

# 15 years LAWPRO™



15 years of making a difference

# our vision & mission

## Our vision

**To be regarded as the preferred insurer in all markets and product lines in which we do business.**

## Our mission

**To be an innovative provider of insurance products and services that enhance the viability and competitive position of the legal profession.**

## Our values

### *Professionalism*

**Individually and as a team, we hold ourselves to the highest professional standards.**

We deliver programs and services known for quality and cost-effectiveness, and for being practical, helpful and relevant.

We demand the best of ourselves every day and in everything we do.

### *Innovation*

**We foster a climate in which creativity, innovation and change can flourish.**

We share ideas, skills and knowledge and encourage continual learning.

We value teamwork and collaboration, and the diverse strengths and perspectives of others.

### *Integrity*

**We act with the highest levels of integrity in all of our interactions and decisions.**

We aim to always be consistent, fair, ethical and accountable.

### *Service*

**We strive for excellence in customer service.**

We share our knowledge, experience and expertise with our customers and with each other, so that together we can identify, prevent and solve problems.

We take the time to listen and understand, so we can respond effectively and empathetically to our customers and to each other.

We demonstrate courtesy and genuine respect for all.

### *Leadership*

**We try to make the world a better place, and to that end lend our energy and expertise to many communities.**

Our vision is to be regarded as the preferred insurer in all markets and product lines in which we do business. We implement that vision through our mission: To be an innovative provider of insurance products and services that enhance the viability and competitive position of the legal profession.

Being the preferred insurer does not mean we want to be the best when measured by every possible metric in the insurance world: Although we strive for excellence in all we do, our insureds don't necessarily want us to earn the highest profit in the industry if that means higher premiums. Nor does it mean we want to be number one in sales in all product lines if that means too much risk – although we aim to be innovative and proactive.

But we do want our customers to think of us first and to consider us as their ideal insurer because of the value-added we provide through our products, programs and services and because of the peace of mind delivered by our professionalism and integrity.

Each fall we ask Convocation of the Law Society of Upper Canada to confirm LawPRO® as its preferred insurer, by accepting our proposal for the coming year's professional liability insurance program. We are grateful to have received that vote of confidence for each of the past 15 years – and strive to ensure that you too would think of LawPRO first if ever you had to choose.

How do we live our vision and mission?

By continually adapting our insurance programs to the changing needs of the profession.

By getting information about new areas of risk to lawyers quickly. By acting as a resource to the profession – whether it's talking to a lawyer about an issue on a real estate transaction or developing information guides to help lawyers avoid claims.

By speaking out on what we have learned from our work for the legal profession in regulatory circles and the consumer media to ensure important messages are heard.

And by making sure we deliver value in all we do.

This is our story...

# our story



On January 1, 1995, LawPRO – or LPIC as it was then called – was little more than a Law Society mandate, a collection of ideas and “to do” lists, and a handful of people working to build a new insurance company from scratch and in record time.

Fifteen years later LawPRO is a successful, solid insurance company cited for its principled claims management, proactive risk management and innovative approaches to technology for the legal profession.

We’ve grown from a single line, regional insurer to a multi-line insurance organization that operates nationally, serving lawyers’ insurance needs through malpractice insurance (including an excess insurance program) and title insurance.

In legal, government, and education circles, we’ve become a recognized “go-to” source for information, resources and expertise – and a respected spokesperson on insurance-related matters.

On the following pages, we tell the story of how LawPRO got from there to here. It’s a story of how we have lived our vision and values as the LawPRO team for the past 15 years. It’s the story of the memories, anecdotes, and proud moments that our employees volunteered when we asked them to tell us about their LawPRO experience. And it’s the story of how a small but dedicated, resourceful and talented team has helped build an insurance company that – as the saying goes – “punches above its weight” in just about everything we tackle.

## LawPRO timeline

1990

Law Society of Upper Canada (LSUC) incorporates Lawyers’ Professional Indemnity Company (LPIC). LPIC operates as a department within the Law Society

1994

Insurance Task Force struck to investigate deficit of \$204 million in its Errors and Omissions (E&O) Fund. Task Force recommends that LPIC operate as separate, independent company



# Professionalism Innovation Service Integrity Leadership

*Professionalism permeates every aspect of LawPRO's operations.*

*It's the first word that employees volunteer when asked what LawPRO is all about. They are proud of being "pros" – professionals in their respective fields who want to share their professional knowledge and skills.*

*It's the yardstick by which we measure every one of our interactions: Being professional is how we conduct ourselves.*

*It extends to the way we structure operations, the importance we place on governance and compliance, our protocols, procedures and the approaches we take to making decisions, managing employees, and interacting with lawyers.*



Claims team, 2010

1995



LPIC starts operating as separate company, with own management and Board of Directors at 1 Dundas Street West, Toronto



LPIC assumes sole responsibility for errors and omissions program



Harvey T. Strosberg is LPIC's first Board chair, Malcolm Heins its first president

First issue of LPIC News



Transaction and claims history levy surcharges introduced

First application forms mailed out (for 1996)

Base premium: \$5,600

LPIC insures 16,700 Ontario lawyers, 430 Newfoundland lawyers

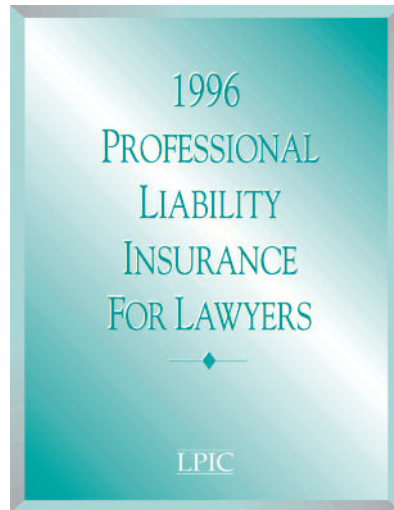
This commitment to professionalism in operations and people was evident from LawPRO's earliest days.

In 1994, the Law Society struck an Insurance Task Force to report on the status of the Errors and Omissions insurance program which at that time was a function within the Law Society operating under the LPIC (Lawyers' Professional Indemnity Company) name. One of the Task Force's major recommendations was that LPIC operate as a separate company, with its own management and Board of Directors.

On January 1, 1995, LPIC started operating as a separate company (with the Law Society as its principal shareholder). One of the first assignments that the small senior management team gave itself was to quickly set up the structure of an insurer and to develop the policies and procedures that would guide the company and its fast-growing workforce.

One priority was cost-effective claims management: The claims management principles developed by that first small team of claims professionals still guide the 40-member claims team today. They strive to resolve claims quickly and cost-effectively when there is liability, vigorously defend the lawyer if a claim has no merit, and avoid economic settlements. Within a year, the number of claims reported fell to 2,000 from 3,000, and the company's legal bill was down to \$20 million in 1995 from just over \$30 million in 1994.

The emphasis on operating as a fully-fledged professional insurer prompted other developments. For the first time, lawyers had to complete a detailed application form before they could be



LawPRO's claims department spearheaded the use of mediation to resolve claims. Mediation is now an important part of Ontario litigation. LawPRO was an innovator and a leader.

*Caron Wishart, counsel emeritus – special projects & former vice-president, Claims*

1996

Options to tailor coverage introduced

Choice of deductible amounts and types

Restricted areas of practice (RAP) option for criminal and refugee lawyers and new practitioner premium discount introduced

No-charge run-off coverage introduced for lawyers withdrawing from practice

Civil litigation real estate transaction levies increased to \$50

# Professionalism Innovation Service Integrity Leadership

## Awards roster

Over the years, LawPRO has earned a number of distinctions and awards that confirm its commitment to professionalism.

**NABRTI** – Admission to the North American Bar-Related® Title Insurers is a major recognition of professionalism and commitment to the interests of the profession. To gain entry and be able to use the NABRTI Bar-related moniker, LawPRO had to demonstrate compliance with 10 criteria, such as a commitment to working with the bar in the public interest over the long term; demonstrated financial strength and viability; and evidence of educational initiatives that inform the public and lawyers about title insurance and the role of lawyers in conveyancing. Invited to join NABRTI in 2004, LawPRO is still the sole Canadian title insurer allowed to use the NABRTI Bar-related moniker in its literature.

**Nymity** – Clear, complete and easy-to-access privacy policies and practices earned national recognition from a leading Canadian privacy research firm in 2006. In awarding LawPRO with a “2006 Top Privacy Policies in Canada Award,” Nymity Inc. described LawPRO’s Privacy Code, Security Policy and Personal Information Statement for Ontario Lawyers as “one of the most comprehensive privacy notices in Canada.” Nymity uses 63 criteria to objectively measure the transparency of privacy policies. More than 200 organizations were assessed in eight business sectors, with awards going to the top five performers in each sector. LawPRO’s privacy policies were ranked in the top three among companies in the insurance sector.

**A.M. Best Company** – For 10 consecutive years starting in 2000, LawPRO has been awarded an A (Excellent) financial strength rating by one of North America’s leading rating agencies, A.M. Best Co. LawPRO’s favourable operating performance, adequate capitalization, consistent net investment income are among the factors consistently cited by A.M. Best for the favourable rating.

insured. Information booklets to help lawyers understand all aspects of the insurance coverage and the risk faced by different categories of practitioners were created. High on the priority list was the creation of a professional customer service department equipped to respond to the questions and concerns of the 16,700 lawyers in practice in 1995. That first three-person department has grown to 14 people who handle an average of 80,000-plus calls and pieces of correspondence annually. In addition, the TitlePLUS client service group handles upwards of 20,000 calls annually, some from lawyers and staff looking for help with their title insurance applications, others from practitioners seeking advice. Print information has become a dying breed, replaced by online, interactive and secure applications for the many different types of insurance coverages LawPRO offers.



Within months of start-up, a new newsletter, LPIC News, was launched to keep lawyers up-to-date with what was happening at LPIC and with their insurance program. By 2000 this newsletter had become a magazine, focused on providing lawyers with the best risk management information, tips and access to resources available. Today, LawPRO Magazine is cited as

1997



Ross W. Murray appointed Chair of Board



LPIC website launched

E&O program

RAP and part-time practice premium discount set at 40 per cent, with full coverage

practicePRO

Risk management initiative started (named practicePRO in 1998)



TitlePLUS

TitlePLUS program launched in Ontario

a leading risk management publication in practice management circles across Canada and the United States, with its content reproduced by insurers, practice managers, law societies and – of course – lawyers around the world.

1999 was a landmark year for the fledging LPIC: The \$200 million deficit was retired – earlier than predicted. Insurance premiums fell to \$3,650 from \$5,600 in 1995 – and would continue to decrease to \$2,500 in 2003 before pressure from a growing claims portfolio required annual premium increases for a few years. By 2003, LawPRO was sufficiently capitalized to be able to assume all of the risk for the primary E&O program, meaning it no longer had to go to the reinsurance markets for program-wide reinsurance coverage – a significant development that solidified our reputation as a solid, successful professional liability insurer.

In 2002, we made our commitment to professionalism very public, changing the LPIC acronym to LawPRO. The years since have seen a succession of innovations and new initiatives which also speak to our other values of innovation, service, integrity and leadership.

Key to that ability to evolve – and to meet the evolving needs of our lawyer customers – have been our employees, more than 45 per cent of whom have been with the company for at least 10 years. Their expertise, experience and commitment ensure we live the “PRO” in LawPRO each and every day.



I didn't come to the company with managerial or tech-related qualifications, but the company gave me the opportunity to develop skills and grow into these positions.

*Leslie Drevnig, technology initiative manager, TitlePLUS*

1998

**E&O program**

Innocent party coverage introduced for sole practitioners  
Title-insured transactions excluded from \$50 real estate transaction law surcharge  
E-filing and e-filing discount introduced for 1999 program  
RAP option expanded from criminal/refugee to criminal/immigration



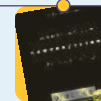
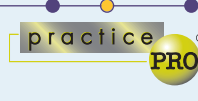
**Excess**

Excess insurance coverage launched, covering 80 law firms



**practicePRO**

practicePRO risk management program officially launched  
practicePRO risk management section added to LPIC News  
Managing the lawyer/client relationship released, contained tips, checklists, risk discussion  
First in series of 8 managing booklets to be published  
Special Y2K (year 2000) guide published in LPIC News



# Professionalism Innovation Service Integrity Leadership

A commitment to change and innovation has been a hallmark of LAWPRO since day one. Finding new and better ways of doing things ensures we provide cost-effective programs that meet the changing needs of lawyers. We also believe in leading by example: Capitalizing on new technologies, for example, lets us demonstrate to the profession the benefits of integrating these opportunities into their own practices. Because for both LAWPRO and the profession, standing still is not an option.



Information Systems Department, 2010



When we first started to receive title insurance applications, they would print out on a standalone printer that was situated near my desk. I volunteered to bring in a bell that we could ring so everyone on the floor would know when a TitlePLUS application was submitted.

Whenever someone picked up an application from the printer they rang the bell and then everyone knew that our hard work was paying off and that TitlePLUS applications were being received from across the province.

*Marcia Brokenshire, TitlePLUS marketing services manager*

The ink had barely dried on LPIC's start-up plans when the company announced two major initiatives within months of each other.

The move by U.S. title insurers into the Canadian marketplace – and the prospect that real estate lawyers might be sidelined by the business model used by certain title insurers – prompted LPIC to develop its own “made in Canada” title insurance: The TitlePLUS® program, launched in late 1997, took as a given that real estate lawyers need to be central to conveyancing. It allowed lawyers to offer their clients enhanced title insurance coverage, including not only the title-related aspects of a transaction but also the legal services of the lawyer in the transaction.

1999

**E&O program**

E&O deficit retired

Insurance requirements for multi-disciplinary partnerships (MDPs) established

10,500 lawyers e-file 1999 applications (60% of 17,500 practising lawyers)

**practicePRO**

Online Coaching Centre launched

**TitlePLUS**

TitlePLUS program launched in Newfoundland and Labrador

titleplus.ca website launched



Moreover, it embraced technology as the delivery model – encouraging practitioners to build their practices around new technology options. To that end, a key TitlePLUS focus has been on providing automated, interactive underwriting.

The core TitlePLUS program launched in 1997 for purchase transactions quickly grew to address specific market needs – for example, the TitlePLUS GoodStart® program launched in 1998 to target new home buyers; and the GoodMortgage® program for the refinance/mortgage market. The introduction in 2002 of a web-based application process, available 24/7, supported expansion of TitlePLUS insurance east and west and a move into northern Canada in 2005. In 2009, with the launch of TitrePLUS® in Quebec, the TitlePLUS program became truly national. Today more than 4,500 lawyers and notaries across Canada are eligible to use TitlePLUS insurance to help their clients protect the legal interest in their property.

### practicePRO

Meeting the changing needs of the real estate practitioner wasn't the only thing on the new company's agenda: A research paper commissioned by LPIC revealed that the underlying cause of claims against lawyers had more to do with "soft skills" issues – communication, practice management skills, and addiction-related issues than with legal knowledge. practicePRO – a unique risk and practice management program designed to help lawyers understand and manage the many risks that come with law practice – was born.

Growing concern over the systems and technology issues arising out of the year 2000 – Y2K as it was coined – prompted practicePRO's first major resource: That Y2K primer – acknowledged as a leading guide on the issue – was also a sign of things to come.



The TitlePLUS national sales group



On my first day on the job in February 1996, the boardroom was filled to the ceiling with packages of forms and temporary employees were hard at work doing data entry. Now more than 95 per cent of lawyers complete their applications by e-filing and we usually wrap up everything by early December.

*Dave Barrett ,  
project manager, Information Services*

2000

LawPRO awarded first A  
(Excellent) rating by  
A.M. Best Company

E&O program

LPIC insures non-lawyer  
MDP partners

Excess



Number of firms securing  
excess insurance from LPIC  
doubles to over 500

practicePRO

practicePRO managing  
booklets go online

Special Checklist for counsel  
re Walkerton Compensation  
Plan produced

# Professionalism Innovation Service Integrity Leadership



Two new booklets published in 1998 – one on managing conflict of interest situations, one on helping lawyers better manage the lawyer/client relationship – marked the start of the managing series of booklets that provide checklists and guidance on specific practice risks. The managing series now numbers eight and covers topics such as practice finances, business interruptions and protecting the security and privacy of firm data. practicePRO's 2001 guide to help lawyers comply with anti-money laundering legislation was widely regarded as a definitive resource on the subject.

As well as helping with the lawyering aspects of practice, practicePRO links practitioners to resources that support lawyers in other ways. LawPRO, through practicePRO, has been a major supporter of the Ontario Lawyers' Assistance Program (OLAP), which provides counselling and peer-to-peer support for lawyers and families coping with wellness/addiction issues. The practicePRO website's Wellness section provides extensive information and links to resources that address physical and mental health topics. The Online Coaching Centre, an Internet-based self coaching tool, helps practitioners educate themselves about how to improve communication, motivation, business-building and other non-legal skills.

Complementing these initiatives are presentations, speeches and seminars: practicePRO is asked to speak at an average of 40 events a year, some of them law firm presentations that address the specific firm's risk profile, others risk management or technology-related addresses at national or international lawyer gatherings. Not surprisingly, practicePRO is widely seen as a role model risk management program: Its materials are widely cited and reprinted, and its expertise sought on evolving practice management issues facing the legal profession.

2001



Michelle Strom appointed LPIC President; Malcolm Heins appointed Law Society CEO

E&O program

Base premium: \$2,800 (50 per cent lower than in 1995)

TitlePLUS

Lawyers can apply online, in real time for mortgage only transactions via new LawyerMortgage.com website (now known as Mortgage-Only program)



TitlePLUS Farm Program launched

TitlePLUS publishes first Focus newsletter to keep lawyers informed: Publication features legal tips, insights, updates

New Home Program launched on the web

practicePRO

Guide to help lawyers comply with anti-money laundering legislation produced

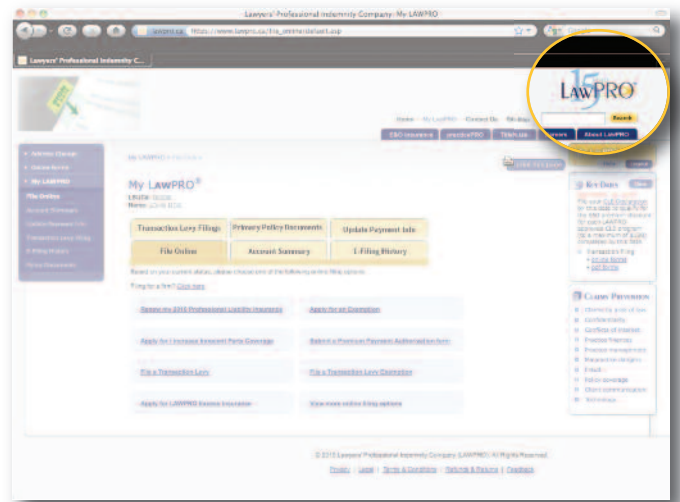
## The technology foundation

Supporting both of these innovations was a commitment to technology-based solutions that has been a LawPRO trademark from day one. One of the company's first major initiatives was to build a robust insurance database system that would allow the company to analyze claims trends (a key component of risk management), maintain coverage and payment records (a foundation for online transactions), and allow individualized, lawyer-specific communications (making pre-populated applications that eliminate the need for lawyers to fill out an application each year, for example, a possibility).

In 1998, LPIC for the first time offered lawyers the option of filing the required insurance application electronically, via a secure section of the company's new website: 10,000 lawyers took advantage of this time-saving opportunity. Within five years that number had grown to 14,000 lawyers and today upwards of 97 per cent of lawyers opt for online filing of their applications.

But the drive to use technology to better meet lawyers' information needs did not end there: The secure MY LawPRO portal on the LawPRO site now provides lawyers with one-stop access to information on their own specific filings, payments and insurance coverage selected, including as of 2010 access to information on any Excess coverage they may have with LawPRO.

When social media came on the scene, LawPRO was again quick to implement these new technologies: To connect with new home-buyers, the TitlePLUS program launched a Facebook page that provides information and links to resources of interest to this target market. The practicePRO Avoid A Claim blog launched in 2009 provides yet another avenue through which we can keep lawyers up to date with practice risk issues. And LawPRO's Twitter feed helps us get the word out on breaking news related to the insurance program and new risk management tips and resources.



brought to you by the TitlePLUS® program

2002

**LAWPRO®**

LPIC adopts LawPRO logo, trademark and brand name



Frank N. Marrocco appointed chair of Board



LawPRO magazine launched, focus on risk management content

LPIC electronic newsletter introduced



E&O program  
LAWPRO CLE Premium Credit  
(\$50/course) launched

**TitlePLUS**

TitlePLUS program expands to Atlantic Canada  
Ontario applications available on web

# Professionalism Innovation Service Integrity Leadership

Service at LawPRO is about more than responding to a question or sending out an information package.

Service is how we think, act and plan. It's about putting our experience and knowledge to work to help customers solve problems. It's about taking the time to understand an issue or opportunity – and being proactive in finding a solution. And it's about respecting customers and colleagues alike.



Customer Service Department, 1995

LPIC's decision in 1995 to make the building of a professional customer service department a priority speaks to this commitment to service. Within months of opening its doors, the new company had a three-person customer service department responsible for all aspects of implementing the new insurance program. More than 60,000 calls and correspondence flowed into the department that first year and the staff complement grew to eight as lawyers came to grips with the changes in their insurance coverage and the need to complete an insurance application.

As the new company established its customer-first reputation, the scope of those calls and queries changed: Increasingly lawyers came to look on the customer service staff – and others on the front lines – as a resource.



Back in the day when we were known as "LPIC" I remember being on reception and an insured called in wanting to talk to "LPIC" and I said he was talking to "LPIC" and he kept insisting, and then I realized he was wanting to speak to "Al Pick" and I had to explain that the company was called "LPIC" and there was no one specifically by the name of "Al Pick."

*Carla Camerino, claims team leader*

It's not unusual today for a customer service representative to walk a lawyer through the insurance application or help a lawyer understand how excess insurance works. Lawyers often look to the TitlePLUS analysts and underwriters to help them assess risk issues on specific real estate transactions. Our claims and practicePRO departments regularly field calls from lawyers seeking guidance on a wide range of practice issues that causes them concern. Officially – as recorded in our customer service department – we field an average of 80,000 calls and pieces of correspondence annually related to the E&O insurance program, and another 20,000 calls on TitlePLUS matters. Many more conversations happen each

2003



Kim A. Carpenter-Gunn appointed chair of Board

E&O program

Coverage for pro bono legal services enhanced

Full run-off coverage for lawyers' estates for 90 days

Mobility exemption added to address new National Mobility Agreement

14,000+ lawyers (81 per cent) e-file insurance applications

TitlePLUS



TitlePLUS program expands to Alberta, British Columbia and Manitoba

year between lawyers and all parts of the company: Sharing our knowledge and experience is one way in which we can demonstrate our commitment to service.

At LawPRO, service excellence also means a flexible malpractice insurance program that lets lawyers tailor insurance coverage to their specific needs. Significant changes to the insurance program in 1996 provided lawyers with a choice of deductibles, a discounted rate structure for new and part-time practitioners, free run-off coverage for those eligible for exemption under the program (e.g., retired lawyers, in-house counsel, etc.), among other options. Since then, LawPRO has continued to adapt the program in response to changes in the practice environment: Examples include exemptions to facilitate inter-jurisdictional mobility, enhanced coverage for pro bono legal services, some limited coverage for counterfeit certified cheques, among others.

In 1998, LPIC also entered the excess insurance market with a program designed to make additional malpractice insurance protection less costly for the sole practitioner and small firm market – a segment that generally did not buy excess insurance. A proactive information campaign that included tools to help lawyers assess their potential exposure helped grow the program from 80 firms (representing 250 lawyers) in 1999 to 1,443 firms with 3,767 lawyers in 2010.

The Excess information package that helps lawyers better understand their potential liability is one of many resources that LawPRO produces to meet lawyers' information needs.

Through a series of Insurance Matters booklets created in 1996, LawPRO helps various groups of lawyers (e.g., government lawyers,

in-house counsel) understand their potential liability and claims exposure, and the options available to them to have appropriate levels of coverage in place. The launch that same year of LawPRO's first-ever website allowed us to get more and better information on the insurance program into lawyers hands more quickly. LPIC News, a newsletter first produced in early 1995 to help explain the changing insurance program to the practising bar, has evolved into a major magazine providing in-depth coverage of practice and risk management issues that should concern lawyers – and how to manage those issues to reduce the risk of a claim. To still better serve lawyers' information needs, LawPRO introduced three electronic newsletters in 2009: Alert informs lawyers of fast-breaking news – such as new fraud schemes; Insurance News keeps lawyers up to date with developments in the insurance program; and Webzine is LawPRO's electronic risk management newsletter.



If the computers are not working, nobody can get their job done.

I have sometimes stayed overnight in the office to deal with a computer problem and slept on the floor.

*Peter Yuen,  
network administrator,  
Information Systems*

2004

LawPRO admitted to NABRTI (North American Bar-Related Title Insurers)

LawPRO hosts annual conference of NABRICO (National Association of Bar-Related Insurance Companies)

A.M. Best Company awards LawPRO A (Excellent) rating for 5th consecutive year

E&O program

Exclusions to coverage expanded to include business ventures or investments not directly related to practice of law

16,200 lawyers (82 per cent) e-file 2004 insurance applications

TitlePLUS

TitlePLUS program expands to Saskatchewan



# Professionalism Innovation Service Integrity Leadership

*It's one of the first principles that employees commit to when they join LawPRO. It reveals itself in the structure and operations of our Board of Directors, in our claims management philosophy, and in our candid communications with the profession.*

*"It" is our commitment to always act with integrity – to be consistent, fair, ethical and accountable – in all we do and say. And by extension to protect the integrity of the insurance program, in the long-term best interests of the profession.*



The importance of integrity was evident from day one: One of the new LPIC's first actions was to account fully to the profession – through first a report, then a new newsletter – for what had happened to the insurance program and how it would be restored to health and viability. Since then LawPRO has reported to lawyers in many formats – through its annual report and newsletters explaining program changes, claims trends and financial results; through its annual presentation to Convocation at which its offer of insurance is tabled and discussed by benchers; and through its regular updates on the program's status at Law Society committee meetings, to name a few. In 2010, the company took this accounting to lawyers one step further: Our first ever Year in Review provided lawyers with the most detailed discussion yet of the program's results and challenges.

LawPRO takes seriously the mandate given to it in the report of the Law Society's Insurance Task Force. When we attend Convocation in September to report and make the offer for the coming year's insurance program, we remind the benchers of the key elements in that mandate. Our fidelity to that mandate means that we can't always please everyone, all of the time. But the protection of the greater good, in having a strong insurance program, has been chosen as our priority.

Many insurers' communication efforts might focus only on the covered risks – as reducing that risk translates into fewer claims and lower claims costs. But LawPRO has always taken a different



I remember employees and management staying many nights after hours to issue an unforeseen backlog of TitlePLUS policies. And I remember being amazed at how many fellow employees trudged through a blizzard and made it to work even though the subway was shut down.

*D. Bruce Heakes, underwriter, TitlePLUS*

2005

TitlePLUS

Western Canada Mortgage-Only launched

Commercial title insurance product launched in Ontario

OwnerEXPRESS® product launched

TitlePLUS Express e-newsletter launched



## Fighting for a reasonable standard of care

Since its inception in 1995, LAWPRO has struggled to ensure that the standard of care expected of lawyers is kept within reasonable limits, and that attempts to expand duties owed to non-clients are also kept in check. Four reported cases come to mind as memorable examples of LAWPRO's success in this area.

In 1999, the Ontario real estate bar nervously awaited the Court of Appeal's judgment in *Wong v. 407527 Ontario Ltd.*<sup>1</sup> The trial judge held that a purchaser's solicitor was negligent in failing to obtain security for a vendor's warranty, even though the purchase agreement was already binding when he was retained. The trial judge accepted the expert opinion on behalf of the plaintiff that the solicitor should nevertheless have attempted to obtain security. The Court of Appeal found the expert's approach was a "counsel of perfection," and in the circumstances, the solicitor met the standard of care. Shortly thereafter, the Court of Appeal dismissed two other actions which were factually similar to *Wong*: *Vaz-oxlade v. Volkenstein*<sup>2</sup> and *Baker v. Turville*.<sup>3</sup> Only two months ago, *Wong* was cited in *Graham v. Kaufmann*<sup>4</sup> as the basis for summarily dismissing that legal malpractice action.

In a sense, the judgment of the Court of Appeal in *Folland v. Reardon*<sup>5</sup> was a disappointment. The Court held that litigation counsel no longer have the benefit of the "egregious error" standard of care. The correct standard is "the reasonably competent solicitor." However, *Folland* has had little impact on the way LAWPRO handles claims. Even before *Folland*, LAWPRO never proceeded on the basis that negligent litigation counsel could be successfully defended if they were merely negligent, as opposed to "egregiously negligent." *Folland* is actually helpful because it holds that decisions made by lawyers in the course of litigation might, with the benefit of hindsight, be considered unwise; but as long as counsel brings to the litigation the skill and effort of a reasonably competent lawyer, his or her duty to the client is discharged, even if the decision proves to be disastrous. Cases successfully defended in the wake of *Folland* include: *Rivait v. Monforton*<sup>6</sup>, *Kuzyk v. Fireman*<sup>7</sup>, *Di Martino v. Delisio*<sup>8</sup>, and *Precision Remodeling v. Potasky*<sup>9</sup>.

In *Hall v. Bennett Estate*<sup>10</sup>, the Court of Appeal found that where a solicitor formed a reasonable opinion that a dying man lacked testamentary capacity, and declined to draw his will, the solicitor was not negligent. In two other cases, Courts accepted that the solicitors met the standard of care, even though the clients died before signing wills and an estate plan. In the circumstances, the delay in preparing and attending to the execution of the will was not negligent.<sup>11</sup>

Plaintiffs who were never the solicitor's client have attempted to establish that a duty of care was nevertheless owed to them. In *Baypark Investments Inc. v. Royal Bank of Canada*,<sup>12</sup> Mr. Justice Lane dismissed an action against the lawyer representing an opposite party for allegedly giving negligent advice to his own client, thereby causing damage to the plaintiff. Solicitors owe no duty of care to non-clients, except in certain limited circumstances.<sup>13</sup>

It sometimes seems that the tide of judicial history favours ever expanding liability for lawyers. LAWPRO has done its utmost to resist this trend.

<sup>1</sup> (1999), 26 R.P.R. (3d) 2621 (C.A.)

<sup>2</sup> [2000] O.J. No. 2694 (C.A.)

<sup>3</sup> [2001] O.J. No 57 (C.A.)

<sup>4</sup> 2010 ONSC 3269

<sup>5</sup> (2005), 74 O.R. (3d) 688 (C.A.)

<sup>6</sup> 2005 CanLII 40374

<sup>7</sup> [2005] O.J. No. 1840; affirmed [2007]

O.J. No. 251 (C.A.)

<sup>8</sup> 2008 CanLII 36157

<sup>9</sup> 2008 CanLII 31411

<sup>10</sup> (2003), 64 O.R. (3d) 191 (C.A.)

<sup>11</sup> *McCullough v. Riffert*, 2010 ONSC

3891; *Rosenberg Estate v. Black*,

[2001] O.J. No. 5051

<sup>12</sup> (2002), 57 O.R. (3d) 528, appeal

dismissed [2002] O.J. No. 4377 (C.A.)

<sup>13</sup> *Taber v. Paris Boutique and Bridal*,

2009 CanLII 48500; appeal dismissed

2010 ONCA 157

2006

LAWPRO wins Nymity Inc. privacy award

E&O program

90% of lawyers e-file insurance applications

Exemption introduced for retired lawyers who volunteer for work in clinics, societies or corporations funded by Legal Aid Ontario

TitlePLUS



Consumer awareness campaign launched on importance of real estate lawyers

Launch of Real Simple Real Estate Guide at titleplus.ca

Western Canada Purchase program launched on web

TitlePLUS Essay Prize created

TitlePLUS Atlantic Canada Purchase program launched on web

TitlePLUS expands to Yukon, NWT and Nunavut

# Professionalism Innovation Service Integrity Leadership

## LPIC/LawPRO mandate and operating principles

Convocation of the Law Society established LawPRO's mandate in 1994 with the adoption of the Insurance Committee Task Force Report. The mandate and principles of operation were to be as follows:

- that LawPRO be operated separate and apart from the Law Society by an independent board of directors;
- that LawPRO be operated in a commercially reasonable manner;
- that LawPRO move to a system where the cost of insurance reflects the risk of claims; and
- that claims be resolved fairly and expeditiously; however, this was not to be a system of "no-fault" compensation and there would be certain circumstances where coverage was denied or coverage was limited.

tack: We've made a point of helping lawyers understand the full range of practice risks – including those not necessarily covered by their malpractice insurance.

We've also taken a lead in speaking out on issues that could undermine the viability of the practising bar. We were among the first to raise a red flag about the inevitable fate of Canadian lawyers if title insurers were allowed to sell directly to the public without the involvement of a lawyer. When title insurers started dabbling in closing centres, we took the lead in educating government, the bar and the public about the consumer protection issues (e.g., access to independent legal advice) that this move could raise.

The lender community has benefited from our efforts to educate them about the limits of title insurance, from their perspective. Our ongoing education campaign (through a series of articles placed on websites and newspapers across Canada) to help consumers better understand how a lawyer can protect their interests not only benefits the public, but also supports the real estate bar in centres large and small in all Canadian jurisdictions. It is also one way we are supporting the access to justice mandate of our Law Society parent.

### A respect for policies and protocols

The principled way in which we draw up and adhere to policies also demonstrates our commitment to integrity. The philosophy that our new claims team developed to guide their work since 1995 guides them still: They will avoid economic settlements; they will resolve claims for which the lawyer is liable expeditiously and fairly; and they will defend – to the highest level if necessary – any claim that has no merit. This same principled approach governs interactions with lawyers who do report a claim: We aim to keep them very much part of the resolution process.

2007

**E&O program**

Exemption for lawyers acting as estate trustee introduced

Part-time practice threshold increased to \$75,000 from \$60,000

Mobility exemption expanded

MY LawPRO secure section with lawyer-specific data on payments, applications added to website

**practicePRO**

practicePRO lending library opens

**TitlePLUS**

TitlePLUS program marks 10<sup>th</sup> anniversary



The success of these approaches is corroborated annually in a survey we conduct of lawyers whose claims have been resolved that year: Consistently, 96 per cent or more say they are satisfied with how LawPRO handled their claim.

LawPRO was also quick off the mark when new federal privacy legislation came on the scene in 2004. As well as helping lawyers understand the implications of new legislation for their practices, we led by example, implementing policies and procedures that address the use of confidential lawyer information in our possession. More recently, we implemented a rigorous complaints handling protocol that ensures complaints (from lawyers or members of the public) are dealt with fairly and efficiently, and when appropriate reported to the required authorities.

When the Ontario government announced in 2008 that it was implementing a new “prudent portfolio” investment approach for Ontario-incorporated insurers such as LawPRO, we were quick to become an early adopter of this new regime: The result is a strict good governance format for all of our committees, with detailed protocols to avoid undue influence by affiliated individuals and related parties. LawPRO also jumped into action when new provincial health and safety legislation was introduced in 2010 to better protect workers from workplace violence and harassment: While others were still coming to grips with the revised Act’s implications, we already had a new policy in place and were training our employees on the new workplace protocols. These and many other initiatives speak to the importance we place on good governance and compliance – key building blocks for any organization that values integrity.

Organizational structures also speak to integrity. For example, a minority of the members of our Board of Directors are benchers

or Law Society employees: The non-Law Society majority includes senior representatives from the financial services and investment communities whose expertise and insight are critical to the running of an insurance company. The Board’s committees are governed by detailed mandates and workplans – as are our own employees who each year participate in a goal-setting and individual performance review process that ensures accountability and transparency.

One way we maintain the insurance program’s financial integrity (and viability) is by limiting its potential exposure: Lawyer activities that do not fall within the strict definition of “professional services” are not covered under the program.

So, for example, one of LPIC’S first moves in 1995 was to exclude mortgage brokering activities from coverage as this activity was seen to have contributed significantly to the deficit in which the program found itself.

When title insurance became more widely used in the late 1990s, lawyers opting to use title insurance and wanting to exempt themselves from paying a surcharge that applies to real estate transactions had to have in place a release and indemnity agreement from their title insurers. In 2004, claims arising out of business ventures or investments were excluded from coverage when it became apparent that this type of activity was another growing area of risk. Managing the risk – while also meeting the changing needs of lawyers – was the rationale for attaching some “best practices” criteria to a new coverage for trust account overdrafts arising from counterfeit certified cheques and bank drafts that LawPRO introduced in 2009. Although some segments of the bar find the criteria challenging to implement, the criteria are consistent with LawPRO’s willingness to take some heat – in the interests of the integrity of the whole insurance program.

2008

Kathleen Waters appointed President & CEO on retirement of Michelle Strom



Ian Croft appointed chair of Board



LawPRO relocates to 250 Yonge Street, Toronto



E&O program

Mandatory Real Estate Practice Coverage (REPCO) introduced

Excess

Excess insurance program marks 10<sup>th</sup> anniversary

practicePRO

practicePRO marks 10<sup>th</sup> anniversary

TitlePLUS

Quebec launch makes TitlePLUS program truly national



# Professionalism Innovation Service Integrity Leadership

Supporting the legal profession through insurance products and services is not our only focus: LawPRO employees are also active and involved members of many different communities – legal, professional and charitable. We believe in sharing our energy, enthusiasm and expertise with these communities – because we believe that we can each play a part in making the world a better place.



LawPRO staff build a house for Habitat for Humanity, 2006

Leadership at LawPRO starts with strong support for outreach activities: More than 30 organizations – from the Ontario and Canadian Bar Associations to associations representing underwriting professionals, information technology experts and claims counsel – benefit from the involvement of our LawPRO staff. In many cases we are active on boards and/or involved in education-related activities – enabling us to participate in designing initiatives and policies and directing professional development programming. The insights and information we bring back to LawPRO ensure that we always have a finger on the pulse of the profession – and on the big picture issues shaping the practice climate.

2009

LawPRO launches three new electronic newsletters: LawPRO Webzine, LawPRO Insurance News and LawPRO Alert – cuts back on printed materials

LawPRO on Twitter

LawPRO awarded 10<sup>th</sup> consecutive A (Excellent) rating by A.M. Best Company

E&O program

Cost of resolving claims tops \$85 million

practicePRO

AvoidAClaim blog launched  
AvoidAClaim blog wins 2009 Canadian Law Blog Award (CLawBle)

TitlePLUS

Home Buyers in Ontario Facebook group launched



In much the same vein, we make a point of having a presence at Queen’s Park: Increasingly, key government ministries (Finance, Attorney General, Government Services) meet with LawPRO when seeking advice and expert information on specific consumer protection, legislative and regulatory issues – such as changes to the land registry system precipitated by title fraud; new distribution models for title insurance; and the impact of the new harmonized sales tax regime on lawyers and legal practice.

LawPRO also supports a limited number of organizations with mandates to help build a healthy, vibrant legal community and/or advance access to justice. For example, we share with the Law Society the role of providing funding for the Ontario Lawyers’ Assistance Program (OLAP), a confidential counselling service for lawyers in distress.

Other organizations receiving our support include: LEAF (Legal Education and Action Fund); CWF (Canadian Women’s Foundation); and OLIP (Ontario Legislative Internship Program). To encourage legal scholarship in real estate law among students, we sponsor a \$3,000 annual TitlePLUS Essay Prize. At the other end of the spectrum, we bowl to raise money for the Feed the Homeless program operated at Osgoode Hall.

But our support for community does not end there. Each year LawPRO employees select five charities that the company and employees will support through fundraising and donations – to the tune of about \$25,000 in total proceeds. Over and above this, individual employees also recruit colleagues for specific causes. For example, our employees organized a special fundraiser for LIFE (Lawyers’ International Food Enterprise), a group of lawyers and law firms that raises funds to feed hungry children in the developing world. Each year LawPRO employees also bake 100 or more meat

pies and lasagnas for a local shelter, raise funds to buy bed kits for homeless children around the world, and ensure surplus food from employee or corporate events is channelled to organizations that help feed the less advantaged.

Sustainability and wellness are two other areas in which we act on our corporate social responsibility obligations. Through the suggestions of our staff-led Green Committee, we attempt to reduce our impact on the environment. We promote healthy and balanced lifestyles by facilitating access to fitness programs and through a Wellness Committee that organizes events to raise awareness of wellness issues internally. We promote lawyer wellness through our practicePRO risk management program: Its website features an extensive discussion of wellness related issues, and links to information and resources on health, wellness and balance – concepts that are fundamental to the workplace and the world we live in alike.



Ontario Lawyers' Assistance Program





Risk management  
[www.practicepro.ca](http://www.practicepro.ca)



Additional professional  
liability insurance



Title insurance  
[www.titleplus.ca](http://www.titleplus.ca)

[www.lawpro.ca](http://www.lawpro.ca)

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