

**Maynard, Lorna**

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**From:** Michael Bradley [MBradley@MPBF.com]  
**Sent:** Tuesday, October 14, 2008 10:41 AM  
**To:** Legal Specialists  
**Subject:** comment

As an attorney who has "specialized" in the representation of attorneys for mor than 25 years, I am highly supportive of the certification of legal malpractice specialists. The insurance industry being what it is, there has been some movement to have this work go to the low bidder - generally an attorney or firm with no background, business nor experience in handling a legal malpractice case. On the other hand, over time a pretty well recognized group of truly outstanding trial lawyers who have handled and tried legal malpractice cases has evolved and there is simply no reason why the members of the State Bar should have to settle for less.

I would suggest that those lawyers seeking certification who have actually tried numerous legal malpractice cases to verdict or judgment (say 5) be grandfathered into the certification.

Respectfully submitted.

Michael P. Bradley  
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San Francisco

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**From:** McMaster, Loren [McMastL@saccourt.com]  
**Sent:** Tuesday, October 14, 2008 10:46 AM  
**To:** Legal Specialists  
**Subject:** legal malpractice specialty

I write to urge the Board of Legal Specialization to create a new specialty for those involved in legal malpractice. This has become a de facto specialty over the years. It is a complicated area of law, beginning with statute of limitations issues that would lend itself to being a recognized specialty. Such a designation would aid the public in seeking out someone to review with them whether they have a case worth pursuing. It would also aid the attorney who finds himself or herself as a defendant (without insurance) in a legal mal case. In addition, attorneys would know who to contact with regard to reviewing client intake procedures, retainer agreements, and ethical issues that arise in the practice of law. Since the specialty already exists, it should be given the imprimatur of the State Bar and its Board of Legal Specialization.

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**From:** Jonathan Blute [jblute@gmail.com]

**Sent:** Tuesday, October 21, 2008 4:26 PM

**To:** Legal Specialists

**Subject:** Legal Malpractice Law - Proposed Specialty Certification -- Public Comment

As a member of the California State Bar I support certification of this specialty. As briefly discussed in the BLS proposal, this is a field of law which many consumers throughout the state have a direct interest in. Many consumers have been disappointed in an attorney's performance, and conversely, many attorneys have been unjustly attacked in the courts by their former clients. As is the case with real estate, employment, and the many other subjects of law currently certified; plaintiffs, insurance carriers and attorney defendants would enjoy a great benefit from a bar-sponsored identification of the leaders in this field.

Jonathan Blute  
CA State Bar No. 240751

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**From:** Evans, David W [devans@HBBLAW.com]  
**Sent:** Tuesday, October 21, 2008 4:38 PM  
**To:** Legal Specialists  
**Subject:** Proposed Specialty Certification in Legal Malpractice Law

Greetings,

Having spent my entire 30-year legal career specializing in legal malpractice matters I welcome the Board's consideration of adding this area of practice to its specialty certifications program. Frankly, in those 30 years I have experienced far too many cases involving practitioners who either had no or very little experience in the field, thus making the litigation and trial/arbitration of the case far more costly, time-consuming and cumbersome than was either necessary or appropriate. Of course, as a defense lawyer for the vast majority of the cases I've handled, an unprepared or ill equipped adversary counsel can also be beneficial. But in the long run, the entire process is rendered inefficient by such situations. The certification of specialists in this field will also enhance the ability of neutral evaluators/mediators/judges to separate the "wheat from the chaff," so to speak, in assessing the strengths and weaknesses of particular cases for settlement purposes. This is not to say that a case brought by a non-certified specialist would be automatically discounted; rather, in such situations, it would simply be another factor in the overall assessment of the plaintiff's chances of prevailing by appropriately focusing on the skill and experience of counsel.

Some have suggested that this certification would foster consumer confidence that the profession is not unwilling to "police" itself. Although I don't subscribe to this view, I do think the plaintiff's bar, in particular, will benefit from having among its members a core group of certified legal malpractice specialists to whom referring professional liability claims to certified specialists will become the more usual practice (as opposed to simply pursuing the case without considering the difficulties involved). As noted above, anything which fosters a higher level of competency among those who bring such claims will be beneficial to the entire process.

Most every legal malpractice case involves, to some degree or another, a "case-within-a-case" - i.e., the underlying transaction or litigation. Many attorneys appear to base decisions on whether or not to accept client representations in such matters on the basis of their familiarity with the underlying areas of law involved rather than the relevant doctrines and procedures applicable to the litigation and trial of malpractice cases. There is a considerable difference. Litigation of a legal malpractice case presents a host of specialized concerns, not always present in other civil litigation matters. For example, in a case against the underlying plaintiff's attorney, the defendant and his or her counsel in the underlying action are now likely important corroborating witnesses for the defendant/attorney given that the plaintiff/former client must now prove that he or she would have prevailed and been able to collect a judgment in the underlying action. Addressing the attorney-client and/or work product privilege issues which are likely to arise in that regard is usually a challenge even for

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experienced malpractice defense counsel. Trying legal malpractice cases is even more complex, especially considering the significant differences in handling liability and damage issues from an evidentiary standpoint. And the "care and feeding" of expert witnesses, including their preparation for testifying, is always tricky; mistakes in this area can mean the difference between winning and losing at trial.

Finally, having a recognized, certified group of legal malpractice specialists among the Bar should further encourage all attorneys to more freely consider bringing their professional responsibility and professional liability concerns to such specialists for more careful scrutiny and objective, privileged analysis, thus ultimately fostering a higher standard of practice.

I highly endorse the proposed legal malpractice law specialty.

Please feel free to contact me if you have any questions. Thank you.

Regards,

David W. Evans



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**Maynard, Lorna**

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**From:** pdietr5555@aol.com  
**Sent:** Wednesday, October 22, 2008 4:09 PM  
**To:** Legal Specialists  
**Subject:** Legal Mal Practice Law

To Whom It May Concern:

This is an excellent idea and one for which I am very much in favor. I do wish you would had instituted this a long time ago. I definitely had a need to consult an attorney about my previous attorney.

Penny Dietrich

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**From:** wrdietrich@aol.com  
**Sent:** Thursday, October 23, 2008 8:15 AM  
**To:** Legal Specialists  
**Subject:** Legal Malpractice Law - Proposed Specialty Certification

To whom it may concern:

This legal malpractice specialization will be very good for consumers.

Thanks,  
William

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