

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).