



Present:

**Professional Liability Insurance:**  
***“Everything You Need to Ask”***

course no. 98960

## Professional Liability Insurance An Overview

- ◆ 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 on:
  - ◆ Behalf of Named Insured
  - ◆ Prior law firm/career coverage
  - ◆ 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 & Rates

# **High Risk Areas of Practice**

- ◆ Securities/Bonds
- ◆ Intellectual Property
- ◆ Real Estate
- ◆ Plaintiff/Class Action  
Mass Tort
- ◆ Foreclosures
- ◆ Medical  
Malpractice
- ◆ Entertainment
- ◆ High Value Family  
Law
- ◆ High Value  
Estate, Probate &  
Trust

# Outside Interests

- ◆ Outside Interests – Definitions
- ◆ 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)

## Warranty Statement

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

## 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



## **Reporting Claims, Incidents** **& Bar Complaints**

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

## **What to Consider When a Firm Dissolves**

- ◆ Coverage for the Past Work of Partners and Associates
- ◆ Extended Claims Reporting Period Endorsement – “TAIL” Coverage
- ◆ Impact of Claims on “TAIL” Endorsement Limits
- ◆ What is the Cost of “TAIL” Coverage
- ◆ Past Equity Partners – Willing to Share in Cost?
- ◆ Funds Set Aside to Purchase “TAIL”

## **What to Consider When Firms Merge**

- ◆ Predecessor Firms/Successor Firms
- ◆ Steps to Take when New Firm is Formed
- ◆ Which Firm is Considered the Successor Firm?
- ◆ Which Company Provides Coverage to Predecessor Firm?
- ◆ New Firm Has the Choice Regarding Coverage for Predecessor Firm
- ◆ Funds Set Aside to Purchase “TAIL”

## 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
- ◆ Call your Florida Bar LOMAS Practice Management Advisors at 850-561-5616.