PLF *in*BRIEF

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Malpractice Prevention Education for Oregon Legal Practitioners



Welcome, New PLF CEO, Sheila Potter!

The Professional Liability Fund is pleased to announce the appointment of Sheila Potter as its next Chief Executive Officer.

Sheila brings over 25 years of experience spanning insurance coverage litigation, complex civil litigation, and public-sector leadership in Oregon. She joins the PLF from the Oregon Department of Justice, where she served as Chief Trial Counsel, leading the DOJ's Trial Division.

"We are confident that Sheila's combination of litigation and insurance coverage expertise, public-sector leadership, and commitment to thoughtful organizational management make her an excellent fit to lead the PLF forward," shares Alexandra Hilsher, Chairperson of the Board of Directors.

Before serving as Chief Trial Counsel, Sheila served for over a decade as Deputy Chief Trial Counsel, where she supervised litigation teams, coordinated with state agency directors on case quality and outcomes, managed a large departmental budget, and litigated cases across a wide range of subject areas. Sheila began her legal career in private practice at a major Portland law firm where she handled complex coverage disputes and commercial litigation.

Throughout her career, Sheila has demonstrated a capacity for leading legal teams and a commitment to the people within them. She has extensive experience navigating complex governance environments involving the legislature, the judiciary, executive leadership, and state agencies.

Sheila holds a JD from the University of Colorado at Boulder and a BA in Philosophy from the College of William and Mary.

We look forward to having Sheila in this important role. ■

OSB Professional Liability Fund

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"AI tools can help streamline legal practice, but require the engaged and thoughtful review of the lawyer on the case."

Counsel Column: Does the PLF Plan Cover the Use of Artificial Intelligence?

By Heather Bowman

As the use of generative artificial intelligence increases in the world, its use has also increased in law firms. Numerous headlines report sanctions for attorneys and self-represented parties who submitted hallucinated authorities to courts. An Oregon practitioner may wonder what would happen to a PLF Covered Party hit with sanctions, and whether the use of AI is covered under the PLF Plan.

In short, the 2026 PLF Primary and Excess Plans (PLF Plans) do not specifically exclude coverage for using AI tools in legal work. However, depending on where the AI use and error arise, there may be no coverage under the PLF Plans. This article will walk through three scenarios to examine potential PLF coverage for use of AI in legal work and help you understand some risks to you in using AI tools in your practice.

Scenario 1: AI Hallucinations Leading to Sanctions

Attorney Amanda represents a client in a complex litigation matter. She is overwhelmed with the volume of pleadings and faces a tight deadline to file a reply brief. She turns to AI to help her with legal research and writing. She neglects to review the cases AI cites in her reply brief and unknowingly submits a brief containing hallucinated case law. Opposing counsel identifies the hallucinations and sanctions are awarded against Amanda personally.

There is no PLF coverage for sanctions arising out of misuse of AI. First, sanctions for AI hallucinations do not fall within the definition of damages under the PLF Plans. Covered damages are "monetary compensation a Covered Party must pay for loss" and do not include fines, penalties, statutorily enhanced damages, enhanced prevailing fees, punitive damages, exemplary damages, or an award of attorney fees related to

these. Here, sanctions are imposed on Amanda for submitting hallucinated case law to the court. There is no coverage for this error.

In addition, sanctions and fee awards are excluded under Exclusion 4 of the PLF Primary Plan. There is no PLF coverage for sanctions or fee awards imposed against the attorney. Again, because the consequence of Angela's misuse of AI is the imposition of sanctions against her, there is no coverage under the PLF Plans.

Scenario 2: AI Errors in Legal Work

Attorney Brian represents a client in litigation. He pursues a claim that he is unfamiliar with and relies on AI to do research about a particular cause of action. The AI tool misses a key element of the cause of action and Brian fails to do his own research and correct the AI error. Brian then pursues the incorrect elements of a cause of action and fails to prove a key element and the cause of action is dismissed at trial. The client sues Brian for malpractice alleging Brian failed to properly develop evidence and prove the cause of action, and but for Brian's reliance on AI, client would have received a favorable verdict.

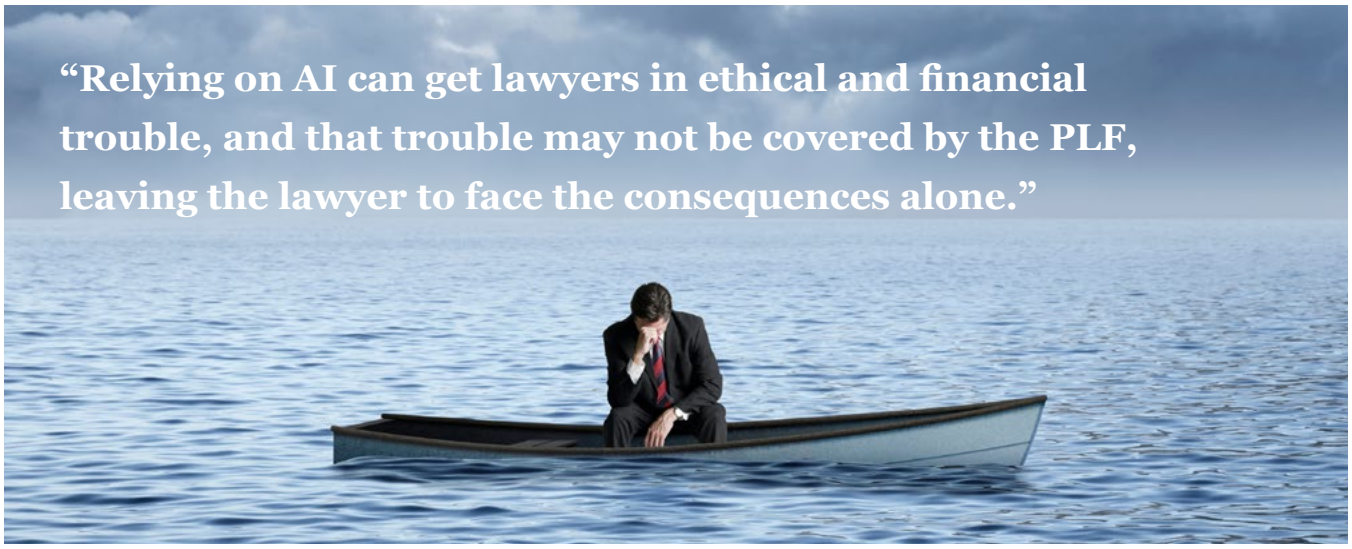
OR

Attorney Brian represents a client in a medical malpractice case. He relies on AI to create a medical records summary and neglects to ensure that the summary is accurate. He uses the AI generated summary to conduct discovery and evaluate damages in the case. Because there are errors in the summary, discovery is incomplete and he recommends his client settle the case for less than he would have had he fully understood the case. Brian's client pursues a malpractice claim for the undervalued case.

OR

Attorney Brian uses AI case management software in running his practice. He receives a motion for summary judgment from opposing counsel and relies on AI to calculate the response dates and calendar the deadline. The AI fails to accurately calendar the deadline and Brian does not check the AI's output so he misses the deadline and summary judgment is granted, dismissing his case. Brian's client pursues a malpractice claim because the case was dismissed.

In all of these scenarios, there likely is coverage under the PLF Plan. Although the attorney relied on AI in making an error, the PLF Plan does not exclude coverage for use of AI. The damages client seeks are for the dismissal of a cause of action dismissed because of the attorney's error. This would be akin to a lawyer making an error in doing research at a law library or through Westlaw. Exclusion 4 does not come into play because sanctions are not at issue.



Scenario 3: AI-Based Ethics Violations

Attorney Cynthia enters confidential client information into a free and unprotected AI system. Her client learns about this and pursues an ethics complaint against Cynthia.

The PLF Plans do not include coverage for any investigations or disciplinary proceedings by the Oregon State Bar or any similar entity. The PLF will not assist Cynthia in responding to disciplinary matters. Similarly, if any of the above scenarios resulted in a disciplinary proceeding against the attorneys, PLF coverage does not extend to defending an ethics complaint.

AI tools can help streamline legal practice, but require the engaged and thoughtful review of the lawyer on the case. Relying on AI can get lawyers in ethical and financial trouble, and that trouble may not be covered by the PLF, leaving the lawyer to face the consequences alone.

The best way to avoid finding yourself in scenarios like those listed above is to use AI tools appropriately. Use your hard earned legal skills to check any AI outputs.

You are the attorney for your client and you have the ethical obligation to represent your client, regardless of the promised efficiencies or coverage implications of an AI tool. No computer program can – or should – replace you.



Heather Bowman is the PLF General Counsel.

OTHER WORKS BY HEATHER BOWMAN

- "Understanding PLF Coverage Exclusions: Attorney Fees and Sanctions," *in*Brief, Issue 150, July 2026
- "Counsel Column: Important Changes Coming to Your 2026 PLF Primary Coverage," *in*Brief, Issue 148, November 2025
- "Claims Corner – Calling a PLF Claims Attorney," *in*Brief, Issue 147, August 2025

Assessment Deadline – January 11, 2027

The 2027 annual PLF assessment notices have been sent to all active OSB licensees. The deadline to pay your assessment or file an exemption is January 11, 2027. You can pay your bill online, file an exemption, or set up installment payments on the PLF website: *www.osbplf.org/coverage/do-i-need-coverage.html*.

If sending payment by mail, please note that payment must **be physically received** by the PLF by January 11. Postmark dates are not sufficient. If you have any questions, please contact the PLF Accounting Department at 503.924.1771 or *plfaccounting@osbplf.org*.



2026 LEGISLATION ALERTS

This issue of *in*Brief lists some of the significant laws enacted by the 2026 Oregon Legislature. Bills are listed by area of law. The new legislation will take effect January 1, 2027, unless otherwise noted.

The 2026 *Oregon Legislation Highlights* published by the Oregon State Bar highlights approximately 50 bills and other measures that were passed by both houses of the legislature. Available at *osbar.org/pubaffairs*.

The Oregon legislature's website offers additional information that readers may find useful. Individual bills are hyperlinked to that bill's page in the Oregon Legislative Information System (OLIS), which contains additional information on that bill, including measure summaries written by legislative staff.
See *www.oregonlegislature.gov* for more information.

Civil Litigation

- Recreational Immunity – SB 1517 (took effect April 7, 2026)
- Remedial Contempt – SB 1557 (took effect on June 5, 2026)
- Evidence of Immigration Status – HB 4111 (took effect June 5, 2026)
- Traffic Violations – HB 4137 (takes effect January 1, 2027)

Commercial & Consumer Law

- AI Companion Platform Operators – SB 1546 (takes effect January 1, 2027)
- Data brokers – SB 1587 (took effect June 5, 2026)
- Ticket Resales – HB 4024 (took effect June 5, 2026)
- Consumer Finance Loans – HB 4116 (took effect June 5, 2026)

Criminal Law

- Wrongful Conviction – SB 1515 (took effect April 7, 2026)
- Criminal Omnibus Bill – HB 4041 (became operative March 5, 2026, but some provisions do not take effect until January 1, 2027)
- Search Warrants – HB 4045 (took effect March 31, 2026)
- Arraignments – HB 4072 (took effect June 5, 2026)
- Criminal Background Checks – HB 4115 (took effect June 5, 2026)
- Law Enforcement Identification – HB 4138 (took effect March 31, 2026)
- Initiating a False Report – HB 4151 (takes effect January 1, 2027)
- Hearsay – HB 4157 (took effect on June 5, 2027)

Family & Juvenile Law

- Foster Children – SB 1533 (took effect March 31, 2026)
- Marriage Licenses for Servicemembers – HB 4152 (takes effect January 1, 2027)

Healthcare

- Healthcare Omnibus Bill – HB 4040 (took effect April 7, 2026)
- Medical Use of Marijuana – HB 4142 (took effect June 5, 2026, but operative provision takes effect January 1, 2027)

Labor & Employment Law

- Companionship Services – SB 1518 (takes effect January 1, 2027)
- Workers' Compensation – SB 1519 (takes effect January 1, 2027, and applies to claims for compensation based on an injury date on or after January 1, 2027)
- Work Hours for Minors – HB 4013 (takes effect January 1, 2027)
- Wage Claim Criminal Penalties – HB 4089 (takes effect January 1, 2027)

Landlord-Tenant & Real Property

- Real Estate Team Name – SB 1513 (took effect March 31, 2026, but operative provision takes effect July 1, 2027)
- Electronic Access to Residential Tenancies – SB 1523 (took effect June 5, 2026)
- Replacement Dwellings – SB 1561 (takes effect January 1, 2027)
- Action for Illegal Entry to Property – HB 4114 (took effect March 31, 2026)
- Smoking Policies in Residential Properties – HB 4120 (takes effect January 1, 2027)
- Confidential Tenant Information – HB 4123 (took effect June 5, 2026)
- Investor Purchases of Residential Property – HB 4128 (takes effect January 1, 2027)

Taxation

- Connection to Internal Revenue Code – SB 1507 (took effect June 5, 2026)
- Tax Credits – SB 1510 (took effect June 5, 2026)
- Magistrate Division – SB 1556 (took effect June 5, 2026)
- Contractor Tax Compliance – HB 4016 (took effect June 5, 2026)
- Corporate Excise Tax – HB 4052 (took effect June 5, 2026)
- Transient Lodging Tax – HB 4134 & HB 4148 (both took effect June 5, 2026)



Retirement: What Will the Profession Look Like Because You Were In It?

By Rita Alister

As we approach a certain age, our algorithms start sending us the same message: time to plan for retirement. Ads about finances, insurance, and assisted living arrangements begin filling our feeds, along with pictures of beaches and the promise of a slower pace. While some of us are counting the minutes until we can retire, others resist even considering an end to practice.

Law is a profession that rewards indispensability and endurance. For many of us, the idea of retirement feels like an abdication. So, we press on and assume we'll know when it's time. And the broader profession assumes someone will take over: that practices are more resilient than they are, that clients will magically find their way, and that our institutional knowledge will somehow survive our departure.

But what if how we leave our practice—and when—matters as much to the profession we leave behind as it does to us individually? Planning retirement is not just a personal choice—it's an obligation to clients, colleagues, and the profession as a whole.

The Legal Profession Is Not Self-Renewing

Competence in the practice of law is not developed through education alone. Skills such as judgment, client management, intuition, and professional restraint are learned by working alongside experienced lawyers. Mentorship and collaboration are essential to legal training.

The institutional memory of any practice is only partially maintained in files. Explicit knowledge about past client matters, local court rules, or reliable expert witnesses can be stored and retrieved.

But implicit knowledge lives only in memory. The reasoning behind old decisions, insights about judges and colleagues, or the intuition that develops through accumulated experience cannot be found in a file. When a senior lawyer leaves without transferring this knowledge, it is gone.

This loss is felt most acutely in rural communities and smaller practices, where a single attorney may be the only resource for an entire region. These lawyers, representing individuals, family businesses, and local organizations, become part of the civic infrastructure.

When a lawyer with decades of experience ultimately retires, it is certainly a personal milestone worth celebrating. But a retirement process that focuses only on the individual leaves the legal profession without its connective tissue—the accumulated knowledge, judgment and relationships that do not automatically pass to a new attorney.

When Staying Too Long Is a Professional Failure

While some lawyers simply delay retirement planning as a result of hectic practices or personal commitments, others who neglect to plan their retirement thoughtfully may be experiencing psychological or cognitive barriers that inhibit rational decision making.

IDENTITY ENTRENCHMENT BLOCKS HONEST SELF-ASSESSMENT

For some lawyers, their sense of self is deeply intertwined with their professional identity. Their practice is not merely "work." It is status, community, and structure. And the stronger the fusion between the legal practice and one's identity, the more difficult it becomes to see retirement as anything other than profound loss. The psychological cost of contemplating retirement can include a feeling of uselessness and loss of purpose. Walking away from practice can feel like severing social ties built over decades. Giving up the predictable daily structure of deadlines, meetings, and hearings can leave lawyers with a feeling of emptiness. For some, the response to these fears is simply to never leave.

Unfortunately, that choice matters beyond the individual. Younger lawyers remain perpetually subordinate rather than gaining independent authority. For solo practitioners, a developing lawyer may be competing for the space occupied by one who has remained beyond their era of effectiveness. But there is a more insidious consequence: a lawyer whose identity is inseparable from their practice is poorly positioned to realistically evaluate whether their practice is suffering because of their age or infirmity.

Resources for Retirement Planning

The following resources are available to assist legal professionals who are considering or planning for their retirement from law practice, available at *osbplf.org* > Services > CLEs & Resources:

- PLF CLE: "Seasoned, Not Immune: Managing Malpractice Risk for the Experienced Lawyer," presented 9.24.26
- PLF CLE: "Exit Strategy: Preparing for the Untimely End of Your Legal Practice," presented 7.15.26
- PLF Book: *Planning for the Unexpected*

PLF also has a web page on retirement, with information on regulatory compliance, limited legal work scenarios, tail coverage, office closures, and client files. Visit *osbplf.org* > Coverage > Retirement.

IDENTITY ENTRENCHMENT MEETS COGNITIVE DECLINE

Loss of capacity tends to be gradual. The first signs are often memory gaps, loss of focus, emotional volatility, and disorganization. Under ordinary circumstances these signs might prompt reflection and action. But for a lawyer whose sense of worth is bound to continued practice, the incentive to minimize, rationalize, or overlook the signs of decline is enormous. Identity entrenchment doesn't just delay retirement planning; it can blind a lawyer to the moment when retirement becomes an ethical obligation.

The rules of professional conduct are unambiguous. ORPCs 1.1 and 1.3 require competence and diligence as ongoing obligations. A lawyer who continues practicing after capacity has materially declined is not simply making a personal choice; they are exposing clients to harm. Staff are understandably reluctant to raise concerns, so they attempt to work around the gaps instead. Left unaddressed, these situations become untenable, and the consequences often include bar complaints and malpractice claims which can leave the lawyer in a worse place mentally and emotionally.

Whether the challenge is confronting the psychological weight of stepping away or recognizing the early signs of cognitive impairment, lawyers do not have to navigate these issues alone. The Oregon Attorney Assistance Program offers confidential support for both, and reaching out is, itself, an act of professional responsibility.

Leaving With Purpose

A well-planned retirement is not simply the end of a legal career. It is the moment when the significant expertise accumulated over decades is passed forward or disappears.

Historically, professionals in legal practice viewed their work as binary: either a full-capacity career or complete retirement. But now, with senior attorneys remaining in practice longer, some choose a third lane.

SLOWING DOWN: THE THIRD LANE

There are a variety of ways that lawyers can create a bridge from their hard-driving practice to full retirement. These options are not compromises; they are vital contributions to the profession.

Whether members of multi-lawyer firms or solo practitioners, senior lawyers can reduce their caseload and step into an of-counsel role. They are able to slow down but still remain connected to share expertise and guide junior lawyers to greater responsibility.



A natural transition for litigators and adjudicators is to step into mediation and arbitration. In these roles, they exercise their well-honed judgment while modeling for younger lawyers the kind of acumen and temperament that takes years to develop.

STAYING CONNECTED: GIVING BACK TO THE PROFESSION

An option for lawyers who are ready to stop actively practicing but want to remain engaged in the legal community is to change their licensure status with the Oregon State Bar to Active Pro Bono. This status authorizes the attorney to provide pro bono legal services to certain indigent clients. It also allows the attorney to serve as a mentor under the Oregon State Bar's New Lawyer Mentoring Program. Volunteer lawyers are paired with new licensees to help them develop the practical skills and judgment that formal education cannot provide. Certain geographic regions and practice areas face a persistent shortage of volunteer mentors, and the need is real.

WHEN TO START PLANNING: EARLIER THAN YOU THINK

During the annual *Learning the Rope*s program sponsored by the Professional Liability Fund (PLF), new licensees are advised to create a career map. The purpose is to identify their values as professionals and the goals they hope to achieve in their careers. But they are cautioned to include flexibility for unforeseen circumstances and unanticipated opportunities.

The same concept applies to the end of legal careers: visualize a path to retirement that ensures your experience and wisdom will be shared and not squandered, but be prepared for life's unexpected twists.

So how do we do this? Much like financial planning for retirement, we do not want to put this off until the eleventh hour. Ideally, sometime in the second half of our careers, we begin to think about the professional legacy we will leave. Do we see ourselves someday as the sage, senior member of our firm? Or do we envision our solo practice making room for a successor who will follow in our footsteps? Or maybe we want to ease into a different role for our remaining years such as volunteer mentor or working with Bar leaders. Imagining our path to retirement is the first step. When it is time to implement the plan, the practice management attorneys (PMAs) with the PLF can provide extensive resources and guidance.

Along with envisioning the ideal scenario, we need to plan for the twists that may render us unable to continue practicing law. Whether it is a sudden event or slow cognitive decline, we have ethical obligations to ensure that clients are not prejudiced. The way to do this is through a contingency plan that designates professionals to step in when needed. The plan does not need to be complicated, just effective. For confidential assistance with your planning, reach out to the PLF to consult with a PMA.

Conclusion

Each of us will eventually leave the practice of law. But how we leave will determine whether the knowledge, judgment, and intuition built over decades will survive our departure. Passing on our knowledge is an obligation we owe to our clients, our colleagues, and the lawyers who will carry the profession forward. Retirement is not just a personal milestone—it is the last and perhaps most important thing we do as lawyers. ■



Rita Alister is a PLF Practice Management Attorney.

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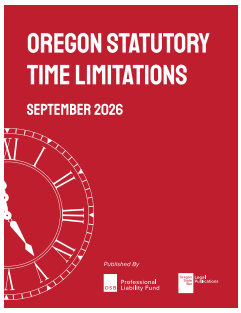
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OSTL 2026 Edition Available

The 2026 edition of the *Oregon Statutory Time Limitations* (OSTL) is now available for pre-order!

Also known as the "Red Book," the OSTL is a reference guide to many of the statutes, cases, and procedural rules containing time limitations that are relevant to the practice of law in Oregon.



A digital version of the new edition is available on the PLF website at *osbplf.org* > Services > CLEs & Resources > PLF Books. The Oregon State Bar also has a digital copy of the publication on BarBooks at *osbar.org*.

2027 PLF Excess Coverage

The PLF is now accepting applications for 2027 PLF Excess Coverage. Firms seeking excess coverage for 2027 are encouraged to submit their applications early to avoid the year-end rush. Visit *osbplf.org* > Excess > Excess Portal to log in or create an account and complete the application online. Questions? Email *excess@osbplf.org*.

PLF Excess Portal