

LML TODAY

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

Volume 28, Issue 1, Winter 2006

Introducing Warren Savage

LML welcomes new attorney

Lawyers Mutual is pleased to welcome Warren Savage as our newest Claims Attorney. Warren is a former partner of Bailey & Dixon, L.L.P. in Raleigh. Warren concentrated his practice in business and financial institutions litigation and arbitration, catastrophic personal injury, and state and federal tort claims. He has handled many civil trials and mediated cases in both state and federal court.

Warren received a Bachelor of Arts in English, with a Minor in Religion from the University of Virginia in



Warren Savage, Claims Counsel

1986. He earned a Master of Arts in Teaching from the University of North Carolina at Chapel Hill in 1989. Prior to law school, Warren worked several years as a high school English teacher and head

coach of the junior varsity boys' basketball team in Wilkesboro. He received his J.D. magna cum laude from Campbell University School of Law in 1996. Warren was the Managing Editor of the Campbell Law Review.

Warren and his wife, Elizabeth and sons, Neil and Ben, are working hard to restore an old Masonic Lodge near the Roanoke River where they plan to enjoy family retreats and canoe trips. We are very pleased Warren has decided to join the LML family.

Amendment to Rule 5 of the North Carolina Rules of Civil Procedure

MARK SCRUGGS, *Claims Counsel*



Mark Scruggs

The Legislature amended Rule 5 of the North Carolina Rules of Civil Procedure effective October 1, 2005. The amendment changes the service and filing requirements for civil litigation in North Carolina state courts.

Rule 5, subparagraph (d) is substantially changed. The old rule stated a mandatory presumption of filing followed by a list of exceptions to the filing requirement. The new rule approaches the issue from the opposite end. The new rule sets out seven categories of documents that must be filed with the court,

and then prohibits the filing of any other documents unless they meet certain criteria.

Under new Rule 5(d), the following documents shall be filed with the court, either before service or within five days after service:

- (1) All pleadings, as defined by Rule 7(a) of the rules, subsequent to the complaint, whether such pleadings are original or amended.
- (2) Written motions and all notices of hearing.
- (3) Any other application to the court for an order that may affect the rights of or in any way commands any individual, business entity, governmental agency, association,

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Lawyers Mutual Liability Insurance Company of North Carolina Founded by the North Carolina Bar Association in 1978

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.

www.lmlnc.com

Our Greatest Gift - Hope



Carl Younger, President

“ . . . create a network of specialists to help with life’s problems.”

One of my most difficult jobs with Lawyers Mutual is to read each of the disciplinary rulings made by the State Bar regarding individual attorneys. The most moving are those regarding attorneys who have a physical or mental problem that requires they seek disability status. However, other rulings force me to ponder why attorneys were unable to meet the standards of our profession.

Expectations

Many attorneys leave law school with the belief they will rapidly obtain clients and be financially successful. We all come to understand the difficulty of acquiring and keeping clients and meeting our financial obligations. Even if we have initial success, our expectations, and those of our family, grow over time. We seek new ways of meeting what we believe are our needs.

Taking on Too Much Work

To generate more income, we often take on more work than we can handle. We thus fall behind and feel the pressure to complete more of our work “imperfectly”. Our clients may become dissatisfied or we may miss deadlines. We tell ourselves it will all be better if we can just get through this difficult period.

Meeting Cash Flow Needs

In many situations, attorneys are concerned about how to meet the cash flow needs of their practice or their family. In the worst of cases, money is borrowed from a lawyer’s trust account. In other situations, bills and even taxes may not be paid. As one can expect, this not only postpones solution of the problem but also creates the basis for a possible disciplinary action by the State Bar.

Denying A Problem Exists

Attorneys are generally independent and seek solutions for the problems of others. This strength, however, can be a personal weakness. We feel we can handle any problem and do not need the help of others. We even deceive ourselves into believing that a problem does not exist. We fail to seek help, whether from a financial planner, a counselor (such as BarCares or PALS), or from other attorneys. Our pride and potential feelings of shame keep us from seeking the right kind of help.

Understanding, Giving Help

Lawyers Mutual does not have a magical formula to solve all of the personal or practice problems that you face. As I can personally say for all of our employees, we do care about the people we insure. If you discover you have a possible claim, tell us. We understand and with your cooperation can seek solutions. Our claims attorneys try, every day, to offer hope to you in times of difficulty. Part of that hope is seeking a solution. Part of that hope is working with you to lessen any impact on the other parts of your practice. Part of that hope is providing understanding as that claim progresses.

We care enough to remind you that we are each dependent in our work and our lives. Do not hesitate to seek help. Do not hesitate to create a network of specialists to help with life’s problems. Do not hesitate to seek help from those who can realistically provide hope: there is no greater gift.

Ralph Meekins Named Trustee for NCBA Health Benefit Trust

Ralph W. Meekins of Shelby has been appointed to serve on the Health Benefit Trust board of trustees, filling the vacancy left when Clark Smith, Jr. of Lexington became president-elect of the North Carolina Bar Association.



Ralph Meekins

A partner in Teddy & Meekins, PLLC, Ralph is a past chair of the NCBA Litigation Section and former president of the Cleveland County Bar Association. He currently serves as chair of the Cleveland County YMCA and is past chair of the Dover Foundation YMCA in Shelby.

Ralph joins the board in the Trust's fourth year, the NCBA plan having moved from a fully insured plan with

BlueCross BlueShield to a self-funded plan administered by BlueCross and managed by Lawyers Insurance Agency. Growth in the plan has been steady, with current membership over 7,000 and \$7.6 M in surplus and reserves.

Plans for the future include a new high-deductible plan compatible with health savings accounts that offer the advantage of tax-deductible contributions to accounts that can grow from year to year.

CALENDAR

Upcoming CLE Programs:

February 10, 2006
Cary, One Eleven Place

February 24, 2006
Morrisville, Goels Plaza

March 10, 2006
Wilmington, Hilton Riverside

March 24, 2006
Elizabeth City, Museum of the Albemarle

8:30 am – Registration & Continental Breakfast.

9:00 am-12:30 pm – CLE Program.

*Confirmations and directions will be mailed approximately 30 days prior to the seminar.

Registration forms are available at:
www.lmlnc.com

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- or partnership to act or to forego action of any kind.
- (4) Notices of appearance.
 - (5) Any other paper required by rule or statute to be filed.
 - (6) Any other paper so ordered by the court.
 - (7) All orders issued by the court.

Rule 5(d) goes on to say that all other papers should not be filed with the court unless (i) the filing is agreed to by all parties, or (ii) the papers are submitted to the court in relation to a motion or other request for relief, or (iii) the filing is permitted by another rule or statute.

Take for example a motion to compel discovery. Many lawyers attach a copy of the alleged inadequate discovery responses to the motion. Although not specifically listed, the discovery

responses would be properly filed because they are being submitted to the court "in relation to a motion or other request for relief." Do not take this too far, however. Briefs or memoranda provided to the court may not be filed with the clerk of court unless ordered by the court.

Another obvious example of a change brought about by new Rule 5(d) is the way requests for admissions are handled. Under the old rule, of all the discovery devices, requests for admissions alone were required to be filed with the court. Under new Rule 5, requests for admissions should ordinarily not be filed.

The other noteworthy change to Rule 5 is subparagraph (b). The amendment adds a new element to the service requirements by requiring that a

certificate of service show the entire contact information for each person served. The certificate of service must now show: (1) the date and method of service or the date of acceptance of service and (2) the name and service address of each person upon whom the paper has been served. If service is by facsimile transmission, the certificate of service must also show the fax number of each person so served. The final sentence of Rule 5(b) adds a requirement that each certificate of service shall be signed in accordance with and subject to Rule 11 of the Rules of Civil Procedure. Thus, while presumably always subject to Rule 11, certificates of service are now explicitly subject to Rule 11 and the panoply of sanctions available under Rule 11.

UNDERSTANDING UNDERWRITING . . .

Q & A.

Q. Do I have a grace period for paying my Policy Premium?

A. No, there is no grace period. Payment is due on or before your anniversary date.

Q. When should I Return my re-issue application?

A. Your application should be returned as soon as possible. Underwriting needs time to process your application and issue a quote to your firm before you make a payment. To avoid gaps in your coverage, payment must be made on or before your anniversary date.

Call us at 1-800-662-8843, and we'll be happy to fax or mail you an application.

MISSION:

To meet the insurance needs of the legal profession at reasonable cost through innovative personal service and products.

VISION:

To be a leading provider of insurance and other services primarily to the legal profession

CORE VALUES:

Service: We provide efficient and quality service.
Stability: Here today. Here tomorrow.
Fairness: We will treat those we serve fairly.
Integrity: We operate with high ethical standards

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TODAY

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