

EMPLOYMENT LAW – LOSS PREVENTION TIPS

Maintain written confirmation of instructions and advice

As in all areas of law, documentation is crucial to helping claims counsel defend you in the event of a claim where you may have no recollection of the details years later. Take notes on your conversations with the client and the details of settlement offers, the scope of your retainer (especially in limited retainer cases), your advice on accepting offers, the likelihood of winning or losing a case and the costs involved.

Create detailed docket notes

Like the tip above, detailed docket notes offer the benefit of helping protect you in the event of a claim. “Conference with client re risks and costs of litigation” is much better than just “conference with client re lawsuit.”

Do not dabble in employment law

A lawyer should either be an expert in employment law or refer his or her client to an employment law specialist. Claims arise in this area resulting from a lawyer not being aware of the correct forum to bring a client’s matter forward or not being aware of the related deadlines and limitations periods.

Be prepared for a nuisance claim

The emotional toll of a job loss and resulting legal fight can leave lawyers in this area more likely to have claims made against them for ‘civil rights violations’ or ‘malicious prosecution’, alleging wrongdoing, bias or colluding against the client. These often coincide with Law Society complaints or Human Rights Tribunal claims against a former employer (and the insured who represented them), and in several cases are brought by self-represented or vexatious litigants.. While they may be difficult to guard against, taking the above advice to keep detailed notes documenting instructions, as well as maintaining high standards of professionalism in heated disputes will help ward off these accusations.

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