

## Why the Recession has Created a Substantial Need to Sell Legal Plans.

The effects of the biggest recession since the 1930s spread throughout the economy and every community. A new study of displaced workers who are either unemployed or underemployed—part of the 12th Annual Transamerica Retirement Survey—found that the majority (67 percent) of these displaced workers are less confident in their ability to achieve a financially secure retirement since the recession began. However, the survey report also identifies steps that can be taken to improve their long-term prospects.

“It is vital for workers to do all they can to help avoid tapping into their retirement savings.”

Many displaced workers, according to the survey report, have tapped their savings (50 percent), used credit cards (32 percent), and taken withdrawals from their retirement accounts (22 percent) to cover expenses. Over one-third (36 percent) of these displaced workers reported having less than \$10,000 in total household retirement accounts.<sup>1</sup>

Historically, a rise in unemployment correlates directly with increased credit card use because credit cards become a means for consumers, particularly middle- and lower-class consumers, to pay for basic living and medical expenses—a purpose for which credit cards were not intended.<sup>2</sup>

The amount of credit card debt in the United States is startling. At the end of 2008, Americans’ credit card debt reached \$972.73 billion; the average credit card debt per American household was \$8,329. Seventy-eight percent of American households had at least one credit card. In New York State, on average, individuals have 4.5 credit cards; 14.8 percent of New York residents are using half or more of their credit.

Unfortunately, a rise in unemployment also correlates directly with credit card default.<sup>3</sup> Credit card defaults from this crisis, however, will probably not materialize into lawsuits for several years because credit card debt is typically resold many times before a plaintiff actually files suit. Moreover, creditors currently have up to six years to bring an action in New York for credit card default. Credit card defaults occurring now are likely to burden civil courts across the country for several years to come. Yet the time is ripe for change; governments, courts, advocates, and creditors alike are focused on the need for civil legal services and the problems faced by unrepresented litigants in consumer debt transactions and litigation.

In 2010, U.S. employees faced more stressful issues than ever before given the extended and serious nature of this economy and this recession . . . . In this recession, 70% of U.S. employees need of some kind of legal advice, help or legal or financial representation to help them handle one or more of these legal and financial problems. The by-product that costs the employer each year in increased healthcare and emotional distress treatment and prescription drug costs is the effect of managing this serious amount of stress and the toll it takes on marriages and on children.

Actual costs of employee stress related to legal and financial matters can be found in increased absenteeism and presenteeism, increased mistakes, accidents and injuries, and decreased work productivity. The real problem for employers is that when an employee has one or more of these major stressful legal and financial problems, it becomes the employer’s problem too.

### Is My Agency Wasting Time Selling Legal?

“Unemployment and underemployment has severely impacted the retirement outlook of many American workers,” said Catherine Collinson, president of the Transamerica Center for Retirement Studies. “Yet there are many important opportunities that can help employees to overcome setbacks and improve their prospects.”<sup>4</sup>

In a 2010 Unvers study, 28% of employees in the companies surveyed had an employee legal plan – higher than the 19% who reported having homeowners and auto insurance at work. Perhaps not surprisingly, most employees who have a group legal plan tend to use it more than once (87%) and are more inclined to consult an attorney (2.5 times on average in the past five years) than those who found an attorney outside of work (two times). For at least one legal insurance plan, plan participants also re-enroll for the next calendar year at a high retention rate (93%).<sup>5</sup>

Compared to the commissions earned on certain life insurance products and health plans, the commission income for brokers and producers from ancillary products, such as vision, legal, and other types of products, can appear to be substantially less. For years, we have heard comments that suggest it “makes no sense to waste time selling other products, like legal, when the time could be spent selling the high production products.” We are all learning that in today’s solutions-based selling world, the producer or broker who can offer a cohesive or seamless solution to meet a specific employer need will get the business from that employer, regardless of size of company.

Because of the connection between legal and many of your “core” insurance products, legal can be an excellent tool to support the need and urgency for an agency’s “core” insurance products. Many producers/brokers are learning that simply by raising the concept of a legal plan, the sales techniques and approaches in a presentation can be increased dramatically, giving rise to “new” reasons for prospective buyers to purchase the core insurance products being sold. What are these techniques and approaches?

### **What New Approaches to Selling Insurance Can Legal Bring?**

With new clients and your existing clients, raising the issue of a new product that “ABC Company needs to look at” is one of the most effective new product sales presentations. If the product is exciting and needed, because it is new, it is likely to peak one’s curiosity, and using a new product to raise new solutions can present a very compelling value-based sales story to a company. The problem with using Legal in this ‘new product manner’ is that it can be viewed negatively and may be a topic about which few people want to actually discuss. Many would agree that the United States would be better off without lawyers – with one exception – the ones that help you out of a problem, or to avoid a problem – often a large problem.

But, without even fully understanding legal issues, all employers and most adults can relate to the pressures, costs, uneasiness, unpredictability, uncertainty and enigmatic legal system. Teenage children who are arrested for drinking and driving convictions can be excluded from professional schools and societies; school administrators unfairly target an “otherwise perfect student” with suspensions or expulsions hurting their chances of graduate degrees; businesses are able to freeze the bank accounts of a debtor and recover the \$ 155,000 that debtor refused to pay for goods received from the business; foreclosure on a home mortgage 24 years paid-up is halted and the mortgage company’s mistake in payment allocation is finally clear in the litigation needed to prevent the foreclosure.

Or consider other potentially devastating legal and financial issues: a spouse is able to thwart a court-ordered child visitation schedule preventing one spouse from spending time with their children after a divorce; spouses can be arrested for non-compliance with court-ordered child support payment schedules; elder parents can unknowingly spend-down their entire estate so one spouse can receive the nursing home care they need, leaving the other spouse virtually penniless; and the parents of a college student face a huge lawsuit because their child paralyzed a 6-year old girl in a car accident.

Notice how important many of these life situations requiring solutions can be for businesses and consumers. You might also notice how many core insurance products solve, or prevent, the same magnitude of life’s problems – life insurance can be the difference between prosperity and poverty – disability insurance can be the difference between keeping one’s possessions and losing everything.

## The Sales Value of Legal – “Making the Connection”

In simple terms, legal has the same purpose as life insurance, disability, long-term care, and the new supplemental medical policies – the protection of what one has worked for and accumulated. If the themes are the same, it makes sense to use these themes to raise the prospect of additional threatening legal issues that can highlight the need for all of the protections you offer. Themes like avoiding foreclosure, repossession, frozen bank accounts, judgments, collections, attachment of savings accounts, along with preventing lawsuits can resonate with employers and employees. Additionally, being prepared for Medicare issues, planning for elder parents, and children away at college are all themes that easily lead into sales of a producer/broker’s core insurance products.

These themes can be connected with the reasons why a life, disability or LTC product should be purchased. To do this, one must understand how legal issues and problems can ruin businesses and consumers, how much they can cost, what a legal plan can save a business or consumer and whether legal plans can truly prevent legal problems—a task too large for this article, but at least we can raise certain issues for more detailed discussion.

## Understanding the Sales Value of Legal Issues

In enrollment, one should seek to position a legal plan as a solution that provides strategic value to each Plan Member and their family. To compete effectively with a value-based sales formula requires that producers/brokers/enrollers understand the critical success factors of the potential purchaser, and deliver a strategic solution that ties valuable protection benefits to those issues. Using an analysis of the true costs of the American Legal System, and combining this analysis with an innovative new solution-oriented program that Plan Members may not have, all in an affordable package, provides the critical success factors that are vital to the success of an enrollment.

## Benefits to the Producer – “Using the Legal Connection”

### The Connection between Legal and Your Core Products

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Each producer/enroller must be able to educate potential Plan Members on the strategic significance and value that this new package of legal/financial services and only this new package of services can bring. When producers/enrollers develop the integrated product knowledge to articulate the family protective value the solutions can deliver, they can be highly successful in enrollment efforts.

Strategically, to bring higher core insurance product sales using legal, each producer/enroller should master three things: (1) the ability to sell legal protection at the enrollment level; (2) positioning this legal and financial package strategically in the mind of both members of the household; and (3) the ability to articulate the family protection value derived from a well-defined legal and financial solution. By doing this, each producer/enroller can enjoy the following benefits:

- Some sales of legal resulting in commission income

- Larger overall sales in enrollments for your “core” products
- The ability to provide complete solutions-based selling strategies for your clients

## Using the Connection to Create a New Revenue Source

The combination of Legal and your existing worksite solutions can provide significant financial benefits for any enrollment. Packaged with additional worksite products, the right legal plan can add commission dollars in two ways:

1. **Significant Direct Commissions.**
2. **Increased Indirect Commissions from Other Products.**

### Direct Commissions from Legal

Commission structures and compensation for brokers/producers/enrollers can vary widely. Many plans offer very attractive compensation programs, particularly with producers that have an interest in selling Legal. Depending upon the legal plans, a legal plan might offer up to 35% level commission. So for example, if a group has 780 employees [assume 44% penetration, that is 343 Plan Members enroll] and the combined employee legal product is sold, with a 35% commission the commission income to the broker is \$ 1,680.70 per month. [35% of 343 x \$14.00/month = \$1,680.70/month or \$20,168.40/year to the producer/enroller – for one group].

### Indirect Commissions from Your Other “Core” Products Using Legal -“Making the Legal Plan Connection”

Using Legal can help you in at least two (2) ways: (1) keeping your client company and not losing them to another benefits specialist, because you can meet their request for a legal plan; and (2) using legal to “make a connection” between legal issues and core issues that help sell products like life insurance, long-term care or disability can add new employees for these core products because the legal plan resonated with that employee.

When you use legal to raise issues that help sell other products, it is important to understand the connection to other worksite products and perhaps to have these issues properly identified for the client company or the employee before the sale. Recall that we discussed certain critical legal issues that are related to your other insurance products. Several examples of legal issues that a producer can use to “connect” to your other core products include:

- Probate/Will/Trust/Estate Planning Issues and the Life Insurance Connection
- Medicare/Nursing Home Care Issues and the Long-Term Care Connection
- Workers Compensation/Injuries/Driving Suspensions related to the Disability Connection

## The Life Insurance Connection: Legal Plans Sell Life Insurance

**Probate/Will/Trust/Estate Planning.** The relationship between death and securing the protection afforded by Life Insurance is obvious, as is the relationship of using Life Insurance as an estate planning vehicle. Using Life Insurance to cover the expenses of one’s estate at death has also become a well-developed insurance sales tool. Are there connections between legal issues and life insurance? Yes, including the concern of dying without a will, and having one’s property “go to the state” rather than to one’s heirs, a situation that can often be remedied with a will and a life insurance policy.

A different approach can be used by raising the concept of preparing a Medical Directives, or a Living Will [also known as a Durable Power of Attorney]. By raising the possible need for a Living Will with an employee during enrollment, one can also tie the concept of Life Insurance to the employee concern about being protected while living. We have found that while many Americans know they need a will, they do not get one despite the feeling that they should. This same hesitation occurs with Life Insurance, as most Americans know they need to have life insurance. Both concepts raise the issue of taking care of one's affairs at the time of death and there are some employees that simply do not want to deal with that issue.

Using the Living Will concern can bring an entirely new approach to this subject, as a Living Will is designed to protect one while they are living in the event of a serious illness or potential serious surgery. We have learned that the concern about death is often not part of the consideration in discussing the need for a Living Will, thus alleviating the "I will get to it later" mentality encountered during enrollment.

Instead, by raising the concern that an employee may not have enough protection in place without a Living Will, the discussion during enrollment, centers on taking steps to prepare for events that can happen now. This focuses the sales discussion on the "not enough protection in place now" concept. Once that issue is raised, you can easily solve the Living Will Problem by offering a legal plan that covers a Living Will. In addition, this solution-based discussion then enables you to make the connection to life insurance that should be in place now. By changing the focus of the purchase to smaller scale events that need to be addressed now, the life insurance sale can be changed from a concern about "when I might die" to a concern about "planning all the 'little things' to be in place in case of the unexpected." Interestingly, this same argument can then be expanded to raise the connection to a disability insurance policy.

## **The Life Insurance Connection: Legal Plans Sell Long-Term Care Insurance**

### **Medicare/Nursing Home Care. Medicare/Nursing Home Care Issues**

The "spend-down" problems associated with Medicare and Nursing homes have become a mainstream sales tool for producers selling Long-term Care insurance. Are there other legal issues that can be raised in enrollment? Yes. One is the concern over nursing home injury lawsuits. Most insurance producers do not want to raise the specter of lawsuits, but here it might be helpful. There are many nursing homes today that are operated in a manner that is deficient in terms of meeting the standards of care that ought to be maintained. The result is a serious number of lawsuits against nursing homes for the manner in which patients are treated. The right legal plan can offer significant advice in preventing these lawsuits for the elder loved ones of an employee. Specific steps and benefits coverage are afforded by certain plans that can prevent one's elder parents from falling victim to serious injuries and illnesses.

The connection between this legal issue and a Long-term Care insurance sale is easy to understand. For instance, by purchasing the right LTC product, an employee has an affordable means of providing proper care for their elder parents. Because different products have different options and different provider nursing home facilities, certain LTC will be better at detailing and analyzing the credentials and care records of the provider nursing homes. Employees can select the LTC plan that makes these care records available, thereby enabling employees to evaluate the nursing home more readily than if left on their own without this LTC coverage.

Another legal issue that can be raised is the Elder Law portion of a legal product. Certain legal plans cover the legal needs of an employee's elder parents by extending the legal benefits of the plan to these elder parents. Some plans offer simple wills to the parents of the employee member. Some offer Living Will preparation or other document preparation for these elder parents. For many employees, the prospect of paying for help for their elder parents as well as paying the expenses for their children requires protection of some kind. Some legal plans offer Elder Law benefits as an "up-sell" legal product while other legal plans automatically cover elder parents without extra cost.

Producers can evaluate the coverage provided by different plans to find the plan that meets the needs of their employee base.

In a sales context, producers can use the elder law legal issues to raise concern that the elder parents' needs are also covered from a "care" standpoint. One might raise the issue of how difficult it would be to select a lawyer for one's elder parents who may live in a state completely unfamiliar to the caretaker employee. Employees can easily identify with the difficulty in finding the right lawyer if they had a problem in their own city. Finding a lawyer for their parents in another city and state can be viewed as a significant problem [one that is easily solved by a legal plan that is attuned to finding the right lawyer for a member rather than simply recommending a list of options]. Using this concern, a producer might then suggest how difficult it would be for an employee to evaluate and select nursing home providers for their parents in other cities or states. This heightened concern would disclose the need for, and benefits of, an LTC product.

Using the nursing home lawsuit and the elder parent lawyer need can lead directly to specific connections of an LTC "core" product.

### **The Disability Insurance Connection: Legal Plans Sell Disability Insurance**

**Workers Compensation/Injuries/Driving Suspensions.** Similarly, using the concern that the strapped workers compensation system may not pay enough if one is injured at work to heighten the need for disability insurance is commonplace today. Using a different angle, however, might further increase disability insurance sales. Producers can raise the legal issue of whether an employee who needs to drive as part of their work [as an example] has been concerned about being injured while driving, or having their license suspended or revoked. Certain legal plans provide coverage for these events and can help to prevent suspensions or revocations, in some cases, by providing legal advice and lawyers to represent employees on traffic tickets, suspension hearings and related matters.

Raising the issue of injuries from accidents or suspensions/revocations of one's license can raise the issue of the possibility of losing one's job or being out of work for an extended period of time. By raising this issue, employees can also readily see the need for disability insurance, albeit in a new light using a different sales approach.

### **Increased Revenues from Increased Sales**

Whether you are selling Life or Disability, using the legal angle to enhance the combined worksite solution value can result in an additional revenue stream for a producer/broker/enroller.

Using these legal issues in this new light to raise the issues solved by your core products is a technique that can result in new sales from employees who may not have been exposed to this new approach. This different light can raise the concerns that may hit the "hot buttons" for which employees know they need protection.

### **Endnotes**

*1 12th Annual Transamerica Retirement Survey*

*2 Robert W. Murphy, "Taming the Collection Tempest": A Primer on Federal and State Restraints on Consumer Debt Collection, Practising Law Institute Seminar (Mar. 26, 2009).*

3 Juan Lagorio, *Capital One Credit Card Defaults Rise in September*, Reuters (Lisa Von Ahn ed.), Oct. 15, 2009, available at <http://www.reuters.com/article/businessNews/idUSTRE59E25820091015>.

4 12th Annual Transamerica Retirement Survey

5 2010 Unvers Worksite Study.

## About The Author

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