

## Publisher's Note

2019 — Release 2

Previous release was 2019-1

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## Professional Liability in Canada

“Professional Liability in Canada” is a comprehensive resource for practitioners called upon to deal with professional liability issues. Providing an exhaustive treatment of the cases governing this growing area of law, it contains both general context analysis and chapters dealing with the liability of specific professions such as lawyers, doctors, accountants, engineers, architects, financial advisors and bankers, real estate brokers and agents. This work also includes practical precedents such as claims, defences and other pleadings.

This release features updates to the case law and commentary in Chapters: 2 (Concurrent Liability), 4 (Remedies), 5 (Real Estate Professionals), 6 (Professionals in the Construction and Building Industry), 7 (Civil Liability for Lawyers) and 9 (Civil Liability for Medical Professionals). The Supplementary Table of Cases and the legal memorandum “Can Medical Professionals Legally Aid Patients in Engaging in Assisted Suicide?” have also been updated.

### Release Highlights

**Concurrent Liability—Practical Consequences of Concurrent Liability: The Discoverability Rule**—The court had occasion to consider the interpretation of s. 5(1)(a)(iv) of the *Limitations Act, 2002* (Ont.) in the context of a claim for professional negligence. That provision clarifies that the limitation period begins to run when the plaintiff has drawn or should draw a connection between his or her loss and the defendant’s causal act or omission. Specifically, it sets out that the limitation

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period begins to run when “having regard to the nature of the injury, loss or damage” the plaintiff knows or ought reasonably to have known that “a proceeding would be an appropriate means to seek to remedy it”: *Presidential MSH Corp. v. Marr, Foster & Co. LLP*, 2017 ONCA 325 (Ont. C.A.).

**Civil Liability for Lawyers—Negligence—Barrister’s Liability**—The client had hired lawyers in pursuit of a historical sexual abuse claim respecting abuse he endured in the 1970s. The claim was administratively dismissed for delay in 2005, but then revived and settled in June of 2014. The client then sued the lawyers on his file in 2015, claiming he had endured mental distress because of the conduct of his file. The court rejected the lawyers’ defence that the action was statute-barred, finding that it was only after his sexual abuse claim was resolved that the client’s action against his own lawyer became an appropriate means for him to obtain a remedy against them for negligence: *J.C. v. Farant*, 2018 ONSC 2692, 141 O.R. (3d) 421 (Ont. S.C.J.).