

PracticePRO. File Transfer Checklist

File transfers can lead to claims if they are not handled carefully.

This checklist provides general guidance to help lawyers protect client interests, maintain continuity of representation, and reduce the risk of missed deadlines, misunderstandings, or incomplete transfers, regardless of whether the file is transferred internally or to a different firm.

Current lawyer

Client Communication and Consent

- The lawyer and law firm should advise the client that the file must be transferred and explain available options
- Confirm the client understands they may choose their own lawyer - review [Leaving a law or legal services firm](#)
- Advise the client, in writing, of any important information such as limitation periods, upcoming deadlines or possible delays that may result due to the transfer
- Either obtain written:
 - consent to transfer the file; OR
 - direction from the client and/or new lawyer to transfer the file. See sample [request, direction and acknowledgement forms](#) at the bottom of the LSO Withdrawal from representation webpage.
- Ensure consent or direction identify the effective date you stop acting; and the new lawyer's contact information

Prepare the File Transfer Memo

- Summarize the matter, progress to date, and current status
- Identify the effective date you stop acting for the client
- Summarize the key issues
- List all deadlines and limitation periods
- Identify outstanding steps and tasks
- Detail all undertakings and their status (be mindful of personal undertakings and determine how they will be fulfilled or monitored)
- Detail any trust balances
- List client property and original documents

External Firm Transfers

- Determine which documents will be transferred – review [Guidelines for document ownership](#)
- Retain a copy of the entire file
- Prepare and deliver a final invoice and reporting letter to the client
- Close the file and follow the file retention policy – see [Review Your Files – The Ultimate Limitation Period and Guide to closing, retaining, and destroying client files](#)

Transfer and Notify

- Notify opposing counsel in writing and provide the new lawyer's contact information
- Transfer the file to the new lawyer promptly with the memo
- Confirm the new lawyer has updated the court or tribunal, such as filing a Notice of Change of Lawyer
- If necessary, take steps to have yourself removed from the record
 - You remain counsel of record until the court or tribunal has been formally updated
 - A Notice of Change of Lawyer must be filed even when the original lawyer is keeping the file but moving to a new firm

New lawyer

Conflict Check and Retainer

- Confirm there is no conflict of interest (even if there is no firm conflict, you may have a conflict such as one arising from prior work at another firm)
- External firm transfers
 - Prepare a clear retainer agreement and have the client review and sign it
 - Collect a monetary retainer from the client
- Internal firm transfers
 - Confirm in writing to the client that you are now acting as their lawyer

Notify

- Advise opposing counsel you have been retained
- Update the court or tribunal (e.g., file a Notice of Change of Lawyer)
- Confirm with court or tribunal that records have been updated to reflect the change. It is the lawyer's responsibility to ensure that the court or tribunal is properly advised of all updates in client representation.

File Review

- Review the file and transfer memo promptly
- Verify all deadlines and limitation periods
- Identify outstanding steps and issues
- Confirm any outstanding undertakings
 - Determine how they will be monitored and fulfilled
- Review trust balances, client property, and original documents

Follow-Up

- Discuss assumptions or prior advice with prior counsel if needed
- Discuss next steps and concerns with the client

Additional resources

LAWPRO's CPD [Litigation Pressure Points: Dismissals, Settlements, Releases, and File Transfers](#).

Review the *Rules of Professional Conduct* and the Law Society of Ontario's guideline on [mandatory and optional withdrawal](#) from representation, including the requirement to give reasonable notice.

Disclaimer: This checklist is a general, non-exhaustive guide only. It does not replace a lawyer's professional judgment or obligations under the Rules of Professional Conduct. The appropriate steps will depend on the circumstances of each file.