

**Canadian Lawyers Liability
Assurance Society**

CLLAS

Claims Procedures

CLAIMS PROCEDURE GUIDELINES

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CLAIMS PROCEDURE GUIDELINES

CLAIMS PROCEDURE

1. Claims Committee

1.1 Composition

The Advisory Board will appoint a Claims Committee comprising not less than three members of CLLAS firms who are also members of the Advisory Board.

1.2 Quorum

A quorum for meetings of the Claims Committee is two.

1.3 Responsibility

The Claims Committee, in conjunction with the General Manager's office, is responsible for assessing, administering and/or reporting to the Advisory Board on claims against member firms in accordance with the procedures set out herein.

2. Claims Reporting

2.1 Claim

When used herein, "claim" means a claim, or circumstance which may result in a claim, being made against a member of CLLAS and "substantial claim" means: (i) a claim in respect of which the Law Society has established a reserve of \$500,000 or more; and (ii) claims which, even if a lower or no reserve has been established, may result in damages exceeding \$500,000.

2.2 Reporting

All claims that are reported to the Law Society will be reported contemporaneously to the General Manager of CLLAS (the "General Manager").

3. Responsibilities of General Manager's Office

3.1 Maintenance of Claim Files

Individual claim files are maintained in the offices of the General Manager.

CLAIMS PROCEDURE GUIDELINES

3.2 File Review

The General Manager will undertake the following reviews of each file:

- i. current status/developments/evolution;
- ii. amounts paid/reserves;
- iii. exposure to excess insurers;
- iv. identification of coverage problems/issues;
- v. identification of any other areas of concern;
- vi. where CLLAS counsel is involved, instruction to counsel including a strenuous review of fees and disbursements.

3.3 Substantial Claims

The General Manager, in the first instance, will determine whether a claim is reasonably likely to be a substantial claim and, if so, will advise the Claims Committee. If the General Manager is in doubt as to whether a particular claim is reasonably likely to be a substantial claim, it will consult with the Chairman of the Claims Committee.

If the underlying insurer establishes a reserve of \$500,000 or more with respect to a claim, the General Manager, if it has not already done so, will advise the Claims Committee of such claim and the details thereof, and shall provide the Claims Committee with quarterly updates on such claim.

The provision of claims information to a particular Claims Committee member will be subject to the management of Claims Committee conflicts in accordance with Section 4.7.

3.4 Quarterly Claims Bordereaux

The General Manager's office produces a quarterly bordereau based on information received by the individual member firms. The General Manager's office also forwards the bordereau to LawPRO (the underlying insurer for lawyers in the Province of Ontario) for updating. In other jurisdictions (except for Quebec), reserves are confirmed with the provincial law society insurance programs.

CLAIMS PROCEDURE GUIDELINES

4. Responsibilities of the General Manager and the Claims Committee

4.1 Reserves

The General Manager's office may review the reserve established by the underlying insurer of each substantial claim and, where it deems an adjustment to be appropriate, may increase or decrease such reserve.

4.2 Retention of Adjuster

The General Manager's office may engage the services of an independent adjuster for the purposes of assessing substantial claims and establishing adequate reserves therefor.

4.3 Retention of Counsel

The General Manager's office may engage the services of counsel for the purposes of defending a claim or providing coverage advice. In respect of coverage issues only, the General Manager's office will not retain as counsel a member of the Claims Committee.

4.4 Coverage Issues/Denial of Coverage

The General Manager's office will take appropriate steps to reserve rights, obtain non-waivers or deny coverage on all claims where warranted.

If the General Manager's office determines that coverage for a substantial claim should be denied for whatever reason, it may, if considered appropriate, apprise the Claims Committee of this position and obtain its views before communicating such denial to the affected firm. The Claims Committee may determine the issue or may, at its discretion, refer the issue to the Advisory Board.

4.5 Extension of Limitation Period

The General Manager's office may agree to extend the limitation period for action in appropriate circumstances.

4.6 Settlement

Ultimate settlement authority rests with the Claims Committee working together with the General Manager's office.

CLAIMS PROCEDURE GUIDELINES

4.7 Claims Committee Conflicts

If a member of the Claims Committee has a conflict which would make it inappropriate for that member to review information on a claim file, he/she will inform the General Manager's office which will ensure that the affected member is not copied on any information connected with that claim. The affected member will absent himself/herself from the portion of any meetings discussing such claim. To the extent that there are multiple conflicts with respect to a particular claim, the Claims Committee may constitute a quorum with respect to that claim by involving the Chair or other members of the Advisory Board.

4.8 Status Reports/Follow-ups

If a claim is reserved by the underlying insurer at \$250,000 or more and there is an increase in the reserve from a quarter to a quarter of a minimum of \$100,000, a status report will be requested by the General Manager's office. Any lesser changes in the claim reserve will be addressed in the ordinary course of managing the claim file.

4.9 Clarification

If data received from the underlying insurer differs from that in the initial reporting from the insured firm, a request for clarification will be sent to the insured firm. Unless otherwise advised, the General Manager's office will use the information provided by the underlying insurer as the correct information.

5. Reporting

5.1 Reporting to Reinsurers

In accordance with the provisions of CLLAS' reinsurance agreements, all claims in respect of which a reserve of \$500,000 has been established will be reported to CLLAS' reinsurers on a quarterly basis.

5.2 Updating Reserves

The General Manager will update the Claims Committee on a quarterly basis with all claims reports on substantial claims, together with reserves established by the underlying insurer, and will provide the Claims Committee with summary reports thereon.

CLAIMS PROCEDURE GUIDELINES

5.3 Meetings of the Claims Committee

The Claims Committee will meet quarterly to review the report on claims prepared by General Manager's office.

5.4 Confidentiality

All information relating to claims shall be kept confidential by the members of the Claims Committee unless it is determined that details of a particular claim should be disclosed to the Advisory Board.

**CANADIAN LAWYERS LIABILITY ASSURANCE SOCIETY
(CLLAS)
PROFESSIONAL LIABILITY INSURANCE
CLAIMS REPORTING FORM**

To: The Office of the General Manager
Canadian Lawyers Liability Assurance Society
250 The Esplanade, Suite 302
Toronto, ON M5A 1J2

1. Name of Lawyer: _____
2. Name of Firm: _____
3. Date Alleged Error or Omission Occurred: _____
Date Alleged Error or Omission Discovered: _____
4. Is this a cautionary notice? ☐ Yes ☐ No
5. Date of First Notice Received by Lawyer: _____
* If written notice - attach correspondence * If Statement of Claim - attach Statement
6. Date Reported to Law Society: _____
7. a) Name of Potential Claimant/and Counsel (if known): _____

b) At any time, have you or any of your current or former partners or associates acted as an officer, director, or held a management position with or had beneficial ownership in any of the Claimant's, potential claimant's or other parties' interests? (If yes, please provide details.)
☐ Yes ☐ No

8. When was the firm retained in this matter? _____
9. a) How much is potentially or actually being claimed (or alternatively - dollar amount of transaction which gives rise to the potential claim)?

<input type="checkbox"/> \$ 10,000	and	under	<input type="checkbox"/> \$500,001	-	\$999,999
<input type="checkbox"/> \$ 10,001	-	\$100,000	<input type="checkbox"/> \$1,000,000	-	\$1,500,000
<input type="checkbox"/> \$100,001	-	\$250,000	<input type="checkbox"/> \$1,500,001	-	\$1,999,999
<input type="checkbox"/> \$250,001	-	\$500,000	<input type="checkbox"/> \$2,000,000	and	up

b) The likelihood of liability is: (Please be as objective as possible. Check one.)
Unlikely _____ Possible _____ Probable _____ Definite _____

10. Area of Law (Check one):

1. ☐ Real Estate-General
 2. ☐ Real Estate-Planning Act/ By-Laws
 3. ☐ Real Estate-Mortgages
 4. ☐ Real-Estate-Liens & Easements
 5. ☐ Civil Litigation-Automobile
 6. ☐ Civil Litigation-Construction Liens
 7. ☐ Civil Litigation-General
 8. ☐ Wills, Estates, Trusts
 9. ☐ Patents, Trademarks, Copyright
 10. ☐ Corporate Law
 11. ☐ Commercial-Purchase/Sale of Business
 12. ☐ Commercial-Loans/Debentures
 13. ☐ Commercial-Landlord/Tenant
 14. ☐ Commercial-Oil & Gas
 15. ☐ Commercial-Foreclosure
 16. ☐ Commercial-General
 17. ☐ Criminal Law
 18. ☐ Matrimonial & Family Law
 19. ☐ Tax Law
 20. ☐ Bankruptcy Law
 21. ☐ Labour Law/Administrative law
 22. ☐ Other
-

11. Primary Cause (Check one):

1. ☐ Missed Limitation-Deadline
 2. ☐ Defective Search
 3. ☐ Defective Documentation
 4. ☐ Failure to Take Necessary Steps
 5. ☐ Failed to Follow Client's Instructions/
Dispute over Client's Instructions
 6. ☐ Failed to Advise Client Properly/
Ignorance of Law
 7. ☐ Failed to Protect Client's Interest
 8. ☐ Failed to Protect Third Parties' Interest
 9. ☐ Negligent Breach of Trust or Undertaking
 10. ☐ Other
-

12. Secondary Cause (Check one):

1. ☐ Absence or Failure to Follow-up
 2. ☐ Work Delegated to Employee not Checked
 3. ☐ Work Delegated to Outsider not Checked
 4. ☐ Overwork-Inadequate Administration
 5. ☐ Poor Communication with Clients
 6. ☐ Poor Communication with Staff or Partner
 7. ☐ Inadequate Office Systems
 8. ☐ Conflict-Working for Two or More Parties
 9. ☐ Unrepresented Party
 10. ☐ Innocent Partner Exposure
 11. ☐ Other
-

13. Please attach a detailed description of the claim or circumstances (and include a one paragraph summary).

APPLICABLE TO ONTARIO CLAIMS ONLY: We hereby authorize and direct LPIC/LawPRO to provide access to its files on this matter to personnel of the CLLAS Claims Committee and the CLLAS General Manager, in order that they may review LPIC/LawPRO's files in this matter for their reports to the CLLAS Board.

FIRM NAME

INSURED MEMBER

INSURED MEMBER/SIGNATURE

DESIGNATED PARTNER/SIGNATURE

DATE SIGNED

**CANADIAN LAWYERS LIABILITY ASSURANCE SOCIETY
(CLLAS)
PROFESSIONAL LIABILITY INSURANCE
CLAIMS REPORTING FORM**

To: The Office of the General Manager
Canadian Lawyers Liability Assurance Society
250 The Esplanade, Suite 302
Toronto, ON M5A 1J2

1. Name of Lawyer: _____
2. Name of Firm: _____
3. Date Alleged Error or Omission Occurred: _____
Date Alleged Error or Omission Discovered: _____
4. Is this a cautionary notice? ☐ Yes ☐ No
5. Date of First Notice Received by Lawyer: _____
* If written notice - attach correspondence * If Statement of Claim - attach Statement
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7. a) Name of Potential Claimant/and Counsel (if known): _____

b) At any time, have you or any of your current or former partners or associates acted as an officer, director, or held a management position with or had beneficial ownership in any of the Claimant's, potential claimant's or other parties' interests? (If yes, please provide details.)
☐ Yes ☐ No

8. When was the firm retained in this matter? _____
9. a) How much is potentially or actually being claimed (or alternatively - dollar amount of transaction which gives rise to the potential claim)?

<input type="checkbox"/> \$ 10,000	and	under	<input type="checkbox"/> \$500,001	-	\$999,999
<input type="checkbox"/> \$ 10,001	-	\$100,000	<input type="checkbox"/> \$1,000,000	-	\$1,500,000
<input type="checkbox"/> \$100,001	-	\$250,000	<input type="checkbox"/> \$1,500,001	-	\$1,999,999
<input type="checkbox"/> \$250,001	-	\$500,000	<input type="checkbox"/> \$2,000,000	and	up

b) The likelihood of liability is: (Please be as objective as possible. Check one.)
Unlikely _____ Possible _____ Probable _____ Definite _____

10. Area of Law (Check one):

1. ☐ Real Estate-General
 2. ☐ Real Estate-Planning Act/ By-Laws
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 5. ☐ Civil Litigation-Automobile
 6. ☐ Civil Litigation-Construction Liens
 7. ☐ Civil Litigation-General
 8. ☐ Wills, Estates, Trusts
 9. ☐ Patents, Trademarks, Copyright
 10. ☐ Corporate Law
 11. ☐ Commercial-Purchase/Sale of Business
 12. ☐ Commercial-Loans/Debentures
 13. ☐ Commercial-Landlord/Tenant
 14. ☐ Commercial-Oil & Gas
 15. ☐ Commercial-Foreclosure
 16. ☐ Commercial-General
 17. ☐ Criminal Law
 18. ☐ Matrimonial & Family Law
 19. ☐ Tax Law
 20. ☐ Bankruptcy Law
 21. ☐ Labour Law/Administrative law
 22. ☐ Other
-

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 3. ☐ Defective Documentation
 4. ☐ Failure to Take Necessary Steps
 5. ☐ Failed to Follow Client's Instructions/
Dispute over Client's Instructions
 6. ☐ Failed to Advise Client Properly/
Ignorance of Law
 7. ☐ Failed to Protect Client's Interest
 8. ☐ Failed to Protect Third Parties' Interest
 9. ☐ Negligent Breach of Trust or Undertaking
 10. ☐ Other
-

12. Secondary Cause (Check one):

1. ☐ Absence or Failure to Follow-up
 2. ☐ Work Delegated to Employee not Checked
 3. ☐ Work Delegated to Outsider not Checked
 4. ☐ Overwork-Inadequate Administration
 5. ☐ Poor Communication with Clients
 6. ☐ Poor Communication with Staff or Partner
 7. ☐ Inadequate Office Systems
 8. ☐ Conflict-Working for Two or More Parties
 9. ☐ Unrepresented Party
 10. ☐ Innocent Partner Exposure
 11. ☐ Other
-

13. Please attach a detailed description of the claim or circumstances (and include a one paragraph summary).

We hereby authorize and direct the Law Society of this province as the primary insurer to provide access to its files on this matter to personnel of the CLLAS Claims Committee and/or the CLLAS General Manager, in order that they may review the files for their reports to the CLLAS Board.

FIRM NAME

INSURED MEMBER

INSURED MEMBER/SIGNATURE

DESIGNATED PARTNER/SIGNATURE

DATE SIGNED