

# Looking back on 2016 and ahead to 2017

January 17, 2017

Determining why legal malpractice claims occur and how they are resolved can provide an invaluable roadmap to practitioners and insurers. One of the best tools for identifying trends in legal malpractice law is the ABA Profile of Legal Malpractice Claims, released every four years by the ABA's Standing Committee on Lawyers' Professional Liability, of which Shari Klevens is the Chair.

The newest edition of the study, released a few months ago covers statistics from 2012 to 2015, and provides some lessons and tips for looking forward to the year ahead. One significant trend is that defending legal malpractice cases is becoming more and more expensive. Thus, fewer and fewer claims are resolved without any indemnity payment to the claimant. Even for claims with little merit, the "nuisance" cost of settling those claims is growing. In addition, the ABA Profile reflects an increase in the severity of claims or the amount of loss paid by insurers in connection with legal malpractice claims. This is a sobering data point for most attorneys and insurers. Even though attorneys overall are getting better at risk management and claim prevention, claims are becoming more expensive to settle, try, and defend.

In 2017, this data will continue to shape how law firms and other professionals respond to the pressing issues of the day, many of which may involve matters of first impression. As thought leaders in the industry, we publish on these topics regularly, including the following:

- bi-weekly professional liability articles in the Daily Report (Georgia),
- weekly professional liability articles in The Recorder (California),
- bi-weekly professional liability articles in the Daily Journal (California),
- periodic professional liability articles in legal industry papers in Florida, Colorado and Texas.

Articles written by members of our team also regularly appear in Law360, the National Law Journal, and other legal publications around the country. Our books, namely Georgia Legal Malpractice Law, California Legal Malpractice Law, and The Lawyer's Handbook: Ethics Compliance and Claim Avoidance are additional resources for those interested in issues of ethics, malpractice, and risk management.

In addition, we were quoted by the press as experts on these issues a number of times in 2016. For example, over the last year, we were quoted in the following:

- "5 Things Lawyers Should Do Before Lobbying DQ Motions," *Law360*, December 6, 2016
- "ABA study suggests legal malpractice insurers are settling sooner," *ABA Journal*, October 16, 2016
- "Firm Accuses Ex-Partners of Stealing Clients, Trade Secrets", *The Recorder*, May 9, 2016

- “Sex With A Client? 3 Times The Rule Isn’t ‘Never’ ,” *Law360*, March 21, 2016
- “4 Tips For Crafting A Foolproof Atty-Client ADR Pact,” *Law360*, March 1, 2016

Dentons attorneys also spoke at several conferences over the last year in areas of claim prevention, insurance, and ethics. Here are a few examples:

- “Update on Ethics and Malpractice,” ICLE Update on Georgia Law, Steamboat Springs, February 2016
- “Coverage Attorneys As Accomplices in Bad Faith,” American Bar Association 24th Annual TIPS Insurance Coverage Litigation Committee Mid-Year Program, February 18, 2016
- “Malpractice Avoidance Ethics and Professionalism,” ICLE Professionalism & Ethics Update, GPTV, March 2016
- “Intellectual Properties and Cyber Liability Pertaining to General Liability,” RSUI’s 2016 Annual Claims Seminar
- Panel, GABWA Judicial and Public Office Academy, Atlanta, May 2016
- “Stopping the Insurance Company Set Up”, client CLE, Kansas City, June 2016
- “10 steps to reducing the risk of malpractice claims,” Heartland Insurance Symposium, Kansas City, June 2016
- Keynote, North American Transportation Employee Relations Association (NATERA), New Orleans, August 2016
- “Hot Off the Presses - Legal Malpractice Claims Profile 2012-2015,” Fall ABA LPL Conference, September 2016
- “Avoiding Conflicts of Interest,” National Institute on Lobbying & Ethics Public Policy Certificate Program, September 2016
- “Ethical Considerations for Commercial Attorneys,” Lorman Education Services, September 27, 2016
- “Breaking Bad Technology Habits: Email, Social Media, and Document Management Presentation,” October 2016
- “Ethics and Malpractice,” GPTV Recent Developments in Georgia Law Seminar, November 2016
- “Recent Developments in Georgia, Ethics and Malpractice” ICLE, December 2016
- “Sue or be Sued: Case Preparation from both Sides of the Bar,” ICLE Corporate Counsel Institute, December 2016

We are leaders in the field of professional liability, risk management, and ethics compliance. We look forward to working with you over the next year and discussing these pressing issues of attorney and professional liability as they arise. Let us know how we can help.

## Your Key Contacts



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