

IMMIGRATION LAW – LOSS PREVENTION TIPS

Don't overpromise, and keep your client informed

Claims against immigration lawyers are often prompted by a client's disappointment about the outcome of a residency application or refugee claim. Manage client expectations by fully explaining admissibility criteria, requirements and the need to have documents provided in a timely manner to comply with deadlines. Keep clients up-to-date on the status of their applications. An unhappy client who feels neglected or ignored will likely take steps to challenge your representation. Keep good notes on communications with clients which can later go into a reporting letter or follow-up letter.

Know the changes in the law and program criteria

the Immigration and Refugee Protection Act has been amended several times. Ensure you refrain from an "assembly line" approach to processing applications. Citizenship, refugee, residency, work permits etc. all have time sensitive deadlines and the programs and criteria change frequently.

Discuss potential consequences of criminal matters

Claims frequently arise involving a failure by the lawyer to communicate the potential ramifications of guilty pleas and custodial sentences on immigration status. A non Canadian sentenced to six months or more may lose the right to apply for permanent residency. When meeting with a new immigration client, be sure to ask about criminal convictions and charges. If a client is facing a criminal charge, advise them to retain competent criminal counsel.

Make clients aware of deadline and documentation requirements

Make sure the client is made aware (in writing) of all deadlines for submitting documents to you and knows the consequences of a delay or failure to provide documents. Give the client a response date that allows for follow-up (i.e. outside the response date imposed by the government entity).

Promptly notify your insurance program of potential claims

Early reporting of client complaints, missed deadlines etc. offers the best opportunity for claims repair. Allegations of ineffective assistance of counsel should be reported immediately. Early

reporting allows claims counsel to investigate, ensure the protocol is met and that there is no admission of negligence.

©2021 Lawyers' Professional Indemnity Company. These Risk Management Tips originally appear at <https://www.practicepro.ca/practice-aids/claims-fact-sheets/immigration-malpractice-claims-fact-sheet/>. These and other materials are available at <https://www.practicepro.ca/>.