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Failure to Notify Insurer Can Be Professional Misconduct: MBCA

A lawyer may be found guilty of professional misconduct for failing to give notice of a potential professional liability claim to the Law Society's Director of Insurance according to the Court of Appeal in [Luk v. Law Society of Manitoba](#), 2011 MBCA 78. The court rejected the appellant's argument that a finding of professional misconduct necessarily requires a finding that the impugned conduct was dishonourable or disgraceful. The appellant also argued she had a reasonable excuse for not notifying the insurer, since the amount of the potential claim was less than her deductible and she felt she would be able to correct the mistake. The court concluded:

Section 65 of *The Legal Profession Act*, C.C.S.M., c. L107, authorizes the benchers of the Law Society to make rules, *inter alia*, to prescribe which contraventions of the governing statute or the rules may constitute professional misconduct. The benchers have done that in Rule 5-36, and we agree with the Law Society that lawyers may be found guilty of professional misconduct for failure to notify the Law Society as required under Rule 5-34, even if such violation has no element of dishonourable or disgraceful conduct. (para.23)

B.C. Court Exempts Lawyers From Money Laundering Rules

The B.C. Supreme Court struck down sections of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* and regulations requiring lawyers and law firms to maintain records on the identity of their clients when acting as financial intermediaries in [Federation of Law Societies of Canada v. Canada \(Attorney General\)](#), 2011 BCSC 1270. The action was a test case brought by the Federation of Law Societies, with the Canadian Bar Association as intervener, and the result applies to lawyers across Canada. The CBA summarised the import of the decision as follows:

The decision underscores the importance of solicitor-client privilege and confidence in our system of justice. It also serves to strengthen the role of self-regulation, recognizing that law societies are best situated to regulate the conduct of lawyers because they can do so in the public interest, while at the same time maintaining protections for solicitor-client privilege. ([CBA E-News](#))

These articles also discuss the decision:

- [Canada's lawyers exempt from money-laundering laws](#), CBC News;
- [Money-laundering rules don't apply to lawyers: B.C. court](#), *Globe and Mail*.

Law Office Search Guidelines

The Law Society of Upper Canada recently approved new [Guidelines for Law Office Searches](#) detailing what to do when the police arrive at a law firm with a search warrant. The Slaw article [When the Police Come to Your Office Door](#) sets out the guideline highlights and provides links to a [summary of the law](#) and the [report](#) to the committee.

Resources for New Lawyers

There's a wealth of material on practice management available free online, from comprehensive course materials covering all aspects of law office management to practical advice on what to do if you're new to the solo practice world. A good starting point to accessing materials is Ontario's PracticePRO, which has recently added a [New Lawyer Resources](#) page to its website. CBA [PracticeLink](#) is another great source, particularly its [Solo and Small Firm](#) section, which recently published the articles [Field notes for the suddenly solo](#) and [Developing a Financial Plan for Your Office](#). The Courthouse Libraries BC website is described as a digital kitchen. It is organized in practice portals, including one on [Practice Management and Technology](#), where you can find links to news, resources, blogs and legislation on the portal topic. These [Practice Checklist manuals](#) are a good example of the type of resources available. And, for a one stop comprehensive manual on practice management, containing both articles and precedents, see the 2011 B.C. Professional Legal Training Course [Practice Management materials](#). They cover law office systems, file management and timekeeping, client relations and accounting systems.

Trends in Law Firm Marketing

There's been a lot of talk lately in practice management literature about a sea change in law firm marketing, caused by a confluence of factors including the economic downturn and the growth of technology and social media. Some thoughtful articles on the topic include:

- [Recent Developments in Legal Marketing; Or How Not to Be a Legal Lemming](#), Practice Points;
- [The future of the law firm website](#), a *National Law Journal* article on the future trends of law firm websites;
- [The best in digital marketing](#), a *National* magazine article on the results of a nationwide survey on how Canadian law firms are using digital marketing;
- [The 24: Canada's top legal social media influencers](#), a *Lawyers Weekly* article suggesting which Canadian "influencers" to follow on Twitter and blogs;
- [Profiting from Social Media](#), PracticeLink; and
- [Not Your Marketer's Social Media: Ten Ways Lawyers Can Benefit from Non-Marketing Uses of Social Media](#), a *Law Practice Today* article directed at those who think social media is not for them.

Career Planning

If your career needs a shake up you may want to read the summer edition of the American Bar Association's [Law Practice](#) magazine, which focuses on career planning, career assessment and making changes. The Canadian Bar Association also has some excellent materials on this topic on its [Career Alternatives](#) page, including the *Seasons of Your Career* articles, which examine [Spring, When Careers Take Root](#), [Summer, when careers grow fastest](#), and [Autumn, When Careers Mature](#)

Let's Talk

The focus of the fall issue of [LAWPRO](#) magazine is communication and how it is an integral part of the client service experience. In the article [Is Anyone Listening](#) claims counsel from Ontario share insights into the communications mistakes they see lawyers make and how to prevent them; in [Let's Get Talking](#) the authors deconstruct what happens when communications break down and how that affects the customer experience; [Lawyer incivility: The consequences](#) looks at how incivility damages the lawyer-client relationship; [Communication is a two-way street](#) outlines the obligations on lawyers and clients to communicate effectively; and [Six tech tools for improving client communication](#) recommends some free and simple tech tools lawyers can use to enhance client communication. For more information on this last topic see the article [Using Technology to Improve Client Service](#), from the September edition of *GP Solo* magazine.

Practice Management News

These recent articles all deal with practice management and ethics topics:

- The *Canadian Lawyer InHouse* article [Prairie Gold](#) sets out the results of their survey ranking the top full service law firms serving the booming prairie economy. Five Manitoba law firms made the list;
- The August 2011 issue of [Law Practice Today](#) focuses on managing client expectations;
- [A Question of Privilege](#), is a *National* magazine article on the perceived erosion of solicitor-client privilege;
- The *Canadian Lawyer* article [15 file management tips for small-firm lawyers](#) is one lawyer's take on how to organize files on a PC computer; and
- [Measuring key performance indicators](#) contains the results of a *Canadian Lawyer* survey designed to provide Canadian law firms with industry information in order to benchmark their own performance against the performance of other firms of reasonable comparative size. The survey looked at key performance indicators for law firms with up to 100 lawyers.

New on CanLII

CanLII has added several new features to enhance citation, sharing of CanLII documents, and search results. For further details see their [news release](#).

Bar Association Programs

[How to manage your time more effectively](#) - The Law Practice Management section of the Manitoba Bar Association is hosting this webcast from 12:00 noon to 1:30 p.m. on November 22, 2011. Presenter Gary Mitchell, from On Trac, will discuss effective systems to manage your time. Registrants will need a telephone and computer to participate and pre-registration is required.

[Building your Team through Effective Feedback and Mentoring](#) - the CBA's National Equality Committee is hosting this webconference on incorporating mentoring, coaching and feedback into legal practice on November 24, 2011 from 11:00 a.m. to 12:30 p.m. [Register](#) online by November 23.

Law Firm Leadership Conference

The 7th annual Canadian Bar Association [Law Firm Leadership Conference](#) will be held in Vancouver on October 24-25, 2011. The theme of this year's conference is People, Positioning, Performance and speakers will address such topics as performance management tools and developing leaders. [Register](#) online or by faxing the [registration form](#).

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