

IF

A focus for life and your practice

Carl Younger, President

During my youth, my favorite poem was "If" by Rudyard Kipling. The poem appealed to me most probably because its message was direct and fit my own view of life. While my taste in fiction, art and poetry may have become more "refined", I still return to the principles of that poem. I am reminded that maturity and leadership require confronting challenges:

"If you can keep your head when all about you
Are losing theirs and blaming it on you"

Every claim we receive has the potential for upsetting the lawyer and law firm against whom it is made - you can certainly "lose" your head. Lawyers Mutual has tried repeatedly to remind you of the multiple burdens that fall from claims. The burden of a single claim is magnified for Lawyers Mutual: we handle hundreds of claims each year. Calendar Year 2004 was especially burdensome with its number of claims (350) and amounts reserved: it was the worst claims year in the history of our Company.

As the poem notes, however, we continue to "keep our head" and work diligently to help resolve the claims that are presented to us. Through the hard work of our staff and the long-term guidance and direction of our Board, we continue to meet the challenge of providing a stable, financially strong source of professional liability coverage to North Carolina attorneys. That's leadership and maturity.

As leaders, we must remind our insureds of the path that should be followed. That path

includes taking ever increasing care of the way you practice law. Do you assign tasks to assistants without sufficient instruction or review? Have you allowed members of your office to use a hand stamp of your signature?

Are you careful of your good name and your status as an attorney in all of your personal, professional and business dealings?

Unfortunately during 2004, we saw numerous examples of lawyers who were careless. We also saw lawyers who appeared to act dishonestly. We saw others go to jail. As we began 2005, we found that one lawyer even took his own life.

Your practice does not need to be a source of carelessness, dishonesty, or tragedy. Practicing law -- helping others -- can be one of life's greatest rewards. You must treat your profession and your practice with respect if you want to be respected and truly successful. Lawyers Mutual is here to help. But you must help yourself and us in reducing the number and size of claims made. If you are able to do that, then we all can more easily satisfy the standards set by Kipling:

"If you can meet with triumph and disaster
And treat those two impostors just the same"



Carl Younger
President

January 2005

In this issue:

2 LML Continues Meeting CLE Needs

3 The Devil is in the Details

4 Understanding Underwriting

**Lawyers Insurance Agency
can be your source for bonds**

Occasionally your clients will need a court bond of one type or another. This could include fiduciary (personal rep, guardian/conservator, administrator/executor), injunction/TRO, lost instrument, replevin or supersedeas/appeal bonds. You may have found yourself in the situation of being in the courthouse, discovering the need for a bond and not knowing where to turn or who to call. Now you can call on us! Contact Lawyers Insurance Agency at 800-662-8843, or visit us at www.lawyersinsuranceagency.com to download bond applications. We work with specialists in court bonds for law firms and their clients. We realize that timing is critical with respect to your bond needs. The underwriting process is streamlined and typically bonds are issued within 24-48 hours. Rates are extremely competitive.

Other advantages of this bond program:

Most Court Bonds (excluding Probate) have a one-time premium, rather than yearly renewals charged by other companies.

Premiums for Guardianship Bonds for minors are charged on a yearly basis, rather than requiring pre-payment through age 18, as is common practice with other companies.

We will work with you to obtain the bond your client needs

**The next time you need a bond, think of Lawyers Insurance Agency
and call 800-662-8843**



LML Continues Meeting CLE Needs

Program Highlights:

9:00: ♦ Hot Topics in Law Practice

10:15: ♦ The Dirty Dozen: 12 Malpractice Claims and How They Might Have Been Prevented

11:30: ♦ Real Estate Mistakes and How to Avoid Them

or

♦ Substance Abuse

Seminar Calendar:

February 4, 2005 - Greensboro

February 25, 2005 - Raleigh-Durham

March 11, 2005 - Wilmington

All Programs:

9:00 am to 12:30 pm

Continental Breakfast:

8:30 am

To Register:

Please mail this form to Lawyers Mutual or fax to 919.677.9641.

or register online at www.lmlnc.com

Name _____

State Bar No. _____

Firm _____

Address _____

City/State/Zip _____

Telephone _____

Fax _____

Seminar Date _____

Seminar Location _____

Breakout Session Substance Abuse Real Estate

The Devil is in the Details

The vital importance of attention to the smaller aspects of practicing law

Louise Paglen, Vice President of Risk Management

When I was growing up, I often heard the phrase, "The Devil is in the details." I probably remember this phrase well, because I often struggle with details - preferring to focus on the "big-picture." This lack of attentiveness to



Louise Paglen
Risk Management

detail has sometimes seemed a curse. When I overlook a seemingly minor detail it can sometimes lead to a much bigger embarrassment. Such was the case when I stood before an especially large audience of Lawyers Mutual insureds, only to hear a loud cell phone ringing over the speakers. While preparing for the program, I had overlooked a minor detail. My cell phone, buried in my purse

under the podium, directly below the microphone, had reminded me and the audience that teaching is much easier than doing. As a result of that humiliating experience, I've developed my own risk management plan - I now stash my purse under the registration table - far away from the microphones!

I feel great empathy for lawyers who are required to report malpractice claims to Lawyers Mutual. So many of the claims are the result of an ostensibly minor detail that was easily overlooked. How difficult it is for some of us to focus on the minutia, when there are bigger, seemingly more important and interesting aspects of practicing law than examining the details of a statute or rule or double-checking a calendar entry! Attention to detail, however, is a vital component of any effective law office risk management plan.

Every year we receive reports of claims that are the result of overlooking a small detail. In a real estate practice, a lawyer may overlook a deed of trust during a title search; a corporate attorney might file the UCC financing statement in the wrong county.

In litigation, the devilish detail usually involves a missed deadline. For example, in one case a lawyer filed a complaint naming the wrong corporate defendant. By the time he realized his mistake the statute of limitations had

expired. Another lawyer accidentally noted a 30-day deadline for filing a notice of appeal as the 31st day on his calendar. At least a few times each year, lawyers report missing a deadline on a personal injury claim that arose in Tennessee or Virginia. They didn't think to pay attention to one particular detail: the statute of limitations deadlines in some states are only one or two years, not three years as in North Carolina. In another case, a lawyer takes a Voluntary Dismissal in federal court, planning to re-file a year later. Oops! Federal Rule 41 is slightly different from North Carolina Rule 41 - it doesn't provide an opportunity to re-file after a dismissal. Missed that minor detail!

The wonders of word processing have enabled us to cut and paste and move whole paragraphs and pages from one document to another thereby simplifying the time consuming task of drafting agreements. However, with the ease of a keystroke, we can just as easily insert something that shouldn't have been there or erase a paragraph that should have. Lawyers Mutual has settled many large claims because lawyers didn't carefully proofread the details of a will or separation agreement.

To avoid missing details and falling prey to a malpractice claim, develop a risk management plan for your office that focuses on prevention. For example, if you are in a litigation practice, the most important detail is deadlines. Develop a system for checking and double-checking deadlines to ensure that they are correctly entered in the firm's calendar system. If proofreading is a problem for you, allow yourself at least a day (or a few hours) to put a document aside and review it later with a fresh set of eyes. Have your detail-oriented paralegal (the one with the color-coded files) proof your documents and letters before they are finalized. Don't take anything for granted. Review the applicable statute or rule, even if you think you already know it. You might discover a nuance that would otherwise have been overlooked. Finally, involve your whole staff in risk management. Hold monthly staff meetings to review cases and risk management issues. Discuss the importance of working together as a team to make sure everyone is paying attention to the details. Together, you can keep the devil from your doorstep.



Understanding Underwriting

Q. Where can I find an application on the Internet?

A. Applications for Reissue, New Applicant and Add Lawyer (Supplemental Application) are at WWW.LMLNC.COM.

Q. How far in advance of my expiration date do I need to submit my application for reissue to allow for processing?

A. It is necessary to allow at least two weeks for everything to be processed.

ALERT: Your new Declaration is now being sent to you in a Navy Blue Folder marked POLICY.

LML TODAY

The contents of this newsletter are intended for general information purposes only and should not be construed as legal advice or legal opinion on any specific facts or circumstances. It is not the intent of this newsletter to establish a standard of due care for any particular situation. Rather, it is our intent to advise our policyholders to act in a manner that might well be above the standard of care in order to minimize a firm's malpractice risk.

Henry A. Mitchell, Jr.
Chairman

Carl Younger
President

4

A publication for policyholders of
Lawyers Mutual Liability Insurance
Company of North Carolina

LML TODAY

PO Box 1929, Cary, NC 27512-1929

Lawyers
Mutual
LIABILITY INSURANCE COMPANY
OF NORTH CAROLINA



PRESORTED
First Class
US Postage
PAID
Permit No. 729
Cary, NC 27513