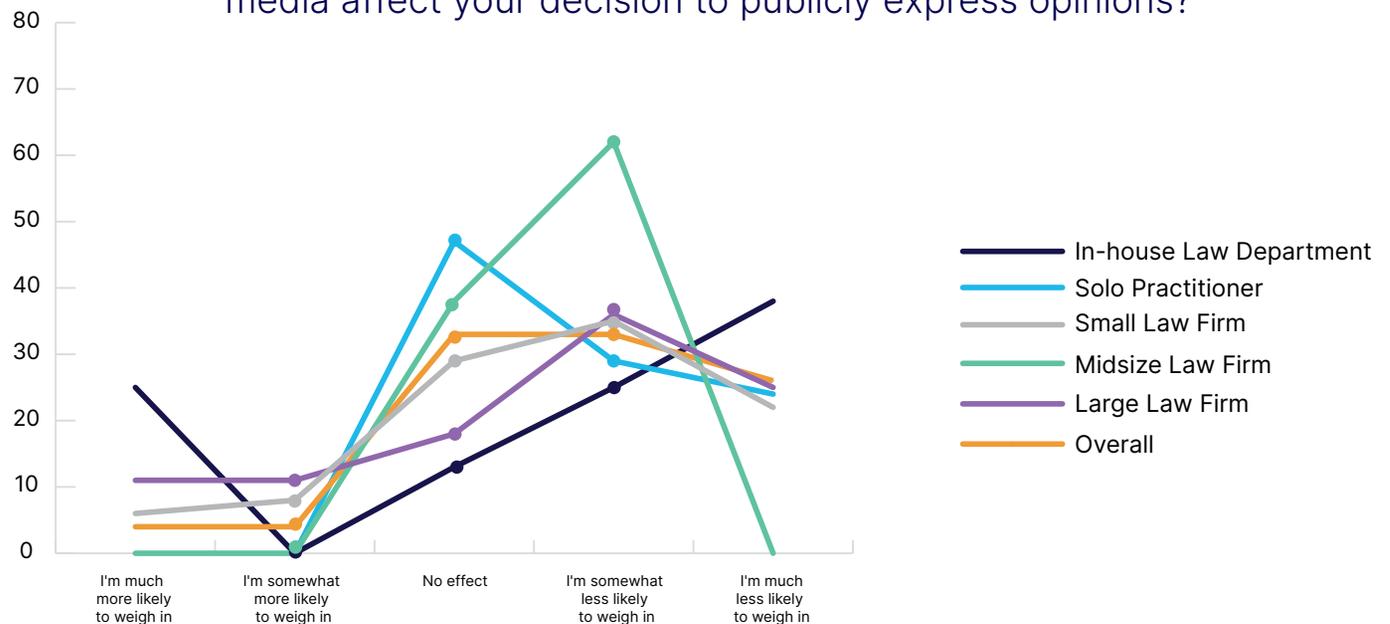
We got a little more personal on the next question, where we poked and prodded into people's social media usage. Specifically, we asked if the prospect of attention, good or bad, made them less likely to publicly express their opinion.

We assumed some people would say, "Yes, attention sends shivers up my spine." But we had no idea the results would be so robust: A whopping 57.3% said they're far less likely or somewhat less likely to publicly express their opinion for fear of reputational backlash.

To some readers, holding back an opinion for fear of backlash is self-censoring. To others, it's simply smart: best to stay out of the fray and use social media for memes and cat videos and other innocuous digital bric-a-brac.

Regardless of one's opinion, we can probably all agree those pixelated trifles are better for your blood pressure than, say, a political blog. (This is [actually true](#), according to recent studies.)

How does the possibility of negative or positive attention on social media affect your decision to publicly express opinions?



# Tell Us More, Tell Us More...

The question on social media included an “explain more” option, and many of you sure did some explaining. Here’s a sampling of your responses re: your relationships to social media...

Most were wary, like this one, which simply read: “Dangerous. Tread carefully.”

Others cited our partisan, not-so-civil society as the real fear factor:

- “Because of lack of regulation and unconcern with facts and truth, reputational risks associated with social media are very high.”
- “Because of the nature of social media — pervasive, permanent, etc. — and the current divided state of our society, I refrain from taking any strong positions in social media posts.”
- “Lawyers on social media need to be very careful of what they post. Too often I see young lawyers and older lawyers who don't understand the ramifications of their posts fall into petty social media discussions and traps.”

- “I think only bad things happen generally in social media because people love to see a good ‘car wreck,’ even if they have to manufacture the ‘car wreck.’”

That last remark cues up this classic quote that still holds true: [“On the internet, nobody knows you’re a dog.”](#)

All that that said, a few of you were a bit more optimistic about the internet’s power:

“Social media is a great tool. Often, people will turn to reviews (whether Facebook, Google, or something else) as a way to get their first impression of a firm they’d potentially like to use.”

While another had a true Machiavellian response: “Benefits are being able to get a gauge of how opposing counsel operates.”

Now *that’s* a lawyer.

# Winning Social Media

Considering all your yips around social media, we reached out for advice to two marketing professionals who specialize in social media for lawyers, Meranda Vieyra of [Denver Legal Marketing](#) and John Demitrus from Hartford-based [Oh Ya! Marketing](#). Here they offer insights and tips on how lawyers can build a social media brand without blowback.

## *Location, Location, Location:*

First and foremost, Vieyra says lawyers looking at social media need to look at the various platforms' audiences. For example, while Snapchat may be super popular, its user base is primarily 18–24-year-olds — not a demo that typically needs lawyers.

## *Show Yourself:*

We also asked Vieyra how a lawyer can be authentic while nurturing a personal brand. The answer: a unique personal POV that also highlights your professional successes.

“Personality can come through in the words you choose to use, photos you take, and what you choose to highlight about your firm, clients, and wins,” she says. “And the balance is secured when the posts show personality but are also all laser-focused on how the lawyer helps and serves the legal community through their legal services.”

Demitrus agrees, emphasizing that your posts should go beyond just “X won my case.” They should emphasize how you brought closure. He reminds us, “Lawyers help solve problems,” so social media needs to show how you solved that problem. “[Wins] are not always about money. Most of the time, it is people feeling like they were able to get closure or move beyond something.”

He also notes that if you're going to hire a marketing professional, make sure they are as unique as you: “Lawyers tend to go with marketing experts who are happy to sell them cookie-cutter templates and the same old boring concepts. Find someone who can write. Find someone who can help you tell your story.”

## *Overcome Fears:*

Vieyra notes that a lot of lawyers fail at social media because they're afraid. “They are scared to post or spend too much energy and time on posts,” she says. “They end up not posting because they can't decide on what to post, or how to say it, etc. I understand the need to be cautious and ethical, but there must be some middle ground that allows them to promote themselves on social media in a meaningful way.”

# Winning Social Media

Remember: “Social media moves quickly and so there just isn’t enough time for multiple rounds of edits. When it comes to social media, say it quickly, accurately, and succinctly.”

## *Keep Your Soles Clean:*

Yet even with audience awareness and a brand personality, lawyers still “step in it” on social media. To steer clear of such messy stuff, Vieyra says 1) avoid responding to negative reviews online and 2) engage the world but know what you’re talking about.

While lawyers should engage the world around them — “Legal practice doesn’t happen in a bubble. Staying current on societal issues and how they affect their clients should make attorneys more relevant to their audience” — they should steer clear of controversial topics that have nothing to do with their practice. “An attorney wanting to engage in social topics should figure out why they want to post about an issue and determine what the end goal is...” Is it to continue the conversation or just mouth off?

## *Ease and Accessibility:*

Finally, Demitrus says that guiding principles for any social media usage should be accessibility and ease. “The digital footprint must allow clients and prospects more access and avenues to communicate with, or at the very least, schedule appointments online for consultations. Think about adding a chat feature and allocate time and staff to make sure these tools work as expected.”

## **He also offered these five tips:**

1. Most legal written content (at websites) is geared towards other lawyers and not their clients.
2. Legal marketing tends to go with the boring ‘we fight for you’ rather than educating their prospective clients. Our job as marketers is to educate.
3. Lawyers don’t use enough video to communicate with prospective clients
4. Lawyers tend to go with vertical experts who are happy to sell them cookie-cutter templates and the same old boring concepts. Find someone who can write. Find someone who can help you tell your story.
5. Lawyers should be spending more time thinking about driving organic traffic and start moving away from the expensive Google Search Ads / PPC.

# Got Protection?

The first part of the survey centered on potential reputational threats. For the next part, we asked people how well protected you are against threats, including malpractice, data breaches, PR nightmares.

Here are your bloodcurdling responses.

Spoiler: Most lawyers aren't as prepared for any threat as they should be, which means they risk serious reputational harm, as well as earning their most-dreaded epithet: "lazy."

# The Classic: Malpractice

We started by asking how prepared people are against the old stalwart, malpractice. The results were good, bad, and, yes, a little ugly.

Overall, most respondents (59%) say they're well prepared and well-insured to handle a malpractice situation, which is really good.

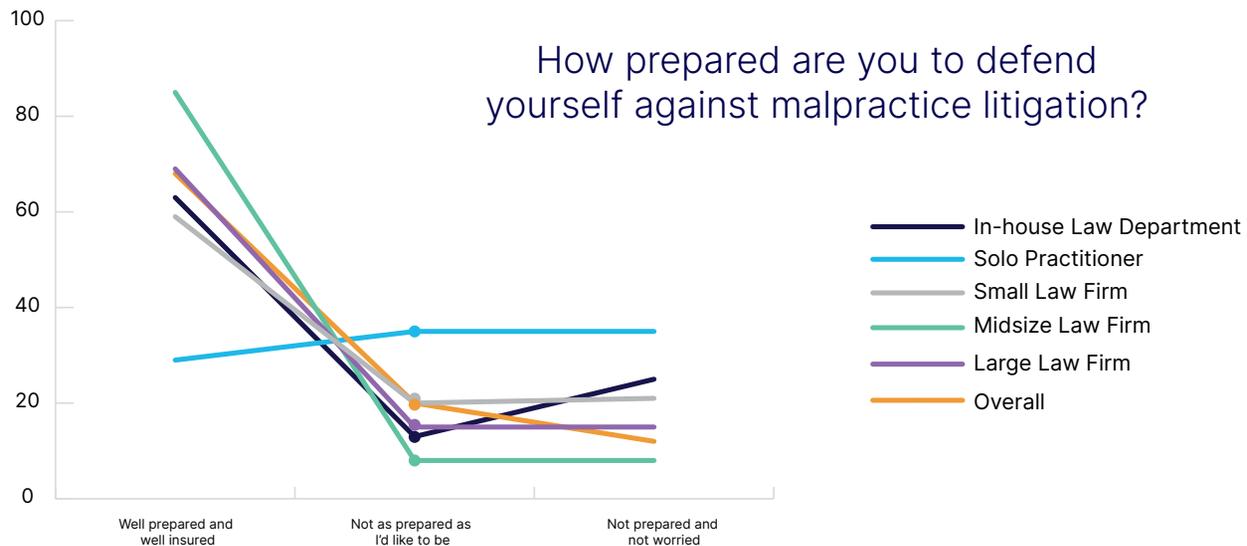
What's less good: 41% say they're not prepared enough to handle malpractice allegations, with half of those saying they're not even worried about malpractice.

We mean, it's good to have such confidence in one's ability, but let's get real: Sometimes clients, or former clients, have a different opinion, so... you know, probably best to worry a little bit.

Perhaps the most alarming statistic from this last question, however, is that only 29% of solo practitioners say they're both prepared for and insured against malpractice.

That means the other 70% of solo practitioners are playing it by ear, which is basically like playing with a rabid raccoon — dangerous — because 4 out of 5 lawyers are sued for malpractice at some point, [according to the ABA](#). And most of those suits, 70%, are filed against small firm or solo lawyers.

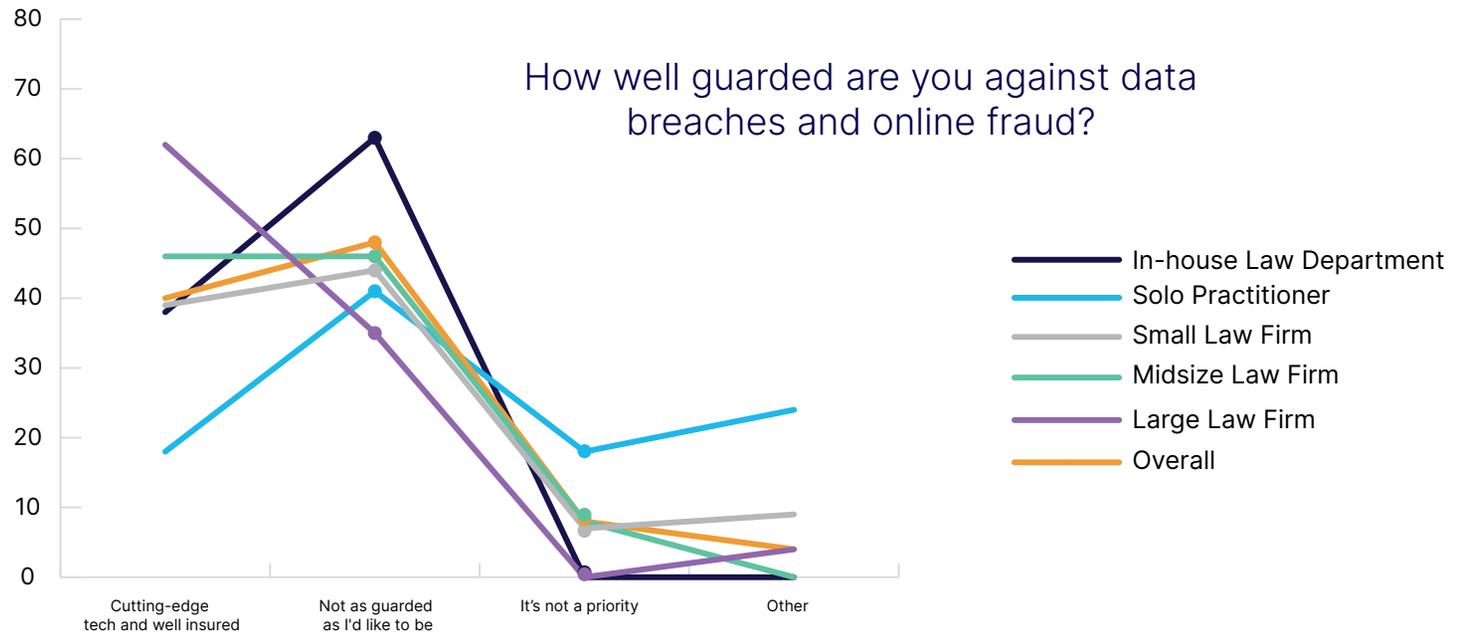
If that still doesn't scare you, check out this quote from Trish Lilley, the chief marketing and business development officer at Stroock: "Years ago, a malpractice suit or judicial sanction may have taken months to surface and may not even have been 'discovered' by a journalist. [These days] we all have access to tools that leave few stones unturned. Stories surface more easily and spread quicker."



# Shields Up?

Lawyers deal with a lot of sensitive and privileged data, so you'd hope every single one had the best cybersecurity around. Unfortunately, as happens all too often, reality crushes hope.

When we asked about protection against data breaches and online fraud, the results were grim:



- Only 40% of respondents have [cutting edge protection and insurance](#), and most of those people are from large firms.
- Solo practitioners (18%) were most likely to say, “It’s not a priority,” which is highly alarming, as we all have a risk of falling for fraudsters. And that’s especially true for small or midsize firms (SMBs), because they often don’t have as strong security and attacks on them attract less attention.
- 44%, mostly from small or solo outfits, said they are not as well protected against breaches and fraud as they’d like to be.

# Shields Up?

As the digital forensics expert Nelson told us, “SMBs are the most targeted because their security tends to be more lax — also, cybercriminals know that going after big entities attracts a lot of unwanted attention from the government, the military and big companies like Microsoft and Apple. They are safer going after the SMBs. SMBs tend to think they are not targets — until they get hit.”

This is particularly true for firms with remote workers.

As Pat McNally of the tech-centric firm Octillo notes, “In an environment of remote and distributed workforces, small-and medium-size enterprises have the same need for virtual communication platforms and remote access as global brands.”

He goes on, “Failing to prioritize data security now can lead to significant consequences later, including business interruption, data and financial loss, and reputational damage.”

Meanwhile, Stroock’s Lilley also notes that big firms shouldn’t rest on their laurels and leave it to the IT department.

Referencing her firm’s approach, she says, “Stroock conducts rigorous internal training, deploys desktop threat scenarios, and continually assesses their risk.”

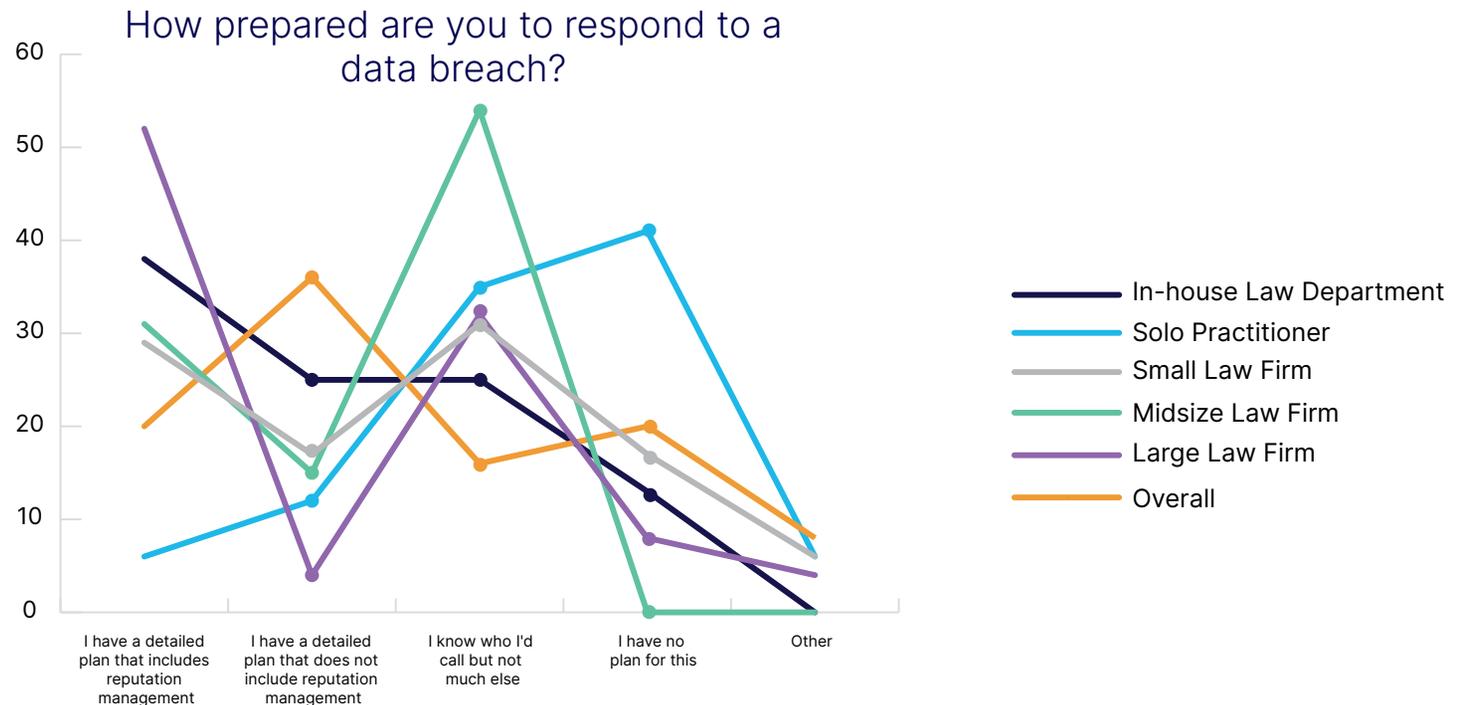
“As C-suite executives, we must stay keenly aware of developments in this area regardless of the function we oversee, and, in fact, we must guard against our own personal vulnerabilities as cybercriminals often target firm leaders.”

**Curiously, when asked about data breach preparedness, 9% of respondents said their plan was “Other.” Here are some of their replies:**

- “I handle all work through my agency or client, so I don’t have to worry as much about personal data breaches.”  
**Ed. Note: Um, but... what if your client is hacked, or the agency?**
- “My file cabinet can’t be breached. Me being a Luddite, everything is on paper. I have a computer that’s not connected online for anything, and client stuff is there. The other is online.” **Ed. Note: How do you transfer files to this computer? Have you [moved to the opt out village?](#)**
- “I assume the state has this handled.”  
**Ed. Note: What does that even mean?**
- “My firm, having previously been hit with several potential breaches, is well positioned.” **Ed. Note: Can you hear the joy in their response? No? That’s because there is none.**

# Got a Plan B?

Transitioning back to data breaches, we next asked how prepared people were to respond to such a scenario. What's the game plan for fallout? The answer from an alarming amount of respondents: "Ummm.... Huh?"



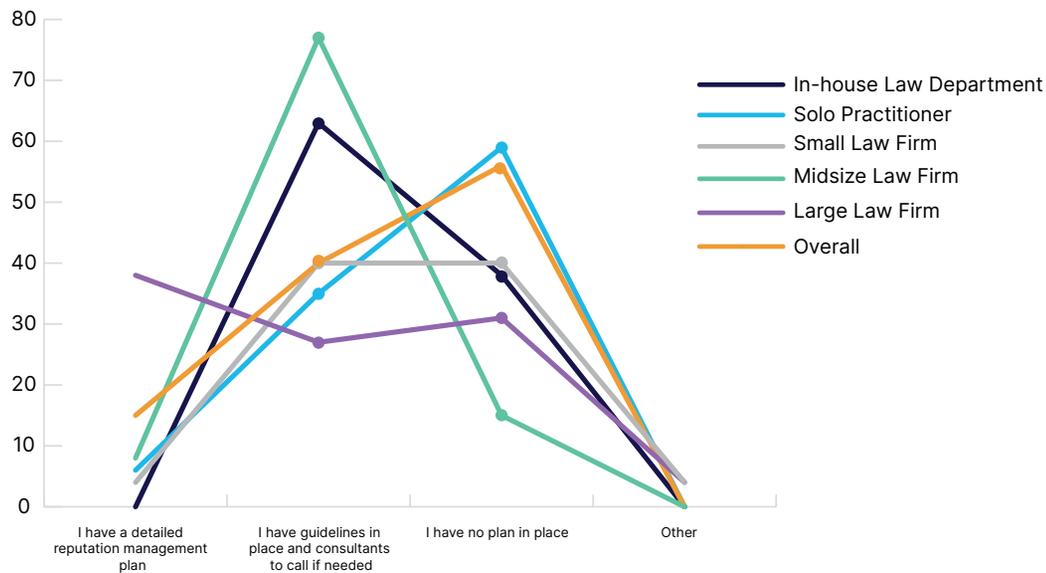
As you can imagine, it's solo attorneys who are the most vulnerable here: 41% have no plan for responding to a data breach. But — and not to sound like a broken record — your risk of being breached rises literally every day.

# Give a Damn About Your Reputation?

In the final question in this section, we asked respondents how prepared they were to address reputational damage in the event of a malpractice suit, data breach, or similar event.

[Sigh] Again the answers were worrisome:

How prepared are you to handle any reputational fallout from malpractice litigation, data breaches, or similar events?



As with the previous sections, it's small firms and solo practitioners who are most at risk here: More than half say they have no plan.

Any way you slice it, most respondents, and we're guessing legal professionals as a whole, are woefully underprepared for managing reputational fallout.

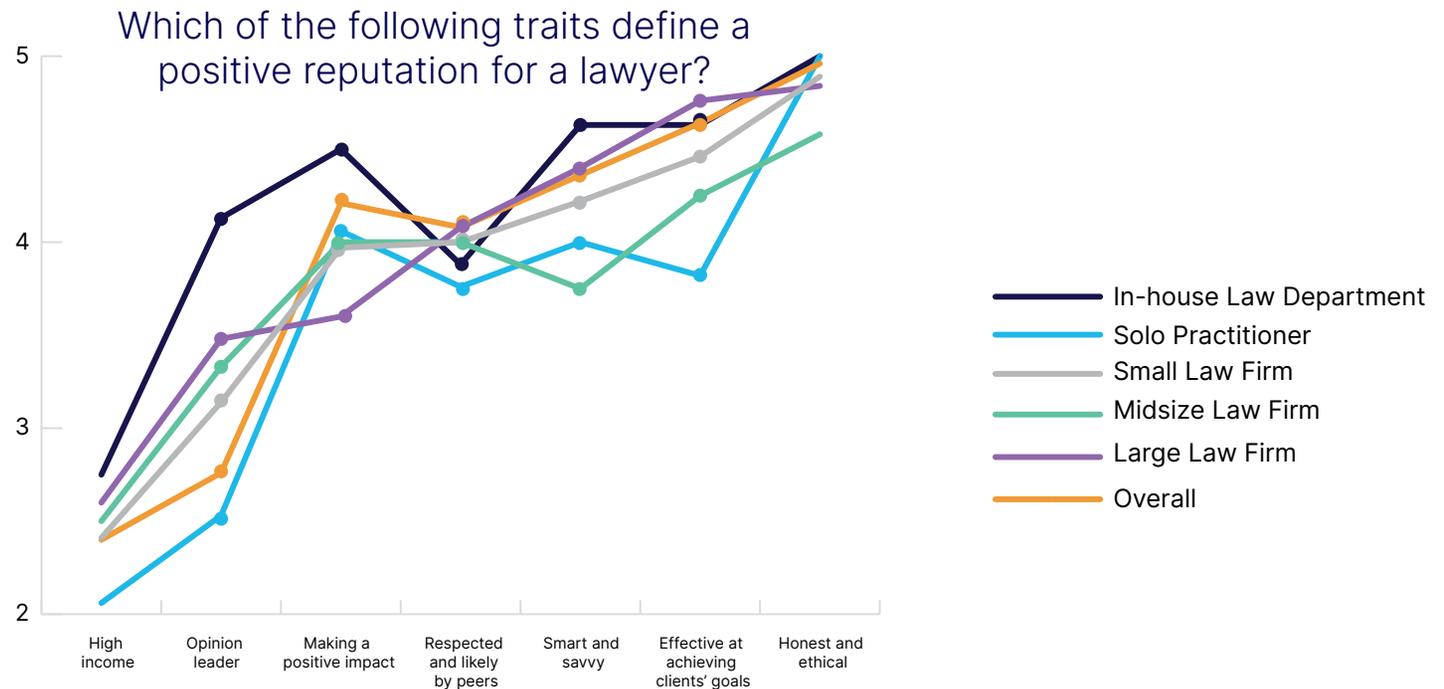
While Stroock has been responsible and lucky enough to never have had a major public relations disaster, Trish Lilley knows some people who have.

Based on those experiences, she offers this general insight:

“Crisis management requires speed, strong communication both internally and externally — and by internally, I’d include clients as well as those within the firm — and agility to navigate the media, other stakeholders and the ‘cause’ of the issue be it a lawsuit, an unhappy client or some other root cause.”

# What Is Best?

As the survey came to a close, we asked lawyers to rate 1-5 the traits they think are best for lawyers in general, rather than adjectives to describe themselves. The results were heartening:



What a time to be alive. Wait — have we been hacked?

# Plan C; Or, So You've Been Run Out of Town...

Finally, we decided to put a coda on our survey by playing pretend. We asked, "What would you do if your career completely implodes?" What is your ultimate back-up plan?

While some folks said they'd go into academia or write a book or maybe try their hand at real estate, others have ambitions that are — if not loftier, at least more novel than writing a novel:

- "Win the lottery."
- "Marine biologist."
- "My wife. She'll support me. I am her entertainment. Without me, she would be dead from boredom."  
**[Ed. Note: We wonder if your wife agrees...]**
- "Panic!"
- "Baking bread and an OnlyFans account. Maybe a hybrid of the two if there proves to be a market for it."

If only all lawyers were as enterprising.

# Wrapping It All Up

So let's review: While lawyers view malpractice, judicial sanctions, and data breaches as the scariest potential risks, they think data breaches, negative online reviews, and being dragged on social media are the most likely risks.

And many legal professionals are woefully underprepared.

So, what can people do to protect themselves? Well, shoot — weren't you paying attention? [Call Embroker.](#)

Our experts will tailor approaches and safeguards specific to your practice and field of expertise — a strategy that offers the most comprehensive coverage for the most approachable prices. You may not think you need this protection now, but doing so will save you trouble later.

Finally, before parting, dear reader, here's one final quote from a respondent, one we should all take to heart: "Try and do the right thing, and everything else will take care of itself." (But in case it doesn't, [give us a visit.](#))