

New appointments in LAWPRO claims departments

This summer has been a season of significant change for the LAWPRO claims departments.

After 22 years with the Law Society and later with LAWPRO, Vice-President, Specialty Claims **Jerzy Adamowicz** has retired. Adamowicz began his legal studies in Israel and continued them in Canada, obtaining a doctoral degree in Insurance Law from Osgoode Hall Law School in 1999. Before joining the E&O department of the Law Society, Adamowicz worked as a claims adjuster for a national insurance company. When LAWPRO was created in 1994, he was promoted to the position of claims supervisor, and held progressively more senior positions with the company until he was appointed vice-president, Specialty Claims, in 2010. Adamowicz looks forward to having more time to travel and to enjoy the company of his wife Sophie, his children and grandchildren. We wish him a wonderful retirement.

LAWPRO is pleased to announce that **Simon Bernstein** is appointed vice-president, Specialty Claims. Bernstein – who joined LAWPRO in late April as assistant vice-president, underwriting – will be drawing on his extensive experience in claims management, loss control and risk management as AVP for St. Paul Travelers Insurance Company for his new role.



The Specialty Claims Department also saw the promotion of **Mitch Goldberg** to the role of unit director and counsel, and the appointment, on a contract basis, of **Victoria Margolin** and **Joseph Juda** to the positions of claims counsel. Both had articles with LAWPRO. Finally, the department welcomes **Katie James**, previously of the firm of Purser Dooley Cockburn Smith LLP, as claims counsel.

In the Primary Professional Liability Claims Department, **Jennifer Ip** and **Cynthia Martin** are each taking on more senior assignments as unit director and counsel, heading the two PPL litigation units, and **Dale Herceg** is appointed senior claims counsel in the PPL new claims group, headed by Unit Director Domenic Bellacico.

Ray Leclair appointed acting vice-president, Public Affairs



On July 1, 2011, **Ray Leclair**, formerly vice-president, TitlePLUS began a one-year term as acting vice-president, Public Affairs for LAWPRO. Leclair assumed this role to better support the company's executive in promoting the presence and effectiveness of LAWPRO's interactions with third parties and government, especially at Queen's Park in advance of the upcoming provincial election. Leclair will rely on his considerable public relations expertise in working with critical stakeholder groups to achieve key company objectives.

While Leclair assumes his new role, responsibility for the administration of the TitlePLUS department will be shared between co-acting department heads **Lisa Weinstein**, director, national underwriting policy, and **Mark Farrish**, director, sales and marketing.

LAWPRO eliminates mailed paper applications

We anticipate that renewal applications for the 2012 policy year will be accepted online starting October 3, 2011.

Please note that LAWPRO will not be mailing out paper renewal applications for the 2012 policy year. If you do not wish to file online, pre-populated renewal application forms will be available for download from our website (www.lawpro.ca) on or about October 3, 2011.

LAWPRO MAGAZINE

President & CEO: Kathleen A. Waters

LAWPRO Magazine is published by Lawyers' Professional Indemnity Company (LAWPRO) to update practitioners about LAWPRO's activities and insurance programs, and to provide practical advice on ways lawyers can minimize their exposure to potential claims.

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next >

LAWPRO advises Manitoba insurance council: Lawyers should not need insurance agent licences for title insurance

Following LAWPRO's advocacy on their behalf, Manitoba lawyers who recommend title insurance to their real estate clients may avoid having to obtain insurance licences. Before receiving our written and oral arguments on the lawyers' behalf, the Insurance Council of Manitoba (ICM) had considered recommending this requirement – one that would have made the province's lawyers the only ones in Canada subject to regulation by two separate bodies for their conveyancing work.

The ICM was considering a system of restricted agency licences in a number of areas, including title insurance, and had law firms on the list of organizations being considered for regulation. Earlier this spring, after learning that the ICM had started its consultation process on this idea, LAWPRO prepared a cogent written submission opposing the proposed requirement.

Representing LAWPRO in an appearance before the ICM, Ray Leclair, acting vice-president, Public Affairs reinforced LAWPRO's position that:

- (1) there is no value to be gained by requiring law firms to obtain restricted agent licences for the sale of title insurance; in fact, there may be a detriment; and
- (2) the involvement of a lawyer should be mandatory in the sale of title insurance, so there should be no incidental selling allowed by others on the proposed list of organizations. In other words, title insurance should be removed from the list of classes of insurance for which a restricted agent licence may be issued.

Leclair explained that we were unable to identify any benefits that would accrue from having an insurance regulator licensing law offices where lawyers assist clients in obtaining title insurance in the course of providing legal advice. Clearly the professional practice of law is already a well-supervised and regulated undertaking. Lawyers have their own rules of professional conduct administered by provincial governing bodies and are subject to fiduciary duties. They have mandatory professional liability insurance and must meet the education standards of their own regulator: Data on members of the profession and their office locations is kept by the provincial law society.

On the question of whether anyone other than lawyers should be given restricted licences to sell title insurance, LAWPRO maintained its long-standing position that title insurance is a valuable complement to the Canadian real estate system but only when it is recommended and implemented by a lawyer (or notary in Quebec) in the context of his/her professional and fiduciary obligations to the client. By maintaining the centrality of legal advice for purchasers and lenders, from a fiduciary who is required to put their best interests first, owners and lenders can in fact have the best of both worlds: Excellent advice and legal services, and the comfort of insurance protection for the occasional times when a problem is identified after closing. Therefore, LAWPRO recommended that the involvement of a lawyer should be mandatory in advising about title insurance.

Subsequent to our written and oral advocacy, we learned that the ICM has omitted lawyers and title insurance from its draft Regulatory Framework, which sets out a list of categories of professionals and businesses identified as requiring licensing for specified classes of insurance. If the current draft of the framework is adopted in the proposed licensing regulation (which may be in place as early as this fall), Manitoba lawyers will, thanks in part to LAWPRO's submissions, be free to recommend title insurance for their clients without being required to seek a form of insurance agent licensing.

keyDATES

September 15, 2011

File your LAWPRO CPD Declaration by this date to qualify for the \$50 premium discount for each LAWPRO-approved CPD program (to a maximum of \$100) completed by this date. Go to www.lawpro.ca/cpddec to file your declaration. Please note that filing for LAWPRO CPD credits is not the same as reporting CPD hours on the Law Society CPD portal.

On or about October 3, 2011

Online filing of Professional Liability Insurance applications for 2012 is expected to begin at www.lawpro.ca.

October 31, 2011

Real estate and civil litigation transaction levies and forms are due for the quarter ended September 30, 2011.

November 1, 2011

E-filing deadline: Applications filed online by November 1, qualify for a \$25 per lawyer e-filing discount applied to the 2012 insurance premium.

November 8, 2011

Application filing deadline: 2012 LAWPRO insurance applications filed after this date will be subject to a surcharge equal to 30 per cent of the base premium.



Reaches out to new lawyers

Did you know that the practicePRO website has a whole section devoted to lawyers new to the practice of law?

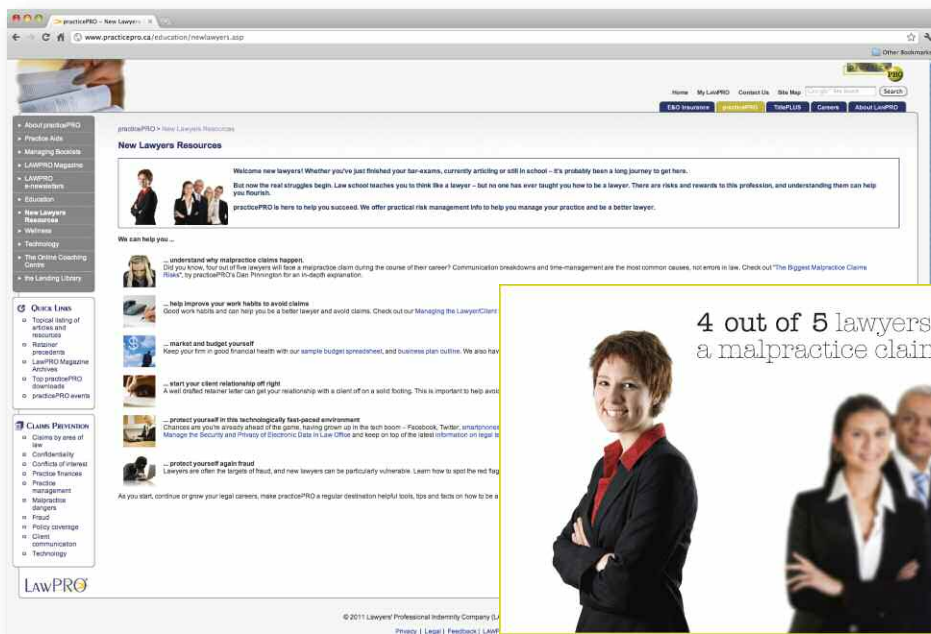
The section, accessible at www.practicepro.ca/newlawyers, has been developed not only for practising lawyers but also for students still at law school or in their articling period. Because professional malpractice is better avoided than remedied, it's important that new lawyers develop a good understanding early on, of how practice problems develop and how to avoid them.

The section contains a wealth of links to practical resources to help lawyers develop good business and professional habits. Resources include:

- booklets on *Managing the Lawyer/Client Relationship* and *Building a Better Professional Services Firm*;
- guidance and precedents for creating a business plan and a budget spreadsheet; and
- retainer letter templates.

Lawyers will also find links to useful information about how to reduce their exposure to common practice risks. For example, we have resources about how to use Twitter for professional purposes, and how to ensure that use of social media and technology is consistent with the protection of privacy interests. Finally, lawyers can access frequently-updated information about scams and fraud attempts targeting the bar on the AvoidAClaim blog (avoidclaim.com).

The website is part of a LawPRO program to reach out to future and new lawyers at law schools and other venues.



4 out of 5 lawyers will face a malpractice claim

Improve your odds.

Check out these resources from practicePRO:

- AvoidAClaim.com blog to get the scoop on claims and how to avoid them
- practicepro.ca/newcalls for tips, tools and resources on how to succeed in the practice of law
- lawpro.ca/newcalls for information on insurance coverage you will need when you go into practice

practicePRO Risk management

LAWPRO Professional liability insurance

practicePRO is the claims prevention program provided by LawPRO - the malpractice insurer for Ontario lawyers. LawPRO also provides excess insurance and title insurance through its TidePLUS program.

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At right: Ad promoting practicePRO's resources for new lawyers that ran in several law school yearbooks this spring.

TitlePLUS website gets a facelift

Simple, intuitive and functional: Those were the benchmarks set for the new TitlePLUS website by its project manager Marcia Brokenshire, TitlePLUS marketing services manager.

"We wanted to make the site easy for lawyers, their staff and their clients to use – to put the information and the resources they might need at their fingertips," she explains.

The site, which goes live in mid-September, is built around a few principal sections:

- The **About Us** tab links to background information on the TitlePLUS program and LAWPRO. Lawyers may find the legal services description page particularly useful, says Brokenshire: "It's written to make it easy for consumers to understand the legal services coverage and why that is so important and special."
- Under the **Products and Services** tab, subscribers and their staff will find links to many of the documents and information

sheets they use regularly: The TitlePLUS Tools link, for example, provides easy access to Quick Facts, Pricing, and other information organized by region. Other important links take lawyers to TitlePLUS Hotsheets, the Confirmed Lenders List and more.

- A new **Policyholder Information** tab includes a sample TitlePLUS policy and links to a claims reporting form, two resources clients ask about the most.
- A **Publications** tab links to the many publications and information brochures produced by the TitlePLUS department to provide information to lawyers and their clients.
- A **Resources** tab, on the other hand, links to resources to help lawyers in their communication with clients, such as the *Working with a Lawyer When You Buy a Home* brochure.



- **Locate a Lawyer** lets consumers enter a postal code or city and source a list of TitlePLUS lawyers in that area.
- The **Real Simple Real Estate Guide™** link contains an extensive list of consumer-oriented resources to help consumers better understand the intricacies of buying or mortgaging a property. It includes calculators to help consumers understand how much of a mortgage they can carry and how long it will take to pay it off, among other tools.

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Get to know your local lenders: TitlePLUS toolkit shows you how

Getting to know mortgage lenders in the community is vital if lawyers want their fair share of lenders' legal work. With that in mind, TitlePLUS consultants are stepping up efforts to help lawyers put the TitlePLUS toolkit – *Tools To Help You Get Legal Work From Local Lenders* – to work for them.

The toolkit is one of the many resources available to lawyers through the **Publications** tab of the new TitlePLUS website. It provides lawyers with eight simple steps to effectively promote themselves to local mortgage

lenders. It also provides links to a sample contact list, an introductory letter and other resources that would help lawyers better promote their legal services and establish valuable contacts and business leads.

One important point the toolkit makes is that the TitlePLUS program is different. It is the only all-Canadian and Bar-Related® title insurer, and works to keep local real estate lawyers across Canada involved in real estate transactions. Unlike some other title insurers and/or their affiliates, the TitlePLUS program

does not operate or send work to document processing centres; instead, it encourages consumers to work with lawyers so that they can receive valuable independent legal advice.

The toolkit can be found on the TitlePLUS website. More information is also available from Mark Farrish, Director of Sales & Marketing, TitlePLUS, at 416-598-5866.

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Fraud update: Real-looking scams require lawyers to be warier than ever

Don't be a dupe: That's the advice from those who were fooled.

In the months of July and August alone, hundreds of lawyers have provided LAWPRO with emails seeking to retain them on bad cheque frauds. The most common scenarios are loan or debt collections and spousal support payments. (If you get obviously fraudulent emails, please forward them to fraudinfo@lawpro.ca.)

Dozens more have called looking for help in determining whether a matter they were handling was a legitimate one. In many cases we have recognized the name of the fraudster, the scenario and/or the text of the email. And where we don't recognize the fraud, the members of the LAWPRO fraud team can use the collective experience of having seen many frauds to determine if a matter may be fraudulent. On a few occasions, we have seen matters that were highly suspicious, but still may have been legitimate retainers.

Clearly Ontario lawyers are more aware that they are the targets of fraud, and they are becoming more adept at recognizing frauds. That is good. But we see some complacency, too. We frequently hear comments such as "I would never be fooled," or "How would anyone fall for one of these frauds?"

But some are falling for these frauds, acting through at least the initial stages of collecting information, sending a demand letter and communicating with the debtor – who just happens to call up wanting to pay immediately after getting the demand letter. And there are some lawyers who go all the way and are successfully duped into disbursing funds from their trust accounts. This happens more often at solo and small firms, but the biggest firms are not immune either.

One lawyer said to us: "I was suspicious at the start, but the client called several times,

provided me with an Ontario driver's license as ID and a bunch of documentation. He led me along and I got fooled. I feel stupid that I fell for it."

Some of those who were duped were saved when the teller or the bank detected that the cheque was counterfeit. But don't rely exclusively on the banks to protect you: They get fooled too. These counterfeits are really good. They will be in colour, on decent paper, and have holographs and watermarks.

In one recent case, a lawyer faxed to the bank a copy of a cheque drawn on the account of a major Canadian retailer. The bank replied that the signatures on the cheque matched what was on file and that the cheque looked good. The lawyer was told "out of an overabundance of caution you may want to contact the company to verify that the cheque is good." The lawyer did so and it was confirmed that the cheque was bad. The fraud was one we had reported on the AvoidAClaim blog (avoidaclaim.com).

Frauds getting ever better

The fraudsters are changing it up to make fraudulent matters appear more legitimate.

We are seeing more phone calls or personalized emails as the initial contact (not generic BCC blasts to many people). We are also seeing new fake client names more frequently. In the sidebar to the right we list the new and most common names we've seen at LAWPRO in the last two months. But just because a name does not appear on this list does not mean you can stop worrying. New names are being used by fraudsters daily.

While in the past the fraudsters would sign retainer agreements and promise retainer cheques, they are now providing actual retainer cheques (which are fake of course), typically on a U.S. account. Banks will accept

these for deposit, but will put a hold on them. Of course, a payment on the debt collection matter magically shows up from the debtor a day or two later, before the bogus retainer cheque bounces.

What to do if you are suspicious

If you have even the slightest suspicion that the matter you are handling isn't legitimate, ask questions and dig deeper, especially if

Names in fraud scams

The following are some of the most common names that crop up in fraud scams. Click on the Confirmed Frauds button at the AvoidAClaim.com blog to see a full listing of confirmed frauds.

Commercial debt collection fraud:

Steven Bessant
Tom Paplia
Mark Branson

Business loan fraud:

George Graham
Larry Mason
Christine Gilbert

Real estate bad cheque fraud:

Shiukmoda Joji
Jyoung Chung Tu

Divorce settlement & collaborative family law agreement fraud:

Beverley Kawashima
Elizabeth Nakamura
Zaira Hoshiko

Employee injury settlement fraud:

Graham Jackie Lynn
Sullivan Terry

the facts don't add up or are inconsistent. Click on the confirmed frauds button at the AvoidAClaim.com blog to see a full listing of confirmed frauds. (avoidaclaim.com/?pageid=1479). Search the client's name on Google. Cross-check names, addresses and phone numbers.

If you still aren't sure, call LAWPRO for some direction. We will walk you through the common fraud scenarios we are seeing and help you spot red flags that may indicate you are being duped. This will help you ask appropriate questions of your client to determine if the matter is legitimate or not. If the matter you are acting on turns out to be a fraud and there is a potential

claim, we will work with you to prevent the fraud if possible, and minimize potential claims costs.

If you have been successfully duped, please immediately notify LAWPRO as there may be a claim against you.

For more immediate updates on fraud and claims prevention, subscribe to the email or RSS feed updates from LAWPRO's AvoidAClaim blog.

Fraud Fact Sheet

More fraud prevention information and resources are available on the practicePRO

Fraud page (www.practicepro.ca/fraud), including the Fraud Fact Sheet, a handy reference for lawyers and law firm staff that describes the common frauds and the red flags that can help identify them.

Ultimately, if you are not completely sure a matter is legitimate, terminate the retainer. Don't be sucked in by your emotions or a strong desire to help. Don't let the lure of a generous fee cause you to ignore your concerns as to the legitimacy of a matter. If it looks too easy or sounds too good to be true, it probably is.

Two new members appointed to LAWPRO board of directors

The following have been appointed to the LAWPRO Board of Directors.

Susan T. McGrath

A sole practitioner from the northeastern Ontario community of Iroquois Falls, Law Society Bencher, Susan McGrath is well-known for being a dedicated advocate for sole practitioners, small firms, and lawyers working in remote areas, and for their access to quality continuing legal education and peer support.

Since graduating from Osgoode Hall, McGrath has been an active member of her local legal community as well as contributing at the national level. She has served on her local Legal Aid Area Committee, including a stint as deputy area director, has acted as a deputy judge for the Temiskaming Small Claims Court, and has served on the Personal Rights Panel of the Office of the Children's Lawyer.

She has served as president of the Cochrane Law Association (1983-1984), the Ontario Bar Association (1999-2000), and the Canadian Bar Association (2004-2005). As well, she has served in many capacities on committees of these and other legal associations.

Barbara Murchie

An interest in intellectual property issues that she dealt with as a producer/director for major television networks prompted Law Society Bencher Barbara Murchie to embark on a legal career in the late 1980s – and remains the central focus of her litigation practice as a partner and trademark agent with the firm Bennett Jones LLP today. She has also provided advice in the areas of professional and municipal liability, product liability, and construction law while working at both small and large Ontario firms.

During her 25-year legal career, Ms. Murchie has held leadership and teaching/training roles with many organizations, including The Advocates Society, of which she was a director from 2002 to 2005, and Osgoode Hall Law School. Her commitment to lawyer education and advocacy training extends to her firm where she is co-director of the in-house advocacy training program.

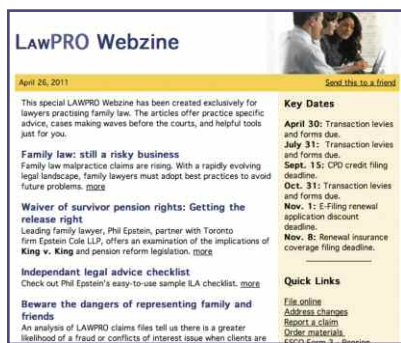
She is a member of a wide array of lawyers' associations, including the Intellectual Property Institute of Canada, OBA, CBA, Toronto Lawyers Association and the Women's Law Association of Ontario. In recent years, she has extended her advocacy beyond the legal sphere through her roles as chair and director of the Casey House Foundation (1996-1999) and chair and director of Ovarian Cancer Canada (1999-2010).

eBRIEFS

Here's a summary of some of the electronic communications you may have received from LAWPRO this spring and summer.

To ensure you receive our Alerts, Insurance News bulletins and Webzines, please whitelist service@lawpro.ca. You can access the full content of any e-newsletters at www.practicepro.ca/enews.

Webzines



LawPRO Webzine
 April 26, 2011
 This special LAWPRO Webzine has been created exclusively for lawyers practising family law. The articles offer practice specific advice, cases making waves before the courts, and helpful tools just for you.
Family law: still a risky business
 Family law malpractice claims are rising. With a rapidly evolving legal landscape, family lawyers must adopt best practices to avoid future problems. [more](#)
Waiver of survivor pension rights: Getting the release right
 Leading family lawyer, Phil Epstein, partner with Toronto firm Epstein Cole LLP, offers an examination of the implications of **King v. King** and pension reform legislation. [more](#)
Independent legal advice checklist
 Check out Phil Epstein's easy-to-use sample ILA checklist. [more](#)
Beware the dangers of representing family and friends
 An analysis of LAWPRO claims files tell us there is a greater likelihood of a fraud or conflicts of interest issue when clients are

Key Dates
April 30: Transaction levies and forms due.
July 31: Transaction levies and forms due.
Sept. 15: CPD credit filing deadline.
Oct. 31: Transaction levies and forms due.
Nov. 1: E-Filing renewal application discount deadline.
Nov. 8: Renewal insurance coverage filing deadline.

Quick Links
[File online](#)
[Address changes](#)
[Report a claim](#)
[Order materials](#)
[CPD courses & benefits](#)

Wills and Estates Law Webzine August 23, 2011

Tips on how to avoid common will-drafting pitfalls; raising awareness of family law issues with an impact on wills; and a summary of recent cases in this area.

2010 in review; twitter for lawyers, administrative dismissals June 13, 2011

Announcing our most recent issue of the magazine; providing "do's and don'ts" for Twitter users; and Part 2 of our focus on administrative dismissals.

LAWPRO annual report now available online May 12, 2011

Highlights of and links to our annual report.

Insurance News



LawPRO Insurance News
 March 14, 2011
2010 Transaction Levy Filings Overdue
 An audit of our records indicate that we have not yet received all your 2010 transaction levy filings.
 We ask that you please review your files to ensure that all of your 2010 transaction levy filings are up to date, and to remit any outstanding levy filings and associated payments to LAWPRO as soon as possible.
If your records indicate that you have filed all your 2010 transaction levy forms and remitted any associated payment(s) and you receive this email in error, we apologize, but ask that you contact our Customer Service Department so that we may verify our receipt of your filing, as we may have received your filing(s) after this email was generated.
 As a suggestion, you may wish to make a note in your calendar of the 2011 key dates as noted below.
2011 Key Dates
January 31
 Transaction levies and forms are due for the quarter ended

Hot Topics
[Avoid A Claim Blog](#)
[Follow LAWPRO on Twitter](#)
[Fraud Prevention](#)

Quick Links
[File online](#)
[Address changes](#)
[Report a claim](#)
[Order materials](#)

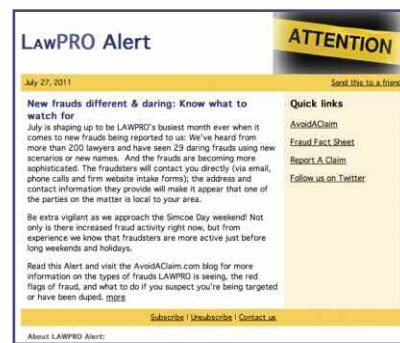
One month left to file your CPD credit with LAWPRO August 16, 2011

Reminder of September 15 deadline for filing declaration to receive credit of up to \$100 on 2012 premium invoice for LAWPRO-approved CPD courses taken between September 16, 2010, and September 15, 2011. Plus reminders of second quarter transaction levy filings and the fact that this year applications for insurance coverage will have to be submitted electronically as no paper applications will be available.

Transaction Levy Filings Overdue August 9, 2011

Notice to lawyers who had not made their litigation or real estate transaction levy filings and/or payments by the April 30, 2011, deadline.

Alerts



LawPRO Alert
 July 27, 2011
New frauds different & daring: Know what to watch for
 July is shaping up to be LAWPRO's busiest month ever when it comes to new frauds being reported to us. We've heard from more than 200 lawyers and have seen 29 daring frauds using new scenarios or new names. And the frauds are becoming more sophisticated. The fraudsters will contact you directly via email, phone calls and firm website intake forms; the address and contact information they provide will make it appear that one of the parties on the matter is local to your area.
 Be extra vigilant as we approach the Simcoe Day weekend! Not only is there increased fraud activity right now, but from experience we know that fraudsters are more active just before long weekends and holidays.
 Read this Alert and visit the AvoidAClaim.com blog for more information on the types of frauds LAWPRO is seeing, the red flags of fraud, and what to do if you suspect you're being targeted or have been duped. [more](#)

Quick links
[AvoidAClaim](#)
[Fraud Fact Sheet](#)
[Report A Claim](#)
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Resources for Lawyers of Goderich August 22, 2011

We sent out an alert to lawyers in the Goderich area offering resources and support to those affected by the tornado.

Fraud Activity at Record Levels July 27, 2011

A warning that July 2011 was shaping up to be an all-time high in fraud reports, with more than 200 fraud attempts reported, and advice on how to avoid becoming the victim of a fraud.

Canada Day Fraud Warning June 29, 2011

A reminder that fraud and scam attempts have been on the increase this summer and frequently spike just before weekends and holidays.

Keeping in touch if Canada Post strikes June 2, 2011

Instructions on how to reach us in the event of a postal strike.