


# Best practices and tips for file transfers


Kathryn Shani

Claims Counsel, LAWPRO

# Agenda

- File transfers – what can go wrong?
  - Transferring files – General
  - Internal file transfers within a law firm
  - External file transfers to a new law firm
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# File transfers – what can go wrong?

- Missed deadlines and limitation periods
  - Missed court attendances
  - Rule 48 administrative dismissals
  - Lost documents
  - High-risk period with the potential for malpractice claims
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# General considerations for file transfers

- The client's interests must always come first
- Clients have a right to choose their legal representation and must feel free to do so
- Use a file transfer checklist to prevent oversights
- For retiring licensees and those who are closing their practice, there are practice management resources available online through PracticePRO and the LSO

# Internal file transfers: What should the transferring lawyer do?

- Contact the client and opposing counsel with the new lawyer's contact information
  - Bring any upcoming dates or deadlines to the new lawyer's attention
  - Consider writing a short summary or file transfer memo to assist the new lawyer – a little context goes a long way!
  - Make sure that you are no longer lawyer of record on files
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# Internal file transfers: What should the new lawyer do?

- Confirm **in writing** with the client that you are their new lawyer
  - Confirm **in writing** with opposing counsel
  - Follow the appropriate procedure to update the court or tribunal and get confirmation **in writing**
  - Double check all upcoming dates and deadlines for accuracy
  - Make sure you have all necessary documents
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# Transferring a file to a new firm

- Notice of change of lawyer is required
- Confirm the change of firm **in writing** with both the client and opposing counsel
- File retention- 15 years (general)
- Prompt file transfer and what documents to transfer
- Follow the LSO's required steps and best practice tips for withdrawal
- What if there are outstanding fees at the previous firm?
  - Solicitors' liens
  - LAWPRO policy does not cover fee disputes

# Key takeaways

- You may still be responsible for the file as long as you are the lawyer of record and/or until the file is transferred
- Once you have carriage over a file, you are responsible for any upcoming dates or deadlines, even if they were not diarized by prior counsel
- Make sure you get written confirmation of change of lawyer from the client, opposing counsel, and any applicable court or tribunal (or get off the record)
- The client's interests always come first!

Questions?