



**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.