I. Welcome & Introductions (Twyman) 1

II. Approval of Minutes from January 10, 2020 meeting (Twyman) 2-3

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   a. Judge Edwards’ email and survey results 13-20
   b. PLI options
   c. Voting and Recommendations Options
   d. Future meeting dates
      i. August 18 or 19 via Zoom for vote

IV. Adjourn
2020-2021

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.

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<tr>
<th>Chairperson</th>
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<tr>
<td>Christopher Paul Twyman, Rome</td>
<td>2021</td>
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<tr>
<th>Member</th>
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<td>Sarah Brown Akins, Savannah</td>
<td>2021</td>
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<td>Kimberly Cofer Butler, Savannah</td>
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<td>Gregg Jarvis Conley, Atlanta</td>
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<td>Stephanie Kirijan Cooper, Birmingham</td>
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<td>J. Hamilton Garner, Moultrie</td>
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<td>Brandon Cory Goldberg, College Park</td>
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<td>Warren Raymond Hinds, Roswell</td>
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<td>Kenneth Bryant Hodges, III, Atlanta</td>
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<td>Linley Jones, Atlanta</td>
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<td>Herman Maddox Kilgore, Marietta</td>
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<td>David Neal Lefkowitz, Athens</td>
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<td>Daniel James O’Connor, Vidalia</td>
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<td>Dennis C. Sanders, Thomson</td>
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<td>Toronda Michelle Silas, Atlanta</td>
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<td>R. Gary Spencer, Atlanta</td>
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<td>Shannon McKenzie Sprinkle, Atlanta</td>
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<td>Meredith Wilson Sutton, Marietta</td>
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<th>Executive Committee Liaison</th>
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<td>David S. Lipscomb, Lawrenceville</td>
<td>2021</td>
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<th>Staff Liaison</th>
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<td>Paula J. Frederick, Atlanta</td>
<td>2021</td>
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The meeting was called to order at 2:05 p.m.

Attendance:


Executive Comm. Liaison: David S. Lipscomb


Guest: Justice Robert Benham.

Approval of Meeting Minutes:

The Committee approved the Minutes from the December 4, 2019 meeting.

Informational Item:

Report from Gregg Conley, Insurance and Safety Fire Commissioner’s Office

Gregg Conley reported that if professional liability insurance is mandated:

- Attorneys that currently have insurance will not see a significant change in their premiums.
- Attorneys who have been practicing law for a long time and never had insurance, will probably have a higher premium.
- Attorney who takes a risk assessment course, that is approved by the insurance company, will see a reduction in their premium.
- There are insurance products available for small firms and solo practitioners that are discounted, provided certain conditions are met.
Discussion Items:

The Committee reviewed the changes to all 4 options. The changes remove language that requires lawyers to give policy information or to maintain proof of insurance and added new provision requiring the lawyer to produce the information if the Bar requests it. The exceptions were added to all 4 options.

The Committee discussed adding two other options:

- None of the above
- Information gathering

After discussion the Committee did not vote to add either option.

The Committee discussed holding a town hall meeting in Macon in March 2020.

Possible meeting dates for February, April and May will be circulated via email.

The meeting adjourned at 3:10 pm.
Friends:

I conducted an anonymous survey through SurveyMonkey with Bar members in the Griffin Judicial Circuit to get feedback on how I should vote on the issue of Professional Liability Insurance (PLI). The attorneys being surveyed were provided with the Bar’s own summary of the four options before taking the survey. Your summary was objective, not pushing any outcome, as I read it.

The results are a combination of the anonymous survey responses and a few email responses from those eschewing the SurveyMonkey response format. Those emailed responses included recitation of oft heard arguments. For example, some members of the Griffin Judicial Circuit Bar suggested I do nothing, however, I understand that doing nothing is not one of the options posed by the Bar.

Option 1: 27%
Option 2: 9%
Option 3: 18%
Option 4: 40.9%

It seems the PLI discussion has slowed, with no majority emerging, in part because we have four options presented. As one acquainted with building consensus within institutions, sometimes a principled fresh decisional framework and method can move the discussion forward. I suggest you consider suggesting that other Board members try this survey method and survey their constituencies, perhaps with the advance disclosure, like mine, that a directly representative vote of the majority or plurality survey response may be expected. Of course, that is up to each Board member. I’m sending you exactly what I sent out to my constituents for your consideration, but they would do well to make theirs shorter. If they lack an email list within their circuit, their chief judge can usually provide the email list, or maybe the Bar can advise on filtering to create circuit by circuit email lists to Board members.

Chief Judge Christopher C. Edwards
Cell: 770-823-6115
Office: 770-716-4275
Your survey vote, please!

Taylor Wood <gjc.taylorwood@gmail.com>

Fri, May 8, 2020 at 3:56 PM

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James Dunn <ndunn@bellsouth.net>, James Fain <jfcain@bellsouth.net>, James Hooling <jhooling@bellsouth.net>,
James Stanley <jmsami@com.com>, James Webb <jwebb@bellsouth.net>, Jamie
Griffin Judicial Circuit Counsel:

It has been my honor to represent you on the State Bar Board of Governors for just over one year. First, I offer a progress report on my service to you. Second, I seek your anonymous advice by survey response on a major Board vote on mandatory professional liability insurance (PLI) coverage.

I cannot write to you without mentioning our situation. Lawgiving requires social interaction, so this is probably the most difficult time of your legal career. We are aware that many lawyers have not taken in any new clients in the last couple months. We are trusting and obeying our Supreme Court’s evolving directions on moving toward resuming a new form of normalcy in providing due process. We have no foresight when that will occur.

As a circuit we are grateful for the addition of our two new Superior Court judges, Judge Coker and Judge Miller. As your chief judge in my twenty-second year as your Superior Court judge, I am delighted to see the bright future of our circuit taking form. No date is yet set for Judge Miller’s investiture. Nonetheless, yesterday we sent you our calendar for July through December. My thanks to my former staff attorney Kyle Timmons for writing all the case assignment documentation and creating the case assignment distribution for the transition to five judges. Many months ago, and to my current staff attorney Taylor Wood for making needed revisions including the calendar you were sent yesterday.

FIRST, THE LAST YEAR.

Since beginning service on the Board of Governors, I have proposed a major rewrite, including the official commentary you see as part of the revised rule, copy attached, of Uniform Superior Court Rule 3.3 regarding case transfer. I also serve on the Board of the General Practice and Trial Section of the State Bar, and that Board has also been supportive of this revision. The revision has passed first reader in the Uniform Rules Committee, on which I also serve, of the Council of Superior Court Judges. It is up for second reader vote in August. If passed, and then approved by the Supreme Court, it becomes law. This revision reconciles the extant law of judicial disqualification with the transfer rule, protecting you and your clients.

I have published two articles in the last year, one in the Fulton Daily Report regarding attorney fee contracts and the other in the Georgia Courts Journal regarding a Superior Court judge’s election day duties. Please consider amending your fee contract as the attached article below suggests. You will efficiently but professionally increase your collection of attorney fees.

In the past year I have spoken at four legal conferences including three one-hour CLE presentations for members of the bar to attain credit for their professionalism hour:
- Georgia EMC Counsel Association Meeting, on Professionalism, June 2019;
- National Association of Court Managers (NACM) Annual Meeting, plenary session, introducing Dr. Will Simmons at his investiture as President of NACM, July 2019;
- Fayette Bar Association Annual CLE on Professionalism October 2019; and
- State Bar of Georgia, General Practice and Trial Section Annual Seminar, on Professionalism, March 2020.

The Board of Governors decided at the last meeting that Bar dues would not be increased because the State Bar received a grant. I voted with the majority to terminate some lesser nonessential programs of the Bar to cut costs. It still appears the Bar will be seeking an indefinite dues increase next year due to operating costs. The Bar notifies you directly of other changes, so I won’t redundantly recite those here.
YOUR GUIDANCE, PLEASE.
As I came on the Board of Governors, debate raged on whether Georgia lawyers in private practice should be required to buy $100,000 of PLI coverage. As a late-comer to this debate, the committee was formed and the options defined, without my participation. I have not yet spoken or cast any vote on the issue, because I want to hear from you first. Soon, the Board of Governors will be voting among four options.

I would like your opinion, to inform my vote. The proposed options are described in the survey below, from the attached Bar memo. There is only one question contained in the survey. Please complete the anonymous survey linked below regarding attorney insurance by **May 31, 2020**.

https://www.surveymonkey.com/r/3VXK9MZ

Of course, I will publish the survey results. Thank you for your participation.

Chief Judge Christopher C. Edwards
770-716-4275

Taylor Wood
Staff Attorney | Honorable Christopher C. Edwards
Superior Court | Griffin Judicial Circuit
One Center Drive, Fayetteville, GA 30214
Email: gjc.taylorwood@gmail.com | Phone: (770) 716-4276

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2 attachments

- **PLI Summary Options Circuit.pdf**
  220K
- **Fulton Daily Report - Fee Contract Article.pdf**
  848K
Attorney Liability Insurance

1. Below are the options being presented by the Professional Liability Insurance Committee of the State Bar of Georgia on the issue of mandatory insurance coverage for attorneys. Please select which option you believe is the best.

Option 1 would require all lawyers in private practice to disclose on their dues statement whether they are covered by a malpractice insurance policy. The information would be published in the member's listing in the online Member Directory. Lawyers in private practice who fail to disclose would go out of good standing on Sept. 1 of the Bar year, which is the same date that members who do not pay their license fees cease to be in good standing. To return to good standing the member would need to make the disclosure to the Membership Department of the Bar. Lawyers who do have coverage would
not be required to provide information about the insurance company, policy number or policy limits.

Option 2 would include all of the provisions of Option 1, with an additional provision encouraging lawyers who are not covered by a PLI policy to take a free voluntary self-assessment course provided by the Bar online and designed to evaluate the lawyer's practice for the risk of malpractice. The assessment would be modeled on one used in Colorado. Members could receive CLE credit upon completion of the course. The results would be confidential and members would receive information about resources to help reduce risk of a malpractice claim.

Option 3 would include all of the provisions of Option 1 and 2, with two changes: 1) the self-assessment course (Proactive Management-Based Assistance) would be mandatory for all lawyers who are not covered by a PLI policy, and 2) the information would not be published on the website. If the lawyer failed to make the disclosure or, if not covered, to either complete the assessment or to obtain coverage within one year of the required disclosure date, he or she would go out of good standing.

Option 4 is the proposal that requires lawyers in private practice to be covered by a PLI policy.
have amended the provision that required the coverage to be non-eroding so that it would only apply to policies with minimal limits. This option would require lawyers to obtain or be covered by a PLI policy and to report that fact to the Bar on the dues statement. Members who do not comply would go out of standing as of Sept. 1 of the Bar year.

DONE

Powered by SurveyMonkey
See how easy it is to create a survey.

Privacy & Cookie Policy

0 of 1 answered
Attorney Liability Insurance

Q1
Below are the options being presented by the Professional Liability Insurance Committee of the State Bar of Georgia on the issue of mandatory insurance coverage for attorneys. Please select which option you believe is the best.

Answered: 40  Skipped: 0

Option 1 would require all lawyers in private practice to disclose on their dues statement whether they are covered by a malpractice insurance policy. The information would be published in the member's listing in the online Member Directory. Lawyers in private practice who fail to disclose would go out of good standing on Sept. 1 of the Bar year, which is the same date that members who do not pay their license fees cease to be in good standing. To return to good standing the member would need to make the disclosure to the Membership Department of the Bar. Lawyers who do have coverage would not be required to provide information about the insurance company, policy number or policy limits.

Option 2 would include all of the provisions of Option 1, with an additional provision encouraging lawyers who are not covered by a PLI policy to take a free voluntary self-assessment course provided by the Bar online and designed to evaluate the lawyer's practice for the risk of malpractice. The assessment would be modeled on one used in Colorado. Members could receive CLE credit upon completion of the course. The results would be confidential and members would receive information about resources to help reduce risk of a malpractice claim.

Option 3 would include all of the provisions of Option 1 and 2, with two changes: 1) the self-assessment course (Project Management-Based Assistance) would be mandatory for all lawyers who are not covered by a PLI policy, and 2) the information would not be published on the website. If the lawyer is not in good standing, he or she would go out of good standing.

Option 4 is the proposal that requires lawyers in private practice to be covered by a PLI policy. We have amended the provision that required the coverage to be non-cancelable so that it would only apply to policies with minimal limits. This option would require lawyers to obtain or be covered by a PLI policy and to report that fact to the Bar on the dues statement. Members who do not comply would go out of standing as of Sept. 1 of the Bar year.

TOTAL 40 responses

https://www.surveymonkey.com/results/SM-SWF/
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.”
(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.

(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.

(c) The State Bar of Georgia encourages those members who do not have a policy of 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 part (a) of 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 3

Mandatory Disclosure Requirement with Mandatory CLE for Lawyers Without Insurance

(Proactive Management-Based Assistance)

**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) Every other year, beginning with registration for 2020-2021, each lawyer covered by paragraph (a) who discloses that he or she is not covered by a policy of professional liability insurance 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.

(d) The Proactive Management-Based Assistance program is a free interactive online educational program provided by the Bar. It requires the lawyer to assess his or her law office and operations based upon the requirements of the Georgia Rules of Professional Conduct and best-practices for the operation of a law office. Lawyers may earn one hour of Ethics CLE credit for...
each module of the self-assessment completed. Upon completion of each module in the Proactive Management Based self-assessment program, the lawyer will receive the results of the self-assessment and suggested resources to help the lawyer address any deficiencies identified by the self-assessment. All information related to the self-assessment shall be confidential and not shared with the Office of the General Counsel, except for the fact of completion of the self-assessment. 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.

(c) The information required by this Rule is due on July 1 of each year. A member who discloses that he or she is not covered by a professional liability insurance policy remains in good standing for one year in order to complete the Proactive Management-Based Assistance Program or to obtain insurance. If the member neither completes the self-assessment required at parts (c) and (d) nor obtains 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.

(f) Each member shall provide the State Bar of Georgia with confirmation of coverage upon request.

(g) The Bar will provide the information required by part (a) of this rule upon request from any person but will not publish it as part of the member’s listing in the Member Directory on the official website of the State Bar of Georgia.
OPTION 4
Mandatory Insurance Requirement

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 claim 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.