

CLAIMANT'S GUIDE

What is the *Fonds d'assurance responsabilité professionnelle du Barreau du Québec* (the « *Fonds d'assurance* »)?

The *Fonds d'assurance* provides professional liability coverage for members of the *Barreau du Québec* for faults, errors or omissions in the rendering of professional services. In case of liability of its insured, member in good standing of the *Barreau du Québec*, the *Fonds d'assurance* will indemnify you in accordance with the terms of the applicable insurance policy, as the case may be.

There is liability of an insured when:

1. An error, fault or omission has occurred involuntarily in the rendering of professional services in the capacity of a lawyer; **and**
2. The claimant suffered a loss of a specific and quantifiable amount; **and**
3. The loss has occurred as a result of the error, fault or omission of the lawyer.

The *Fonds d'assurance* defends its insureds. It does not represent you and will not give you any advice. We therefore suggest that you seek independent legal advice, at your own cost.

The *Fonds d'assurance* does not deal with complaints relating to a lawyer's billing. Such complaints should be addressed to the *Syndic du Barreau du Québec*.

Claims pertaining to the misappropriation of funds entrusted to a lawyer should be addressed to the *Fonds d'indemnisation du Barreau du Québec* and not the *Fonds d'assurance*.

How to make a claim?

We ask that you complete and return a *Claimant's form*, which will allow us to study the validity of your claim. Upon receipt of the *Claimant's form*, we will investigate the claim. **We will first verify if the claim is covered under the terms of the applicable insurance policy.** We may ask you for further information. We will send our insured a copy of the *Claimant's form* and any other documents received from you and will ask the insured for his/her comments in regard to your claim.

You will not have access to our file. Moreover, the *Claimant's Form* does not convey any legal rights against the *Fonds d'assurance*.

Prescription / Limitation Period

The law states strict time limits within which you must bring a claim before the courts in professional liability matters. Such limitation period is known as "prescription". The *Fonds d'assurance* will deny all claims that are outside the limitation period.

When you make a claim to the *Fonds d'assurance*, the limitation period or prescription continues to run until you institute proceedings before the courts. The *Fonds d'assurance* cannot advise you about the limitation period. If you have questions, you should seek independent legal advice, at your own cost.

The *Fonds d'assurance's* Position

The *Fonds d'assurance* will investigate the professional liability of the insured. The processing time of inquiries varies according to the volume and complexity of the files as well as the time taken to receive the necessary documents for our investigation. **We remind you that prescription continues to run even if you have made a claim to the *Fonds d'assurance*.**

Unless we need to obtain information or documents from you to support your claim, we will not contact you until the investigation is complete.

When our investigation is complete, we will advise you of our position regarding your claim. The position of the *Fonds d'assurance* with respect to a claim is final and is not subject to any review process.

The *Fonds d'assurance* may make an offer but **only** in case of professional liability, and under the terms of the applicable insurance policy.

If an out of court settlement may not be reached and if you maintain your claim, it will be incumbent upon you to institute the appropriate legal proceeding before the courts within the applicable limitation period.