Minimizing Risk – Maximizing Comfort
What You Need to Know About Your Liability Insurance

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NUTS AND BOLTS FOR MANAGEMENT: THE ALIA LANDSCAPE

What ALIA does and does not do:

The Alberta Lawyers Insurance Association (“ALIA”) operates the mandatory professional liability program for all active, practising lawyers in Alberta. Any lawyer in private practice must carry a minimum of $1 million in liability insurance. Lawyers who are working in-house or in a government agency are not required to carry insurance, but must undertake not to work outside the scope of the role that they hold with their employer. If a lawyer wishes to moonlight (for example – handling real estate transactions as a side business) then the lawyer must carry insurance from ALIA.

ALIA responds to claims of financial losses which are alleged to have occurred from negligence or misappropriation by an insured lawyer. The most common exception to this coverage is that the ALIA Policy does NOT cover fee disputes. If a lawyer sues a client for fees and the client then makes a counterclaim for negligence, ALIA will defend the counterclaim, but takes no role in the claim for fees. These are difficult cases to resolve, because the client sees it as a trade-off (“You drop your claim for fees and I will stop suing you”), but it is not a trade-off because the funds are coming from two different sources.

The transition from ALIA/CLIA to ALIA/ALIEX:

Until July 1, 2014, ALIA was part of CLIA (the Canadian Lawyers Insurance Association). If a claim was made against an insured lawyer, ALIA was responsible for the first $300,000.00, and CLIA was responsible for the next $700,000.00.

As of July 1, 2014, ALIA left CLIA and formed its own reciprocal insurer, ALIEX. ALIA and ALIEX are now responsible for the mandatory $1 million of coverage per loss. ALIA/ALIEX now has a separate board and is accountable to the Superintendent of Insurance for the Province of Alberta.

Before July 1, 2014, claims of misappropriation were handled by the Assurance Fund of the Law Society of Alberta. Such claims are now handled by ALIA/ALIEX under Part B of the Policy. The Assurance Fund was rather rigid in its approach and claims took a long time to resolve. However, the Assurance Fund had no dollar limit on claims and no limitation period. Under the new regime, the same $1 million (per loss) applies and the usual limitation periods apply. There are also aggregate limits for claims against any one lawyer per Policy period.
In conjunction with these changes, ALIA moved from a Director of Insurance to a Chief Operating Officer. Our COO is David Weyant, Q.C., who took office as of August, 2016. Our Operations Manager is Paula Haney. Our Claims Supervisor is Blair McGregor. We have a staff of eight Claims Examiners, plus administrative and support staff. Our COO and the Board are reviewing all aspects of how ALIA operates, and you should anticipate some changes in the coming years. Such changes will need to be made in consultation with the Superintendent of Insurance, and in compliance with the Legal Profession Act.

**How the deductible works:**

On July 1, 2014 (the ALIA/ALIEX “magic date”) we also reintroduced the collection of a $5,000.00 deductible. The deductible had always been in the Policy, but the Benchers had waived the collection of the deductible starting in 1997. The deductible applies to any claim on which ALIA spends $5,000.00 or more, regardless of whether we spend that sum on damages, repairs, or defending a claim. In short: once we have paid $5,000.00, we bill the insured lawyer for $5,000.00. That amount is due and payable by the date that fees are due and payable (i.e. June 1 of each year.) If a lawyer does not pay the deductible, he or she faces an administrative suspension. This amount is invoiced by the Lawyer Portal. We also send out reminders to the affected lawyers.

The reintroduction of the deductible has been a winding road. Prior to reintroducing it, ALIA asked the legal community for comments. 73% of those who responded to the survey said that they were supportive of this idea. Despite that, we have had lawyers say that they consider the deductible unfair, or that they did not know about it. It is worth noting that in B.C., any lawyer with a second paid claim within three years of the first paid claim must pay a double deductible ($10,000.00). When I received objections about the deductible in the first year, I suggested that the lawyers should attend the Annual General Meeting for ALIA and raise the issue – but no one took me up on that suggestion.

One of the reasons for bringing back the deductible was an effort to persuade some of our repeat customers (“frequent filers”) to become more prudent. The surcharge on premiums (discussed below) currently hits a maximum of 300%. The deductible, on the other hand, applies on every file where we expend money. Given that some repeat customers generate an astounding number of claims, ongoing requests for payment of $5,000.00 are likely to get the attention of the insured lawyer.

Because we insure individual lawyers (not law firms) and we open files in the name of an individual lawyer, it is important to know which lawyer is responsible for any claim. A common dispute that has