I. Welcome & Introductions

II. Approval of Minutes from December 4, 2019 meeting

III. Discussion Items
   a. Revisions to all options
   b. Disclosure language for website
   c. Report from Gregg Conley regarding insurance premiums
   d. Review feedback received to date
   e. Map of Georgia for future town halls
   f. Future meeting dates
      i. March 2020 at the Chateau Elan Winery & Resort in conjunction with the Spring Meeting.
      ii. Possible meeting dates for February, April, and May 2020.

IV. Adjourn
2019 - 2020
Professional Liability Insurance
This special committee will study and make recommendations to the Executive Committee and Board of Governors on issues concerning lawyers' professional liability insurance.

Chairperson
Christopher Paul Twyman, Rome  

Member
Sarah Brown Akins, Savannah  
Kimberly Cofer Butler, Savannah  
Christy Crowe Childers, Macon  
Gregg Jarvis Conley, Atlanta  
Stephanie Kirjian Cooper, Birmingham  
J. Hamilton Garner, Moultrie  
Brandon Cory Goldberg, College Park  
Warren Raymond Hinds, Roswell  
Kenneth Bryant Hodges, III, Atlanta  
Linley Jones, Atlanta  
Herman Maddox Kilgore, Marietta  
David Neal Lefkowitz, Athens  
Daniel James O'Connor, Vidalia  
Dennis C. Sanders, Thomson  
Toronda Michelle Silas, Atlanta  
R. Gary Spencer, Atlanta  
Shannon McKenzie Sprinkle, Atlanta  
Meredith Wilson Sutton, Marietta  

Executive Committee Liaison
David S. Lipscomb, Lawrenceville  

Staff Liaison
Paula J. Frederick, Atlanta
The meeting was called to order at 12:05 p.m.

Attendance:

Committee members: Christopher P. Twyman, Sarah Akins, Christy Childers (phone), Gregg Conley, J. Hamilton Garner (phone), Warren Hinds (phone), Kenneth B. Hodges, III, Herman Kilgore, David Lefkowitz (phone), Daniel J. O'Connor, Shannon Sprinkle (phone), and Meredith W. Sutton.

Executive Comm. Liaison: David S. Lipscomb

Staff: Jeff Davis, Paula J. Frederick, Jenny K. Mittelman, and Kathya S. Jackson.

Approval of Meeting Minutes:

The Committee approved the Minutes from the October 18, 2019 meeting.

Discussion Items:

Expanding Exceptions
The Committee discussed expanding exceptions to the proposal. The Committee decided not to expand the exceptions.

Disclosure language
The Committee discussed different disclosure language for the State Bar of Georgia website. Paula Frederick will have suggested language at the next meeting for discussion. The Committee decided not to require lawyers to disclosure in advertisements.

Assessment
The Committee decided that the assessment will be required every other year (for option 3). The assessment will be free but will have a cost of $4, if the member would like to receive CLE credit.

Data Collection
The Bar will know whether the lawyer has professional liability insurance (options 1-4)
The Bar will know whether the lawyer completed the assessment (option 3).
The Bar will not obtain any other information from disclosure and the assessments.

**Changes to the 4 options**
The Committee decided to remove language that requires lawyers to give policy information or to maintain proof of insurance. A new provision requiring the lawyer to produce the information if the Bar requests it will be used for all 4 options. Paula Frederick will provide the Committee with language for all 4 options.
Rule 1-210. Professional Liability Insurance

(a) Each active member of the State Bar of Georgia engaged in the private practice of law in Georgia shall disclose on the annual license fee statement whether the member has professional liability insurance.

(b) The following members shall be exempt from the requirements of this rule:

(1) Members who are employed by a governmental entity or other organization and whose practice is limited to matters concerning the entity or organization;

(2) Members whose practice consists solely of serving as an arbitrator or mediator; and

(3) Members who are not actively engaged in the practice of law or who do not represent clients.

(c) Each member who has previously reported being covered by professional liability insurance shall notify the State Bar of Georgia in writing in such form and manner as the Board may designate within 30 days if the insurance policy providing coverage lapses, terminates, or is no longer in effect for any reason.

(d) The information required by this Rule shall be publicly available and included in the member’s listing in the Member Directory on the official website of the State Bar of Georgia. Each lawyer’s insurance status shall appear in the State Bar Member Directory as “covered,” “not covered,” or “exempt.”

Revised PLI Options
PLI 1/10/20 meeting
(e) Each member shall provide the State Bar of Georgia with confirmation of coverage upon request.

(f) The information required by this Rule is due on July 1 of each year. A member who does not comply with the requirements of the Rule by September 1 shall cease to be a member in good standing. A member deemed not to be in good standing under this Rule shall be returned to good standing upon making the disclosure required in subpart (a) to the Membership Department of the State Bar of Georgia.
OPTION 2
Mandatory Disclosure Requirement with Voluntary Assessment


(a) Each year, every member of the State Bar of Georgia shall certify:

1) Whether the member is engaged in the private practice of law; and

2) Whether the member is currently covered by a policy of professional liability insurance.

(b) The following members shall be exempt from the requirements of this rule:

1. Members who are employed by a governmental entity or other organization and whose practice is limited to matters concerning the entity or organization;

2. Members whose practice consists solely of serving as an arbitrator or mediator; and

3. Members who are not actively engaged in the practice of law or who do not represent clients.

(c) Each member who has previously reported being covered by professional liability insurance as set forth in paragraph (a)(2) of this Rule shall notify the State Bar of Georgia in writing in such form and manner as the Board may designate within 30 days if the insurance policy providing coverage lapses, terminates, or is no longer in effect for any reason.

(d) The information required by this Rule shall be publicly available and included in the member’s listing in the Member Directory on the official website of the State Bar of Georgia. Each lawyer’s insurance status shall appear in the State Bar Member Directory as “covered,”
“not covered,” or “exempt.” Each member shall provide the State Bar of Georgia with confirmation of coverage upon request.

(e) The State Bar of Georgia encourages those members who do not have professional liability insurance to complete the Bar’s voluntary online self-assessment of the operation of their law practice and to avail themselves of the resources which it recommends to address any deficiencies identified by the self-assessment.

(f) The information required by this Rule is due on July 1 of each year. A member who does not comply with the requirements of the Rule by September 1 shall cease to be a member in good standing. A member deemed not to be in good standing under this Rule shall be returned to good standing upon making the disclosure required in subpart (a) to the Membership Department of the State Bar of Georgia.
Mandatory Disclosure Requirement with Mandatory CLE for Lawyers Without Insurance

Rule 1-210 Disclosure of Professional Liability Insurance.

(a) Each active member of the State Bar of Georgia who is engaged in the private practice of law in Georgia shall disclose on the annual license fee statement whether the member is covered by a policy of professional liability insurance.

(b) The following members shall be exempt from the requirements of this rule:

(1) Members who are employed by a governmental entity or other organization and whose practice is limited to matters concerning the entity or organization;

(2) Members whose practice consists solely of serving as an arbitrator or mediator;

and

(3) Members who are not actively engaged in the practice of law or who do not represent clients.

(c) Each lawyer's insurance status shall appear in the State Bar Member Directory as "covered," "not covered," or "exempt." Each member shall provide the State Bar of Georgia with confirmation of coverage upon request.

(d) Every other year, beginning with registration for 2020-2021, each lawyer who discloses pursuant to paragraph (a) that he or she does not have malpractice insurance and who is engaged in the private practice of law shall complete a self-assessment of the operation of his or her law practice or shall obtain malpractice insurance and report that fact on the annual license fee statement for the following year.

(e) The lawyer shall complete the self-assessment in an interactive online educational program provided by the Bar regarding professional responsibility requirements for the operation of a law practice.
office. The self-assessment shall require that the lawyer assess his or her law office operations based upon those requirements. The self-assessment shall be designed to allow the lawyer to earn four hours of Ethics CLE credit and to provide the lawyer with results of the self-assessment and resources for the lawyer to use to address any issues raised by the self-assessment. All information related to the self-assessment shall be confidential, except for the fact of completion of the self-assessment, whether the information is in the possession of the Bar or the lawyer. Neither the Bar nor the lawyer may offer this information into evidence in a disciplinary proceeding. The Bar may report self-assessment data publicly in the aggregate.

(f) The information required by this Rule is due on July 1 of each year. A member who is not covered remains in good standing for one year from the date of the required disclosure. If the member does not complete the self-assessment required at parts (c) and (d) and does not obtain insurance, he or she goes out of good standing on July 1 of the following year. A member deemed not to be in good standing under this Rule shall be returned to good standing upon making the disclosure required in subpart (a) to the Membership Department of the State Bar of Georgia and, if not covered by a policy of malpractice insurance, by completing the self-assessment course.
Rule 1-210. Professional Liability Insurance

(a) All active members of the State Bar of Georgia engaged in the private practice of law in Georgia must be covered by a policy of professional liability insurance, in an amount no less than $100,000 per occurrence and $300,000 in the aggregate ("Minimum Limits"). For any Minimum Limits policy the expenses of defense must be outside the policy limits so that the Minimum Limits stated above are not reduced by payment of attorney's fees or claims expenses incurred by the insurer for the investigation, adjustment, defense, or appeal of a claim.

(b) The following members shall be exempt from the requirements of this rule:

(1) Members who are employed by a governmental entity or other organization and whose practice is limited to matters concerning the entity or organization;

(2) Members whose practice consists solely of serving as an arbitrator or mediator; and

(3) Members who are not actively engaged in the practice of law or who do not represent clients.

(c) Each lawyer who is required by this rule to have professional liability insurance shall notify the Membership Department of the State Bar of Georgia in writing within 30 days if coverage lapses, is no longer in effect, or terminates for any reason. Each lawyer's insurance status shall appear in the State Bar Member Directory as either "covered," "not covered," or "exempt." Each member shall provide the State Bar of Georgia with confirmation of coverage upon request.
(d) The information required by this Rule is due on July 1 of each year. A member who does not comply with the requirements of the Rule by September 1 shall cease to be a member in good standing. A member deemed not to be in good standing under this Rule shall be returned to good standing upon providing the Executive Director of the State Bar of Georgia with proof of professional liability insurance coverage.
Ms. Paula J. Frederick

State Bar of Georgia
Office of the General Counsel
104 Marietta Street NW Suite 100
Atlanta, GA 30303

Email paula@gsbar.org

Phone (404) 527-8720

Fax (404) 527-8744

Status Active Member in Good Standing

Public Discipline None on Record

Admit Date 11/12/1982

Law School Vanderbilt University

Click here for a list of status descriptions. (Member statuses that are displayed above in red note those members who are not permitted to practice law in Georgia.)

This site only includes information about an attorney’s public disciplinary history from January 1991 through December 2019, with one exception - this site does show whether an attorney was disbarred at any time prior to December 2019. If an attorney has been suspended or disbarred and subsequently reinstated or readmitted, this site could show the membership status of the attorney as “In Good Standing.” If you have any questions or would like information about an attorney’s public disciplinary history, please contact the Office of the General Counsel at 404-527-8720.

Please check carefully to be sure that you have selected the correct attorney. Attorneys may have similar names.

All grievances, investigations of grievances and private discipline are confidential. As such, the State Bar of Georgia is not able to confirm or deny that a grievance has been filed against an attorney, that an attorney is being investigated for an alleged violation of the Georgia Rules of Professional Conduct, or that an attorney has received private discipline.

Every effort has been made to keep the information contained on this website accurate and current, but it is provided with no warranty of any kind. Neither the State Bar of Georgia, nor its Officers, Executive Committee or Board of Governors, nor any employee thereof may be held responsible for the accuracy of the data.

If you have any questions about the attorney’s membership status, please contact the Membership Department at 404-527-
Ms. Paula J. Frederick

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104 Marietta Street NW Suite 100
Atlanta, GA 30303

Email        paulaf@gabar.org (mailto:paulaf@gabar.org)
Phone        (404) 527-8720
Fax          (404) 527-8744

Status       Active Member in Good Standing
Public Discipline  None on Record
Admit Date    11/12/1982
Law School    Vanderbilt University
This site only includes information about an attorney’s public disciplinary history from January 1991 through December 2019, with one exception - this site does show whether an attorney was disbarred at any time prior to December 2019. If an attorney has been suspended or disbarred and subsequently reinstated or readmitted, this site could show the membership status of the attorney as “in Good Standing.” If you have any questions or would like information about an attorney’s public disciplinary history, please contact the Office of the General Counsel at 404-527-8720.

Please check carefully to be sure that you have selected the correct attorney. Attorneys may have similar names.

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If you have any questions about the attorney’s membership status, please contact the Membership Department at 404-527-8777.
State Bar of Georgia

Ms. Paula J. Frederick

State Bar of Georgia
Office of the General Counsel
104 Marietta Street NW Suite 100
Atlanta, GA 30303
Email: paulaf@gabar.org
Phone: 404-527-8720
Fax: 404-527-8744

Status: Active Member in Good Standing
Public Discipline: None on Record
Admit Date: 11/12/1982
Law School: Vanderbilt University

Click here for a list of status descriptions. (Members statuses that are displayed above in rec notate those members who are no permitted to practice in Georgia.)

Professional Liability Insurance: Covered

(In annual registration, attorneys report whether they have malpractice coverage. Some attorneys, such as judges, government lawyers, arbitrators, and in house corporate lawyers do not carry coverage because it is not necessary in their practice setting).

Proposed new language for PLI:
The State Bar of Georgia requires that its members be covered by a policy of Professional Liability (malpractice) Insurance. Certain lawyers are exempt from the rule; these lawyers may or may not be covered by a malpractice policy.

All Georgia lawyers report whether they are covered by a malpractice policy when they pay their annual registration fees. The State Bar of Georgia makes every effort to keep the information contained on this website accurate and current, but it is provided with no warranty of any kind. Neither the State Bar of Georgia, its Officers, Executive Committee, Board of Governors, nor any employee thereof may be held responsible for the accuracy of the data.

-15-
Nicki,

Thank you for your email. The PLI Committee is meeting next week. I will be sure to bring these concerns to the committee.

Christopher P. Twyman, Esq.
Cox, Byington, Twyman & Johnson, LLP
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Rome, Georgia 30161

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Chris—We met at the BOG meeting in Savannah. You told me to send this to you again. I liked your idea to have an exempt status for court-appointed lawyers that would cover conflict defenders, court-appointed lawyers in Juvenile Court or other courts.

I’m planning to attend the Executive committee meeting and Town Hall meeting in Rome on the 21st, and look forward to talking with you more then.
Nicki Vaughan

From: Nicki Vaughan (Public Defender)
Sent: Wednesday, October 16, 2019 2:17 PM
To: 'chris.twyman@cbtlaw.com' <chris.twyman@cbtlaw.com>
Subject: FW: Mandatory Liability insurance

Chris—

Below are some questions that have been asked of me as the Chair of the Child Protection and Advocacy Section that I don’t think are answered by your recent email to Board of Governors members. I am afraid that I am not going to be able to make it to the Town Hall Meeting Friday, as I have two Bar meetings in Atlanta Friday morning and noon.

My primary question, which I don’t think you have answered, is regarding “lawyers in private practice” who do 95-100% of their cases under contract or appointment by a judge (Juvenile or Superior Court mostly.) Their practice is primarily in Juvenile Court by appointment, though they might rarely handle their neighbor’s daughter’s uncontested divorce, etc. They have virtually no vulnerability to a malpractice suit.

I have been contacted by numerous Juvenile Court Judges and lawyers concerned about this issue and sent out a survey. Did the committee give any consideration to potential exemptions for these people? Or would they just fall into the category of not being covered by malpractice insurance, which is disclosed on the dues statement?

I look forward to seeing you this weekend.

Nicki Vaughan
Chris—I had sent this to you in July. Your response was an automated response that you were out-of-town. I just wanted to be sure that you did receive it, as I wrote it on behalf of some 500 people who practice in Juvenile Courts throughout the state. I look forward to seeing you in Savannah.

From: Nicki Vaughan (Public Defender)  
Sent: Tuesday, July 2, 2019 4:58 PM  
To: 'chris.twyman@cbtlaw.com' <chris.twyman@cbtlaw.com>  
Subject: Mandatory Liability Insurance committee

Chris—

Congratulations for being appointed to chair this on-going committee. I know I’ve seen you at Board of Governors meetings, but I don’t know that we’ve ever talked. I am the Chair of the Child Protection and Advocacy Section which is composed of over 500 lawyers who primarily practice in Juvenile Court. Many of them are very concerned about the possible imposition of the new requirement.

I talked with Linley about this, and hope you have some notes about our conversation. The main concern is that most of these lawyers are single practitioners, and most of the work is court-appointed work representing individual children or parents. Much of it is contract work paid by the court at 40/50 dollars an hour.

I’ve heard from both judges and lawyers who believe that this requirement would be onerous for these lawyers. On the other hand, at least one Juvenile Court Judge has told me that their circuit requires such coverage for all lawyers who contract with the county.
As a former Juvenile Court independent contractor, I carried insurance, but I did a lot of private-pay work, also. Now, I am a full-time employed Juvenile Court Public Defender, so I’m unaffected.

This Spring, our Section sent a survey to section members to get their opinions, and received over 350 responses. We have not finished compiling the data, but as soon as that is complete, I’ll share it with you.

I’ve mentioned this concern to Darrell, and he seemed interested in this issue being considered by the committee. I just wanted you to be aware of this matter and know it’s out there. As soon as we have our data, I’ll forward it to you. (It will only be the lawyers’ concerns.) I don’t know of a way to find out how many Juvenile Court lawyers have ever been sued for malpractice. I can’t imagine that the Client Security Fund would ever deal with it. If you have any ideas, please let me know.

Thank you for your time and commitment to this issue. You’re a brave man!

Nicki Vaughan
Dear Mr. Sutton:

In the December 2019 Georgia Bar Journal, you requested that you hear from “you” regarding mandatory professional liability insurance. I am writing to state that I oppose all of your options.

1. All mandatory professional liability insurance or the other options will do is enrich insurance companies and/or increase premiums as the Georgia mandatory automobile insurance and Affordable Care Act did. The problem is not those who comply with the law. The problem is people who steal from their clients.
   a. What minimum is the bar going to require? Or is it going to be like automobile insurance where there are bad drivers with only $25,000/$50,000/$25,000 policies. If a modern car is a total loss, I doubt the $25,000 will pay for the property damage.
   b. The better practice would be to induce the legislature to make stealing from a client a mandatory 20 year prison sentence.

2. I have been practicing law for 35 years and have not had a malpractice claim against me. Ever.
   a. Disclosure: 10 years ago, I was sued along with @20 other people including a Superior Court Judge and a child psychologist, who had absolutely nothing to do with the case, by a pro se nut who alleged that the Augusta Judicial Circuit had a conspiracy to prevent fathers from receiving custody of their children. After I paid my $5,000.00 deductible for my professional liability insurance, the case was dismissed for failure to state a claim. However, my insurance premiums doubled thereafter despite the fact that I had done nothing wrong other than been involved in a case where one of the parties was completely irrational.
   b. The only reason that the Court did not award civil sanctions is that it assumed that pro se litigants are impoverised as are most of the pro se litigants are and the Attorney General represented the Superior Court Judge. The pro se nut actually earned more than $100,000 as an air traffic controller. (Think of that when you fly.)

3. As a sole practitioner with one employee, I am personally liable for my office whether I have insurance or not. Therefore, it should be up to me and me alone whether I have insurance. The other options are just a back door method to require it. Those who purchase it may advertise that they have liability insurance just as the lawn maintenance and jack of all tradesmen do on their trucks if they think it is such a wonderful idea. If advertising insurance coverage deems the profession, then why would we require it? There is no reason for the Bar to get involved in who has it and who does not. Let the market decide. I will wait to see if the King & Spalding sign in Atlanta adds “bonded and insured.”

4. If the State Bar adopts this provision, when may I expect a return of the money ($250.00 or $50.00 a year for five years) plus interest I was “assessed” when I was a prosecutor to fund payments to people whose attorney stole their money. Since I have never stolen clients’ money, the fund does me little good. If everyone has to have insurance, then there is no longer a need for the fund and the money should be returned to those who paid into it plus interest.
5. If the bar wants to change something, why don’t you change the ICLE requirement so that we may obtain our appropriate credits at our own offices instead of having to go to Atlanta or a satellite office to watch a video or live stream we could be watching from our own offices.

John T. Garcia
Attorney at Law
205 North Belair Road, Suite B
Evans, Georgia 30809
Garcia81@knology.net
706-650-7727
Fax: 706-364-5390
Can you send this response:

Rebekah,

Thank you for your thoughtful message. I am grateful for it. After all, the Bar can come to the best solution to this issue for Georgia's lawyers only if we receive many perspectives. I have passed along your input to the chair of the PLI committee, Chris Twyman, who I know will take it into consideration as the committee continues to deliberate this issue.

In the meantime, I have seen no data like that you mention or ask about.

I have intentionally remained hands off, so to speak, with the PLI committee. But as I receive reports from it, I am intrigued by the value of the non-public disclosure option. Precisely so we can answer your questions. At least some of them. Instituting this option would allow us to objectively determine the number of our members engaged in private practice who are uninsured, and as a result, determine whether there is a problem needing a solution. This is my personal, non-presidential opinion, however.

Thanks again for sharing your thoughts and helping Shape the Bar. I'm listening!

Darrell L. Sutton
Sutton Law Group, LLC
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Direct: 678-385-0385
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SHARON L. BRYANT // Chief Operating Officer
From: Rebekah Betsill [mailto:rbetsill@unitedbank.net]
Sent: Friday, December 13, 2019 12:22 PM
To: President <President@gabar.org>
Subject: Mandatory Professional Liability Insurance

Good afternoon. I prefer option #3, if any option at all. The article in the Georgia Bar Journal explains the options well. What is lacking is what has motivated the Bar to take up this issue in the now. There is a brief statement of balancing the interests of the public and the profession, but no data. What type of claims has the public been making that have gone unresolved? How has the public been damaged? How is the profession damaged by not requiring mandatory insurance and/or insurance disclosures? How is the profession bolstered by requiring mandatory insurance and/or insurance disclosures? I also have practical considerations such as merely knowing an attorney has insurance doesn’t equal coverage for all issues. I am concerned about a representation by the Bar to the public that an attorney is insured without the Bar having any real knowledge of what that insurance covers. That is my basis for selecting Option 3.

Sincerely,
Rebekah Betsill
Corporate Counsel, VP
Desk: (770) 567-2529
Cell: (770) 468-8126
P.O. Box 1337, Zebulon, Georgia 30295
www.accessunited.com
Can you send this response:

Beryl,

Thank you for your message.

The Bar can come to the best solution to this issue for Georgia's lawyers only if we hear what every subset of Georgia lawyer thinks about it. I appreciate you giving us the perspective of an immigration attorney.

I have passed along your input to the chair of the PLI committee, Chris Twyman, who I know will take it into consideration as the committee continues to deliberate this issue.

Thanks again for sharing your thoughts and helping Shape the Bar. I'm listening!

Darrell L. Sutton
Sutton Law Group, LLC
351 Washington Avenue - Suite 300
Marietta, GA 30060
Direct: 678-385-0385
Main: 678-529-6180
Fax: 678-529-6199
www.sutton-law-group.com

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-----Original Message-----
From: President [mailto:President@gabar.org]
Sent: Tuesday, December 17, 2019 4:31 PM
To: Darrell Sutton
Cc: Jeff Davis; Paula Frederick; Kathy Jackson; 'chris.twyman@cbtlaw.com'
Subject: FW: PLI

Sent to Presidents email address.

SHARON L. BRYANT // Chief Operating Officer
-----Original Message-----
From: visas4usa Farris [mailto:visas4usa@yahoo.com]
Sent: Saturday, December 14, 2019 3:08 PM
To: President <President@gabar.org>
Subject: PLI

Option One is my vote.
Beryl Bergquist Farris, immigration attorney
Can you please send this response:

Jamie,

Thank you for your thoughtful message. The Bar can come to the best solution to this issue for Georgia’s lawyers only if we hear what every subset of Georgia lawyer thinks about it. I appreciate you giving us the perspective of a sole practitioner and criminal defense lawyer.

I have passed along your input to the chair of the PLI committee, Chris Twyman, who I know will take it into consideration as the committee continues to deliberate this issue.

Thanks again for sharing your thoughts and helping Shape the Bar. I'm listening!
Dear Mr. Sutton,

I’m writing to reply to your call for feedback regarding the State Bar’s proposal to make malpractice insurance mandatory for attorneys. I believe it is an undue burden on sole practitioners engaged in practice, particularly for sole practitioners who handle primarily criminal cases.

So often, the rates that counties pay for appointed cases are only enough to pay the rent and physical overhead for a lone practitioner, and often this is only possible in a market outside of Atlanta. In a state where the cost of hiring an attorney is out of reach for a family making minimum wage, this added expense for attorneys just operates to make the system more unjust for the Georgian of average or less than average means. In addition, courts routinely deny the requests of attorneys seeking funds to hire investigators and experts. The idea to add to the burden of sole practitioners in this regard only strengthens the hand of the prosecutor and helps contribute to record numbers of incarcerated in the state.

In addition, clients who are wronged by an attorney in a criminal matter have recourse through an ineffective representation of counsel claim on appeal. Attorneys practicing criminal law are put on the record for purposes of accountability more often than any other kind of attorney.

Sincerely,

Jamie Roberts
GA Bar No. 608590
Kathy Jackson

From: Darrell Sutton <dls@sutton-law-group.com>
Sent: Wednesday, December 18, 2019 2:04 PM
To: President
Cc: Jeff Davis; Paula Frederick; 'chris.twyman@cbtjlaw.com'; Kathy Jackson
Subject: RE: PL ins

Can you send this response:

David,

Thank you for your message. This is an important issue, and we can come to the solution that best serves the profession and protects the public only if we hear from lawyers who, like you, are considering both.

I have passed along your input to the chair of the PLI committee, Chris Twyman, who I know will take it into consideration as the committee continues to deliberate this issue.

Thanks again for sharing your thoughts and helping Shape the Bar. I'm listening!

Darrell L. Sutton
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Main: 678-629-6180
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www.sutton-law-group.com

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From: President [mailto:President@gabar.org]
Sent: Tuesday, December 17, 2019 4:31 PM
To: Darrell Sutton
Cc: Jeff Davis; Paula Frederick; 'chris.twyman@cbtjlaw.com'; Kathy Jackson
Subject: FW: PL ins

Sent to Presidents email address,

SHARON L. BRYANT // Chief Operating Officer

State Bar
of Georgia
104 Marietta St. NW, Suite 100 | Atlanta, GA 30303
T: 404-527-8776 | F: 404-527-8717 | sharonb@gabar.org
CONNECT WITH THE BAR: 📱 🌐 🌈
From: David Moore [mailto:david@peachtreelawgroup.com]
Sent: Saturday, December 14, 2019 1:58 PM
To: President <President@gabar.org>
Subject: PL ins

Darrell,

This is so important that during this very busy season with Christmas approaching, I must take time to tell you PL ins is NEEDED!

Over 30 years ago, the Executive Director of the Atlanta Bar Association, Diane O’Steen, called me (on the south side of Atlanta) and said “I can’t find anyone to investigate a legal malpractice claim in your area. I agreed to help her and have been doing these claims since. For over 30 years, my experience has been more than half do not have PL ins. Vast majority of those without, do not have assets (equity). The public is “unprotected.”

Doctors have ins and Lawyers should have it, to protect the public. The public does not know to ask if the lawyer has ins. I doubt most will take time to check a bar listing. It is inexpensive for lawyers.

Thank you for your ear.

David Moore
Cell: 770-712-0115
Can you send this reply:

Rick,

Thank you for your thoughtful message. I am grateful for it. After all, the Bar can come to the best solution to this issue for Georgia’s lawyers only if we receive many perspectives. I have passed along your input to the chair of the PLI committee, Chris Twyman, who I know will take it into consideration as the committee continues to deliberate this issue.

In the meantime, I have seen no data to indicate a problem with uncollectable malpractice judgments. There is, however, substantial anecdotal evidence of this.

I have intentionally remained hands off, so to speak, with the PLI committee. But as I receive reports from it, I am intrigued by the value of the non-public disclosure option. Precisely so we can answer your question. Instituting this option would allow us to objectively determine the number of our members engaged in private practice who are uninsured, and as a result, determine whether there is a problem needing this solution. This is my personal, non-presidential opinion, however.

Thanks again for sharing your thoughts and helping Shape the Bar. I’m listening!

Darrell L. Sutton
Sutton Law Group, LLC
351 Washington Avenue - Suite 300
Marietta, GA 30060
Direct: 678-385-0385
Main: 678-529-6180
Fax: 678-529-6199
www.sutton-law-group.com

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From: President [mailto:President@gabar.org]
Sent: Tuesday, December 17, 2019 4:32 PM
To: Darrell Sutton
Cc: Jeff Davis; Paula Frederick; Kathy Jackson; 'chris.twyman@cbtjlaw.com'
Subject: FW: Mandatory Professional Liability Insurance

Sent to Presidents email address,

SHARON L. BRYANT // Chief Operating Officer

-30-
From: Richard K. Bridgeman [mailto:rick.bridgeman@gmail.com]
Sent: Saturday, December 14, 2019 11:43 AM
To: President <President@gabar.org>
Subject: Mandatory Professional Liability Insurance

Good morning Darrell,

Thank you for the opportunity to provide feedback on the proposals concerning professional liability insurance.

I served as a career prosecutor from my admission in 1995 until my retirement on December 31, 2018. Since that time, I have maintained active status but I do not accept cases and do not engage in the private practice of law. I merely maintain my active status to preserve my professional options in retirement, including reciprocity in the event of a post-retirement relocation, and so that when I am called upon from time to time by my former colleagues to provide advice or assistance in a complex case or on a particular issue of criminal law I do not run afoul of rules governing UPL.

While I have seen mention that "other states" are taking certain steps in this direction, what I have not seen is any data that suggests the issue of unpaid malpractice claims or judgments involving members of the bar is a matter requiring action. Has there been a significant problem in Georgia involving clients who have been unable to collect a malpractice judgment against their former counsel due to insolvency?

I am opposed to any requirement that members of the bar purchase mandatory professional liability insurance. I am likewise opposed to the proposals that there be public disclosure of the existence of a policy of professional liability insurance. My preference is to maintain the status quo. If the bar believes that additional measures are appropriate to protect consumers of legal services, then perhaps additional public education is appropriate so that consumers concerned about the issue can make inquiry of those bar members they are considering retaining for legal matters.

If maintaining the status quo is unacceptable to a majority of the bar/Board of Governors, then of the options being considered, option 3 (requiring non-public disclosure of the existence of professional liability insurance and a non-public assessment for uninsured members) is the most palatable in my opinion.

Thank you again for soliciting member feedback on this issue. Wishing you and your family a very Merry Christmas.

Regards,

Rick Bridgeman
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Can you send this response:

Emily,

Thank you for your message. I am grateful for it. After all, the Bar can come to the best solution to this issue for Georgia's lawyers only if we receive many perspectives. I have passed along your input to the chair of the PLI committee, Chris Twyman, who I know will take it into consideration as the committee continues to deliberate this issue.

Thanks again for sharing your thoughts and helping Shape the Bar. I'm listening!

Darrell L. Sutton
Sutton Law Group, LLC
351 Washington Avenue - Suite 300
Marietta, GA 30060
Direct: 678-385-0385
Main: 678-529-6180
Fax: 678-529-6199
www.sutton-law-group.com

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I urge the State bar to take NO action - there needs to be an Option 5 wherein NO malpractice insurance is required, no disclosures are made, and no classes are required. This issue has been discussed at every local bar meeting in our circuit and the response has been overwhelming: our circuit vehemently votes against all of these options.

Thank you for your time.
Dear President,

I hope this note finds you well. In regard to the article published in the GA Bar Journal, I am in favor of Option No. 2. I think attorneys would benefit from self-assessment. Also, it would be a good idea to link those who do not have insurance with resources on where to get insurance or/how to afford it. I hope this helps.

Regards,
Jessica.

Jessica M. Guevara, Esq.
Legal Counsel
Technical Consulting Solutions
Direct: +1 (770) 360-0559
Mobile: +1 (678) 206-8984
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wood.
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Sent to the Presidents email address.

SHARON L. BRYANT // Chief Operating Officer

State Bar
of Georgia
104 Marietta St. NW, Suite 100 | Atlanta, GA 30303
T: 404-527-8776 | F: 404-527-8717 | sharonb@gabar.org

CONNECT WITH THE BAR: 🌐 ✔️ ✖️

From: Clayton Tomlinson [mailto:tomlinsonclayton@gmail.com]
Sent: Wednesday, December 18, 2019 12:16 PM
To: President <President@gabar.org>; chris.twyman@cbtlaw.com
Subject: mandatory malpractice insurance... not a popular idea

Dear Sir,

I represent the Alapaha Judicial Circuit on the Board of Governors. I have polled our members and spoken to many individually. The Alapaha BAR is OVERWHELLMINGLY against the idea of mandatory malpractice insurance. Therefore my vote as a Board of Governor will remain consistent with the wishes of my constituents.

I will be glad to speak to you as to why it is unpopular and not wanted.

Respectfully,

Clayton A. Tomlinson
Mr. Sutton:

This email is in response to an article in the Georgia Bar Journal inviting comment on Mandatory Professional Liability Insurance. I am writing to support a rule requiring all lawyers to carry minimum insurance (Option Four).

My practice focuses on suing lawyers and using motions and appeals to rescue “distressed” cases. You can learn more about me and my practice here: www.rheinlaw.com.

Mandatory insurance is not only an issue of professional integrity, but also a matter of equal access to justice. One of the saddest decisions that I have had to make on a regular basis is turning away poor clients with good malpractice cases against personal injury lawyers who do not have insurance. Lawyers facing malpractice suits without insurance tend to represent themselves pro se and very aggressively, not only through trial but also with regard to collections. As a result (perversely) the absence of insurance is too often a lawyer’s “best defense” to a malpractice suit, since there’s too much risk to take on these kinds of cases on a contingent fee unless there’s an insurer on the other side. This business reality disproportionately affects the poor.

An additional problem is that OCGA 33-3-28 (requiring disclosure of insurance) is essentially unenforceable. So a lawyer who ignores an initial demand letter is not likely to be sued. When I can’t determine whether there is actually insurance on the other side, I can’t calculate risk.

I would also support raising bar dues to create a “backstop” fund to provide minimum coverage for payment of judgments against lawyers who void their insurance policies due to intentional misconduct, failure to report claims timely, etc. I’ve sued a couple lawyers this year who engaged in serious misconduct. It’s an embarrassment to the profession that there’s not more relief for those intentionally injured by our peers.
Best regards,

Jacob D. Rhein  
Georgia Bar No. 668356  
(404) 954-2220
Thanks so much for joining us yesterday. We really appreciate you taking the time to be part of that important conversation.

Making good on my promise to send you Kate's thoughts on the insurance issue:

Ivy, I have been thinking a good bit about this, and rather than appointing the bar as a depository for such information, I think the rules should provide it is a punishable offense for a lawyer who has undertaken representation for a fee, and who has had a judgment for professional malpractice entered against him or her arising from that representation, to not have a mandatory minimum amount of insurance in place. The foregoing would not apply to any lawyer who had disclosed in writing to that client prior to undertaking representation that he or she did not carry the mandatory minimum limits.

Such a disclosure would be very easy to include in any fee contract. That would keep bureaucracy pretty well out of everyday lawyer practice while dealing with the acute problems.
SHARON L. BRYANT // Chief Operating Officer

104 Marietta St. NW, Suite 100 | Atlanta, GA 30303
T: 404-527-8776 | F: 404-527-8717 | sharonb@gabar.org CONNECT WITH THE BAR:

-----Original Message-----
From: h. hudson [mailto:hermanhudson@comcast.net]
Sent: Monday, December 16, 2019 11:17 AM
To: President <President@gabar.org>
Subject: Mandatory Professional Liability Insurance

Hello:

I'm responding your article as you requested.

I think it would serve the members and the public best for the state bar to give the members a minimum amount of coverage under the yearly dues. That way the premiums could be more cost efficient because the carrier can bid for all of the members.

Herman W. Hudson
Hudson & Assoc., PC
P.O. Box 7929
Atlanta, Georgia 30357
1.404.897.5252-Office
1.678.302.0809-Fax
hermanhudson@comcast.net
Kathy Jackson

From: Sharon Bryant  
Sent: Monday, December 23, 2019 8:32 PM  
To: Kathy Jackson  
Subject: Fwd: Thoughts on Mandatory Professional Liability Insurance

FYI - I did not forward this email to you.

Sent from my iPhone

Begin forwarded message:

From: President <President@gabar.org>  
Date: December 19, 2019 at 9:06:00 AM EST  
To: Darrell Sutton <dls@sutton-law-group.com>  
Cc: Jeff Davis <JeffD@gabar.org>, Paula Frederick <PaulaF@gabar.org>, Kati Dod <dodk@gaappeals.us>, "chris.twyman@cbtjlaw.com" <chris.twyman@cbtjlaw.com>  
Subject: FW: Thoughts on Mandatory Professional Liability Insurance

Sent to the Presidents email address.

SHARON L. BRYANT // Chief Operating Officer

State Bar of Georgia
104 Marietta St. NW, Suite 100 | Atlanta, GA 30303  
T: 404-527-8776 | F: 404-527-8717 | sharonb@gabar.org

CONNECT WITH THE BAR:  

From: Richard Thomas [mailto:thom235@gmail.com]  
Sent: Tuesday, December 17, 2019 5:53 PM  
To: President <President@gabar.org>  
Subject: Thoughts on Mandatory Professional Liability Insurance

Dear President Sutton:

I read your message in the December 2019 Georgia Bar Journal with some interest. I am very much opposed to any mandatory requirements that would impact my ability to work in my profession. This includes mandatory professional liability insurance. I do not like any of the four options you set forth in your article. Has the decision already been made that one of the
four options will be enacted?

It is obvious that mandatory insurance would favor the big city law firms over small firms or sole practitioners. The big firms would be able to absorb the costs through the larger volume of business, while small firms and sole practitioners could be forced to close or merge with other firms in order to afford the premiums.

I am also concerned that some lawyers would not be able to meet the underwriting requirements to get any coverage, especially in high-risk practices like personal injury and real estate. Would inability to obtain coverage at any price, or only qualifying for coverage with ridiculous exemptions from coverage, be considered an exemption from the requirement to have coverage? Probably not under the options set forth in your article. I would view with extreme skepticism any assurance from the insurance industry that affordable coverage would be available to all.

If a gun were put to my head and I had to choose one option as least objectionable, it would be Option One as outlined in your article. At least I would be assured I could continue to practice law under that option.

Thanks for considering my opinion.

Richard E. Thomas
Attorney at Law
PO Box 184
Blakely, GA 39823
Kathy Jackson

From: President
Sent: Monday, December 23, 2019 6:04 PM
To: Darrell Sutton; Jeff Davis
Cc: Paula Frederick; chris.twyman@cbtjlaw.com; Kathy Jackson
Subject: FW: Mandatory Professional Liability Insurance

Sent to Presidents email address.

From: Kevin Kennealy [mailto:kkennealy@kbusinesslaw.com]
Sent: Thursday, December 19, 2019 3:46 PM
To: President <President@gabar.org>
Subject: Mandatory Professional Liability Insurance

Darrell,

I appreciate your excellent article, “Mandatory Professional Liability Insurance” in the December 2019 Georgia Bar Journal that invited feedback concerning the four options being considered by Professional Liability Insurance Committee. Your article does a great job explaining the mandatory liability insurance issue and explaining the four options. I also appreciate the feedback that you had kindly provided to me in the past (i.e. see emails below).

I think that options 1, 2, and 3 all seem reasonable. I would be supportive of any of those three options.

I’m opposed to option 4. I personally have always had a relatively high amount of professional liability insurance, but I think that option 4 will be problematic for those attorneys who attempt to obtain malpractice insurance, but are unable to obtain it. Insurance brokers have advised me that it may not be possible for an attorney to obtain malpractice insurance if such attorney has had a prior malpractice claim. I’m concerned that an attorney who is unable to obtain malpractice insurance will not be able to practice law. Therefore, if the GA Bar is going to implement option 4, then the GA Bar needs to guaranty access to professional malpractice insurance for every licensed GA attorney, including those who have malpractice claims brought against such attorney. Otherwise, the option 4 needs to have an exception for licensed GA attorneys who attempt in good faith to obtain malpractice insurance but are unable to obtain such insurance.

Thank you for consideration of my opinion.

Sincerely,

Kevin P. Kennealy
Attorney at Law
Kennealy Business Law, LLC
Phone: 770-303-0769
Fax: 404-855-4063

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From: Darrell Sutton <dis@sutton-law-group.com>
Sent: Tuesday, May 7, 2019 2:32 PM
To: Kevin Kennealy <kkennealy@kbusinesslaw.com>
Cc: Jeff Davis <jeffd@gabar.org> <jeffd@gabar.org>; Sharon Bryant <sharonb@gabar.org> <sharonb@gabar.org>
Subject: RE: Opposition to GA Bar Proposed Rule 1-210 Professional Liability Insurance

Kevin,

I am not sure if you have heard back from anyone else since you sent this email. Regardless, I appreciate you taking the time to provide us your opinion. This is a complicated issue, and we realize that. You may be pleased to learn that President Hodges has decided not to hold a vote on this proposed rule at the upcoming Board of Governors meeting. Instead, I will be reconstituting the committee studying this issue so that they can continue their consideration of it, which includes hearing from folks like you, before coming to the Board with a recommendation about how to proceed. I will be sure to share your thoughts with the committee and ask that they contact you for additional input.

Thank you for your thoughts.

Darrell L. Sutton
Sutton Law Group, LLC
351 Washington Avenue - Suite 300
Marietta, GA 30060
Direct: 678-385-0385
Main: 678-529-6180
Fax: 678-529-6199
www.sutton-law-group.com

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From: Kevin Kennealy [mailto:kkennealy@kbusinesslaw.com]
Sent: Sunday, May 5, 2019 9:53 PM
To: hodgesk@gaappeals.us; Darrell Sutton; dawn@dawnjoneslaw.com; elfite@gmail.com; buck@fmg-law.com; nizzaconner@gmail.com; will@nsfamilylawfirm.com; nleet@grsmb.com; sbakins@epra-law.com; tony@dglawfirm.com; amy.howell@dhdhd.ga.gov; david@lipscomblaw.com; fbs@sblaw.net; nvaughan@halcounty.org
Subject: Opposition to GA Bar Proposed Rule 1-210 Professional Liability Insurance

Dear Georgia Bar Executive Committee:
I'm a member of the Georgia Bar. I'm opposed to Proposed Rule 1-210 Professional Liability Insurance.

The major problem with the proposed rule is that it is possible that a GA licensed attorney in good standing with the GA Bar may not be able to obtain and/or maintain professional liability insurance if such attorney has just one malpractice claim brought against him/her. I’ve spoken with independent malpractice insurance brokers who have explained to me that once a solo attorney has a single malpractice claim brought against him/her, even if the claim settles without the attorney admitting fault, that such attorney will no longer be able to obtain malpractice insurance from any of the primary malpractice insurance carriers, and instead, has to go into a secondary insurance market where such attorney may or may not be able to obtain malpractice insurance (i.e. it is not just an affordability issue, but also an access to insurance issue). Therefore, I respectfully disagree with the article “The Time is Right” in the April 2019 Georgia Bar Journal that argued that access to insurance was not a problem. It is a problem for solo attorneys.

Under Proposed Rule 1-210, the attorney who is unable to obtain malpractice insurance will not be able to practice law in GA, notwithstanding that such attorney graduated from law school, passed the GA Bar, paid GA Bar dues for a number of years, participated in continuing legal education for a number of years, never had a bar complaint, and possibly, did not even commit malpractice.

If the GA Bar is going to implement Proposed Rule 1-210, then the GA Bar needs to guaranty access to professional malpractice insurance for every licensed GA attorney, including those who have malpractice claims brought against such attorney. Otherwise, the rule needs to have an exception for licensed GA attorneys who attempt in good faith to obtain malpractice insurance but are unable to obtain such insurance.

Thank you for consideration of my opinion.

Sincerely,

Kevin P. Kennealy
Attorney at Law
Kennealy Business Law, LLC
Phone: 770-303-0769
Fax: 404-855-4063

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I no longer have a dog in the fight since I am no longer in private practice, but I had some thoughts about professional liability insurance.

1. Having insurance is perceived by many lawyers as attracting nuisance litigation.
2. I have known experienced and well-respected lawyers (including one who was appointed as a Superior Court judge) who chose to forego PLI for that reason.
3. It can be a burden and inappropriately priced. When I was in private practice, it was a good thing that the premium was partly based on revenue, but the bad thing was the questionnaire about practice areas. It would appear that representing just one tenant in an eviction case would put you in the more risky "real estate" practice area.
4. Mandatory disclosure may be enough to encourage more lawyers to obtain coverage. It seemed like not having coverage was a dirty little secret that lawyers were cautious to mention.
Sent to Presidents email address.

From: Jason Graham [mailto:Jason@GRAHAM.LEGAL]
Sent: Friday, December 20, 2019 1:32 PM
To: President <President@gabar.org>
Subject: Mandatory insurance

Just read your letter in the GBJ and wanted to respond before I forgot. I am in favor of option 4 or 5 or 6. I think we should all be required to have minimum insurance and disclose it. Good luck.

Jason Graham
Bar #304595

Get Outlook for Android
Kathy Jackson

From: President
Sent: Monday, December 23, 2019 5:57 PM
To: Darrell Sutton; Jeff Davis
Cc: Paula Frederick; chris.twyman@cbtlaw.com; Kathy Jackson
Subject: FW: Malprac ins

Sent to Presidents email address.

From: Jim Nystrom [mailto:jnystrom@nystromlaw.com]
Sent: Friday, December 20, 2019 2:21 PM
To: President <President@gabar.org>
Subject: Malprac ins

A definite yes- this is probably more important than several other things the bar does.

Sincerely,

James A. Nystrom
Attorney at Law
12600 Deerfield Parkway
Suite 125
Alpharetta, GA 30004
Phone: 678-684-1500
Fax: 678-684-1504

www.NystromLaw.com
Sent to Presidents email address.

From: Tom Hodges [mailto:tomhodges25@gmail.com]
Sent: Friday, December 20, 2019 3:47 PM
To: President <President@gabar.org>
Subject: Mandatory Malpractice Insurance

I think this is a bad idea, there are some bar members who have very limited practices for various reasons, and it may make it impossible for them to continue to provide services, including pro bono.

Thomas L. Hodges, III, Senior Judge
This letter is in response to your inquiry article about malpractice insurance. While reading it I struggled to restrain my immediate visceral reaction to the limitation to attorneys in “private practice”. I am in solo practice. It is insulting to be singled out for unusually harsh treatment based upon the fact that I choose to assist private individuals, rather than nesting in the safety and security of a government or organizational client, and treated as if I am some kind of pariah.

Frankly, I am not in favor of any of the proposals. When I raised children, I felt as if the world were divided into two camps, those people with children, and those without. Never the two could understand each other. It is the same feeling when dealing with government lawyers. Government lawyers, who are able to rely upon the safety of a government paycheck, and protection of a large ever-funded organization, can simply never understand the struggle it is for a private attorney just to survive. As a solo, it is a challenge for me to exist month to month, and I cannot draw upon a tax base to pay my expenses. My survival depends upon convincing individuals to pay for my services. I have to be efficient, and I have to be good. I have to keep my expenses to a minimum always. It is even harder to convince a judge who was a former government lawyer that I deserve attorney fees for my actual time. They never had to consider things like operating costs and paying employees, or how much per hour a private attorney must generate just to keep the doors open. Thus, I believe non-private lawyers cannot see how it is massively unfair to burden struggling private attorneys with an unwelcome cost of mandatory insurance, and another regulatory hurdle to leap if we are to be allowed to offer our services to the public.

Private attorneys are unique. In almost every other discipline, a professional or business owner can utilize the protection of the corporate shield to limit personal liability. Not for us. We have to understand that every day we could lose everything in life we worked to build and accumulate. There is no shield of limited liability for a private attorney. In case government attorneys have not noticed, the world is litigious. I work in family law, and my clients are litigious. They do not hesitate to make complaints or file lawsuits. The risk that I will be the target of a lawsuit from a disgruntled client is ever present. Clients know this and use it to avoid paying bills. Ask any lawyer in private practice what is our ability to collect a past due debt. Non-existent. Clients know that if we seek to collect, they simply claim negligence or malpractice in return. It happens week in and week out. I say all of this to point out that my brethren of the bar should give thought to protecting lawyers in private practice from losing everything, not another well-intentioned burden intended to benefit private clients.

I choose to carry malpractice insurance and I always have. I believe any sensible private lawyer will do so, because in the face of unlimited personal liability, it is our only means to protect what we have worked so hard in life to acquire, no matter how little it is. But that is to protect my hard work and my family, not my clients. My clients are
already well-protected by the fact that I put my entire world on the line for every single case. How many of my government-paid colleagues is willing to do that?

In addition, insurance is a material cost of operating, it is highly significant, and that may be the difference between surviving and failing. Because we shoulder risks and costs our government-paid colleagues never experience, the choice should be left to the lawyer, not imposed as yet one more mandate on an already over-burdened private attorney. It should not be imposed as yet one more extra cost on private practice that our government-protected brethren do not have to share.

Here is an alternative. If the purpose is to inform and protect the public, then have ALL lawyers who deal with the public (including government lawyers) disclose to every client whether or not they carry liability insurance, and whether or not they could even have fiscal liability to the party. Require it at the time an attorney asks the client to sign an engagement agreement or is appointed to represent them. That way the public can make its own choice on the matter. While we are at it, have government lawyers who deal with victims (e.g. prosecutors) disclose that they are shielded by sovereign immunity and cannot be held liable for their errors no matter how egregious. If the public becomes aware of this imbalance, then perhaps it may be motivated to change the situation. I represent people every day who feel that they have been damaged by the actions of government attorneys, and are shocked to find there is no relief for them. No one considers to even tell them ahead of time. This is a fertile field to plow, rather than the stony rubble of overburdened private practice.

There is a wide gulf between government lawyers and lawyers in private practice. It is hard to escape the conclusion that this current effort is simply one more example of it. I wonder would my colleagues consider having ALL lawyers contribute to a common pool from which malpractice insurance could be paid for those who choose to undertake the unique risk of representing private clients? Not place the burden solely on the already unprotected private lawyer. Our families face existential financial risks every day from our choice to help private parties that government lawyers never face, and we could use the help.

David Oles, Esq.
GA Bar member since 1998
Kathy Jackson

From: President
Sent: Monday, December 23, 2019 5:54 PM
To: Darrell Sutton; Jeff Davis
Cc: Paula Frederick; Kathy Jackson; chris.twyman@cbtjlaw.com
Subject: FW: PLI Option 1

Sent to the Presidents email address. The next 10 or so emails I am forwarding to you are new emails.

From: LaVern F. Tate [mailto:lvfonline@mindspring.com]
Sent: Sunday, December 22, 2019 8:04 AM
To: President <President@gabar.org>
Cc: LaVern F. Tate <lvfonline@mindspring.com>
Subject: PLI Option 1

President Sutton,

Although I would be exempt, this information should be available to the public. This is the era of micro businesses and clients need to know. Declaration pages should at minimum show carrier and coverage period and may also disclose limit information of minimum coverage for carriers today for Bar registration. My coverage in 2007 would not be relevant today.

There is a concern with the indirect disclosures to local municipalities because home based business license or the lack thereof disclosures would indirectly be made in the online directory. This was relevant for my practice over a decade ago.

LaVern F. Tate
Sent from my Verizon, Samsung Galaxy smartphone