

# Lawyers

## LIABILITY UPDATE

A LIABILITY NEWS BULLETIN FROM GEORGIA LAWYERS INSURANCE COMPANY

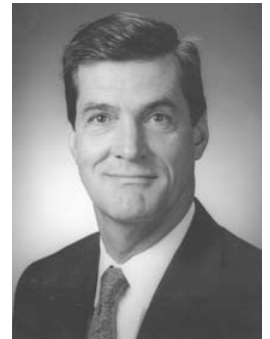
### THE GEORGIA LAWYERS FAMILY

It has now been almost five years since Georgia Lawyers was qualified by the Insurance Commission of the State of Georgia as an admitted carrier to write professional liability insurance for Georgia lawyers. During that period of time we hope that we have made numerous friends of our insureds. Our staff has from the very beginning offered personal service, making immediate contact in the event of any claim and visiting with our insureds. Those of you who maintain insurance with Georgia Lawyers are hopefully well satisfied with your decision. We hope you feel that you are a part of the Georgia Lawyers family.

During our lifetime we have pursued a policy of slow but steady growth. We now insure 537 firms and approximately 2500 lawyers. We have resolved all of the claims that have been reported to us other than 29. We are generally pleased with our progress. Our growth has led us to require additional space for our offices. Georgia Lawyers

now has new facilities located at 125 Flat Creek Trail, Suite 200, Fayetteville, Georgia 30214. These offices are located approximately halfway between Peachtree City and Fayetteville. Although most of the time we come to you, if you are ever in the area, we hope you will come by and visit with our staff.

If you are an insured, I and other members of our board welcome any suggestions that you might have for providing even better service to you. If you are not an insured, we hope that you will consider becoming one. If there is anything about our company, our policy, or our service that is restraining you from becoming a member of our Georgia Lawyers' family, please let us know.



*J. Littleton Glover, Jr.  
Chairman of the Board*

### THE LAWYER WHO SUES HIS CLIENT . . .

No one will find shocking the observation that a lawyer does not have to commit malpractice to get sued for it . . . that applies across the board in litigation. But, blameless though you may be, certain acts on your part can increase substantially the likelihood that you will be sued.

Recently, I sat on a panel of experienced lawyers as a part of the State Bar's mandatory mentoring program. With more than 150 beginning lawyers in the audience, their questions were numerous. One asked if it was appropriate to sue a

client for an unpaid fee. The immediate response from the oldest and most distinguished member of our panel was unequivocal. He said he had never sued a client for a fee and would advise against it. From his experience (which the rest of the panel shared), there was no more certain way to draw a retaliatory malpractice claim. I will not name my distinguished colleague for fear he might never collect another fee.

*W. Seaborn Jones*

# THE ROAD TO MALPRACTICE IS PAVED WITH GOOD INTENTIONS . . .

Now on the downslope of my professional career, I'm hoping to make it through without being sued for malpractice. The ice was thin on occasion, but somehow I've skated through. Twice, I was threatened with suits and, coincidentally, both involved special favors.

In one matter, a partner asked that I represent one of his neighbors who had a serious legal problem but was in temporary financial straits. We represented him at a considerably reduced rate, with payment deferred until a certain event occurred which would relieve his financial distress. After our representation ended, I learned that the event had occurred. . . the client had the ability to pay for our legal services but appeared to have forgotten his obligation. To my chagrin, a reminder letter from me brought the threat of a malpractice action from a lawyer, whom, presumably, the client did pay.

In the other matter, it was not my client but the lawyer for the opposition who advised that I would surely be sued for malpractice. That lawyer, who represented a badly injured plaintiff, made the somewhat unusual request that my client, the defendant, make an advance, contingent payment which would, we were told, enable the plaintiff to hold onto his house and his marriage. On my recommendation, my client made the advance, with a written agreement that it would be set off against any subsequent settlement or plaintiff's verdict and repaid in the event of a defendant's verdict. More than a year later, we settled the case on the telephone. During the conversation that led to settlement, there was no mention of the advance payment. I had forgotten it. Opposing counsel later acknowledged that he had not forgotten it but assumed I realized he was talking about "new money." Whether or not I might have been sued

for my forgetfulness was never determined as one of our fine federal judges ruled that, under our written agreement, we were entitled to reduce the settlement by the amount of the advance.

I do not mean by these examples to discourage the assistance and accommodation good lawyers should provide their clients and the opposition when circumstances warrant. But, it is noteworthy how many lawyers run into difficulty when they take on matters for friends or friends of friends, particularly when the attempted favor falls outside of their usual areas of practice.

Why worry so much about malpractice claims if you have more than adequate coverage? Certainly, your coverage affords protection against malpractice claims, to include frivolous ones filed by bill-dodging clients, but, even assuming you prevail, a malpractice action against you will be time-consuming (translation: expensive for you as well as your insurer) and unpleasant. It can also be damaging to reputation and morale. And, before you assure yourself that the facts will set you free, you should consider the public's unfortunate bias against lawyers. Did you know that a national survey conducted for the American Bar Association revealed that half the public thinks that one-third or more of lawyers are dishonest while one in four Americans believes that a majority of us are dishonest. On top of that, the public is convinced that we put our own interests ahead of our clients'. Yes, in an obvious miscarriage of justice, you would likely get a reversal on appeal and/or a new trial, but think of the prolonged unpleasantness that involves.



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