

LITIGATION – LOSS PREVENTION TIPS

Familiarize yourself with Limitations and Notice Periods

We continue to see claims related to lawyers' unfamiliarity with the limitation rules and notice periods. In addition to issuing a claim within the applicable limitation period, lawyers need to know notice provisions that apply in certain cases (ex: Crown and municipal liability, construction lien matters). Take the time to review limitation and notice periods.

Keep your files moving using practice management tools

Consider the key deadlines and the steps you will need to take to move your client's matter forward. Identify the appropriate limitations periods and diarize them. Use practice management software and tickler systems to alert you to approaching deadlines and to keep your files moving.

Avoid administrative dismissals

Check local jurisdictional Rules to ensure that your matter is not dismissed due to unnecessary delay without notice to the parties.

Talk to clients more often

Don't rely solely on email. Lawyers are increasingly using emails to communicate with clients, and this is resulting in misunderstandings. Clients and lawyers read things into emails that aren't there, miss the meaning of what is said, or read between the lines and make assumptions. During a long litigation matter, arrange some face-to-face meetings, or at least a phone or video call if distance is an issue.

Have written confirmation of instructions and advice

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

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