

PROFESSIONAL LIABILITY INSURANCE

“Everything You Need to Ask”

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Presented to:

**Insurance & Surety Committee, The Florida Bar, Insurance 101
Speaker Series**

Presented By:

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Professional Liability Insurance

- ◆ Occurrence Policies
- ◆ Claims-Made Policies
- ◆ Why Lawyers Professional Liability Policies are written on a Claims-Made basis

Understanding Prior Acts Coverage

- ◆ Coverage provided for Legal Services only on behalf of Named Insured
- ◆ Coverage provided for Legal Services on behalf of Named Insured and a prior law firm/career coverage
- ◆ Coverage provided for Legal Services on behalf of Named Insured, prior law firm/career coverage and moonlighting
- ◆ Prior Acts Coverage/Retroactive Date/”TAIL” Coverage
- ◆ Career Coverage vs. Lateral Hire
- ◆ Continuity of Coverage – Think Before You Leap



The Dreaded Application

- ◆ Complicated and unique to each company
- ◆ Named Insured & Predecessor Firm history is correct
- ◆ Internal Procedures
- ◆ Suits for Fees
- ◆ Claims, Incidents & Bar Complaints
- ◆ AOP – Areas of Practice differ by Insurance Company
- ◆ High Risk areas that affect insurability and rates
- ◆ Website Content

Outside Interests

- ◆ Outside Interest – Definitions are different by Company
- ◆ Equity Interest in Firm Client(s)
- ◆ Equity Interest in Non-Clients of Firm
- ◆ Board of Directors/Officers
- ◆ Spouse & Immediate Family Members Equity Interest in Firm Client(s)



Analyze Exclusions in Policy

- ◆ Know Your Policy Equity Interest Thresholds
- ◆ Percentage of Equity Interest Combined
- ◆ Spouses & Immediate Family Members Included for Equity Interest
- ◆ Intellectual Property
- ◆ Securities
- ◆ Investment Advice

Warranty Statement

- ◆ Inquire in Writing all Attorneys and Staff of Claims or Potential Claims
- ◆ Bar Complaints – How to Handle
- ◆ Responsibility to Notify Carrier of Any Changes After Application was Originally Signed

Reporting Claims, Incidents & Bar Complaints

- ◆ Report Immediately
- ◆ Incidents/Bar Complaints – Don't Assume!
- ◆ Communicate Procedures to Both Attorneys and Staff
- ◆ Consent to Settle/Hammer Clauses
- ◆ Corrective Action



What to Consider When a Firm Dissolves

- ◆ How does coverage continue on for the past work of the partners and associates
- ◆ Extended Claims Reporting Period Endorsement – “TAIL” Coverage
- ◆ How are the limits of the policy affected?
- ◆ What is the cost of “TAIL” coverage?
- ◆ What about past equity partners – are they willing to share in cost?
- ◆ Funds set aside in a special trust account to purchase “TAIL”?

What to Consider When a Firm Merges

- ◆ Predecessor Firms/ Successor Firms – How does coverage apply?
- ◆ Proactive steps should be taken when a new firm forms by merging with another firm
- ◆ Which firm is considered the successor firm?
- ◆ Does the successor firm’s insurance company provide coverage to the predecessor firms?
- ◆ Does the successor firm WANT to pick up the exposure?
- ◆ Funds set aside in a special trust account to purchase “TAIL”?
- ◆ What is the successor firm’s financial responsibility to the exposure?



The Florida Bar Ethics Opinions & Bar Rules

- ◆ Rules Regulating The Florida Bar set out limits and boundaries for lawyers and law firms
- ◆ Ethics Opinions often provide guidance to work out real dilemmas
- ◆ Call your Florida Bar Ethics Hotline at 850-561-5780