



WELCOME TO OUR PROFESSIONAL NEGLIGENCE BULLETIN

At Martineau we have been acting for a wide range of clients in pursuing negligence claims against professionals for many years.

Our Professional Negligence team pursues claims against all sorts of professionals including solicitors, accountants, tax advisers, surveyors, valuers, architects and veterinary professionals.

We believe we are unique in that all of our professional negligence lawyers are specialists in the area of law relating to the professional in question. This gives us a real advantage when dealing with professional negligence work.

It is an unfortunate fact in tough economic times that the number of claims against professionals increases.

This bulletin gives you an overview of the issues associated with this trend and what it may mean for those dealing with the consequences of negligent advice.

Innovation is one of Martineau's core values and that extends to our pricing structure. We are happy to consider with our clients all means of funding litigation, including conditional fee arrangements. We also offer an initial free consultation of thirty minutes at which we will consider whether or not you have a claim, the work that will be needed to resolve it and the likely cost involved.

We will be hosting a professional negligence seminar in the early part of this summer and you will find details on our website.

I do hope you find this bulletin of a real interest.



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SCREWED UP?

The link between recession and claims against professionals.

News that the UK was officially in recession by the beginning of this year hardly came as a surprise. Unemployment is at its highest for over a decade, property values have fallen sharply since their peak in late 2007 and there are daily reports of business failures across the country.

An equally traditional, but less well known effect of recession is an increase in claims against professionals such as lawyers, accountants, surveyors and architects. On the face of it, that might seem a little odd. But there are several generally accepted reasons for it:-

- In hard times, those who have lost money are more likely to try to apportion blame for their losses wherever possible in order to obtain recompense. The advice received from their professional advisers might quite properly be the first thing to be questioned. In better economic times, increasing profits can reduce the commercial need to embark on such claims.
- A squeeze on profits might have a knock on effect on the time a business's professional adviser may feel able to spend working on a particular case. As a result, with less time devoted to matters in hand the risk of something going wrong may increase.

- Professionals may be more tempted to take on work which is outside their area of expertise and in those cases the potential for things to go wrong is obvious.

In other words, some professionals may make more mistakes during an economic downturn as a result of pressure to minimise time spent on matters and the temptation to

take on work in which they have inadequate expertise and/or experience. But it's also the case that businesses and individuals are just more likely to pursue cases than in the good times. This is particularly so where (1) the negligence means that the claimant has an asset on his hands which is worth a lot less than he anticipated it would be, or (2) the professional's mistake or inadequate advice has resulted in a hole in his income stream.

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Of course clients will rightly expect that carefully selected professionals will continue to serve them well and that costly errors are no more likely now than at any other time. But of course history does have a habit of repeating itself and based on the rise in cases of this kind in the last recession, now is as good a time as any to review some common sense steps which can be taken to ease the course of any claim you may have to make in the future:-

- If the worst came to the worst and you had to get involved in court proceedings, remember that all relevant documents (including internal emails and file notes

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of conversations) could be used in evidence at court, irrespective of whether or not those documents assist your claim. If you think you may have a claim, you may want to avoid internal written communications about it.

- Anyone facing a loss arising from professional error or poor advice has an obligation to take reasonable steps to mitigate or reduce that loss. Steps taken to reduce the loss, and the reasons for taking them, should be recorded in writing at the time.
- Costs are of course a principal concern for any potential claimant. Obtaining early legal advice should mean that the issues in dispute are narrowed more quickly and should ultimately result not only in a speedier resolution and

reduced overall costs but also in a reduction of the management time spent dealing with the claim. This can be significant and difficult to recover.

Having said all of the above, the current recession is different from the downturn of the early 1990’s. The nature of dispute resolution has also changed significantly since then. With the advent of new court rules at the end of the 1990’s and the rise in popularity of mediation as an alternative to court proceedings, the chances are far greater now than ever before that a claim against a professional can be resolved quickly and cost effectively. Alternative

funding arrangements (such as conditional fee arrangements) and after the event insurance schemes also reduce the impact on business of pursuing claims of this kind.

So if you think you’ve been badly advised or represented, do act quickly and talk to your lawyer about your concerns and the options available to you. It might be less painful than you think.

For more information about the issues raised in this bulletin or to discuss any individual case (without charge for the first thirty minutes), please contact:-

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THE MARTINEAU TEAM

Most businesses and individuals use professional services from time to time or on a regular basis. On occasion things can go wrong and negligent professional advice can cause financial or other losses. Sometimes decisive action is needed to preserve or restore a client's financial position. In other cases losses need to be recovered whilst preserving a longstanding or valued relationship between client and professional.

Our team of specialist professional negligence lawyers provides advice and representation in assisting clients to recover their losses, negotiating with the professional's insurers and if necessary as a last resort litigating claims against them. We also consider mediation of these kind of claims at all stages and we have a proven track record of achieving successful outcomes whilst avoiding the cost and delay involved in litigating claims of this kind through the courts.

We regularly act for clients in pursuing claims for negligent advice against professionals including solicitors, accountants, tax advisers and property professionals such as surveyors and architects. Working with our Equine team, we also handle claims against veterinary professionals.

We think our team is unique because all of our professional negligence lawyers are also specialists in the law relating to the professions they deal with. So for example, the members of our team who deal with claims against architects are also specialist construction lawyers in their own right; claims against surveyors are dealt with by lawyers who are also real estate disputes experts; and claims against accountants, tax advisers and the like are handled by experienced commercial disputes lawyers. In our experience this depth of knowledge and experience gives us a real edge over our competitors when pursuing these kind of claims.

In light of our established expertise in such claims, we have excellent links with leading sets of specialist barristers and an enviable list of independent expert witnesses ensuring speed of access and competitive pricing.

We offer a variety of pricing structures ranging from the traditional hourly charges to conditional fee arrangements. We also offer an initial free consultation of thirty minutes at which we will explore whether you have a claim or not, the work that will be needed to resolve it and the likely costs that will be involved. This allows you to be fully informed from the very start of your claim.



KEY CONTACTS



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Andrew Adams

Tim Rayner

Michael Lawrence

Andrew Holden

This bulletin summarises complicated issues and should not be relied upon in relation to specific matters. You are advised to take legal advice on particular problems and we will be happy to assist:

For further information, contact one of the team:

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