

Help Us Help You

Be a vigilant professional

Carl Younger, President

Professionals occupy a special position in society as a result of their core commitment to ethical and competent service. As many have recently written, including Walter Bennett in "The Lawyer's Myth", that respected position in society is being increasingly questioned. Evidence of that questioning is confirmed by the increase in the claims seen by Lawyers Mutual and other professional liability carriers.

The Number of Claims, including Large Claims, is Increasing

During 2003, we saw claims increase by 17% to over 300. The most significant practice areas for claims continue to be in real estate, in trial practice and in family law. The size of claims is also increasing. While the Company paid only one closed claim over \$100,000 during 2000, numbers of such claims have increased year by year - 5 in 2001, 7 in 2002 - until we dealt with 13 such closed claims last year. Actual cash payments for claims and claims defense were almost \$6.4 million in both 2002 and 2003.

Service Requires Strength

Given this claims experience, our actuaries recommended a range of possible increases in our premiums. We have selected an increase at the lower end of that range: effective June 1, 2004, our rates will increase approximately 3.6%. Notwithstanding the more significant increase in claims, we have restricted our increase to a level less than the increase in the cost of living. We did not take advantage of a "hard market" during 2003 to seek an increase: we are seeking a modest increase based on our own claims history - not market conditions.

Our Hope

The rebound in financial markets during 2003 and operational diligence from all parts of the Lawyers Mutual staff will hopefully allow our Board to declare a dividend during the April

Board meeting - a dividend exceeding the premium increase noted above. However, we continue to be challenged during the first 75 days of 2004 by several claims that may prove to be significant. Our Board will struggle with balancing its desire to return money to you with its hope that retention of funds now may delay the date when a further increase in premiums might be necessary.



Carl Younger
President

Your Help

We recognize the increased pressures faced by attorneys. We also recognize that the pressures are not likely to lessen. We continue to emphasize - even preach - the need to be diligent in your practice. Proactive client relations and systems that document what you have done are mandatory in today's legal/business environment. Proactive also applies to your relations with us: if you have a claim or potential claim, write us at the earliest possible time. By following such practices, and thus helping Lawyers Mutual reduce claims, we all will enjoy the benefits of stable rates even in an inflationary environment.

As professionals, we have special privileges and special responsibilities. Even one of the most intense capitalists, John D. Rockefeller understood that principle: "I believe that every right implies a responsibility; every opportunity, an obligation; every possession, a duty." Thus, join with us in that special service as lawyers, not only to clients but also to all other lawyers and the organizations serving our profession.

April 2004

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Getting Control of Your Files

Frequently Asked Questions about file retention, destruction and storage

Louise Paglen, Vice President of Risk Management

How long do I need to keep my clients' files?

The State Bar requires that a client's file be retained for a minimum of six years. If a client consents, the file may be destroyed earlier; however it is not advisable. There is a three-year statute of limitation, and four-year statute of repose, applicable to a legal malpractice claim. It is prudent to retain a copy of all clients' files for a period of six years, regardless of whether the client consents to its destruction or the client retrieves the file. If your former client or a third party asserts a malpractice claim against you, Lawyers Mutual will need a copy of the file to appropriately respond or to prepare a defense.

Should I ever keep files longer than six years?

The best time to determine how long a file should be retained is at the time the file is closed. The responsible lawyer should review the file and retain any items that belong to the client in a secure location until retrieved by the client. Identify a destruction date for the closed file that is at least six years into the future. The destruction date may be later if warranted by the applicable statute of limitation or area of practice.

Must the client be notified before the file is destroyed?

If six years has passed since the file was closed, it is not necessary to notify the client before it is destroyed. However, if the file was not purged prior to destruction, it may be necessary to give the client notice and a reasonable opportunity to retrieve original documents and/or property belonging to the client.

What method should I use to destroy the file?

Shredding is the customary procedure. Another method may be used if it preserves confidentiality.

May we store a client's file in electronic format?

Yes, as long as the documents may be reproduced in a paper format. Original documents of legal significance (such as wills, stock certificates, contracts, etc.) should be returned to the client

or stored in a secure place. Copies of the originals should be retained with the file.

I withdrew from representation because my client hasn't paid my bill. Now, he wants his file. Can I keep the file until he pays my bill?

No. The file belongs to the client. A lawyer may never hold a client's file "hostage."

Should I give the client copies of my notes, drafts or other "work product?"

The client is not entitled to copies of your work product. However, before disposing of these items, you should review the file carefully with an eye towards defending a malpractice claim that might arise out of the representation. Telephone logs documenting client conversations and/or meeting notes often provide helpful evidence in defense of a claim based on "failure to properly advise."

May I charge the client for making a copy of the file?

No. You may not charge the client for making copies of the file for retention in your office. You may charge the client for duplicate copies of documents previously provided to the client.

May I charge the client the cost of storing the file off-site or for retrieving the closed file from storage?

You may only charge the client for off-site storage if the client has consented to the storage fees or if the client has failed to respond to notice and a reasonable opportunity to retrieve the file.

For more information: download "File Retention and Destruction" from the LML website at www.lmlnc.com. Review ethics opinions on this topic at the State Bar website: www.ncbar.com.



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Contact Susan Bowers at 800-662-8843 for a quote or learn more at www.lawyersinsuranceagency.com

A Portrait of Leadership

On February 23, 2004, the North Carolina Court of Appeals convened en banc for a special ceremony dedicating the portrait of former Chief Judge Gerald Arnold to be displayed on the walls of the historic courtroom. Judge Arnold, currently Senior Vice-President of Lawyers Mutual, served on the Court of Appeals for over 24 years, the last six years as Chief Judge. During his last year of service on the Court, Judge Arnold oversaw the restoration of the Courtroom to its original grandeur. Judge Arnold's portrait joins those of four other distinguished former Chief Judges of the North Carolina Court of Appeals.



Three generations celebrate a legacy of justice. Judge Arnold and his wife Sue (to the right of the portrait) are joined by their children and grandchildren (from left to right) Stanley Arnold, Andrew, Lisa, Claire and Caitlin Coates.

Understanding Underwriting

Do we need to notify LML regarding address changes?

Yes, LML should be notified immediately of your new address and phone number.

Can I fill out my reissue or new application on-line?

You may download the application from our website: www.lmlinc.com. Mail or fax the completed application to Lawyers Mutual at 919-677-9641.



LAWYERS INSURANCE AGENCY

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William Stroud has 14 years of experience in the structured settlement business, attending mediations, working with injured parties and their families, and working with attorneys to document structured settlements and purchase structured settlement annuities. He represents all of the major structured settlement annuity companies, and receives referrals from both plaintiff and defense lawyers, insurance companies and self-insured entities. Mr. Stroud is also President of Lawyers Insurance Agency, a subsidiary of Lawyers Mutual. He received a J.D. with Honors from UNC Chapel Hill, and an A.B. in Economics from Davidson College. You can reach William at 800-662-8843.



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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

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