



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.

