

Managing the progress of a file

Using a file progress plan

Litigation matters proceed at different rates, and the scheduling and timing of the various steps are fluid. As many hands will touch a file, a file progress plan can serve as a one-stop resource to help anyone know what stage the litigation is at, what has been done, and what needs doing.

A file progress plan will help you set a realistic schedule for the required steps at the start of a matter, and will help ensure those steps are completed as a matter proceeds. It will also help make sure that all necessary steps are completed by required limitation periods or deadlines, and that nothing falls through the cracks.

The File Progress Plan in this Toolkit is a template you can adapt for use in your firm. Add or change the order of the steps to match what typically happens on your matters. In some cases you will want to adapt it for steps that will occur on an individual file. Ideally, keep the file progress plan in an electronic form so it can be easily updated and accessible to everyone in the firm. It will also work as a paper document that is stapled on the inside front cover of a file.

The following steps will help you effectively create and use a file progress plan:

- 1 Create the plan as part of the procedure to open any file. Fill out the header information including the current date under “Last updated (date).” Briefly set out the theory of the case for liability and damages. Do this in a meeting with everyone involved in the file.
- 2 For each step you want to take on the file, assign the task and the expected completion date to the appropriate person and mark it down in the plan. If you are the one carrying out the task, place your own initials in the “Who” box.
- 3 Keep the plan updated by scheduling a follow up meeting in your calendar. This is the most important step. The idea behind the plan is that time is always set aside in your calendar to review each file with everyone involved, minimizing the chance of a file falling through the cracks.
- 4 Repeat steps 2 and 3. When the time comes to review the file again, the meeting you scheduled will show up in your calendar. At that point, update the plan and revise the theory of liability and damages as necessary. Review the file, ensure tasks have been completed, assign new tasks, and schedule another meeting.

Tips for working with a file progress plan:

- **Estimate how long the tasks will take.** If, for example, you have just opened a file and want to request and review a number of records before you commence the Statement of Claim, setting a meeting three months into the future may make sense. At that point you expect you will have received the records and can review them. If, on the other hand, the limitation period is coming up in a month, you will want to meet on the file in a week or two to ensure the proper steps have been taken.
- **The number of people involved in the meeting is flexible.** On bigger files you may involve a team of law clerks, associate lawyers, paralegals, and other staff. On smaller files you may just set a meeting “with yourself” to ensure the ball doesn’t get dropped. The key is to make sure everyone responsible for executing tasks attends the meetings.
- **Keeping track of disbursements.** Disbursements can add up quickly so you may also want to keep track of disbursements in the header so that they can be easily monitored.

Don’t litigate a case that shouldn’t be litigated

All too often LAWPRO sees claims where a file has languished because damages are minimal and/or there are difficult issues of liability. These types of files almost always lead to unhappy clients, which primes them for a malpractice claim, especially if the weaknesses of the case were not discussed with the client. At the time of retainer, carefully assess the matter. Are there significant holes in the theory of liability? What’s the damages estimate? Is the file truly one that should proceed? And remember to re-assess the file if anything changes as it progresses.



File Progress Plan

Name of file: _____ File No.: _____

Responsible lawyer(s) & staff: _____

Last updated (date): _____ To be updated next (date): _____

Date of loss: _____ Dismissal date: _____

Theory of liability & strength of case: _____

Theory of damages: _____ Estimated quantum: _____

Step (Modify steps below as necessary)	Date to be completed	Actual date completed	Who	Notes
Obtain authorizations and directions				
Request 3 rd party documents (e.g., OHIP summary)				
Diarize limitation periods, dismissal date, and 30 day deadline to bring status hearing motion				
Investigate claim (order searches, order records, retain experts)				
Identify all defendants				
Serve notice letters				
Issue Statement of Claim				
Statement of Claim properly served				
Statement(s) of Defence received (or defendants noted in default)				
Discovery plan				
Affidavit of documents				
Discoveries				
Answer undertakings				
Motions				
Client meeting				
Retain further experts				
Mediation & prep				
Set action down for trial				
Trial & prep				