

LawPRO Alert

ATTENTION

February 3, 2016

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The clock is ticking. Under the new Rule 48.14 of the *Rules of Civil Procedure*, matters commenced before January 1, 2012 that are not set down for trial will be automatically dismissed – without notice to you – on January 1, 2017.

LAWPRO is encouraging lawyers to take immediate action to ensure their pre-2012 files will either resolve or be set down for trial by the end of this year. If you anticipate the matter will not resolve

or be set down, obtain consent from all parties to file a timetable with the court by December 1, 2016 (Note that Rule 48.14(4) requires this filing happen 30 or more days before the relevant dismissal date).

And if you cannot resolve, set down, or file a consent timetable on a pre-2012 file, then you will need to bring a motion for a status hearing on or before December 31, 2016. As you may face a claim, please contact LAWPRO before the status hearing if there has been an inordinate delay in moving the file along, the status hearing is contested, or you expect any other difficulties in obtaining a timetable to set the matter down.

Early notice will hopefully allow the opportunity to effect a repair to avoid any potential claim – and avoid the \$10,000 increase in deductible that will apply if a dismissal is not set aside.

As the January 1, 2017 deadline approaches, LAWPRO expects to see an increased number of motions for status hearings. To avoid the anticipated end-of-the-year rush, LAWPRO strongly encourages lawyers not to wait until October, November or December to bring a last-minute motion.

Use our Rule 48 Transition Toolkit to avoid claims

LAWPRO's new **Rule 48.14 Transition Toolkit** provides advice and tools lawyers and law firms can use to lessen the risk of a claim under the new rule. There are four tools in the toolkit: A **Firm Transition Checklist** containing a list of the steps firms should take to update ticklers and other firm systems and processes to ensure Rule 48 requirements are met on all files. An **Individual File Checklist** containing a list of the steps to be taken and ticklers to be updated for an individual file. A **File Progress Plan** that can be used to help actively manage and monitor the status and progress of work on an individual file. A **Rule 48 Transition Training PowerPoint** to help train lawyers and staff on Rule 48 and file management best practices.

Avoid problems on motions for removal as lawyer of record

LAWPRO defence counsel have reported to us they have seen an increase in motions to be removed as lawyers of record and that these

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motions are not always going as expected or desired. In some cases motion materials do not have the required evidence, providing either too little information, or too much information (i.e., confidential or privileged information is being disclosed). Lawyers are also saying that decisions on these motions have not always been consistent. Follow these steps to ensure you get the desired result by placing the required information before the court. [more](#)

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Lawyers' Professional Indemnity Company (LAWPRO)
3101 - 250 Yonge Street, Toronto, ON M5B 2L7, Canada
416-598-5899 or 1-800-410-1013
www.lawpro.ca

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