

Lower premiums, program enhancements for 2007 LAWPRO insurance program

LAWPRO's 2007 insurance program includes a small reduction in the base premium, and program enhancements in a number of areas.

Base premium decreases \$100

The base premium for professional liability insurance coverage for Ontario lawyers in 2007 will be \$2,600 per lawyer, \$100 less than in 2006. Many lawyers will pay significantly less than this base premium, with some paying as little as \$1,165, depending on practice and coverage options selected. Premiums for other insurance coverages, transaction levies and discounts will remain the same as they were in 2006.

Strong investment returns enabled LAWPRO to reduce premiums, despite higher claims costs. Increases in the base rate may be needed in future years to offset recent claims trends which indicate claims are increasingly complex, and as a result more costly to resolve.

Revenue to meet the forecasted \$81.5 million in total costs for the insurance program in 2007 will come from three sources: \$50.6 million from base premiums (based on 20,900 insured lawyers); \$22.5 million from transaction and claims history surcharge levies; and \$8.4 million from the premium stabilization fund.

New exemption for lawyers acting as estate trustee

Pending Law Society by-law changes scheduled for later this fall, LAWPRO will expand its exemption provisions to allow lawyers who retire or change to a non-practising status to continue to act as estate trustee, trustee for *inter vivos* trust, or attorney for

property, as residual work from that lawyers' former law practice, while exempt from having to pay the LAWPRO insurance premium.

LAWPRO will introduce an optional insurance coverage for these services yet to be provided as estate trustee, trustee for *inter vivos* trust, or attorney for property. For more details, see pages 13 and 15.

Part-time practice threshold increased

More than 1,200 lawyers who practise on a part-time basis (and are eligible for a 40 per cent discount off the base premium) will benefit from an increase in the gross billings criterion attached to part-time practice status: They will be allowed to earn up to \$75,000 per year, a 25 per cent increase from the \$60,000 gross billings threshold of past years, and still maintain their part-time practice status. This adjustment reflects the impact of inflation on billings, and ensures that the part-time criteria continue to reflect a similar size of practice today as when the part-time practice option was first introduced.

Mobility exemption expanded

Once various law societies in Canada sign the Territorial Mobility Agreement to facilitate the participation of territorial law societies in the national mobility initiative, and the Law Society's by-laws are amended, LAWPRO will expand its mobility exemption criteria to allow Ontario lawyers exercising their permanent mobility rights under the Territorial Mobility Agreement to apply for exemption from paying the LAWPRO insurance premium. The mobility exemption previously applied only to the National Mobility Agreement entered into by most provincial law societies.

How to save on 2007 insurance premiums

E-file to save \$50 per lawyer

E-file in 4 easy steps:

1. Go to the LAWPRO website at www.lawpro.ca and enter your Law Society number and your confidential password in the **My LAWPRO** box located in the upper right side of our home page.
2. If you do not remember (or do not have) a password, select **File Online** in the **Quick Links** box and follow the online instructions to obtain a password.
3. Select **2007 Professional Liability Insurance Application** ("Renewals" or "New Applicant" as applicable) from the list of online filing options. If you are renewing coverage, your online application will be pre-populated with information on your current insurance coverage, as per information in our database.
4. Follow the on-screen instructions for completing your application. All of the information on the 2007 insurance program and options is available online.

Pay your premium in a lump sum and save \$150 per lawyer

You can choose to pay your 2007 premium in a lump sum, or by quarterly or monthly instalments. But only lump sum payments,

made by cheque or pre-authorized bank account withdrawals, qualify you for the \$162 (\$150 discount plus \$12 for PST) per lawyer lump sum payment discount. For more information, see question #16 on your 2007 insurance application and program guide.

Instant access to your 2007 invoice and policy documents

Many lawyers and law firms will see their applications processed instantly and will have immediate online access to their 2007 premium invoice and policy documents in a secure section of the LAWPRO website.

Lawyers who prefer to receive their printed invoice and policy documents in the mail will be able to indicate this preference on the application form.

Unless otherwise requested, only those lawyers who do not e-file, and for whom we do not have an e-mail address will receive printed packages of the 2007 policy and the booklet containing forms for transaction levy filings. PDF copies of the 2007 insurance policy will also be available for downloading and printing from the LAWPRO website at www.lawpro.ca.

Filing insurance forms

Application filing deadlines:

NOVEMBER 1: E-FILE DEADLINE

File your 2007 insurance application by November 1, 2006, and you'll receive a \$50 premium discount on your next year's insurance premium. Last year, more than 85 per cent of lawyers completed their applications via the **File Online** option on our website – www.lawpro.ca

NOVEMBER 8: APPLICATION FILING DEADLINE

To avoid paying a late filing surcharge of 30 per cent of the base premium, applications must be filed with LAWPRO by November 8, 2006. Applications can be filed in one of three ways: electronically (e-file), by fax or mail.

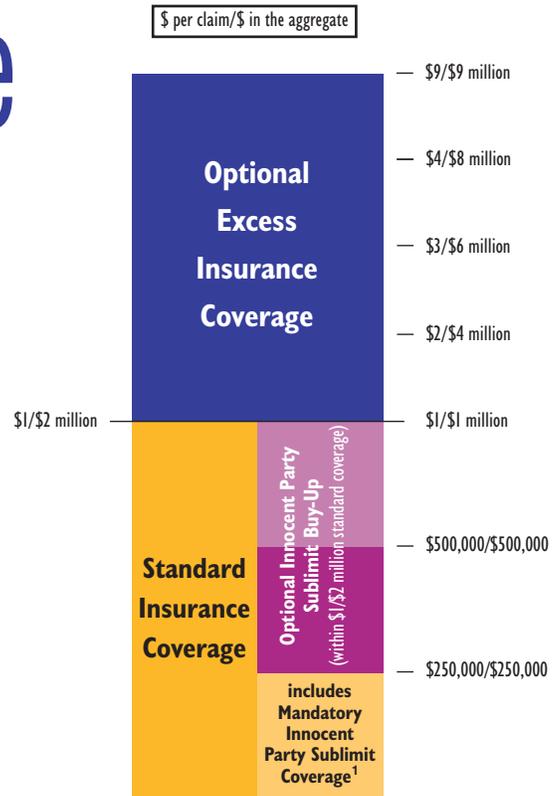
Who must file an application?

- Any lawyer insured under the LAWPRO program in 2006 who intends to continue in private practice in 2007.
- Any lawyer who was exempt under the program in 2006 but intends to return to private practice in 2007.
- Any in-house counsel, government or education lawyer, who, in the course of employment or otherwise, provides legal services to third parties.
- Any lawyer who, although retired from active private practice, occasionally provides legal services, for example, to friends or relatives.
- Any Law Society member who, although not resident in Ontario, engages in more than "occasional practice" in Ontario, as defined under the Rules for Exemption Eligibility and does not qualify for the mobility exemption.

2007 insurance coverage

for lawyers in private practice

Sole practitioners and lawyers in association or partnership



Standard insurance coverage

The base program

Eligibility:

Required for all lawyers providing services in private practice.²

Coverage limit:

\$1 million per claim/\$2 million in the aggregate (i.e. for all claims reported in 2007), applicable to claim expenses, indemnity payments and costs of repairs together.

Standard deductible:

\$5,000 per claim, applicable to claim expenses, indemnity payments and costs of repairs together.

Base premium:

\$2,600 per insured lawyer.

Mandatory Innocent Party Sublimit Coverage³

Eligibility:

Required for all lawyers practising in association or partnership (including general, MDP and LLP partnerships), law corporations (with more than one lawyer) and sole practitioners practising with employed lawyers.

Coverage sublimits:

\$250,000 per claim/in the aggregate, applicable to claim expenses, indemnity payments and costs of repairs together.

Premium:

\$250 per lawyer.

Optional Insurance Coverages

Innocent Party Sublimit Buy-Up⁴

Eligibility

Optional for all lawyers practising in association or partnership (including MDPs and LLPs), law corporations (with more than one lawyer) and sole practitioners practising with employed lawyers.

Coverage sublimits & premiums:

Innocent Party Sublimit Coverage can be increased as follows:

- to \$500,000 per claim/aggregate for an additional \$150 per lawyer (\$400 total Innocent Party premium); or
- to \$1 million per claim/aggregate for an additional \$249 per lawyer (\$499 total Innocent Party premium).

Optional Innocent Party Sublimit Coverage⁴

Eligibility:

Optional for sole practitioners and lawyers practising alone in a law corporation. Provides protection for ongoing liability that sole practitioners can have in situations such as the following:

- if you've acted as back-up counsel or had others act as back-up counsel for you;
- if you've taken a temporary leave of absence from your practice and have delegated your work to others;
- if you've practised as a partner or associate in the past;
- if your practice once included employee lawyers;
- if you've practised in any situation in which you could be seen as lending your name to others;
- as an assurance to others if involved in electronic registration and escrow closings.

Coverage sublimits:

LAWPRO offers Optional Innocent Party sublimits of:

- \$250,00 per claim/aggregate;
- \$500,000 per claim/aggregate;
- \$1 million per claim/aggregate.

Premiums:

Underwritten on an individual basis, based on a risk assessment of information provided in the Innocent Party Sublimit Buy-Up application.

FOR INFORMATION

For detailed information on the insurance programs and insurance options, or for application forms, please visit the LAWPRO website at www.lawpro.ca.

Information is also available from the LAWPRO Customer Service Department at 416-598-5899 or 1-800-410-1013 or via e-mail: service@lawpro.ca.

Excess Insurance Coverage

Eligibility:

Available to all lawyers in private practice, and to all lawyers with Run-Off Coverage protection.

Coverage limits:

The following Excess limits are above the \$1 million per claim/\$2 million in the aggregate limits of the primary program. Coverage is provided on a firm basis (i.e. for all firm lawyers for services on behalf of the firm):

- \$1 million per claim/\$2 million in the aggregate;
- \$2 million per claim/\$4 million in the aggregate;
- \$3 million per claim/\$6 million in the aggregate;
- \$4 million per claim/\$8 million in the aggregate.
- \$9 million per claim/\$9 million in the aggregate.

Premiums:

Underwritten on a firm basis, based on a risk assessment of information provided in the Excess Insurance application.

¹ Optional for sole practitioners.

² Lawyers who are on temporary leave and qualify for exemption (c) are provided with the full limit coverage of \$1 million per claim/\$2 million in the aggregate provided under the base program.

³ Coverage for dishonest, fraudulent, criminal or malicious acts or omissions.

⁴ LAWPRO strongly recommends that lawyers increase their optional coverage protection to the maximum sublimit offered, to avoid gaps in coverage.

Excess Insurance:

More necessary than you may believe

Who should be thinking about the need for excess insurance? Everyone.

As the complexity of claims increases, more lawyers are recognizing that their potential exposure to risk may be larger than they anticipated. To protect themselves and their law practices, they are turning to excess insurance to provide an extra layer of malpractice insurance protection.

Excess coverage gives lawyers peace of mind knowing that if the cost of their claims exceed the limits of the primary program, they have additional resources to draw on. In the nine years since LawPRO introduced its excess insurance program, the program has grown to about 1,300 firms in 2006 from 80 firms in 1998.

Based on our statistical analysis, lawyers in practice for the typical length of a law career will have at least three claims made against them over the course of their law practice. One out of every two lawyers reading this article will have to report a claim in the next eight years. Four out of five lawyers in practice for 20 years have already had at least one claim made against them.

IT TAKES JUST ONE CLAIM

A single claim is all it takes to erode coverage limits to the point where there are insufficient funds left to resolve that claim.

How can this happen?

- Defence costs alone could quickly mount to \$500,000 or more if the claim requires a substantial defence.

- Significant prejudgment interest likely will be assessed on a claim that arises out of services provided years ago.
- The stakes, and the cost of claims, are significantly higher in some areas of law, such as securities, tax, pensions, real estate, and estate work.

As well, many claims today are more complex than in the past – resulting, for example, in an increase in the average cost of claims on which we incur defence or indemnity costs over the past decade.

Lawyers need to consider that it is not only their own work and clients that they have to worry about: You can also be held accountable for the work of partners, associates, employed lawyers, others with whom they have worked, and those to whom they've subcontracted work, in the past and present. In fact, anyone who provides services in connection with the firm, or whose work or expertise that you rely on, could become the root cause of a claim.

Without excess insurance coverage, you could be personally liable – with potentially devastating personal and professional consequences – for any costs that exceed the \$1 million per claim/\$2 million in the aggregate coverage limits provided by the LawPRO primary liability insurance program.

To assess your potential exposure to claims and the need for excess insurance, take the Test Your Exposure test on page 6 of this magazine.

LAWPRO Excess Insurance

LAWPRO's Excess Insurance program offers limits that range from \$1 million per claim/\$2 million in the aggregate to \$9 million per claim/\$9 million in the aggregate above the primary program coverage limits.* Note that this is a firm limit that applies to all lawyers in your firm collectively.

Premiums are competitively priced, based on information provided by applicants in the Excess Insurance Application.

To apply for LAWPRO Excess Insurance, please complete the online Excess Insurance Application at www.lawpro.ca. Select File Online, then Excess Insurance Application.

For more information on Excess Insurance, watch your mail or contact the LAWPRO Customer Service Department at:
Tel: (416) 598-5899 or 1-800-410-1013;
Fax: (416) 599-8341 or 1-800-286-7639;
E-mail: service@lawpro.ca.
www.lawpro.ca.

* LAWPRO primary program provides coverage limits of \$1 million per claim/\$2 million in the aggregate.

Test your exposure

Take this test to quickly assess your potential exposure to claims – and your need for Excess Insurance coverage.

How to score

Give yourself one point for each “Agree” that you record.

What do you know about the law practices of others – tenants, associated law practices, co-counsel, back-up or previous counsel, ‘of counsel’, and others, past and present – for whom you may be held responsible.

AGREE 1. I am familiar with their file practices, procedures, and communications, including in-take procedures, documenting retainers, reviewing opinions, docket control and diary systems, completeness of documentation, and file retention and storage.

AGREE 2. I am satisfied that the letterhead, office signage, reception and telephone, website, advertisement and promotional materials, as well as retainers and billing arrangements of my practice and others affiliated with me, consistently and clearly communicate the nature of the relationship of my practice to that of others.

How carefully have you assessed the exposure relating to the areas of law in which you – and those affiliated with you – practise or practised?

AGREE 3. I have not practised and do not expect to practise in the more claims-prone areas, such as litigation, real estate, corporate and commercial, tax and securities law. My past and/or present partners, associates, employees or others for whom I may be held responsible, have not practised and do not expect to practise in these areas either.

AGREE 4. When I or members of my firm have become involved in these more claims-prone areas of practice, the work has been focused in the hands of a few with the right expertise, or with others under the appropriate supervision or guidance.

What checks and balances are in place for your firm’s trust accounts?

AGREE 5. Neither I nor members of my firm maintain large trust accounts or trust accounts with much activity.

AGREE 6. When it comes to trust accounts, our firm has careful controls in place to govern activity in these accounts; our trust accounts are overseen by more than one lawyer, and two signatures are required for each cheque or withdrawal.

Have you assessed the exposure that comes from potentially high-stakes transactions?

AGREE 7. My firm does not handle major financial transactions and /or represent clients where the stakes are high, such as class action suits, pensions, securities, tax or patents and trademarks.

AGREE 8. I appreciate that the modest beginnings of past clients may have grown, and that the stakes, and any interest accruing, associated with past services, may have grown. As well, I am satisfied that I have plenty of coverage to deal with this exposure.

AGREE 9. My colleagues and I do not rely on the same research, or general or past opinion when we provide opinions to different clients – a situation that could significantly compound our exposure to claims.

What other excess insurance may be in place for your benefit?

AGREE 10. I have arrangements in place with my former firm(s) to ensure that they continue to maintain excess insurance or advise me if they fail to do so, and have reviewed the excess policy and am satisfied that it covers me for my past activities with them.

Total points

Your score and need for Excess Insurance

10 points: You are doing a good job of keeping on top of the practice issues that could result in claims. But that does not mean you are home free. Remember that no matter how well you assess your exposure, claims often arise from the least-expected quarters and Excess Insurance could provide you with that peace of mind that comes with knowing you have sufficient liability insurance coverage in place.

0 points: Your exposure to claims is very likely significant. LawPRO encourages you to carefully consider your exposure and apply for Excess Insurance coverage. As well, we encourage you to revisit each of the issues raised in this test of your potential claims exposure.

Any other score: The lower your score, the greater your potential exposure to claims. Consider especially those areas where you were unable to “agree” to the test comments. A careful assessment of your and your firm’s practice habits, internal systems and the exposure that your current and past clients represent is always helpful – and a good start in determining your firm’s needs for additional insurance coverage.

LAWPRO's new website: a snapshot

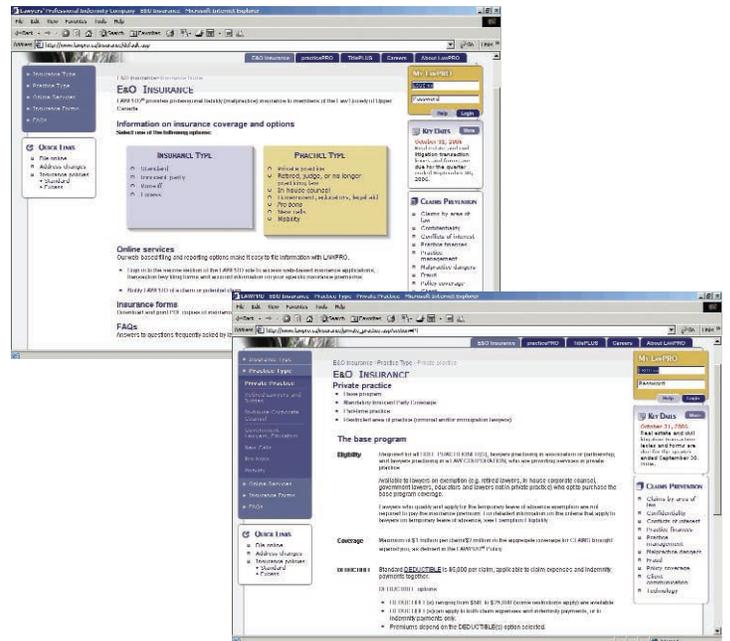
LAWPRO's website has a new look and structure – designed to put more information at your fingertips. On this and the following pages of LAWPRO Magazine, we introduce you to some of the key features of the new site, to help you quickly familiarize yourself with how to navigate the site and find the information you need.



The LAWPRO home page

Our new home page provides an overview of all of the principal links and information sources that you'll find elsewhere on the site.

- The **top navigation bar** takes you quickly to the five main sections around which the site is organized: E&O Insurance; practicePRO; TitlePLUS; Careers, which profiles current positions available in our organization; and About LAWPRO where you'll find background information on the company, links to our annual report, media releases and other corporate information.
- The **Claims Prevention** links take you to an extensive collection of resources on the newly organized practicePRO website, which itself will be undergoing a facelift in the coming months.
- The **Quick Links** box contains shortcuts to the most frequently visited pages in a specific section of our site; **Quick Links** change with each page, to help you navigate quickly to key links such as insurance policies, specific applications and other supplementary information sources.
- The **MY LAWPRO** sign-in box in the upper right corner is a quick way for you to access the secure part of our site, where you'll find online applications and many other new features more fully described on the following pages.



The E&O Insurance home page & Private Practice page

We've re-structured this section of our site to provide you with many different ways to access information on your liability insurance coverage and options.

- Selecting either **Insurance Type** or **Practice Type** in the left navigation bar expands that navigation bar to provide you with an extensive list of information links that take you to a specific information page.
- Selecting a specific link in the **Insurance Type** or **Practice Type** boxes in the centre of the page takes you directly to the information page you selected: For example, clicking *Private Practice* in the **Practice Type** box links you to an information page on insurance coverage and options for lawyers in private practice (i.e. the standard insurance program).
- The **Quick Links** on each page link you to additional information and resources specific to the topic on that page. For example, on the Run-Off Coverage page you'll find a link to the *Assess Your Needs* tool that helps you better determine your need for additional insurance protection, while the Mobility page links you to FAQs specifically on mobility coverage for lawyers.

MY LAWPRO:

Your gateway to YOUR confidential data, transactions and filings

MY LAWPRO is the first step in a wide range of new online information and services LAWPRO plans to unveil over the next year. In this new section you'll have online access to all your insurance policy and personal account information; you'll also be able to complete your online transactions, including filing your 2007 insurance application. Take a few minutes to review this pictorial journey through the MY LAWPRO section of our new website.

The screenshot shows the LawPRO website interface. At the top, there is a navigation bar with links for Home, My LAWPRO, Contact Us, and Site Map. Below this, there are several menu items: E&O Insurance, practicePRO, TitlePLUS, Careers, and About LAWPRO. On the left side, there are sections for CLAIMS PREVENTION and QUICK LINKS. The QUICK LINKS section includes options like File online, Address changes, Report a claim, and Order materials. In the center, there is a News / Upcoming Events section with a headline 'LAWPRO® website gets a makeover!'. On the right side, there is a 'My LAWPRO' sign-in box with fields for LSUC no and Password, and buttons for Help and Login. Below the sign-in box, there are sections for KEY DATES, CLE CREDIT, and TitlePLUS. The bottom of the page features a LAWPRO Magazine section with a cover image and the text 'Volume 5, Issue 2: Summer 2006 Work and wellness'.

Step 1:

To access the **MY LAWPRO** section, you must first sign in to the secure part of the LAWPRO website using your Law Society member number and your unique, confidential password. You have three options to sign in:

- Sign in using the **MY LAWPRO** sign-in box, which you will find on every page; OR
- Select **MY LAWPRO** in the top navigation bar to access the sign-in page; OR
- Select **File Online** in the **Quick Links** box on the home page to access the sign-in page.



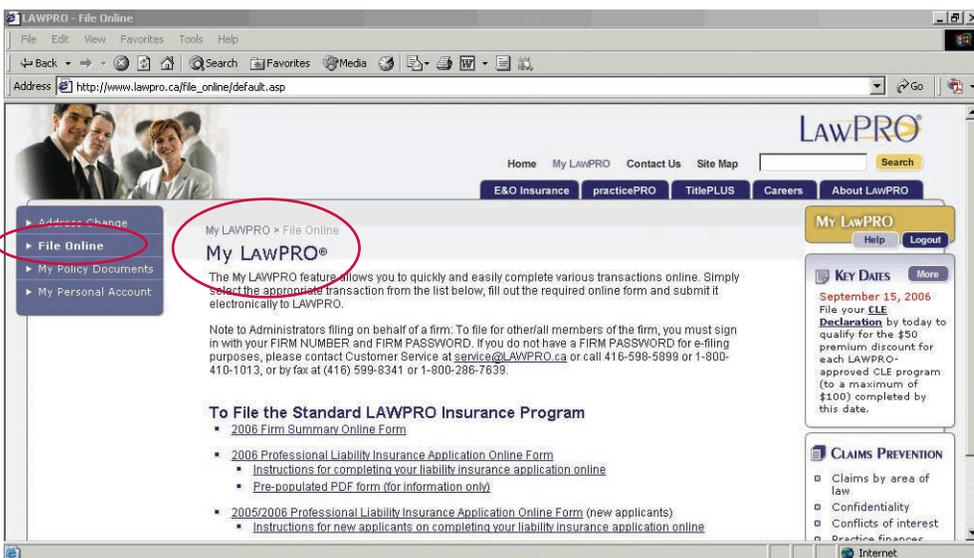
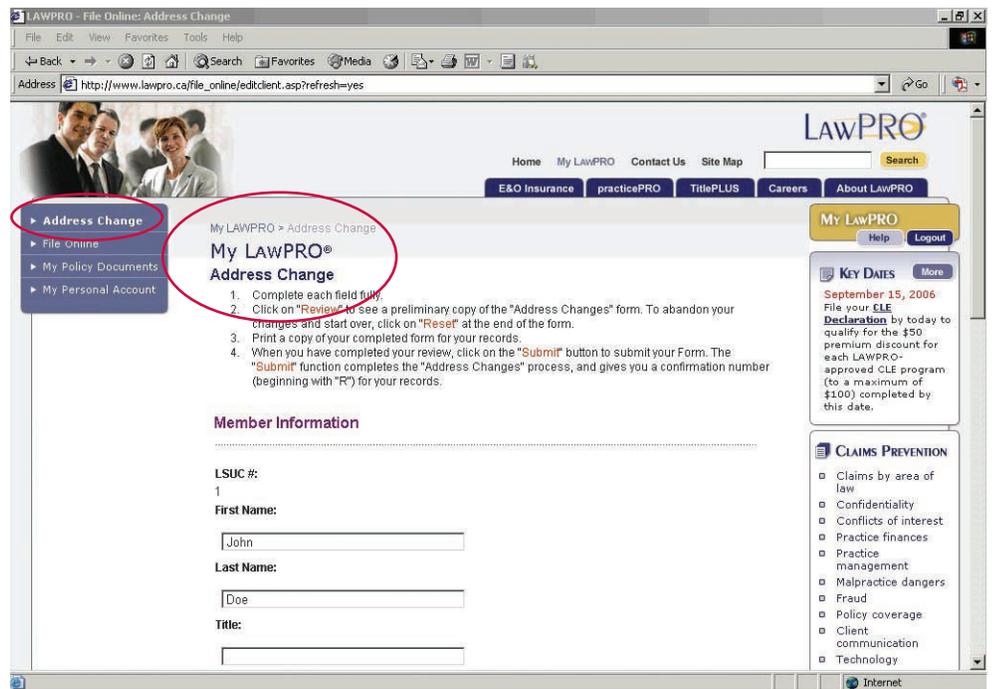
Step 2:

Sign in using your Law Society member number and unique, confidential password. If you do not remember your password (or do not have one) follow the online instructions that apply to your situation (eg. set up a password or forgot your password).

Step 3: Select the online service you wish to access

Address change

Updating LawPRO whenever your address or firm information changes is vital to ensuring your policy coverage is appropriate and accurate for your current circumstances. You can update this information at any time: The sooner this information is filed with LawPRO once a change in your firm or address information is known, the more quickly we can provide you with additional insurance-related information that you may require.



File Online

Select the online form that you intend to complete. Most forms will appear pre-populated with information on you and your existing coverage, based on information in our current database. All online forms link you to supplementary information that you may need to access to understand your options and complete the form. Online filings let you review the completed form before you submit it to LawPRO.



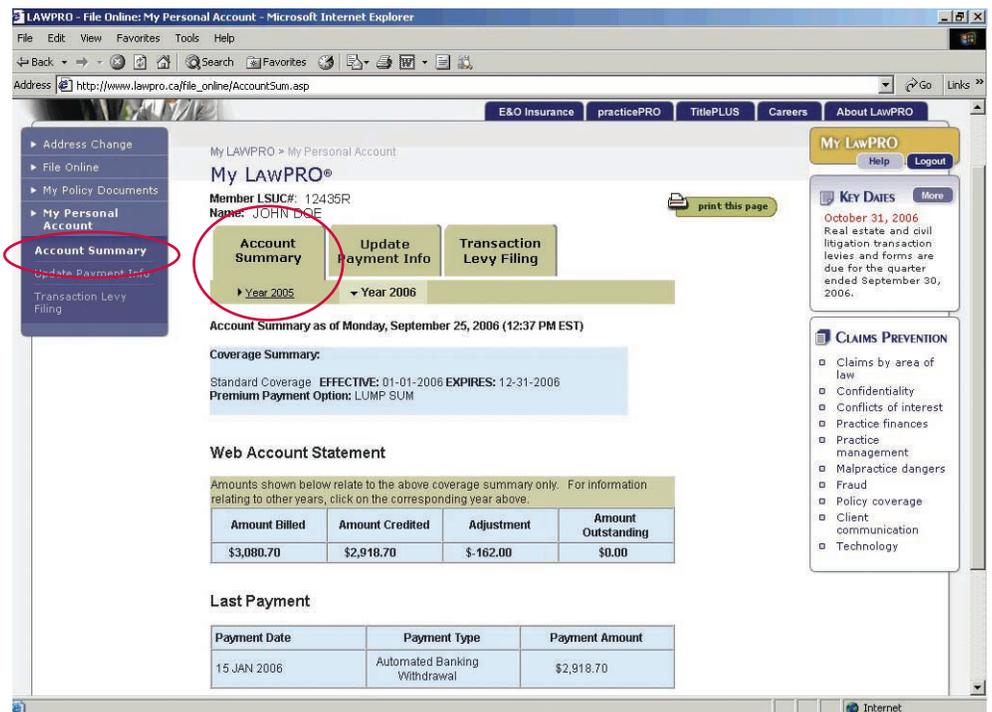
My Policy Documents

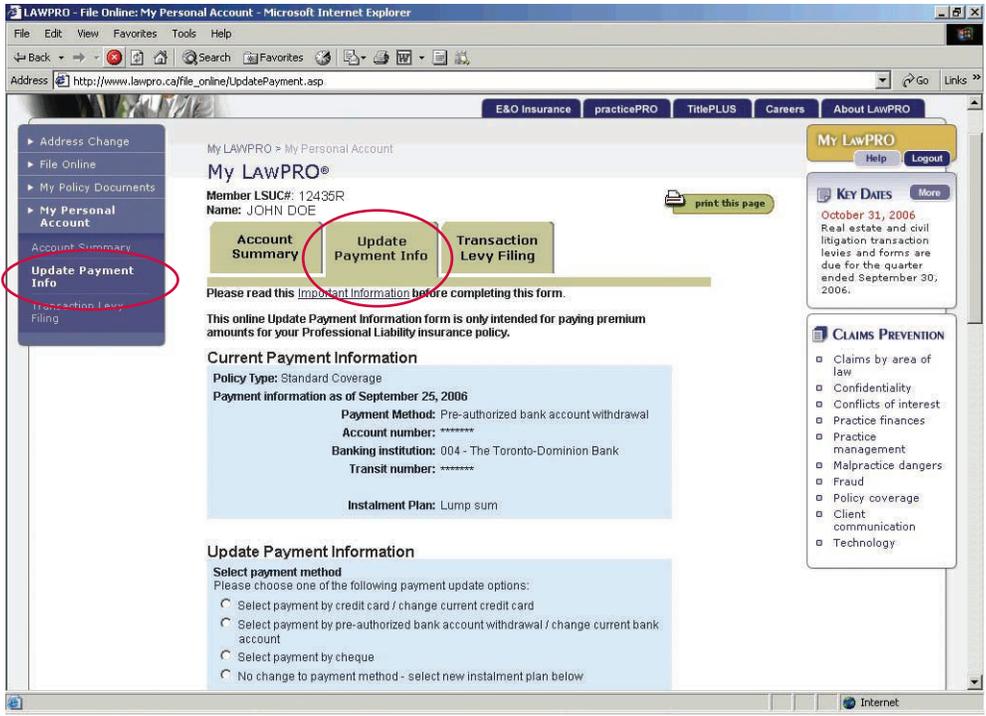
This section houses PDF versions of all relevant insurance applications, invoices, Declarations pages (which detail your specific coverages in place) and policies and forms, for the upcoming year (2007) as well as for recent past years in which you had insurance coverage in place with LAWPRO.

My Personal Account

As its name implies, this section of the site lets you access information on your specific insurance account with LAWPRO.

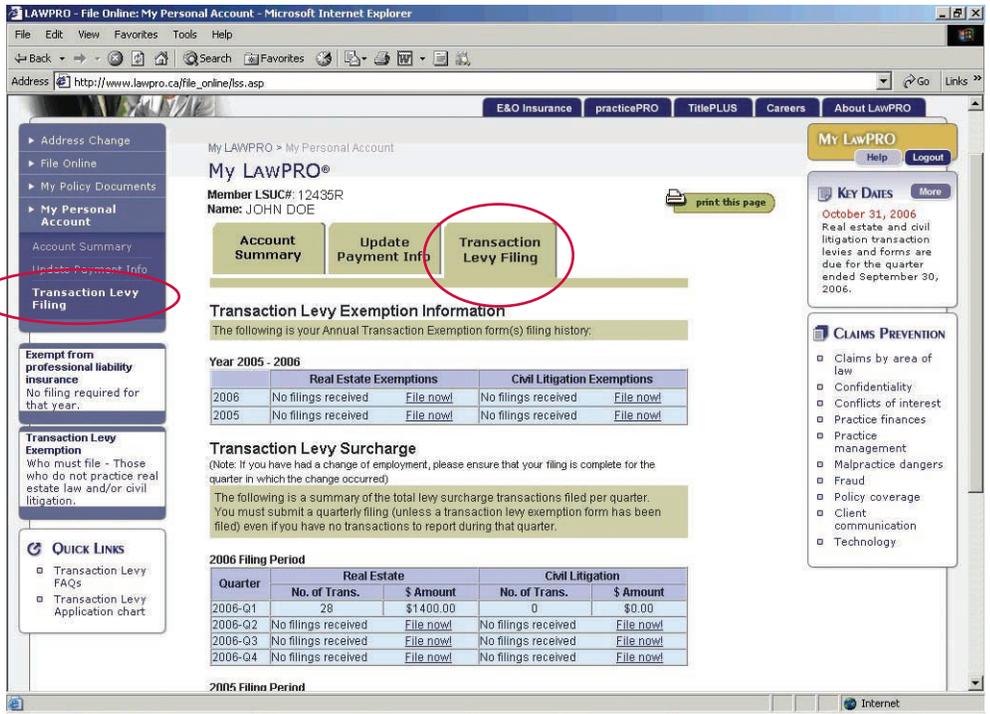
- In **Account Summary**, you'll find information on the coverage you have in place, how you are paying (or have paid) for the coverage, and when your last payment was made.





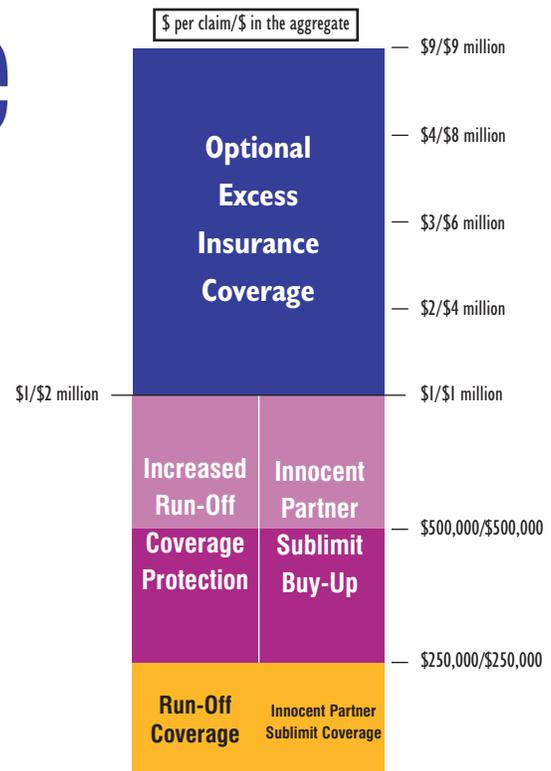
- In **Update Payment Info** you can change your payment method and/or the instalment option.

- **Transaction Levy Filing** provides you with the most recent information we have on the real estate and/or civil litigation filings you have made and which ones are outstanding. This page also links you to the online transaction levy filing form itself, so that you can complete any outstanding filings quickly and easily.



2007 insurance coverage for exempt lawyers

- In-house corporate counsel
- Government lawyers, educators and others not in active private practice
- Retired lawyers, estate trustees, emeritus lawyers, judges and others no longer practising law
- Legal aid clinic lawyers (not directly employed by Legal Aid Ontario)



The standard Run-Off Coverage

Eligibility:

Provided at no charge to all members of the Law Society who are not in active private practice who qualify for exemption¹ from payment of insurance premiums and levies.

Coverage limits:

\$250,000 per claim/in the aggregate, not re-instated annually, subject to the following:

- applies to claims arising out of services provided while the lawyer was in private practice or otherwise maintained the full, ongoing practice coverage;
- does not provide coverage for claims arising out of any services a lawyer provides while exempt from paying the insurance

premium. The only exceptions to this are with respect to *pro bono* legal services provided through an approved *pro bono* legal services program associated with Pro Bono Law Ontario, and where the lawyer has applied for and purchased additional coverage specifically for certain services yet to be performed as estate trustee, trustee for *inter vivos* trust, or attorney for property, as described further.

- applies to claims expenses, indemnity payments and costs of repairs together.
- includes a sublimit coverage of up to \$250,000 per claim/in the aggregate for Innocent Partner claims.

Premium:

None for standard Run-Off Coverage.

Optional Insurance Coverages

Increased Run-Off Coverage protection

Eligibility:

- Optional for lawyers with only the basic Run-Off Coverage who are concerned that claims now and in the future may exceed \$250,000 per claim/aggregate; or
- Optional for lawyers named or acting as estate trustee, trustee for *inter vivos* trust, or attorney for property as residual work from their former law practice who wish to purchase expanded coverage for these services yet to be performed.

Coverage limits:

Exempt lawyers can apply to increase Run-Off Coverage limits to:

- \$500,000 per claim/aggregate; or
- \$1 million per claim/\$2 million in the aggregate;

for terms ranging from two to five years.

Lawyers acting as estate trustee, trustee for inter vivos trust, or attorney for property

Exempt lawyers can apply to increase Run-Off Coverage protection to include protection for services yet to be performed as estate trustee, trustee for *inter vivos* trust, or attorney for property, as follows:

- apply for and purchase expanded protection for these services within the standard \$250,000 Run-Off Coverage limit; and/or
- apply for and purchase expanded protection for these services within the Increased Run-Off Coverage limits, as described above.

Through a deeming provision, ongoing activities of this type may be included under the Run-Off Coverage protection provided to you.

Premiums:

Underwritten on an individual basis, depending on the years practised, areas of law practised, the amount of time since the applicant was in private practice, and other risk-based factors.

Innocent Partner Sublimit Buy-Up²

Eligibility:

Optional for exempt lawyers who have applied for Increased Run-Off Coverage and who may be concerned about their innocent partner exposure.

Coverage limits & premiums:

Innocent Partner Sublimit Coverage can be increased as follows:

- to \$500,000 per claim/aggregate for an additional five per cent of the Increased Run-Off Coverage premium; or
- to \$1 million per claim/aggregate for an additional eight per cent of the Increased Run-Off Coverage premium.

Excess Insurance

Eligibility:

Available to all lawyers in private practice, and to all lawyers with Run-Off Coverage protection.

Coverage limits:

The following Excess limits are above the \$1 million per claim/\$2 million in the aggregate limits of the primary program. Coverage is provided on a firm basis (i.e. for all firm lawyers for services on behalf of the firm):

- \$1 million per claim/\$2 million in the aggregate;
- \$2 million per claim/\$4 million in the aggregate;
- \$3 million per claim/\$6 million in the aggregate;
- \$4 million per claim/\$8 million in the aggregate.
- \$9 million per claim/\$9 million in the aggregate.

Premiums:

Underwritten on a firm basis, based on a risk assessment of information provided in the Excess Insurance application.

¹ Lawyers who are on temporary leave and qualify for exemption (c) are provided with the full limit coverage of \$1 million per claim/\$2 million in the aggregate provided under the base program. Lawyers eligible for the "mobility" exemption have insurance coverage as described on the website at www.lawpro.ca.

² LawPRO strongly recommends that lawyers increase their optional coverage protection to the maximum sublimit offered, to avoid gaps in coverage.

Exempt lawyers are still at risk

Many lawyers believe that claims are not as much of an issue once they are retired or otherwise exempted from paying the insurance premium. They also (mistakenly) believe their \$250,000 Run-Off Coverage provides adequate protection for any claims that may be made against them.

For many lawyers, the opposite is true.

LAWPRO has recently seen several cases where retired lawyers have exhausted their \$250,000 Run-Off Coverage limit. As well, our statistics tell us that one in 50 claims against lawyers exceeds the \$250,000 mark; and one in 100 claims tops \$500,000. Thus, a single claim could easily exceed your \$250,000 Run-Off Coverage limits.

Moreover, the standard Run-Off Coverage provides you with limited protection over time: The \$250,000 per claim/in the aggregate limit is a one-time limit and applies to all of the claims made against you while on exemption.* A common misconception is that this limit is renewed every year. On the contrary, \$250,000 is the total of all coverage you will have for all claims made against you (and your estate) in the past, present and future while exempt.* Once the \$250,000 limit is used up, you are personally liable for any additional costs. As a result, a series of smaller claims over time can exhaust your coverage.

In addition, your exposure to claims may be higher than you think:

- Legal services which you or former partners or associates provided in the past may give rise to a claim, now or in the future.
- Lawsuits arise from many quarters – past clients, your former employer(s) and their officers or directors, shareholders, employees and any others who have relied on your legal advice.
- Many claims do not surface for several years after legal services were provided; up to 10 per cent of claims are not reported until five years after the service that gave rise to the claim was provided.
- Although legislative changes such as the *Limitations Act, 2002*, may provide greater defences, they do not address all areas of exposure.

If you are concerned that claims arising out of past legal activities could exceed your \$250,000 Run-Off Coverage limits, you can apply to buy up these limits (as well as your Innocent Partner Coverage limits) for an additional premium. Increased Run-Off Coverage protection can be tailored to your particular needs, as is more fully described on the previous page.

For a more detailed discussion of the issues that those on exemption should consider in assessing their potential exposure to claims, and for information on Run-Off Coverage and options to increase your coverage protection, please see the LAWPRO website at www.lawpro.ca, or contact our Customer Service Department at 416-598-5899 or 1-800-410-1013, or by e-mail at service@lawpro.ca, and ask for a copy of the Insurance Matters brochure that applies to your category of exemption.

* This does not apply to lawyers who qualify for mobility or a temporary leave of absence exemption.

When your past haunts your present (a fictitious scenario based on composite claims information)

BACKGROUND

Mr. W retired from his small-town Ontario real estate and wills/estates practice two years ago with a claims-free track record, so he never saw the need to buy up his Run-Off Coverage beyond the \$250,000 per claim/aggregate coverage limits. Notice that he was being sued for upwards of \$1 million by the children of one of his former clients because of an alleged oversight in the drafting of their father's will 10 years ago therefore came as a complete shock.

INSURANCE ISSUES

Even more unsettling was the exposure that this claim represented. The value of the estate had increased considerably over the intervening years. Disputing heirs also made a quick resolution to the claim more difficult, resulting in increased defence costs. No matter what the outcome, Mr. W. knew his potential exposure was significant – and beyond his Run-Off Coverage limits.

Had Mr. W bought up his Run-Off Coverage limits, his personal exposure would have been significantly less. For example, if he had increased his coverage to the full \$1 million per claim/\$2 million aggregate available, chances are virtually all of the defence, judgment or settlement costs associated with his claim could have been covered by LAWPRO. As well, had he applied for Increased Run-Off Coverage when he first retired, his risk-rated premium would have reflected his claims-free track record. For Mr. W to secure increased Run-Off Coverage for the future will be difficult, and certainly costly.

Lawyers acting as estate trustee, trustee for *inter vivos* trust, or attorney for property

LawPRO's new exemption (h) explained

As you wind down your private law practice, it may be that you are named or act as, estate trustee, trustee for *inter vivos* trust or attorney for property, even though the rest of your practice is being wound down or turned over to one or more lawyers who remain in private practice.

If so, you can expect to have certain obligations to the Law Society, even though you may not be required to pay the Law Society's annual fee, including:

- having to declare to the Law Society such trusteeships or powers of attorney upon retirement (or changing to a non-practising status); and
- having to file the appropriate exemption forms each year with LAWPRO to confirm that you continue to be exempt from the payment of insurance premium levies.

Interpreting the exemption

For this eligibility rule, provision is made not just for retirement, but also for lawyers electing a non-practising status.

Accordingly, this eligibility rule also applies to lawyers who otherwise qualify for exemption under LAWPRO eligibility rule (d) employed lawyer – employed in government or education, (e) employed lawyer – employed as in-house corporate counsel, or (f) employed and/or volunteer lawyer – legal aid clinic, and the lawyer shall also be entitled to engage in the practice of law in Ontario to the extent provided for under that eligibility rule.

This exemption is also available to you, regardless of whether you are acting on a single trusteeship or power of attorney, or a number of trusteeships or powers of attorney.

However, this exemption may not apply to every instance in which you act as estate trustee, trustee for *inter vivos* trust, and/or attorney for property.

For example, your role as estate trustee, trustee for *inter vivos* trust, or attorney for property, must be residual work from your past practice in Ontario, which would not be the case where you have only been named in retirement (or once you change to a non-practising status), as estate trustee, trustee for *inter vivos* trust or attorney for property.

As well, this exemption would not apply to any trusteeship or attorney for property, where you have been named or are acting in respect of a member of your own family. So, for instance, this exemption would not apply to a lawyer who has never been in practice and acts as estate trustee for a family member. For this purpose, members of the lawyer's own family means "related persons" as defined under section 251(2) of the *Income Tax Act (Canada)*. *

If these are the only types of occasions in which you have been named or act as estate trustee, trustee for *inter vivos* trust, or attorney for property in relation to your retirement, you would not elect exemption on the basis of eligibility rule (h). Instead, you would simply look to apply for exemption on the basis that you are not engaged in the practice of law in Ontario, or under eligibility rule (d), or (e) or (f) as described above.

Insurance coverage

If you have elected exemption on the basis of eligibility rule (h) estate trustee, trustee for *inter vivos* trust or attorney for property, you can apply to broaden your Run-Off Coverage protection to include protection for these services.

With regard to this expanded protection:

- your role as trustee or attorney for property must be residual work from your past practice in Ontario, and not where you have only been named in retirement (or once you have changed to a non-practising status);
- coverage may apply in respect of a single trusteeship or power of attorney, or in respect of a number of trusteeships and/or powers of attorney;
- coverage would not apply in the case of a trusteeship, or attorney for property, in respect of your own family members;
- coverage would not apply in respect of any dishonest, fraudulent, criminal or malicious act(s) or omission(s);
- availability and conditions may apply, based on individual underwriting.

For more information, see page 13 or visit the LAWPRO website at www.lawpro.ca.

* Proposed

Think you know all about real estate fraud? Think again!

Identity crimes continue to increase across North America and the Ontario real estate market is not immune. Both “fraud for housing” and “fraud for profit” are still part of our market and the law firm is often the last line of defence against the determined fraudster. In fact, fraud could affect virtually any deal in your office: residential or commercial, personal or corporate. Don't become the viper's victim!

On November 2, 2006, the OBA is presenting **A Viper in the House: Real Estate Fraud and You** – a program aimed at lawyers, law clerks and assistants alike. The program runs from 9 a.m. to 1 p.m.

Kathleen A. Waters, vice president, TitlePLUS, will be chairing the program, to be held at the OBA Conference Centre, 20 Toronto Street, Toronto. To register, visit the OBA website at www.oba.ca.

The following are highlights of the program:

What is happening out there?

The view from the front lines

What kinds of real estate fraud are we seeing? How common is it and where it is being felt the most. Speakers include: Detective Steve Culf, Fraud Dept., Peel Police; Caron Wishart, vice president, Claims, LAWPRO; and Kate Murray, director of Titles, Ministry of Government Services.

It's a "Crime":

In the shoes of the prosecutor

Crown Attorney Dave King covers topics such as:

- applicable criminal offences
- who can be charged?
- the exposure of “accessories”
- assisting the police & testifying at trial
- are legislative amendments needed?

What can (and must) the lawyer do?

Donald V. Thomson of Walker Ellis discusses basic tools such as: checking I.D.; watching the value; reviewing deleted instruments; and the “Smell” Test.

Jerry Udell of McTague Law Firm LLP, and Caterina Galati from the Law Society discuss how lawyers can fight back by: teaching staff, introducing controls, and knowing referral sources.

But why me?

The day ends with a panel discussion featuring Robert Aaron of Aaron & Aaron (moderator) and panelists Elizabeth J. Herrema, Senior Counsel, RBC Law Group; Robert Maughan; Product Manager, Real Estate Data Exchange, Teranet Inc.; Sidney H. Troister, Torkin, Manes, Cohen & Arbus LLP; and William Trudell, barrister & solicitor.



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