



NOVA SCOTIA BARRISTERS' SOCIETY

CLAIM APPLICATION FORM

**LAWYERS' FUND
FOR CLIENT COMPENSATION**

CLAIM APPLICATION FORM

INSTRUCTIONS: Complete each question on this form. Please print or type. If space is inadequate, attach additional pages. Also submit copies of whatever evidence you have that establishes your loss, such as cancelled cheques, receipts, fee agreements, etc. File this completed form to the address given on the cover page.

Section 57(4) of the *Legal Profession Act* provides that “no payment shall be made out of the fund unless notice of the loss is received by the Executive Director within six months after the loss comes to the knowledge of the claimant.” This notice period may be extended to 24 months under special circumstances with the approval of Council.



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PART A

CLAIMANT

Name: _____

Address: _____

City: _____

Province: _____ Postal Code: _____

Home Phone: _____ Work Phone: _____

Fax: _____ E-mail: _____

PART B

LAWYER ALLEGED TO HAVE MISAPPROPRIATED OR CONVERTED YOUR TRUST FUNDS

Name of lawyer: _____

Name of law of law firm at time of loss (if applicable): _____

Address of firm at time of loss: _____

City: _____

Province: _____ Postal Code: _____

Phone: _____ Fax: _____

E-mail: _____

PART C

1. (i) Amount of your alleged loss: \$ _____

(ii) Date you became aware of loss: _____

(iii) How did you become aware of your loss: _____

(iv) Date or period of time during which your loss was incurred: _____

(v) If loss was property, describe and state the value of the property (attach copies of appraisal, receipts, or any other evidence of value): _____



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2. (i) Did the lawyer receive the money or property:
- From you Yes No
- From another person Yes No

(ii) If the lawyer received the money or property from another person, please explain why and give that person's name and address:

- (iii) (a) Have you demanded reimbursement from the lawyer? Yes No

Amount demanded: \$ _____ Date(s) of demand: _____

Demand was: Oral Or Written
(If written, please attach a copy of the demand to this application)

- (b) Have you demanded reimbursement from the law firm the lawyer was associated with at the time of the loss? Yes No

Amount demanded: \$ _____ Date(s) of demand: _____

Demand was: Oral Or Written
(If written, please attach a copy of the demand to this application)

3. Please describe, in chronological order, what services the lawyer was hired to perform, and describe the lawyer's conduct which led to the alleged loss. (Please be as detailed as possible and specify amounts and dates. Provide copies of supporting documents, attaching separate sheets if necessary).



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PART D

1. Are you making a claim because you believe the lawyer has taken fees or a retainer for work which was not performed or completed? Yes No

(If No, please proceed to Part E)

If yes,

(i) How many times did you meet with the lawyer? Please be as specific as possible and briefly describe each meeting: when it took place, how long it lasted, what was discussed, etc. *(Use additional sheets if necessary.)*



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(ii) Did your lawyer communicate with you by phone? If so, when and for how long? What was discussed during the call(s)?

(iii) Did your lawyer ever prepare any letters or legal documents for you? If so, please list and indicate whether they were ever filed or used.

(iv) Did your lawyer make any court appearances on your behalf? If so, describe briefly, giving the date, the name of the judge, the reason for the court appearance and the current status of any proceedings.

(v) What were the arrangements for payment of fees to the lawyer, and what portion of the fees has been paid so far? Please attach a copy of the fee or retainer agreement/letter and any evidence of payment. If no such document exists, please explain why:



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2. Have you had the lawyer's account(s) taxed by the Small Claims Court? Yes No
 If yes, provide details:

PART E

1. Do you have any other claims against this lawyer?

2. (i) Is this claim being made on behalf of a corporation? Yes No
 (ii) Is this claim being made on behalf of an estate? Yes No

If you have answered yes to question 2 (i) or (ii) above, please complete the following:

- (a) Are you the lawful representative of the corporation or the estate? Yes No
(Please attach copies of corporate authority, Letters Probate, Letters of Administration or any other documentation to support this statement)

- (b) List the names and addresses of all beneficiaries of the estate or other persons entitled to share in any payment from the Lawyers' Fund for Client Compensation:

3. Did you hire another lawyer to pursue your case or to complete work on your file after terminating the representation of the lawyer alleged to have caused your loss? Yes No

If yes, please provide the lawyer's name and address:



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4. Have you been reimbursed for any part of your claim from any source? Yes No

If yes, state the amount received by you, the person or persons who made the payment, and the date of such payment: _____

5. (i) Have you filed a complaint against this lawyer with the Nova Scotia Barristers' Society's Department of Professional Responsibility? Yes No

If yes, date complaint filed: _____

- (ii) Have you filed a complaint against this lawyer with law enforcement authorities? Yes No

6. Are you aware whether any criminal or civil proceedings have been taken in connection with the facts set out in this application? If so, state by whom, where and the present status of such proceedings.

Claimants are not required to have the assistance of a lawyer in making all claims. Legal fees you may incur as a result of assistance received in submitting this claim are not eligible for compensation and cannot be included in your claim.

7. Please provide the name and address of the lawyer presently representing or assisting you with this application, if any:



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ACKNOWLEDGMENTS

- A. This Claim Application Form has been completed and filed pursuant to Section 55 of the *Legal Profession Act* (the “Act”), in order that the Society may proceed with a review of this claim and determine its validity in accordance with the criteria set out in the Act and Regulations.
- B. This claim is being filed as a result of the alleged misappropriation or conversion of funds by the lawyer acting in his/her capacity as a lawyer, pursuant to Section 57 of the *Legal Profession Act*.
- C. This claim is being filed within the time limits prescribed in the Act.
- D. The claimant agrees to furnish any change of name or address promptly to the Director of Professional Responsibility.
- E. The claimant understands and acknowledges that the payment of grants out of the Lawyers’ Fund for Client Compensation shall be limited to the amount available to the Society through insurance for all claims made in a claim year.
- F. The claimant understands and agrees that upon payment from the Lawyers’ Fund for Client Compensation, the undersigned claimant:
- (i) TRANSFERS, ASSIGNS AND SETS OVER TO THE NOVA SCOTIA BARRISTERS’ SOCIETY, all of the undersigned claimant’s claims, demands, causes of actions, and actions or suits against the above-named lawyer arising out of the lawyer’s misappropriation or conversion of funds or property upon which this claim for reimbursement is based.
 - (ii) AUTHORIZES THE SOCIETY TO PROSECUTE all such claims, demands, causes of actions, actions or suits against the above-named lawyer either in the name of the claimant, or in the name of the Society, as the Society may in the full exercise of its discretion deem appropriate.
 - (iii) AGREES to cooperate with the Society in any efforts by them to enforce any claim, demand, cause of action, action or suit against the lawyer.
 - (iv) AND FURTHER AGREES that all civil actions to be taken against the lawyer hereunder shall be under the absolute control of the Society and that the Society may prosecute, fail to prosecute, or abandon any such claim, demand, cause of action, action or suit against the lawyer as they shall, in the exercise of their discretion and without the necessity of consent or approval of the claimant, deem appropriate.
- G. The claimant understands that before he or she receives any payment from the Fund, the claimant will be required to execute and deliver to the Society Assignment and Release of Claim forms.



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CONSENT

I must submit a request to Council for their approval to the withholding of my information if I do not wish to have the Society release my name and information to law enforcement authorities. To do so, I must separately apply in writing to the Executive Director requesting consent and explaining the reason for my request. Council may approve the claim in whole or in part, with conditions; reject the request; determine that additional information is required and request that the information be provided; or, take such steps as it considers appropriate to allow for a determination of the request. My application will be held in abeyance until direction from Council has been received by the Committee.

If Council approves the request not to release my information, the Society is still required to respond to lawful demands made by law enforcement authorities for claimant names and claimant information. The Society will not, however, disclose information subject to solicitor-client privilege.

I acknowledge and confirm that in submitting this claim for compensation, I hereby consent to the following:

The Nova Scotia Barristers' Society may release information about my claim to law enforcement authorities for purposes of investigation of the lawyer. Yes No *

**If "no" is selected please ensure that you have included a letter to the Executive Director for consideration by Council, as outlined above. Otherwise, the Society will not proceed with your application.*

The Nova Scotia Barristers' Society may prosecute claims, demands, causes of action, actions or suits in my name or that of the Society, in order to assert the Society's rights under the Assignment of Claim, to be executed by me upon receipt of compensation for my approved claim.

In providing the consent above, I confirm that this does not negate or constitute a waiver of the privilege that I have had in respect of communications with my lawyer, and even though information that is privileged may be provided in this application, the privilege continues and will be maintained by the Society for all other purposes. For purposes of this application, 'privilege' refers to information provided to a lawyer by a client, or by a lawyer to a client, in the course of a lawyer-client relationship, which information is protected from disclosure by law.



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I (We), the undersigned claimant(s), solemnly declare that I (we) have read this Claim Application Form and understand the contents, and all statements made in it and documents furnished with it are true. I (We) make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

DECLARED BEFORE ME AT THE CITY/TOWN OF)
)
_____)
)
in the county of _____))
)
on the _____ day of _____ 20____.)
)
)
)
)
)
)
)
_____)

Applicant's signature

Applicant's signature

A Barrister and Solicitor, Commissioner of Oaths in and for the Province of Nova Scotia, or Notary Public in the province or state in which you reside

***NOTE:**

ALL ATTACHMENTS MUST BE STAMPED AND IDENTIFIED AS EXHIBITS BY THE BARRISTER AND SOLICITOR, NOTARY PUBLIC OR COMMISSIONER OF OATHS.