

Common Issues, Mistakes, and Best Practices

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Real Estate Essentials

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INTRODUCTION

The Alberta Lawyers Insurance Association (“ALIA”) is the professional liability insurer for all lawyers in Alberta. We respond to allegations of negligence under Part “A” of the Policy, and to allegations of misappropriation under Part “B” of the Policy. The standard Policy insures you for losses up to \$1 million, with an aggregate of \$2 million in any Policy year. We strongly recommend that you obtain excess insurance. You do not want to wish that you had excess insurance the day you are sued for \$3.5 million for that big deal that you were pleased to receive at the time.

Law firms can obtain excess insurance from CLIA (through ALIEX) or from other excess insurers (such as Marsh or Lloyds). When you give notice of a claim to ALIA you are giving notice to CLIA but you are NOT giving notice to any other excess insurer. You need to do that separately. The excess insurer will then likely contact ALIA for updates on the claim, which is acceptable to us. Obviously the excess insurer wants to know if it needs to put the claim on its radar or if it is likely to be resolved for less than the mandatory minimum amount.

Tips: Unlike the minimum amount, which is per lawyer, a law firm must carry the same amount of excess for all lawyers in the firm. You cannot, for example, decide to get more excess insurance for lawyers in the firm who are handling large transactions. Also, unlike the minimum insurance (which continues to cover lawyers even if they are dead or retired), excess insurance ONLY covers lawyers for the period of time when the Policy is in place. We sometimes have inquiries from lawyers who want to place excess insurance for one year while they handle a large transaction, and then discontinue it. This would not protect you, unless of course the claim happens to arise within that period (which seems unlikely).

As of July 1, 2014, ALIA reintroduced the collection of a \$5,000.00 deductible on each file where we incur costs. The deductible applies to damages, to repair costs, and to the cost to defend the claim. In short: if we pay \$5,000.00, then our Insured lawyer needs to reimburse us for that sum. There is also an escalating surcharge on the premiums charged to any insured lawyer who has a claim on which damages are paid. Under the Policy, the costs to repair an alleged error are considered as damages.

The deductible and surcharge do NOT apply if the cause of the loss is the **proper** use of the Western Conveyancing Protocol.