



# JURISK!

December 2014 Volume 10 Issue 2  
**Risk Management Newsletter**

A biannual publication of Professional Indemnity Insurance Committee, Bar Council Malaysia

## COMMUNICATE COOPERATE COLLABORATE



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## Chairperson's Message

Whilst the Professional Indemnity Insurance ("PII") Committee is generally satisfied with the overall management and running of our Scheme, there is room for improvement and Members must be vigilant and must take the effort to understand how the Scheme works and learn to manage risks.

Some of the issues that you need to deal with when faced with a claim or potential claim may seem straight forward but one has to be rational and not be too defensive. Claims can be frivolous and claims can happen to any one of us!

### Step 1

Notify the insurers as soon as possible, even if it is a mere possibility. Err on the side of caution. **YOU WILL NOT BE PENALISED FOR A NOTIFICATION!!!** It can only be beneficial to you if you notify early. More than 50% of queries we receive from Members relate to notification and the fear of doing so!

### STEP 2

If the claim against you does materialise and a Panel Solicitor is appointed, please cooperate with them as they have been appointed to protect you! If you are unhappy about any aspect of their conduct, please contact us directly. Non-cooperation can result in repudiation of liability by the Insurers.

## Top-up Insurance Providers

The objective of the Professional Indemnity Insurance Scheme is to provide a decent level of coverage to assist us in our practice. It is not a full, all-risk cover but a cover nonetheless that is fairly comprehensive, that allows you to run your practice in a managed structure with minimal risks. If you do require Top-up cover because of the nature of your practice, you are free to pick up Top-up insurance from the open market.

Members who wish to obtain top-up separately from the mandatory scheme should, ensure that the Top-up insurance policy is a "follow form" of the Malaysian Bar's Mandatory PII Scheme. This means that the policy wording, coverage and exclusions of the top-up policy must be identical to that of the Schemes'.

We have received reports that at least two firms were denied coverage from their Top-up Insurers and we had to step in to assist these firms and discussions are ongoing with the alternative insurers. Please remember that the top-up insurer may well be within their right to repudiate based on policy wordings. Please read the article on page 23 that covers almost everything you need to consider prior to purchasing your top-up insurance.

If you still have any questions regarding Top-up insurance, I strongly advise you to speak to the Officers at our PII and Risk Management Department.





## Chairperson's Message

Before I sign off, I would like to take this opportunity to thank my fellow PII Committee Members for their hard work and continuous dedication to better the Scheme year after year. At times it can be a thankless job, and for that, I am grateful to my fellows for giving the Scheme their invaluable time and resources.

And if you are reading this and feel that you too, have what it takes to make a difference in our Scheme, there is always a place for you on the Committee. Or if you would like to contribute in ideas and critique, we more than welcome that too. The Committee and I are always eager for your feedback. Your opinions can help shape the future of the Scheme.

We wish you and your Firm a productive, robust and claims-free 2015!!

### **Ragunath Kesavan**

Chairperson

PII Committee, Bar Council

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### **PII Committee 2014/15**



#### **Chairperson**

Ragunath Kesavan

#### **Co-deputy Chairpersons**

George Varughese

GK Ganesan

#### **Members**

1. Arthur Wang
2. Balbir Singh
3. Dhinesh Bhaskaran
4. Felix Raj Arokiasamy
5. G Balakrishnan
6. Harikannan Ragavan
7. Lawrence Pereira
8. Rao Suryana bt Abdul Rahman
9. Richard Kok Chi Wei

This issue of *Jurisk!* is late and we apologise to all our readers who were expecting it in December 2014. We had to delay the release as the 2015 Certificate of Insurance was being finalised, and it was our intention to bring to your attention vital amendments that were made within the COI. You can read all about it in a circular released by Jardine Lloyd Thompson Sdn Bhd, on page 10.

Dear Members,

Inside this issue...

...we emphasise the importance of cooperation between Members of the Bar and the stakeholders of the Malaysian Bar's Mandatory Professional Indemnity Insurance Scheme. This relationship is further accented with the appointment of a panel of solicitors to defend Members and their claims.

Too often in the past, the non-cooperation of Members has resulted in their claims being denied, and because this right of denial is provided to the Insurer in the Insurance Scheme Policy, it becomes an unfortunate situation for Members to be in. The Professional Indemnity Insurance ("PII") Department had a frank discussion with three panel solicitors to gain their views on being on the other side — defending their fellow Members from claims. You can read the full interview on page 4.

Because we feel Members can better relate to case studies of claims, we have continued showcasing actual past case studies with a range of causes to eventual claims. Reading through all these case studies, it will become evident that most times, the simplest mistakes can have the gravest consequences.

We hope this issue of *Jurisk!* satisfies your palate. As usual, if you have any comments, feedback or queries, you may contact the PII and Risk Management Department officers directly by telephone at 03-2032 4511 or by email at [pirm@malaysianbar.org.my](mailto:pirm@malaysianbar.org.my)

Happy reading!

The *Jurisk!* Team



## The PII and Risk Management Department

The Department is headed by Executive Officer, Mysahra Shawkat, supported by Officers Kumaresan Krishnan and Sharul Safwan Norazman Shah.

The aim and purpose of the Department are twofold:

1. To support the PII Committee and assist Members of the Malaysian Bar on a daily basis with their claims, enquiries and complaints; and
2. To be responsible for the development and management of Bar Council's Risk Management Programme including its print publications, events and workshops, and a dedicated risk management website.

We list below most of the Department's Risk Management Tools:

1. Start Kit – a handy all-in-one kit that comprises of books (Best Practice Guides), checklists (conveyancing and litigation), educational-video and much more.
2. Workshops - three workshops available catered for new lawyers, lawyers who have just set up firms, senior lawyers who want to refresh knowledge and staff of legal firms. Choose either *Getting Started!*, *Billing & Collections* or *Risk Management for Staff*.
3. PRAKTIS Website - get current information on PII and risk management right at your fingertips.

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# Casual Conversations: A Panel Solicitor's Point of View



In a continuation of frank conversations with stakeholders of the Malaysian Bar PII Scheme, we sit down with three Panel Solicitors ("PS") to get their views of the Scheme and an in-depth look at their experiences so far in defending Insured.



## Q1 How closely do you work with Insured Practices ("IP")?

### Panel Solicitor 1

I try to work as closely as time permits with all my clients, including IPs. I do not distinguish between IPs and other clients in terms of time and effort.

My method for all clients is usually to have at least one experienced Associate or Partner assisting on every file I work on so that they can follow up and keep in touch with my client if I am not available.

### Panel Solicitor 2

We work very closely with IPs. We take their views and file strategy into consideration.

### Panel Solicitor 3

In essence, the IPs are our "clients". As such, we would work closely with them at all times. I do as a matter of practice send them drafts of pleadings/affidavits before the same are filed. The rule of thumb is that the more vigorous the litigation is, the more the IP would be involved.

Where we have been appointed to defend an IP, our actual client from whom ultimate instructions come is the Insurer. In practical terms, most of a PS' day to day communications are with the Echelon Claims Consultant ("Echelon"), who manage and administer the process on behalf of all parties. In court we represent the IP and we owe duties to the IP to represent him to the best of our abilities to that extent. We also owe duties to the court as do all lawyers and I might add that the court treats us as the IP's lawyer, not the Insurer's lawyer. We have to keep all parties fully informed of all developments and fulfil our respective roles so the flow of communication is constant.

In practical terms, although ultimately we take instructions from the Insurer, the IP would only feel the difference if there is a chance of settlement and a consensus between the IP and Insurers cannot be achieved, or if the Insurers decide to repudiate coverage. In all other respects the IP would "feel" like our client and we would treat the IP as such.

This means that as far as possible we would discuss all aspects of the case with the IP and seek to achieve consensus between the IP and Insurers so that the IP would feel fully part of the process.

I am not sure if I would call this a problem, but another difference between having an IP as a client and a lay person is that very often IPs, being lawyers themselves, will have a fixed idea how they would like their case handled and what arguments should be taken. This a bit of a mixed blessing.

It can sometimes be useful to have a lawyer contribute to the brainstorming on a case, but a lawyer fighting his own case may sometimes lose the objectivity required to make the best strategic decisions.



## Q2 What are the common problems faced by PS in handling PII files?

### Panel Solicitor 1

For the most part, when I work with IPs, it is not much different from any other client.

Perhaps the biggest difference is that for a PS engaged to defend an IP in court proceedings the "chain of instructions and command" is a little more complicated than in a normal case where we deal directly and owe duties only to our client who is also the direct party to the litigation.



If my views on how to proceed differ from the IP then we would usually have a discussion. So far I cannot remember a situation when an IP has not eventually been satisfied with the action taken, but sometimes the effort required to persuade a fellow lawyer may be disproportionate to the benefits gained from being able to debate the case with the IP.

### Panel Solicitor 2

More often than not, the IPs would want to file application for striking out even though it is clear that the Court will be reluctant to allow the striking out based on the facts of the case. Also, IPs would want to challenge or object to procedural non-conformity by the Claimant's solicitors.

Getting complete documents from IP. IP being lawyers, may think that some documents are not relevant and would not provide it to us. Then at some point before or even during trial, the documents surface and this may throw us off tangent completely.

It is more challenging to deal with IPs who are not litigation lawyers due to their lack of experience in court procedures.

Another problem is that IP would ask for reduction in our fees.

### Panel Solicitor 3

A common problem is IPs who are uncooperative and irresponsible. We do our best to help them but they must help themselves by being concerned and involved in the litigation.



## Q3 As a PS, what are your expectations of IPs? Have there been any exceptional experiences you wish to share from your encounters?

### Panel Solicitor 1

Generally, I would expect full and frank disclosure of all relevant facts and documents in a timely fashion; cooperation and availability from an IP so that I can represent the IP in court to the fullest. This is much the same as I would expect from any client.

Perhaps the main difference between an IP under the Scheme and other clients is that failure by a lay client to meet my expectations would probably lead me to grumble loudly to my associate, whereas failure by an IP would have to be reported to the Insurers and might be grounds for the Insurers to repudiate coverage.

I do not see any material difference between my expectations generally and the responses from IPs or lay clients for each of the specific situations above except in cases where there are allegations of fraud or dishonesty against a lay client or IP. In such cases a PS has to be especially diligent and objective in assessing if the instructions given by the IP are truthful and planning strategy.

In a normal case involving a lay client, even if such client has been dishonest or fraudulent, his or her solicitor might still continue to represent the client provided the strategy adopted is ethical and not misleading, perhaps with the objective of achieving a fair settlement.

However, dishonesty or fraud by an IP would ipso facto be grounds to repudiate cover and obviously, if an IP has been dishonest or fraudulent the tendency would be to hide this from all parties including the Insurers and PS.

I have heard anecdotes of cases where obtaining consensus on settlements have given rise to problems especially where there will be a financial or reputational impact on an IP but in practice I have actually never come across a problem. The Insurers of course have the final say in most settlements (unless the dispute resolution mechanism under the policy is adopted which I have never personally experienced).

They generally make objective decisions based on advice from lawyers and loss adjusters and from their own experience. I like to involve the IPs as part of the decision making process so that they can be assured the final decision will be fair to them. In my experience IPs who have been involved in the process have been happy to follow the decisions of the Insurers.

### **Panel Solicitor 2**

In general, IPs are defensive. Most of them think that they are not liable and the claims against them are baseless. Therefore, their first instruction is always to file striking out application. They also seek opinions of other lawyer friends, who would advise them without having the benefit of full facts/documents.

We expect for the IPs to have followed the risk management practice but most of the time there is no RM check list or even if they have one in place, they are not followed. We also encountered many IPs who have delegated their duties to third parties; either to their clerks, junior legal assistants etc. Many IPs have resorted to shortcuts in their practises that have resulted in the situation they are in.

In respect of lawyers missing court dates, we have encountered one file so far. This particular IP was doing the client (for another matter) a favour by filing Defence for him while the client negotiated with the plaintiff for settlement. The IP didn't attend Court on that day because he had verbally asked the client to attend Court personally since it was the IP's position that he was not representing the client. The Client failed to attend Court and judgment was entered against him. After full trial, the Court found the IP to be negligent. When it comes to company work related claims, we find IPs are inclined to

proceed with standard agreements thus not recording all the terms discussed in the negotiation meetings held in the agreement of the IPs' draft. Even if the parties have specifically wished to omit certain terms, these instructions are not subsequently confirmed in writing.

### **Panel Solicitor 3**

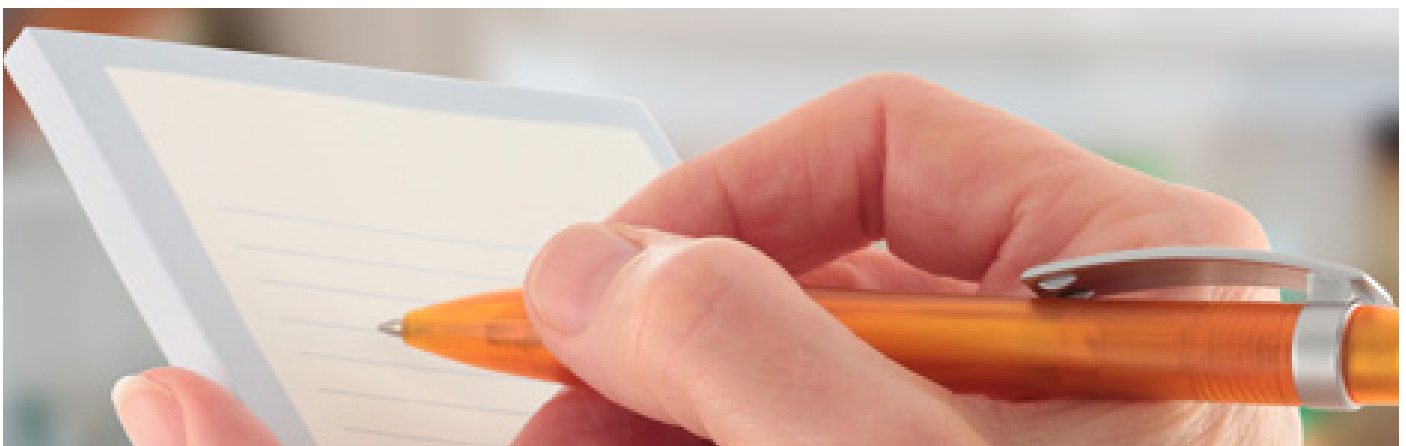
Generally speaking, the majority of IPs are responsible and unproblematic.

With regards to fraud and/or embezzlement in conveyancing related claims, these are the most difficult and sensitive in that the IP's bona fides are being questioned. Unless the IP is treated sensitively, the cooperation may be negatively impacted.

When the claim relates to transfer of property, the standard of a conveyancing practitioners vary greatly from the very competent to the other extreme. This type of claim brings out the contrast in our fellow Members of the Bar. It also underscores the mantra that a practitioner should stick to his/her area of expertise. Thus, even the most illustrious of litigators may be an incompetent conveyancer.

When it comes to cases of lawyers missing their court dates it is usually a sole practitioner who is trying his best to juggle his/her files. On the other hand, there are also those who through sheer lack of care ought not to be in practice.

When a settlement is offered and/or can be reached – most IPs are pragmatic but naturally are driven by the bottom line ie if their exposure is restricted to the base excess, they may choose to litigate as the downside to the case being lost is pretty much carried by the Insurer.



**Q4 What are your views on uncooperative lawyers, in examples below:**



- a. IP notified third party proceeding against him, but IP failed to respond to any correspondence from the Insurers and/or their representatives; AND did not provide any choice of PS (no appointment of PS). IP also did not provide any further cause papers/documents after notification.**
- b. IP notified date for case management (which is in three days' time) and did not attend court. At this point a PS is still not appointed, and when requested by the Broker/Insurers for IP to provide an update – no information is forthcoming. How could this affect the IP?**

**Panel Solicitor 1**

I would think that in both scenarios (a) and (b) the IP has incurred the risk of insurance cover being repudiated.

Before appointment of the PS, an IP must still take all relevant steps to defend itself and to protect the interests of the Insurers. Failure to respond to the Insurers after notification, or to take steps to protect itself, especially after being aware of proceedings might be grounds for repudiation.

In example (a), it is possible that after it notified the PS did nothing or that it proceeded to act for itself or appointed its own lawyers in either case without reference to the Insurers. Doing nothing could obviously lead to problems.

Perhaps surprisingly, representing itself or appointing its own lawyers without reference to the Insurers might also lead to problems, for example if the strategy or steps adopted in the defence turned out to be inadequate or worse still, defective.

The proper procedure which would avoid any problems should be to follow up closely with the Insurers immediately.

Similarly in example (b), an IP cannot assume that when the Insurers are informed of a date, that the IP's obligations have ended. Until a PS has been appointed, the IP must take all necessary steps, including attendance at court.

**Panel Solicitor 2**

In scenario (a), Insurers should decline based on breach of conditions in the Certificate of Insurance. However, before declining, due notices should be given to IPs and opportunities should be given to them to explain why they failed to do so.

In the following scenario (b), attendance in Court for case management and providing update to Insurers are crucial. Adverse directions or order may be given against the IP in their failure to attend the case management. In such an event the Insurers will be prejudiced and may decline the claim.

**Panel Solicitor 3**

For the former scenario, I subscribe to the saying that you must help yourself – in this regard I am not sympathetic to IPs who do not provide information in a timely manner.

I maintain the same for scenario (b), although I would add however that I would also expect the appointment of a PS to be fast tracked in these circumstances.

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**Q5 Could you share with us a few of your experiences dealing with IPs (if different from above and/or in addition to above).**



**Panel Solicitor 1**

I would rather not go into specifics except to say that IPs are human beings just like normal lay clients (hence would naturally be anxious about their cases). They are also legally trained. So generally a PS representing an IP would have to be on his/her toes at all times.

**Panel Solicitor 2**

We have dealt with young and inexperienced IPs who were made partners of firms. The firms are controlled by former Members of the Bar who have been struck off the rolls. These practises have resulted in the young and inexperienced IPs sued for negligence. It is very disheartening to see young Members of the Bar being sued and held liable for negligent act/misconduct of unscrupulous former Members of the Bar.

**Panel Solicitor 3**

I have felt a pang of conscience on a number of occasions when I have successfully defended claims as I know that the IP is a danger to the public.





**Q6** **How do you think IPs could better manage their claims, and what would your advice be to IPs with claims?**

**Panel Solicitor 1**

As I said, an IP would naturally be anxious. Sometimes, a defendant with legal knowledge has more fears and anxiety than one without.

In fact, in my experience, lawyers being sued suffer more emotional trauma than other people and the stress can be tremendous. It can affect their whole lives and sometimes affects their ability to manage their own claim.

If I see an IP is particularly suffering from inordinate stress I usually advise them to try to treat their case as just another client's file in the office. I actually tell them to open a file in the normal way, index it normally, put it away except when something has to be done and treat it just like a normal file. That way it can be just another routine case and not consume all their energy. That way they can try to get on with business as normal.

I also remind them that the reason they took out insurance in the first place was for the very reason that if they are sued, they can effectively transfer the worry to the PS and the Insurers. Once an IP has been to see me, effectively his/her case becomes my case and I can do the worrying for both of us!

**Panel Solicitor 2**

Always remember client is your number ONE enemy. Always ensure that all correspondences and/or instructions are property documented in writing.

**Panel Solicitor 3**

Stay in constant communication with the PS.

**Q7** **Based on your experience handling PII files, what risk management and/or best practices can you share?**

**Panel Solicitor 1**

Risk management is largely about having good systems in place and common sense. A lawyer with a good system which is diligently followed usually doesn't go far wrong. In situations not covered by the system, common sense is usually a good starting and ending point.

In some situations, if a lawyer (or client) dreams up a brilliant perhaps slightly dodgy scheme and asks me "can I do it", as a rule of thumb, I always advise them to imagine that they are standing up in court giving evidence to a judge or better still, submitting to the entire Federal Court Bench that there's nothing wrong with what they just did... Sometimes a scheme that looks really brilliant on paper sounds really stupid when described out aloud under such circumstances.

**Panel Solicitor 2**

Same as my answer for question 6.

**Panel Solicitor 3**

Do not venture out of your area of practice!



The PII Scheme Panel Solicitors List can be found on page 31.

## Email Information from PII Scheme Broker

Following a recent review of the policy wordings and practises we are pleased to announce that the Certificate of Insurance ("COI") for the 2015 Professional Indemnity Insurance ("PII") Scheme has been amended (effective from 1st January 2015), as follows:

# Malaysian Bar Mandatory Professional Indemnity Insurance 2015

## Amendments to the 2015 Certificate of Insurance

### A. Clause 11(e) – Claims Involving Misconduct

**Clause 11** of the 2015 COI provides "indemnity to the firm and its employees against any claim arising out of misconduct excluding indemnity to any person(s) or employees who were party to or condoned such misconduct relating to the claims". However, there are a number of provisos to this clause including Clause 11(e) where firms must prove that they have complied with certain specific risk management procedures in order to be indemnified.

Having reviewed a number of notifications and issues arising from the interpretation of this clause we felt that there were risks of firms with sound risk management procedures in place being unfairly denied cover. Furthermore with online banking becoming more mainstream these provisions were increasingly outdated. As a result the Bar Council and the Insurer have agreed that the proviso in Clause 11(e) be removed.

However we would like to emphasise that while Clause 11(e) has been removed, there is an expectation for firms to maintain suitable risk management measures to mitigate the risks of embezzlement of firms' and clients' funds. This will also reduce the likelihood of misconduct type claims and help maintain a sustainable and equitable PII scheme.

In removing, both the PII committee and insurers will closely monitor the impact and future trends. If as a result trends begin to deteriorate unreasonably then coverage reductions or limitations will need to be considered so that a balance of suitable and cost effective coverage for the majority is maintained.

JLT in conjunction with the PII committee has and continues to provide a variety of risk management articles and checklists that are of benefit to Members in preventing misconduct claims. Some examples are provided below. Please click on the links or refer to [www.praktis.com.my](http://www.praktis.com.my):

#### 1. Critical Information List Checklist

<http://www.praktis.com.my/getattachment/Practical-Tools/Checklists/Firm-Management-Checklists/Critical-Information-List.pdf.aspx>

#### 2. Office and Client Accounts

<http://www.praktis.com.my/All-Articles/Employee-Embezzlement-of-Legal-Firm-s-Fund>

#### 3. Misconduct Claims

<http://www.praktis.com.my/All-Articles/Misconduct-Claims-Mar2013>

We will continue to develop further risk management tools to assist Members with the management of their practice and if you have any questions or require any assistance in this area please do not hesitate to contact us.

### B. Clause 32(n) - Exclusions from the Policy

The exclusion 32(n) states that the policy will not indemnify for "any liability directly or indirectly, wholly or in part caused by or contributed by or arising from or in respect of dispute of your professional fees, charges, disbursements and other incidental costs". Following a review the wording of Clause 32(n) has now been revised to "any claims for refund of your professional fees, charges, disbursements and other incidental costs". This amendment was put in place to simplify the language around the exclusion and help ensure wording interpretation reflects the policy intention which is not to respond to pure commercial arguments over fees.

Should you require any further clarification or explanation regarding these changes please do not hesitate to contact us at 03-2723 3241 or send us an email at [mbar@jltasia.com](mailto:mbar@jltasia.com). An amended copy of the 2015 COI can be obtained from [www.praktis.com.my/PII/Policy-Documents](http://www.praktis.com.my/PII/Policy-Documents).

Yours faithfully,

**JOHAN SHAHAR**

Vice President

Jardine Lloyd Thompson Sdn Bhd



**In this issue of *Jurisk!*, a selection of case studies was prepared to highlight leading issues that led to claims faced by lawyers and their firms. The aim of sharing these is to provide awareness to Members of the known risks, as a means to prevent further claims and also to serve as good practice management that should be undertaken by all lawyers. These case studies – focusing this time on oversights by the lawyer, disputes on legal fees, and dishonesty – can be a handy reference tool for Members to identify red flags that could result in possible claims against them.**



### Case Study 1: Dispute on Legal Fees

Lindsey retained Messrs Kline & Partners to represent her in a divorce settlement. By an agreement, Lindsey paid RM20,000 to Kline & Partners as the retainer fee and should the matter proceed to the Court of Appeal, further legal fees will be incurred by her.

Messrs Penn & Co, who represented the Defendant, wrote to Kline & Partners to inform that they wished to include their documents into the Joint Bundle of Documents. Although Kline & Partners agreed to this in writing, they did not do so stating the reason that Penn & Co submitted the documents a day later than what was initially agreed.

When the Joint Bundle of Documents was presented in Court, Penn & Co objected to the usage of it by reason of Kline & Partner's non-inclusion of the Defendant's documents. As a result of that, the judge struck off Lindsey's suit with costs of RM3,000 on the grounds of Kline & Partner's non-compliance with the Court's direction. Although Kline & Partners filed an application to reinstate the suit, this was dismissed by the Court.

Lindsey has now filed a suit against Kline & Partners alleging that the suit was struck off due to their negligence and non-compliance of the Court's direction. In the Statement of Claim, Lindsey is demanding for the return of her legal fees to Kline & Partners which sums up to RM50,000.

#### Best Practice Tips

- All lawyers protected under the Malaysian Bar's Professional Indemnity Insurance Scheme must be aware of the clauses that exclude coverage. Under Clause 33(p) of the 2014 Certificate of Insurance ("COI"), dispute over professional fees will not be indemnified by the Policy.
- In order to avoid a dispute of professional legal fees, law firms should:-
  1. Ensure that their clients understand the process and steps that will occur in legal proceedings;
  2. Avoid legal jargons that will confuse or mislead the clients;
  3. Give a realistic indication to their clients from the beginning to avoid false representation; and
  4. Immediately inform the clients of any unexpected factors that arise and may effect the client's case.
- A lawyer should adhere to all court procedures in order to avoid having a potential claim struck off due to such negligence.
- Although a lawyer may have many years of experience in an area of practice, he/she is still advised to use a checklist to minimise the risk of committing an omission which is detrimental to the case.





### Case Study 2: Honesty is Still the Best Policy

Cameron was a defendant in a civil suit and had a summary judgment ordered against her at the Sessions Court. The judgment ordered Cameron to pay costs and interest to the Plaintiff amounting to RM60,000. Messrs Savard & Co was then retained by Cameron to file an appeal to the High Court against the Sessions Court's judgment.

In abeyance of the outcome of the appeal, the Plaintiff through his solicitors, Messrs Reed & Co, requested Savard & Co and their client, Cameron, to deposit the judgment sum into their Reed & Co's Client's Account and for Reed & Co to hold the judgment sum as stakeholder. After both parties failed to come to an agreement about the terms of the stakeholding, Savard & Co ideally proposed that the full judgement sum be deposited into Savard & Co's Client's Account which they will then release to the Plaintiff should the appeal be dismissed following the manner and time instructed by their client, Cameron.

Savard & Co, through several correspondences to Reed & Co, gave the impression that Cameron had paid the judgment sum to Savard & Co when in fact Savard & Co was well aware that Cameron had only passed them a cheque with instructions not to cash it in as she does not have sufficient funds in her account.

Eventually, Cameron's appeal was struck off by the High Court and Reed & Co requested for the judgment sum to be released to them. Savard & Co responded to the request by highlighting that they were only to release the monies upon instructions from Cameron. This was later followed by another letter from Savard & Co informing Reed & Co that Cameron now proposes a lesser sum than the initial amount as the full and final settlement of the matter. Savard & Co then wrote to Reed & Co that Cameron had agreed to deposit the judgment sum into their Client's Account pending the disposal of the appeal to the Court of Appeal.

The Plaintiff then filed a suit against Savard & Co alleging misrepresentation and breach of duty of care. The Plaintiff claimed that Savard & Co, through their conduct and correspondences, misrepresented the Plaintiff to believe that the money was deposited into Savard & Co's Client's Account by Cameron. Cameron has since been declared a bankrupt. As a result, the Plaintiff is also alleging that they are unable to obtain the judgment sum from Cameron due to Savard & Co's negligence.

#### Best Practice Tips

- Although a lawyer should act for the best interest of their client, they should always disclose essential facts correctly to both parties.
- A lawyer should never mislead his/her client or the other party's representatives to believe something that they know to be untrue.
- Promises by clients should never be relied on without having it put down in writing. A person's word of promise is not definitive. Lawyers should be precautionary and should not jump into trusting without confirming it themselves.
- Following the Bar Council Ruling 14.1(3), a lawyer who receives instructions that are in conflict with the terms of stakeholding must obtain written expressed consent of all parties involved before carrying out the instructions.
- Clause 33(e) COI 2014 – To be covered under this clause of the policy scheme, the law firm must not put itself in a position which prejudices them and the Insurers.



### Case Study 3: Keep Your Boundaries in Check



It started off as a civil suit between a stock broking company, Mazuma, and TNS Property Holdings ("TNS"). Messrs Connors, the Insured Practice ("IP"), represented TNS while Messrs Blake represented Mazuma. Blake applied to the court for an extension of time to enter their client's defence.

The first allegation against IP arises when IP filed for a Judgment in Default ("JID") against Mazuma although Blake had already faxed their client's defence to IP; however, IP insists that they had only done so because Blake filed the defence a week passed the due date. Furthermore, IP wrote to the High Court to request for Mazuma's defence to be rejected on the grounds that it was filed out of time.

The second allegation against IP is Blake claiming that IP did not copy the letter to court to them whilst IP contends that they have in fact done so. Based on the contents of the said letter, it is shown that Blake was copied but it remains disputable as to whether this was in fact done.

Later, the JID was granted in favour of TNS but IP did not serve a copy of the JID to Blake or their client, asserting that there was no such duty to do so before the issuance of a Writ of Seizure and Sale ("WSS") by the court. The WSS was issued to IP to seize and sell Mazuma's movable assets.

Mazuma claims that during the execution of the WSS, the IP acted beyond their capacity as a lawyer by forcibly entering Mazuma's office premises and ordering all the employees to evacuate the building. Moreover, IP brought along 5 other individuals, who are not authorised individuals, to intimidate Mazuma's employees that attempted to challenge IP's orders.

Mazuma has now brought an action against IP, claiming that IP has committed trespass, tarnished the reputation and image of Mazuma and acted unlawfully by entering a JID without informing their lawyers beforehand.

#### Best Practice Tips

- Lawyers should always act in a manner which does not prejudice their legal profession and reputation.
- When carrying out a Writ of Seizure and Sale, a lawyer should not act beyond his/her capacity as a lawyer.
- Although lawyers are required to act in the best interests of their client, the lawyer should not break the rules or act against the regular code of conduct to fulfil their client's expectations.
- Lawyers should also avoid bad publicity as it could be detrimental for the legal practice or on him/her individually.
- Rule 56 of the Legal Profession (Practice and Etiquette) Rules 1978 states that: a solicitor must notify the other party's solicitor of their intention to enter a JID and seven days shall have lapsed since the notice was given before entering a JID.
- All correspondences between the parties must be filed accordingly in the event it is required as proof of evidence. Although a letter to the other party has been sent, this should be further put in writing through email for confirmation if possible.
- Clause 32(e) COI 2014 states that misconduct of a lawyer is not covered by the Malaysian Bar's Professional Indemnity Insurance Scheme unless the lawyer is an innocent partner in the claim.





### Case Study 4: Failure to Timely File Notices of Appeal

#### Case Study 4A

Messrs Thompson & Rifkin, the Insured Practice ("IP") acted for the Defendants in a conveyancing suit. The High Court allowed for the Plaintiff's application for summary judgment following which there is a 14-day time limit for the defendant to file for an appeal against this. IP wrote to the Defendants seeking for instructions on whether to file the appeal. The letter to the Defendants was however, addressed to their previous business address. Thus, IP did not hear from the defendants and overlooked the matter. When IP came to realise the omission, it was a week after the time limitation. As a result, the Defendants failed to file an appeal and were held to pay the judgment sum.

#### Case Study 4B

Law firm, Messrs Specter & Ross, the IP, was instructed by their clients to file an appeal against a High Court judgment which ordered said clients to pay damages for breach of contract. Standard court procedure calls for the Memorandum of Appeal ("MOA") to be filed separately along with the Record of Appeal ("ROA"). IP filed the MOA but forgot to file the ROA. It was later admitted by IP that the lawyer in charge of the case had misinterpreted the Rules of the High Court which resulted in the omission.

#### Case Study 4C

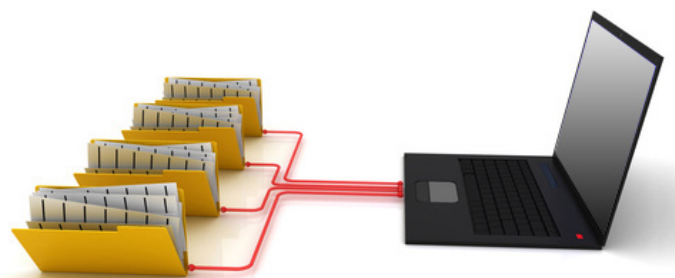
Messrs Powell & Mason, the IP, represented the Plaintiff in a High Court civil suit where judgment was given in favour of the defendant. The Plaintiff, in a letter to IP, instructed IP to file the ROA a week from the dated letter. The lawyer in charge mistakenly recorded the last date to file the ROA 10 days after the given time limit. Furthermore, the lawyer overlooked the requisite to send a letter requesting for an extension of time to file the ROA to the President of the Court of Appeal. When the Plaintiff inquired about the appeal to IP, time frame to file the ROA and extension of time to file the ROA has lapsed.

#### Case Study 4D

A claim was filed against Messrs Sinclair & Partners, the IP, by Messrs Castle & Co, who acted for the Plaintiffs. The claim against IP arose due to IP filing the Notice of Appeal but failing to do the same on Castle & Co. IP contends that they failed to serve the Notice of Appeal to Castle & Co because the lawyer in charge had an oversight and only made copies of the notice for themselves and the court.

#### Best Practice Tips

- A legal practice should always ensure that their client's information is up to date to avoid any breakdown in communication particularly in matters with time limitation.
- When dealing with a client, double-check the client's information to ensure that it is accurate and up to date.
- It is essential that a legal practice implement a Keep-In-View system to ensure a high standard of risk management. The KIV system should be monitored daily to avoid overlooking important matters.
- Lawyers must be aware of the rules governing their legal profession, eg Rules of Court 2012, Solicitors' Account Rules 1990, etc, to avoid non-compliance and rendering in claims against the legal practice.







# CLIENTS

### Case Study 5: Failure to Follow Client's Instructions

Messrs Keating & Co, the Insured Practice ("IP"), represented both the Purchaser and Vendor in a Sale and Purchase Agreement ("SPA"). The property in question was charged to Furama Bank as a security for a loan given to the Vendor. The purchase price was to be used to redeem the property from the bank. However, upon applying for a loan charge-off, it was discovered that the property had a restriction-in-title endorsed on the issue document of title. Any transfer, lease or charge of the property would require the permission of the State Chief Minister. It was also found that IP did not lodge a caveat on the property although reminded by the Purchaser.

Later, the SPA failed to be executed as the property in question was sold in an auction. The Claimants, who are the Purchaser and Vendor, brought a claim against IP alleging failure to protect their interest which resulted in the SPA frustrated.

The Claimants' claim against IP is based on IP's failure to write to the managing bank regarding the loan charge. IP contends that the failure to write to the bank was due to the fact that his clients, the Claimants, did not expressly inform him to do so. As a result, IP failed to obtain an injunction against the bank auction of the said property.

#### Best Practice Tips

- Following Rule 6 of the Bar Council Rulings, a lawyer is prohibited from acting for both the Purchaser and Vendor as it is a conflict of interest. This is because one cannot serve two masters loyally at the same time. Lawyers must at all times act for the best interest of their client and this will not be possible when representing two opposing parties.
- Conveyancing lawyers have a prime duty of conducting a land search in a Sale and Purchase matter. Lawyers must be of utmost surety that the land or property in question is not encumbered or subject to any other condition. Hence, lawyers should never take the risks of trusting the documents supplied by their clients and not performing any additional search to the facts given.
- If a property is charged, a solicitor must write to the chargee to request for an update on the status of the loan and if there are any stirring of foreclosure on the property.
- A legal practitioner should never rely on his/her client to relay instructions on compulsory legal duties as it is for the lawyer to know better than his/her client.
- Solicitors are exhorted to use a checklist when dealing with conveyancing matters as there are many prerequisites are that often forgotten.



### **JLT and AIG Malaysia launched 'LawProtect' – An affinity program for the Malaysian Bar at the International Malaysia Law Conference 2014**

Jardine Lloyd Thompson Malaysia ("JLT") is privileged to be able to collaborate with the Malaysian Bar and to partner with AIG to develop and launch LawProtect, a bespoke Office Insurance Package for law firms, at the International Malaysia Law Conference 2014 ("the Conference").

According to Mr David Chan, Managing Director for Thistle, JLT Asia, LawProtect is tailored to meet the needs of law firms in Malaysia, with high quality cover delivered with personal service. It provides for a range of cover for Fire, Burglary, Liability, Office Equipment, and Contents including the firm's Law Books, electronic equipment, and even laptops. Coupled with a hassle free claims process, it's been designed to come through when it counts.

AIG, in collaboration with JLT, had the honour of sponsoring the 'Welcome Cocktail' of the Conference, the flagship event of the Malaysian Bar which was held at The Royale Chulan Hotel, Kuala Lumpur, from 24 to 26 September 2014.

In his speech, Mr Antony Lee, Chief Executive Officer of AIG Malaysia highlighted "AIG has served Malaysians for more than 60 years. We also serve more than 70 million consumer and commercial clients worldwide which includes insuring 97 percent of Fortune 500 companies. AIG operates in more than 130 countries through one of the most extensive global networks of any insurer. My team and I continue to work hard to deliver on our promise to support Malaysians, every day, in their time of need".







## Advertorial: LawProtect

A JLT/AIG event booth was set up throughout the three days of the Conference to handle product queries and for delegates to understand more about the benefits of LawProtect. To build further awareness during the event, a LawProtect writeup was published in the Conference's commemorative booklet, along with product brochures that were included in the Conference bags handed out to Conference delegates. A lucky draw was also held during the evening event with prizes that included a New Zealand All Black Rugby Jersey sponsored by AIG.

Mr Michael Leong, Chief Executive Officer of JLT Malaysia said "The IMLC launch event for LawProtect firmly associates the JLT brand with the Malaysian Bar and demonstrates our affinity knowledge and thought leadership. It has also further deepened our relationship with the Malaysian Bar as JLT manages its Professional Indemnity Insurance Scheme".

For more information on "LawProtect" please contact AIG by  
Phone: 03-2118 0188 or  
Email: [MySME@aig.com](mailto:MySME@aig.com)





## ...The Insurer Has the Right to Take Conduct of Your Claim!

### Clause 18, 2014 Certificate Of Insurance ("COI"):

**You** agree that:

1. **we** have the right to take over the conduct of the **claim** against **you**, including its investigation, defence, avoidance, reduction or, subject to Clause 21, its settlement; and
2. **we** may do so in your name.

### Clause 19, COI:

Upon receipt of notice from **you** of any writ, we and/or our **authorised representatives** shall appoint a **legal practitioner** within 14 working days to take conduct of the claim without prejudice to our right to investigate and subsequently refuse coverage or to decline to indemnify **you** in relations to such **claim** as provided under this insurance.

Provided that if we and/or our **authorised representatives** fail or neglect to appoint a **legal practitioner** within 14 working days and take conduct of the **claim**, **you** shall have the right, if **you** so choose, to appoint a legal practitioner from the approved panel to defend the claim and instruct the appointed legal practitioner as you deem fit. **You** shall not be liable for any act or omission that compromises our right to settle or defend the **claim**. **We** shall be liable to indemnify **you** as if **we** had conduct of the **claim**.

There are no consequences and no imposition of claims loading when you notify a claim or a circumstance. It is only when the Insurer is required to pay out monies above your Firm's Base Excess that a claims loading is imposed.

When you are served with a writ or receive a Letter of Demand ("LOD"), or an event or circumstance happens that may lead to a claim, the only thing to do is to notify the Broker in writing, detailing to them the facts surrounding the claim/possible claim as best you can.

One of the main benefits of notifying a writ, LOD or circumstance early on is that all parties involved can gear up to help you manage the situation. The Claims Administrator, Echelon Claims Consultants ("Echelon"), will appoint a Panel Solicitor ("PS") who will assist you to manage the claim. In the case of a circumstance or potential claim the PS can advise or assist you to resolve the problem with a view to prevent it from developing into a claim.

If you are served with a writ, timing is the most crucial element and if you notify it early Echelon will appoint a PS that will take over conduct of your defence. This appointment is done well within 14 days of your notification and you can discuss the events and the possible strategies with your appointed PS.

All lawyers on the panel have been vetted and approved by both the Insurer and Bar Council. They have intimate working knowledge of the Scheme and the PII Policy; their advice and strategies in handling lawyers' claims come from years of experience of working in the Scheme and defending similar cases.

Insured Parties must also bear in mind Clauses 14 and 15 of the 2014 COI that gives the Insurer the right to decline your claim if you refuse cooperation with the Insurer and/or their authorised representatives who could be the Broker, the Insurer, Claims Administrator, Panel Solicitor, Loss Adjuster and other parties deemed necessary.

See Page 5 – Casual Conversations. In this article, three Panel Solicitors give their insight into PII case management.

See Page 31 for a full list of Panel Solicitors of the PII Scheme.





Bar Council is determined in planting risk management awareness in the legal profession to reduce claims and improve practice through events, publication, website and others. These tools have been specifically tailored to assist Members and their Firms in inculcating rigorous risk management methods and stringent standard operating procedures in their everyday work.

We urge Members to take advantage of our resources as it is made available to Members for free or at a minimal fee. Currently, we are working on revising and developing more risk management material, and hopefully they will be made available for Members in 2015. Our key 2014 projects are listed below:

### WEBSITE REVAMP

- Newly revamped website introduced on 22 May 2014, launched by the President.
- Number of articles published over 100.
- Easier access to online renewal system, PII information, Bar Council circulars, articles, checklists etc.



[www.PRAKTIS.com.my](http://www.PRAKTIS.com.my)

The website was first introduced in 2009 and was given a new look in 2014. The re-launch of the website was officiated by President of Bar Council during the Risk Management for Staff Workshop at RAA Auditorium, Kuala Lumpur.

The website is easy to navigate with clear housing tabs for visitors to choose from. Visitors can use the search function to easily scan for articles or case studies of selected interest and many more.

### RISK MANAGEMENT EVENTS

- Six workshops were successfully organised from April to December 2014.
- Workshops were organised in Kuala Lumpur, Johore and Penang.
- Workshops will be held for Members in Kedah and Perlis.

One *Getting Started!* Workshop was successfully organised at Johore Bar Auditorium, Johore Bar on 1 Nov 2014. A total of 31 Members from Johor Bar attended the workshop.

#### *Getting Started!*

The *Getting Started!* Workshop was first organised in 2007 as part of Bar Council's risk management initiative for Members of the Bar who intend to establish new firms, or who have just joined a partnership. The workshop is also suitable for lawyers who just started practice and useful as a refresher course for senior lawyers. The workshop is kept at a small number of registrations to allow for better interaction between the speakers and the participants.

The full day workshop course features broad and comprehensive aspects on practice and matter management, accounting and taxation, litigation and conveyancing. These individual modules were conducted by professionals and senior practitioners who are highly qualified in their respective fields.



## 2014 Risk Management Highlights

By the end of this workshop, participants will be able to apply the matter management concepts and experiences shared by others, into their day-to-day management of their firm and their files.

Based on the feedback received, almost all of the participants agreed that the workshop should be attended by their peers to refresh knowledge and gain information.

### Risk Management for Staff



The *Risk Management for Staff* Workshop was conducted twice this year. The first workshop was held in RAA Auditorium, Bar Council Secretariat on 22 May 2014 attended by 55 people. The second workshop made its way to Penang on 29 May 2014 at Bayview Georgetown Hotel to cater for Members in the northern region, with a total of 28 participants attending the workshop.

Participants were made up of legal support staff, paralegals, accounting and administrative staff of legal practices. The workshop is tailor-made to coach staff on how to better assist lawyers. The objective of the workshop is to cultivate good work ethics and spur risk awareness amongst law firm staff. The workshop encompasses major topics on communication, law firm accounts, office administration, and file and time management.

Based on the compiled feedback received, most of the participants felt that the Workshop met their expectations and would encourage their peers to attend the Workshop.

### Billing & Collections



This year a new workshop titled *Billing & Collections* was introduced. The workshop has been organised three times so far in Muar, Johor Bahru and Penang. A total of 88 participants have attended the workshop.

The half-day workshop exposes participants on how to manage cash flow, billing "how to's", tracking, systems, fee agreements, managing client expectations and much more.

A similar workshop has been set for Kedah and Perlis in December 2014 but due to poor response the workshop has been postponed to a later date pending confirmation from the state bars.





# PUBLICATIONS SUMMARY

- *Jurisk!* – two issues for 2014, features case studies and interviews.
- Features health tips for the busy lawyers.

## JURISK! Risk Management Newsletter



The complimentary risk management newsletter is distributed to all Members of the Bar. Through this wide outreach, Bar Council seeks to enhance the awareness of risk management and implementing best practice among its Members. Each issue provided actual case studies of past claims, statistics and possible solutions.

This year the Committee decided to publish only two issues of *Jurisk!*.

- 1. March & June 2014 (Celebrating 10 Years):** The first issue of the year was to commemorate the 10th publication year of *Jurisk!*. The issue focused on the Scheme over the 20 years featuring interviews with members of the PII Committee and several insured practices.
- 2. September & December 2014 (Communicate, Cooperate, Collaborate):** In the second issue, *Jurisk!* maintained its interview section and featured interviews with panel solicitors of the Scheme. Tips on managing risks and what firms could do to avoid claims were shared.

In both issues of *Jurisk!*, many case studies taken from the Scheme and explanations to selected PII policy clauses were explained.

These as well as past issues of the newsletter in PDF format can be downloaded from:

- **[www.malaysianbar.org.my](http://www.malaysianbar.org.my)**  
(see ResourceCentre > Downloads > Risk Management);  
or
- **[www.praktis.com.my](http://www.praktis.com.my)**  
(see Risk Management > Practice Tools > Jurisk!).



## A Happier Lawyer, A Better Practice

The legal profession is one that is often stress inducing. In order to improve your performance and law practice, here are a few simple tips methods to start with.

1. Fire your worst client – The one who never listens, makes you do beyond your retainer and never pays your legal fees.



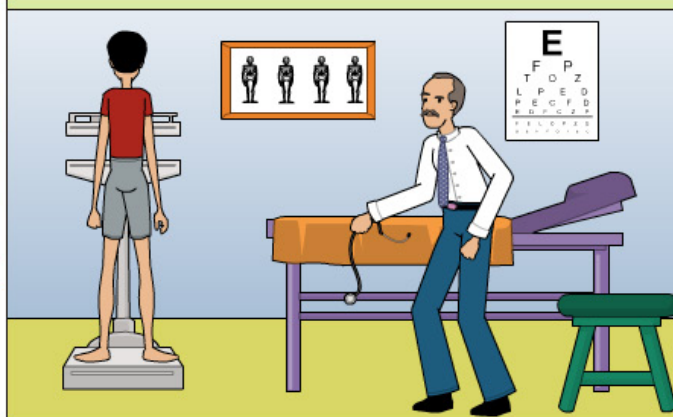
2. Find time out of your schedule to exercise. A healthy mind means good memory and productivity.



3. Spend time with your loved ones – With a demanding and stressful workload, don't neglect your private life for your work life.



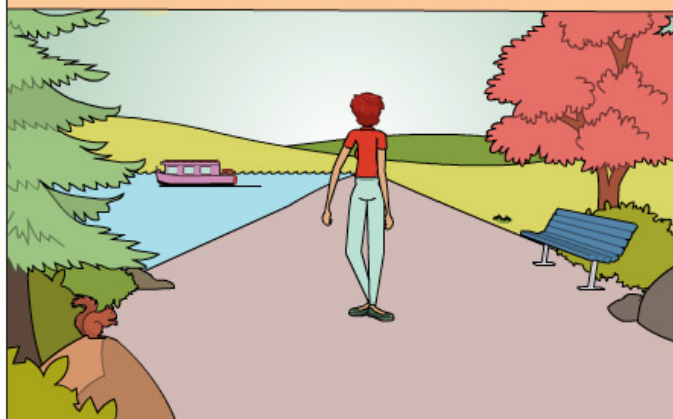
4. Good health – Your health always impacts every thing in life. Don't skip your yearly checks ups!



5. Relax – Take time off and go on regular vacations to relax and rejuvenate



6. Like yourself – Take a walk, read leisurely. Gather your thoughts and let unnecessary burden go. Mental health is as important as physical health.



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## Top Up Insurance: Important Facts To Consider!

If you are a car driver would you start a long journey without a spare tyre? A hundred years ago, drivers everywhere did – that is, until the Davies Brothers of the Stepney Company invented the spare wheel.

A comparable consideration for all practising lawyers should be the fear of one day being sued for alleged negligence in your professional practice and whether you have sufficient and effective recourses to defend the Firm and cover these costs and potential damages.

The Mandatory PII Scheme has been designed to afford Members adequate coverage – it is the basic four wheels designed to “get you around” (and protect the profession as a whole). What about your spare wheel?

### What is Top-Up Insurance?

The Mandatory Professional Indemnity Insurance (“PII”) Scheme provides the minimum coverage all law firms must maintain based on the number of practitioners. Whether a law firm needs PII coverage above that mandatory coverage, is a decision for the partners of the firm based on their view of the risk exposures and their risk tolerance (the risks you are prepared to bear).

A law firm that wishes to pass on more risk to the insurance markets or a firm that has clients (which in Malaysia is typically the financial institutions) that require firms to have more insurance, can take out “Top-up” (or excess) Insurance above their Mandatory limit.

Top-Up Insurance is not mandated by Bar Council, but it is advisable for Firms to do so or at least carefully consider the costs and benefits. Firms should consider Top-up Insurance if they are dealing with business, transactions or clients where there is potential to breach their Mandatory cover limit.

Below are some important facts you need to know about Top-Up Insurance:

### **1. Bar Council does not mandate any provider or insurer for the purchase of Top-up insurance**

Legal firms are free to purchase Top-up Insurance from any insurer/broker. Bar Council only oversees the requirements for Mandatory PII Scheme.

However, the Mandatory Scheme Insurer does offer Top-up Insurance up to RM30 million which can be purchased through the Scheme Broker who can also source cover for limits beyond RM30 million.

In the event of a significant claim that may exceed your Mandatory Limit, only Firms that have purchased Top-up Insurance from the Mandatory Scheme Insurer, will benefit from automatically having their claim managed and defended by the same Scheme Insurer and Claims Manager.

### **2. The Top-Up Insurance Policy to follow-form of your Mandatory Policy**

It is important that any Top-up Insurance you purchase is “follow-form” of the Mandatory Scheme terms and conditions ie the scope of cover under both the Mandatory and Top Up should operate identically.

There have been a number of examples where “Top-up” insurance is advertised as “follow-form” but contains some different clauses or exclusions to the Mandatory Policy (see No 4 below).

Where the Top-up Insurer is different from the Mandatory, there have been instances where the “non-Scheme” Top-up Insurer takes a different view on important coverage aspects to the Mandatory. In some such instances, the Firm was granted coverage up to the Mandatory Limit but the balance of the claim was declined by the non-Scheme Top-up Insurer following their own differing coverage interpretation.





## Top Up Insurance: Five Facts You Need To Know

### 3. Notification to Top-Up Insurer equally important

When you are faced with a claim, or potential claim, notification to both the Mandatory Scheme as well as your Top-Up Insurer is vital. This is to ensure you do not breach any specific Top-up Insurers' notification provisions, which may negatively impact your coverage. Please read carefully and understand the notification requirements of your Top-up as they often differ and can be less favourably interpreted than the Mandatory.

Top-up insurance purchased through the Schemes' current broker (and from their Top-up insurance facilities), means you will only need to notify the broker once in the event of a notification.

The Scheme-appointed broker is not obligated to assist the firm in managing claims with any other third party Top-up insurers.

### 4. Beware of exclusions in the Top-Up Policy

As referenced earlier, some Top-up policies contain exclusions that Firms may not have noticed, but that can have a negative impact when you most need the coverage.

Common **exclusion** clauses we have seen in some Top-up policies here in Malaysia include:

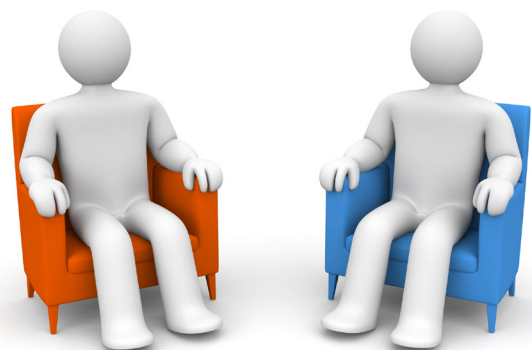
- "Financial work";
- Loss of documents;
- Dishonesty and Misconduct cover for innocent partner;
- Employee embezzlement;
- No run-off cover:
  1. Run-off cover is required to cover the eventuality of a claim arising after a lawyer has ceased practice.
  2. Run-off cover is vital so as to prevent a lawyer from becoming personally liable in the event of a claim arising after he has ceased practice.
- Retroactive cover is limited to:
  1. The year of purchase only; and/or
  2. Several years earlier.

#### ALWAYS REMEMBER:

**When purchasing Top-up insurance, pay close attention to the small print. Please read and understand the terms and conditions before purchasing the policy.**

**If you choose a policy just to demonstrate your firm has Top-up cover or because it is the cheapest option be aware of the risks and problems you might face if you are unfortunate enough to have a significant claim.**

**For a free "health check" on your current or a potential "Top-up" Professional Indemnity insurance please contact JLT for a comparison and we will highlight to you any deficiencies or areas you should consider.**





Dalam isu terkini Jurisk!, beberapa kajian kes telah dipilih untuk mengetengahkan isu-isu utama yang membawa kepada tuntutan yang dihadapi oleh peguam dan firma mereka. Tujuan dikongsi kes-kes ini adalah untuk memberi kesedaran kepada semua mengenai risiko yang diketahui, sebagai satu cara untuk mengelakkan tuntutan dan juga sebagai petunjuk pengurusan amalan baik yang sepatutnya dilaksanakan oleh semua peguam. Kajian-kajian kes - yang bertumpu kepada abaian yang tidak disengajakan oleh peguam, pertikaian mengenai yuran guaman, dan kecurangan - boleh dijadikan rujukan kepada ahli-ahli untuk mengenalpasti perkara yang boleh menyebabkan kebarangkalian tuntutan terhadap mereka.



### Kajian Kes 1: Pertikaian ke atas yuran guaman

Lindsey melantik Tetuan Kline & Partners untuk mewakilinya dalam menyelesaikan kes perceraian. Di dalam suatu perjanjian, Lindsey telah membayar RM20,000 kepada Kline & Partners sebagai yuran retainer. Sekiranya perkara itu harus diteruskan ke Mahkamah Rayuan, yuran guaman selanjutnya juga akan ditanggung olehnya.

Tetuan Penn & Co, yang mewakili Defendan, menulis kepada Kline & Partners memaklumkan untuk menyertakan dokumen mereka ke dalam Ikatan Dokumen. Walaupun Kline & Partners telah bersetuju secara bertulis, tetapi mereka tidak menyatakan alasan bahawa Penn & Co telah menyerahkan dokumen-dokumen tersebut sehari lewat daripada apa yang telah dipersetujui.

Apabila Ikatan Dokumen Bersama dibentangkan di Mahkamah, Penn & Co telah membantah penggunaannya oleh sebab Kline & Partners kerana tidak memasukan dokumen Defendan. Akibatnya, hakim membatalkan saman Lindsey dengan kos RM3,000 atas alasan Kline & Partners tidak mematuhi arahan Mahkamah. Walaupun Kline & Partners memfailkan permohonan untuk menghidupkan semula saman itu, malangnya telah ditolak oleh Mahkamah.

Lindsey kini memfailkan saman terhadap Kline & Partners mendakwa bahawa saman itu telah dibatalkan akibat kecuaiannya mereka kerana tidak mematuhi arahan Mahkamah. Dalam Pernyataan Tuntutan, Lindsey menuntut pemulangan yuran guaman daripada Kline & Partners, yang berjumlah sehingga RM50,000.

#### Tip Amalan Terbaik

- Semua peguam yang dilindungi di bawah Skim Insurans Indemniti Profesional Majlis Peguam Malaysia perlu mengetahui fasal yang tidak diliputi. Di bawah Fasal 33 (p) Sijil Insurans ("COI") 2014, pertikaian ke atas yuran profesional tidak akan ditanggung oleh Polisi.
- Bagi mengelakkan pertikaian yuran profesional guaman, firma hendaklah: -
  1. Memastikan bahawa klien mereka memahami proses dan langkah-langkah yang akan berlaku dalam prosiding undang-undang;
  2. Mengelakan penggunaan istilah undang-undang yang boleh mengelirukan atau memperdayakan klien;
  3. Memberi petunjuk realistik kepada klien mereka dari awal untuk mengelakkan representasi palsu; dan
  4. Segera memaklumkan kepada klien mengenai mana-mana faktor yang tidak dijangka kemungkinan timbul dan boleh menjejaskan kes klien.
- Setiap peguam perlu mematuhi semua prosedur mahkamah untuk mengelak daripada dikemukakan tuntutan yang berpotensi kerana kecuaiannya.
- Peguam yang mempunyai pengalaman bertahun-tahun dalam bidang guaman, tetap dinasihatkan untuk mengamalkan penggunaan senarai semak bagi mengurangkan risiko dari melakukan kecuaiannya yang memudaratkan sebarang kes.



### Kajian Kes 2: Kujujuran Masih Polisi Terbaik

Cameron merupakan defendan dalam saman sivil dan satu penghakiman terus terhadapnya di keluarkan oleh Mahkamah Sesyen. Penghakiman itu mengarahkan Cameron untuk membayar kos dan faedah kepada Plaintiff berjumlah RM60,000. Cameron kemudiannya melantik Tetuan Savard & Co untuk memfailkan rayuan di Mahkamah Tinggi terhadap keputusan Mahkamah Seksyen.

Sementara menunggu penangguhan daripada keputusan rayuan, Plaintiff melalui peguamcaranya, Tetuan Reed & Co, meminta Savard & Co dan klien mereka, Cameron, untuk mendepositkan jumlah penghakiman tadi ke akaun klien milik Reed & Co untuk dipegang sebagai pemegang amanah. Setelah kedua-dua pihak gagal mencapai persetujuan mengenai terma-terma pemegang amanah itu, Savard & Co mencadangkan bahawa jumlah penghakiman penuh didepositkan ke dalam akaun klien milik Savard & Co, yang kemudian akan diserahkan kepada Plaintiff dengan cara dan masa yang diarahkan oleh klien mereka, Cameron, sekiranya rayuan ditolak.

Melalui beberapa siri surat-menyurat diantara Savard & Co dan Reed & Co, satu gambaran diberi bahawa Cameron telah membayar jumlah penghakiman kepada Savard & Co dimana sebenarnya Savard & Co mengetahui bahawa Cameron hanya memberikan cek kepada mereka dengan arahan untuk tidak menunaikan kerana dia tidak mempunyai wang yang mencukupi dalam akaunnya.

Akhirnya, rayuan Cameron telah ditolak oleh Mahkamah Tinggi, dan Reed & Co meminta jumlah penghakiman diserahkan kepada mereka. Savard & Co memberi maklum balas bahawa mereka akan meluluskan pelepasan kewangan dengan arahan daripada Cameron. Ini kemudiannya diikuti dengan satu lagi surat dari Savard & Co memaklumkan kepada Reed & Co yang Cameron kini mencadangkan supaya jumlah itu dapat dikurangkan daripada jumlah asal sebagai penyelesaian muktamad untuk perkara ini. Savard & Co kemudiannya menulis kepada Reed & Co yang Cameron telah bersetuju untuk mendepositkan jumlah penghakiman ke dalam akaun klien milik mereka sementara menunggu rayuan di Mahkamah Rayuan.

Plaintiff kemudiannya memfailkan saman terhadap Savard & Co mendakwa mereka memberi gambaran yang salah dan melanggar kewajipan berjaga-jaga. Plaintiff mendakwa Savard & Co, dengan nyatanya melalui surat-menyurat dan tingkah laku mereka membuatkan Plaintiff percaya bahawa wang telah didepositkan oleh Cameron, klien Savard & Co, ke dalam akaun milik Savard & Co. Cameron telah pun diisytiharkan muflis. Akibatnya, Plaintiff juga mendakwa bahawa mereka tidak mampu untuk mendapatkan jumlah penghakiman dari Cameron disebabkan oleh kecuaiannya Savard & Co.

#### Tip Amalan Terbaik

- Walaupun peguam perlu bertindak dengan memberi perkhidmatan terbaik kepada klien mereka, mereka perlu sentiasa mendedahkan fakta-fakta penting dengan betul kepada kedua-dua pihak.
- Peguam tidak boleh mengelirukan klien beliau atau pihak yang satu lagi untuk mempercayai sesuatu yang mereka tahu tidak benar.
- Janji yang dibuat oleh klien tidak seharusnya dibiarkan tergantung, tanpa diletakkan secara bertulis. Kata-kata janji seseorang adalah tidak muktamad. Peguam perlu sentiasa berjaga-jaga dan tidak terus mempercayai kata-kata dari seseorang sebelum membuat pengesahan.
- Peguam yang menerima arahan yang bercanggah dengan syarat-syarat pegangan kepentingan mesti mendapatkan kebenaran bertulis yang jelas daripada semua pihak yang terlibat sebelum membuat arahan.
- Fasal 32(e) COI 2014 – Untuk dilindungi di bawah fasal skim polisi, firma undang-undang tidak boleh meletakkan dirinya dalam kedudukan yang boleh menjejaskan mereka dan Penanggung Insurans.





Mulanya sebagai satu saman sivil diantara sebuah syarikat pembrokeran saham, Mazuma dan TNS Property Holdings ("TNS"). Tetuan Connors, Amalan Yang Diinsuranskan ("IP"), mewakili TNS manakala Mazuma diwakili oleh Tetuan Blake. Blake memohon kepada Mahkamah untuk perlanjutan masa bagi memasukkan pembelaan klien mereka.

Tuduhan pertama terhadap IP timbul apabila IP memfailkan penghakiman ingkar ("JID") terhadap Mazuma, walaupun Blake sudah mengefaskan pembelaan klien mereka kepada IP. Walau bagaimanapun, IP tegas mengatakan bahawa mereka hanya berbuat demikian kerana Blake memfailkan pembelaan lewat seminggu selepas tarikh akhir. Tambahan pula, IP telah menulis kepada Mahkamah Tinggi meminta untuk menolak pembelaan Mazuma atas alasan telah difailkan melebihi had masa.

Tuduhan kedua yang dibuat oleh Blake terhadap IP adalah bahawa IP tidak memberi salinan surat ke mahkamah kepada mereka. IP pula menegaskan bahawa mereka sebenarnya telah berbuat demikian. Berdasarkan kandungan surat itu, jelas menunjukkan Blake turut diberikan satu salinan tetapi hal ini masih dipertikaikan.

Kemudian, JID yang dikeluarkan memihak kepada TNS akan tetapi IP tidak menyampaikan satu salinan JID kepada Blake atau klien mereka. IP menegaskan bahawa tidak ada kewajiban untuk berbuat demikian sebelum Writ Penyitaan dan Penjualan ("WSS") dikeluarkan oleh Mahkamah. WSS yang telah dikeluarkan kepada IP adalah untuk merampas dan menjual harta boleh alih milik Mazuma.

Mazuma mendakwa bahawa semasa pelaksanaan WSS, IP bertindak di luar jangkaan mereka sebagai seorang peguam iaitu dengan memasuki premis pejabat Mazuma dan mengarahkan semua kakitangan untuk mengosongkan bangunan secara paksaan. Selain itu, IP membawa bersama lima individu lain yang tidak diberi kuasa, untuk menakut-nakutkan pekerja Mazuma yang cuba untuk mencabar perintah IP ini.

Mazuma kini membawa suatu tindakan terhadap IP, iaitu dengan mendakwa IP telah melakukan pencerobohan, mencemarkan nama baik dan imej Mazuma dan bertindak menyalahi undang-undang dengan memasukkan JID tanpa memberitahu peguam mereka terlebih dahulu.

#### Tip Amalan Terbaik

- Peguam perlu sentiasa bertindak dengan cara yang tidak menjejaskan profesion undang-undang dan reputasi mereka.
- Apabila menjalankan Writ Penyitaan dan Penjualan, peguam sepatutnya tidak bertindak di luar kemampuan sebagai seorang peguam.
- Walaupun peguam perlu memberi perkhidmatan yang terbaik kepada klien mereka, peguam masih perlu mematuhi peraturan atau bertindak mengikut tata laku norma seorang peguam.
- Peguam juga harus mengelak daripada publisiti negatif kerana ini boleh memudaratkan profesion pengamal undang-undang atau pada dirinya secara individu.
- Peraturan 56 Akta Profesion Undang-Undang (Amalan dan Etika) Kaedah-Kaedah 1978 menyatakan bahawa: seorang peguam mesti memberitahu peguam pihak lawan mengenai niat mereka untuk memasukkan JID dan hanya selepas berakhirnya tujuh hari dari notis JID boleh dimasukkan.
- Semua surat-menyurat antara pihak-pihak hendaklah difailkan sewajarnya sekiranya ia diperlukan sebagai bukti. Walaupun surat telah dihantar, ia harus diletakkan secara bertulis melalui e-mel untuk pengesahan.
- Fasal 32 (e) COI 2014 menyatakan bahawa salah laku peguam tidak dilindungi oleh Skim Insurans Indemniti Profesional Majlis Peguam Malaysia melainkan peguam yang didapati tidak bersalah dalam tuntutan itu.





### KAJIAN KES 4: KEGAGALAN UNTUK MEMFAILKAN NOTIS RAYUAN PADA MASA YANG TELAH DITETAPKAN.

#### Kajian Kes 4A

Tetuan Thompson & Rifkin, Amalan yang Diinsuranskan ("IP") mewakili Defendan dalam saman pemindahhakan. Mahkamah Tinggi membenarkan permohonan Plaintiff untuk penghakiman terus dan diikuti dengan pemfailan rayuan oleh Defendan terhadap kes ini dengan had masa 14 hari. IP menulis kepada Defendan menunggu arahan sama ada untuk memfailkan rayuan. Malangnya, surat kepada Defendan dialamatkan ke alamat perniagaan mereka yang lama. IP tidak menerima maklum balas dari Defendan dan terlepas pandang perkara itu. Apabila IP mula sedar mengenai perkara itu, satu minggu telah berlalu selepas had masa yang telah ditetapkan. Akibatnya, Defendan gagal untuk memfailkan rayuan dan telah diarahkan untuk membayar jumlah penghakiman tadi.

#### Kajian Kes 4B

Firma guaman, Tetuan Specter & Ross, IP, telah diarahkan oleh klien mereka untuk memfailkan rayuan terhadap keputusan Mahkamah Tinggi yang mengarahkan klien untuk membayar ganti rugi kerana kemungkiran kontrak. Prosedur mahkamah memerlukan Memorandum Rayuan ("MOA") difailkan secara berasingan bersama-sama dengan Rekod Rayuan ("ROA"). IP telah memfailkan MOA tetapi terlupa untuk memfailkan ROA. Ini kemudiannya diakui oleh IP yang telah tersalah tafsir Kaedah-Kaedah Mahkamah Tinggi yang menyebabkan kecuaiannya itu.

#### Kajian Kes 4C

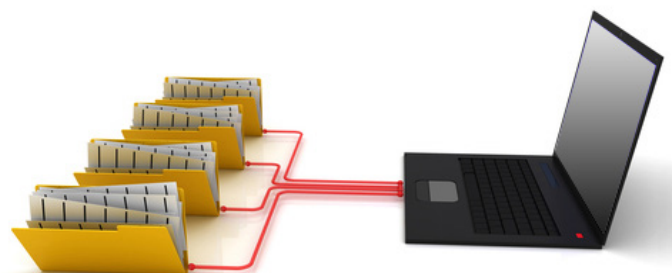
Tetuan Powell & Mason, IP, mewakili Plaintiff dalam samansivil Mahkamah Tinggi di mana penghakiman diberikan memihak kepada Defendan. Isi kandungan surat Plaintiff kepada IP mengarahkan IP untuk memfailkan ROA seminggu selepas tarikh. Peguam yang bertanggungjawab tersilap mencatatkan tarikh akhir untuk memfailkan ROA iaitu 10 hari selepas had masa yang diberi. Tambahan pula, peguam tersebut terlupa untuk menghantar surat meminta untuk perlanjutan masa untuk memfailkan ROA daripada Presiden Mahkamah Rayuan. Apabila Plaintiff bertanyakan mengenai rayuan itu kepada IP, tempoh masa untuk memfailkan ROA dan perlanjutan masa untuk memfailkan ROA telah luput.

#### Kajian Kes 4D

Tuntutan mahkamah telah difailkan terhadap Tetuan Sinclair & Partners, IP, oleh Tetuan Castle & Co, yang bertindak bagi pihak Plaintiff. Dakwaan terhadap IP timbul kerana IP memfailkan Notis Rayuan tetapi gagal untuk melakukan perkara yang sama pada Castle & Co. IP berpendapat bahawa mereka gagal untuk memfailkan Notis Rayuan kepada Castle & Co kerana peguam yang bertanggungjawab telah membuat kesilapan yang tidak disengajakan dan hanya membuat salinan notis itu untuk mereka sendiri dan mahkamah.

#### Tip Amalan Terbaik

- Pengamal undang-undang perlu sentiasa mengemaskini maklumat klien mereka bagi mengelakkan sebarang kepincangan komunikasi terutamanya dalam hal-hal berkaitan dengan had masa.
- Apabila berurusan dengan klien, semak maklumat klien untuk memastikan maklumat adalah tepat dan terkini.
- Adalah penting untuk pengamal undang-undang melaksanakan *Keep-In-View* ("KIV") sistem untuk memastikan standard yang tinggi dalam pengurusan risiko. Sistem KIV perlu dipantau setiap hari untuk mengelakkan dari terlepas pandang perkara-perkara yang penting.
- Peguam perlu sedar akan peraturan yang mengawal profesion undang-undang mereka. Sebagai contoh, Kaedah-kaedah Mahkamah 2012, Solicitors' Account Rules 1990, dan lain-lain, untuk mengelakkan ketidakpatuhan dan mengakibatkan tuntutan terhadap pengamal undang-undang.





### KAJIAN KES 5: KEGAGALAN MEMATUHI ARAHAN KLIEN

Tetuan Keating & Co, Amalan Diinsuranskan ("IP"), mewakili kedua-dua Pembeli dan Penjual dalam Perjanjian Jual Beli ("SPA"). Hartanah tersebut telah dicaj kepada Furama Bank sebagai cagaran untuk pinjaman yang diberi kepada Penjual. Harga pembelian adalah untuk digunakan sebagai menebus hartanah tersebut dari bank. Walau bagaimanapun, apabila memohon pinjaman tanpa caj, didapati bahawa hartanah itu mempunyai sekatan pengendorsan pada dokumen hakmilik. Sebarang pemindahan, pajakan atau gadaian ke atas hartanah tersebut perlu mendapat kelulusan daripada Ketua Menteri Negeri. IP juga didapati tidak membuat kaveat ke atas hartanah tersebut walaupun diingatkan oleh Pembeli.

Kemudiannya, SPA gagal dilaksanakan kerana harta yang berkenaan telah dilelong. Pihak Yang Menuntut, iaitu pihak Pembeli dan Penjual, kecewa dan membuat tuntutan terhadap IP atas dakwaan kegagalan IP untuk melindungi kepentingan mereka.

Tuntutan terhadap IP adalah berdasarkan kegagalan IP untuk menulis kepada pihak bank yang menguruskan caj pinjaman. IP berpendapat bahawa kegagalan untuk menulis kepada pihak bank adalah disebabkan oleh Pihak Yang Menuntut iaitu kliennya, tidak memberitahunya dengan jelas untuk berbuat demikian. Akibatnya, IP gagal mendapatkan injunksi dan bank melelong hartanah tersebut.

#### Tip Amalan Terbaik

- Mengikut peraturan 6 daripada Rule and Rulings of the Bar Council, peguam adalah dilarang daripada bertindak untuk kedua-dua Pembeli dan Penjual kerana ini mendatangkan konflik kepentingan. Ini adalah kerana seseorang tidak dapat memberi kesetiaan kepada dua "tuan" pada masa yang sama. Peguam perlu bertindak dengan memikirkan kepentingan terbaik untuk klien mereka pada setiap masa dan ini tidak dapat dilakukan apabila mewakili kedua-dua belah pihak yang menentang antara satu sama lain.
- Peguam mempunyai tugas penting untuk menjalankan carian tanah dalam transaksi Jual Beli. Peguam mestilah memastikan sepenuhnya tanah atau hartanah berkenaan tidak mempunyai beban atau tertakluk kepada apa-apa syarat lain. Oleh itu, peguam tidak boleh mengambil risiko mempercayai dokumen yang dibekalkan oleh klien mereka dan tidak menjalankan penyelidikan berdasarkan fakta-fakta yang diberi.
- Jika hartanah telah dicaj, peguam perlu menulis kepada pemegang gadaian untuk meminta mengemaskini tentang status pinjaman dan jika terdapat sebarang tanda-tanda perampasan hartanah tersebut.
- Peguam tidak seharusnya bergantung pada klien untuk memberi arahan pada tugas undang-undang. Ini kerana adalah wajib untuk peguam mempunyai pengetahuan yang lebih dari kliennya.
- Peguamcara disarankan menggunakan senarai semak apabila berkaitan pemindahhakan kerana terdapat banyak prasyarat yang boleh menyebabkan kecuai.



# TAHUKAH ANDA?

## ...Penanggung Insurans Berhak Mengambilalih Pengendalian Tuntutan Anda!

### Clause 18, 2014 Certificate Of Insurance ("COI"):

**You** agree that:

1. **we** have the right to take over the conduct of the **claim** against **you**, including its investigation, defence, avoidance, reduction or, subject to Clause 21, its settlement; and
2. **we** may do so in your name.

### Clause 19, COI:

Upon receipt of notice from **you** of any writ, we and/or our **authorised representatives** shall appoint a **legal practitioner** within 14 working days to take conduct of the claim without prejudice to our right to investigate and subsequently refuse coverage or to decline to indemnify **you** in relations to such **claim** as provided under this insurance.

Provided that if we and/or our **authorised representatives** fail or neglect to appoint a **legal practitioner** within 14 working days and take conduct of the **claim**, **you** shall have the right, if **you** so choose, to appoint a legal practitioner from the approved panel to defend the claim and instruct the appointed legal practitioner as you deem fit. **You** shall not be liable for any act or omission that compromises our right to settle or defend the **claim**. **We** shall be liable to indemnify **you** as if **we** had conduct of the **claim**.

Tiada kesan atau dikenakan *claims loading* apabila anda melaporkan tuntutan atau kebarangkalian. *Claims loading* hanya akan dikenakan sekiranya Syarikat Insurans membuat bayaran ke atas tuntutan yang dibuat selepas anda membayar *Base Excess*.

Apabila anda menerima writ atau surat tuntutan ("LOD"), atau peristiwa atau keadaan yang boleh membawa kepada tuntutan, salah satu perkara yang perlu dilakukan adalah untuk memberitahu Broker secara bertulis, memperincikan kepada merekasebaik mungkin tentang fakta berkaitan tuntutan/ kebarangkalian tuntutan tersebut.

Salah satu kelebihan utama melaporkan suatu writ, LOD atau kebarangkalian dengan lebih awal ialah agar semua pihak yang terlibat bersedia untuk membantu anda menguruskan keadaan tersebut. Pentadbir Tuntutan, Echelon Claims Consultants ("Echelon"), akan melantik Peguam Panel ("PS") yang akan membantu anda untuk mengurus tuntutan tersebut. Dalam suatu keadaan atau potensi tuntutan, PS boleh membantu anda untuk menyelesaikan masalah atau memberi khidmat nasihat dengan tujuan untuk mencegahnya daripada menjadi suatu tuntutan sebenar.

Jika anda menerima suatu writ, masa adalah elemen yang paling penting dan jika anda memberitahu dengan lebih awal, Echelon akan melantik PS yang akan mengambil alih untuk membela anda. Pelantikan ini dilakukan dalam tempoh 14 hari dari tarikh pemberitahuan dan anda boleh membincangkan kemungkinan strategi dan peristiwa dengan PS yang telah dilantik.

Semua peguam di panel telah disemak dan diluluskan oleh kedua-dua Syarikat Insurans dan Majlis Peguam. Mereka mempunyai pengetahuan kerja yang mendalam tentang Skim dan Polisi PII; nasihat dan strategi dalam menangani tuntutan peguam datang dari pengalaman mereka yang bertahun-tahun bekhidmat dalam Skim ini dan penglibatan dalam kes yang serupa.

Pihak yang Diinsuranskan juga perlu diingatkan mengenai Fasal 14 dan 15 dari 2014 COI yang membuatkan Syarikat Insurans berhak untuk menolak tuntutan anda jika anda menolak untuk berkerjasama dengan Syarikat Insurans atau wakil-wakil yang telah diberi kuasa seperti Broker, Syarikat Insurans, Pentadbir Tuntutan, Peguam Panel, Pelaras Kerugian dan pihak-pihak yang terlibat.



## PII SCHEME PANEL SOLICITORS LIST

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3	Baldev Singh Bhar	Syarikat Baldev Bhar	No. 3A, 02-01, Sri Weld Pengkalan Weld 10300 Penang	Tel: 04-2612431 Fax: 04-2619452
4	Dato' V Sithambaram	Sitham & Associates	No. 4-B, Brown Road, 10350 Penang	Tel: 04-229 9905 Fax: 04-229 9978

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2	Sarengapani a/I K Rajoo	R S Pani & Associates	No A25-1, Jalan Tun Ismail 2 Sri Dagangan II 25000 Kuantan Pahang	Tel: 09-5173644/ 09-5173645 Fax: 09-5173655
3	Zamzuri Bin Mohd Husin	Foo Say Ghee & Zamzuri	4086 B&C, Tingkat 1, Wisma Nik Fatimah, Jalan Sultan Yahya Petra, 15200 Kota Bharu, Kelantan	Tel: 09-748 1404 Fax: 09-748 1622
4	Dato' M. Ramachelvam	Rama-Rozi & Associates	No 33, Tingkat 1, Jalan Datuk Bahaman 3, 28000 Temerloh, Pahang Darul Makmur	Tel: 09-296 1262 /09-296 1473 Fax: 09-296 2073

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2	Chen Wai Jiun	WJ Chen & Company	Suite 6.2, Level 6, Menara Pelangi, Jalan Kuning, 80400 Johor Bahru, Johor	Tel: 07-334 2923 Fax: 07-334 2853
2	Mathews George	Mathews George & Co	Suite 03-05, Level 3, Wisma Maria, Jalan Ngee Heng, 80000 Johor Bahru, Johor	Tel: 07-222 2004/5 Fax: 07-222 2115
2	Johanan Puthuchear	Nadzarin Kuok Puthuchear & Tan	Suite 8.3, Level 8, Menara Pelangi, Jalan Kuning, Taman Pelangi, 80400 Johor Bahru, Johor	Tel: 07-334 9288/9 Fax: 07-334 9290

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# NOTIFY! NOTIFY! NOTIFY!



Notifications should be sent to Jardine Lloyd Thompson Sdn Bhd, our PII Scheme Broker as soon as possible within 60 days:

**Jardine Lloyd Thompson Sdn Bhd,**

Suite 10.2, 10th Floor,  
Faber Imperial Court,  
21A Jalan Sultan Ismail,  
50250 Kuala Lumpur.

Tel: 03-2723 3241 / 3388 Fax: 03-2723 3301 / 3303

Over the last three years, the Insurers have declined 10 claims because of late notification.

It then becomes an uphill battle to reverse this decision by court action or appeal.

1. There is NO LOADING OR PENALTY imposed for notification of circumstance.
2. Please DO IT!!!



# PRAKTIS

MALAYSIAN BAR PROFESSIONAL INDEMNITY INSURANCE SCHEME PORTAL

Assisting Lawyers  
[www.PRAKTIS.com.my](http://www.PRAKTIS.com.my)  
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