

# Developing an Innovator's Mindset To Find Your Path in the Future of Law

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Director, practicePRO



# Agenda and Learning Objectives

- Hello!
- What is an innovation mindset?
- Innovation in legal services (including case studies)
- Building your innovation mindset
- Your professional paths:  
Choosing your own adventures!

A starting point:

The Google logo is centered on the page, featuring its characteristic multi-colored letters: 'G' in blue, 'o' in red, 'o' in yellow, 'g' in blue, 'l' in green, and 'e' in red.A search bar with a magnifying glass icon on the left, the text 'innovation' in the center, a close button (X) on the right, and a microphone icon on the far right.

Google Search

I'm Feeling Lucky

# Innovate (verb)

*To make changes: do something in a new way*

*- Merriam-Webster*

# Innovate (verb)

*Innovation is the creation of something that improves the way we live our lives*

- Barack Obama

# Mindset (noun)

*A person's way of thinking and their opinions*

*- Cambridge Dictionary*

# Innovation + Mindset

*Ways of thinking that help us create something that improves our lives*

# Innovations in legal services

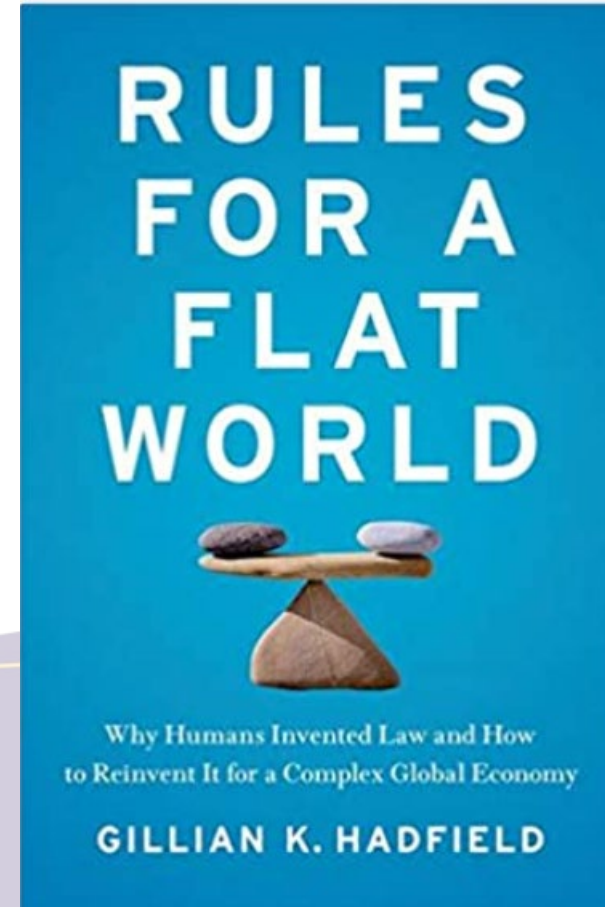






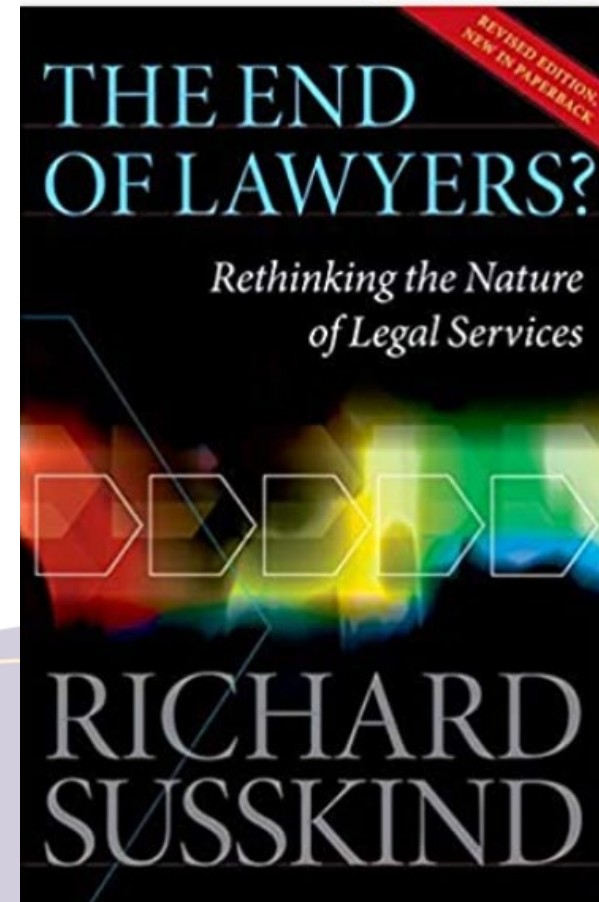
# Innovation drivers

- Increased complexity
- Cost
- Law / legal services *not* meeting needs
- Globalization / competition
- Unmet legal needs



# Innovation drivers

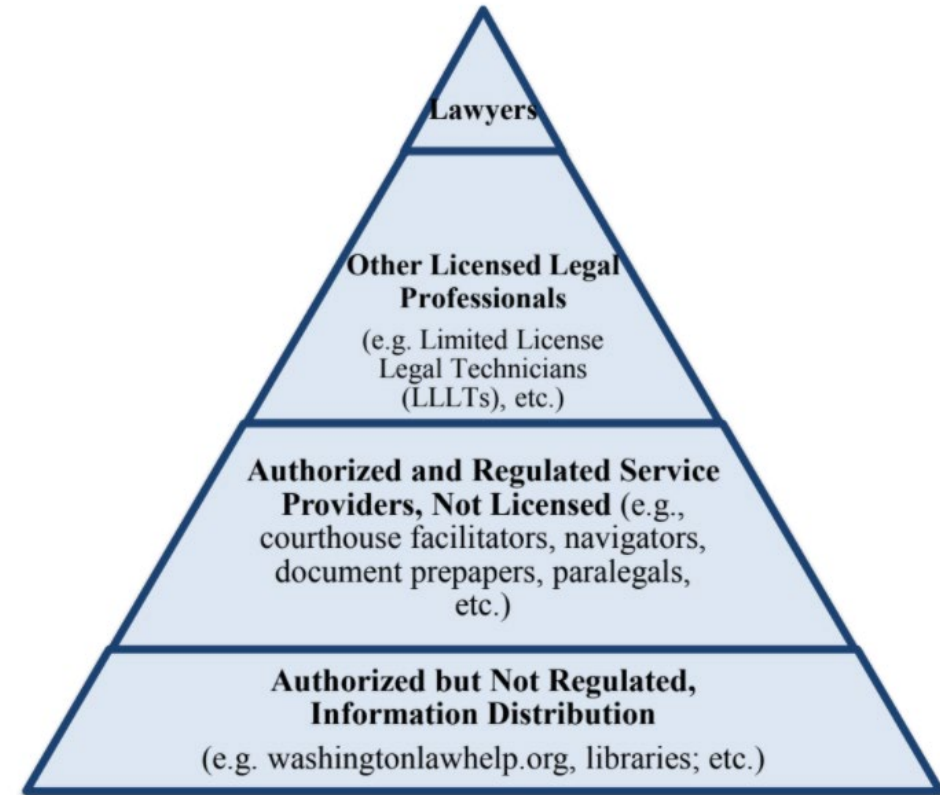
- High cost of legal services
- Are all legal tasks bespoke?
- What could be commoditized?
- What could be re-sourced?
  - In-sourcing
  - De-lawyered (see next slide)
  - Relocated
  - Outsourced
  - Automated
  - Not done



# Innovation drivers: Shifting labour

## Roles Beyond Lawyers

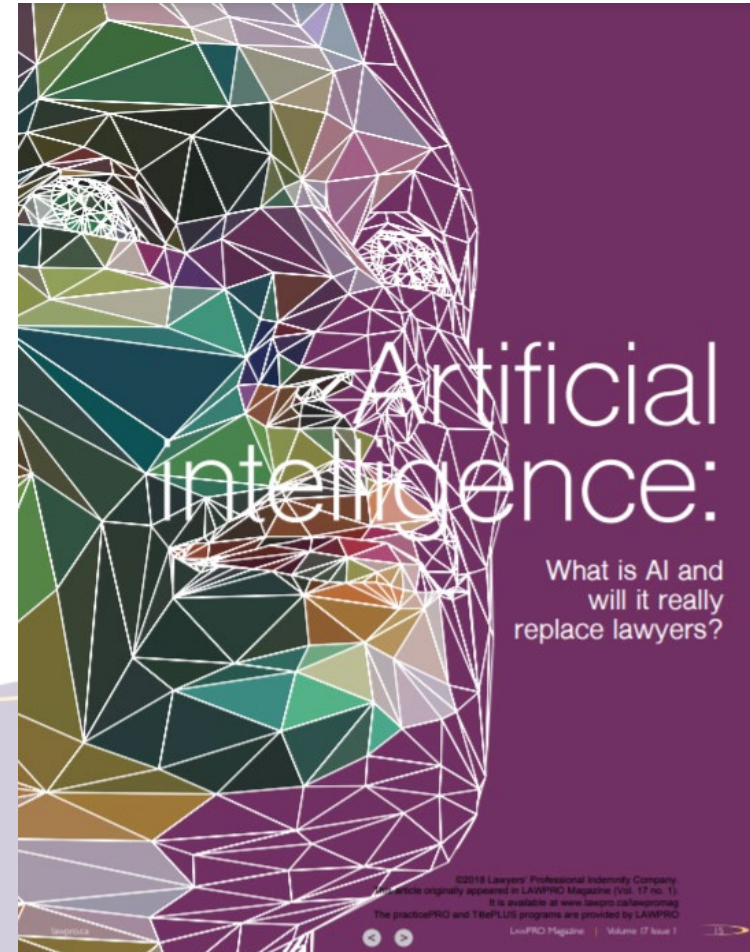
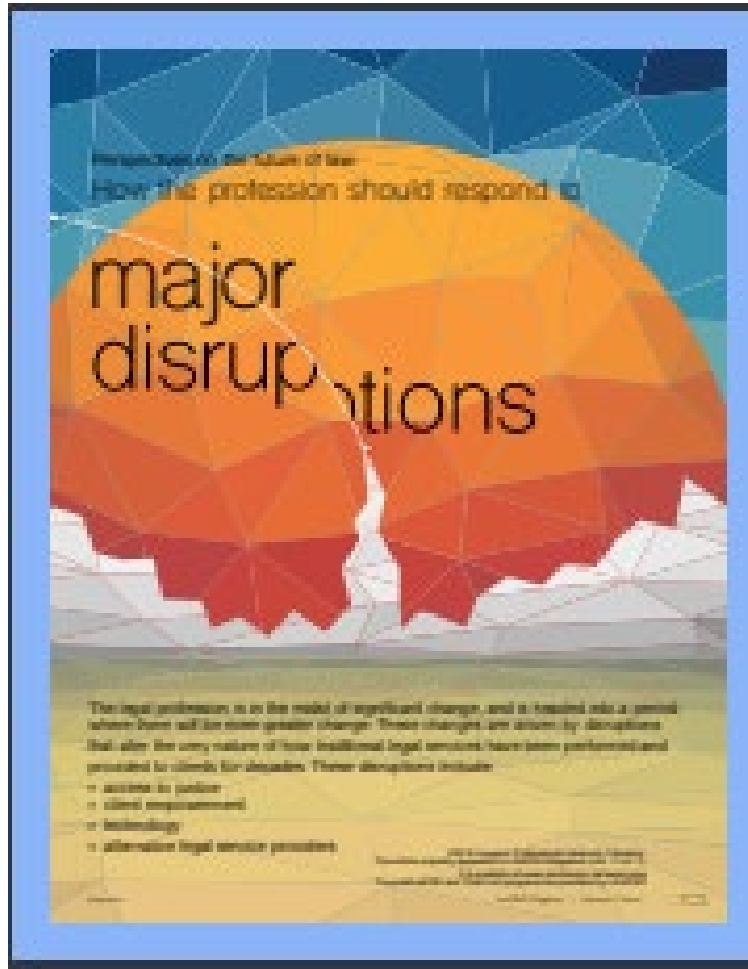
Andrew M. Perlman, *Towards the Law of Legal Services*, 2015



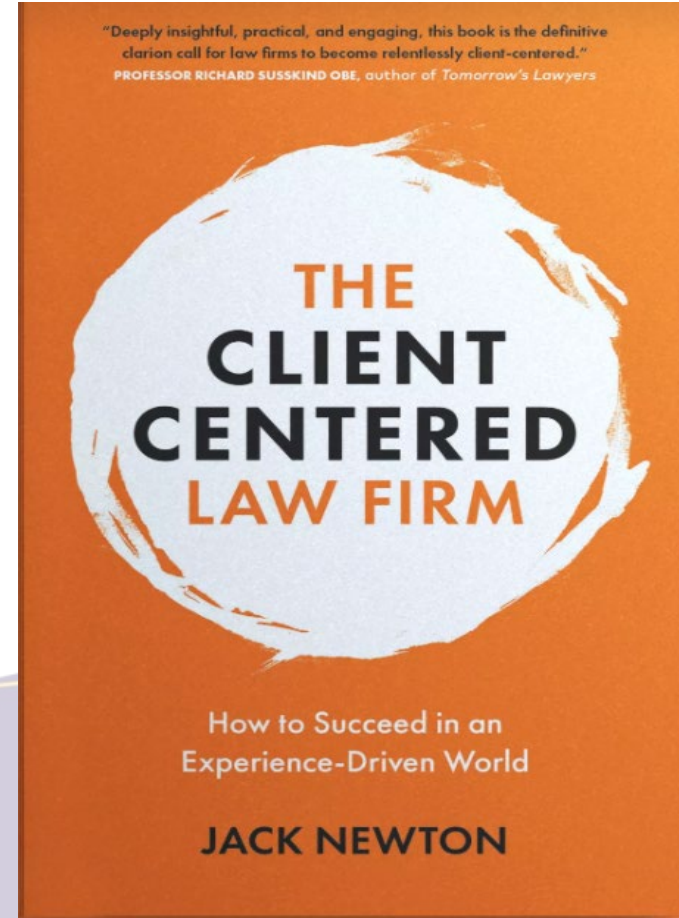
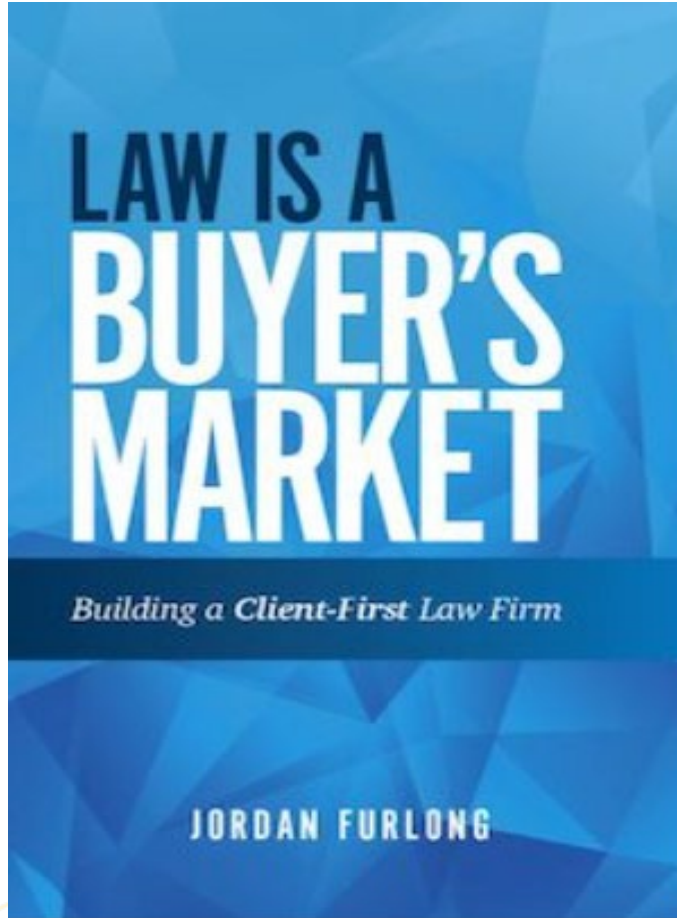


# Innovation drivers: Technology

## LAWPRO Magazine 2018: Top Legal Disruptions



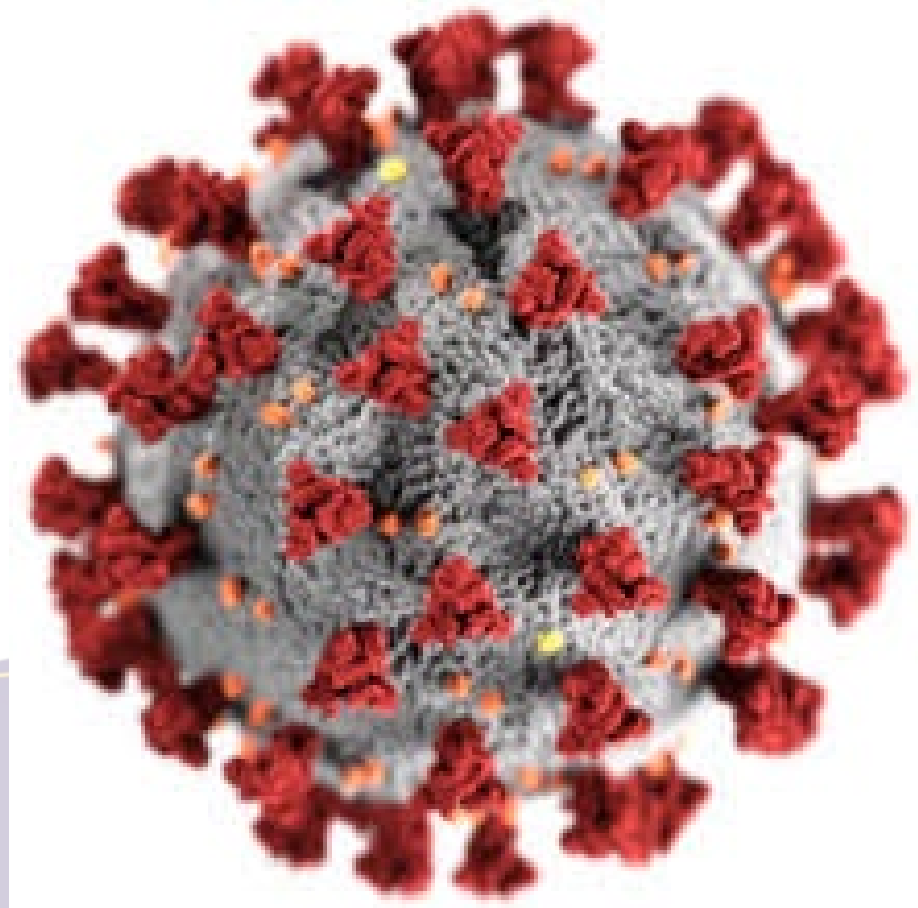
# Innovation drivers: From lawyer-centered to client-centered



# COVID as catalyst

“We’ve modernized the justice system 25 years in 25 days”

- Doug Downey,  
Attorney General of Ontario



# Legal innovation case studies





# Legal innovation case studies: Courts

- Shift to online:
  - Zoom Court hearings
  - Full trials by videoconference
- Continuing to shift to digital
  - Enhanced use of e-mail
  - Online filing
  - Caselines pilot project expansion
    - Caselines: Tomson Reuters cloud based e-hearings platform
- Other examples: BC CRT – ODR



# Legal innovation case studies

## Law firms

- **Investing in technology**
  - Practice management software
  - Document management
  - Time, billing and payment systems
  - Workflow / automation tools
  - Templates and knowledge management systems
  - E-discovery, transaction, contract software
- **Big law**
  - In sourcing
  - Relocating
  - Remote (COVID-19)
- **Solos, smalls, medium sized firms**
  - Fully remote (pre COVID-19)
  - 4 day work week
  - B Corp <sup>TM</sup> certified



# Legal innovation case studies

## Access to Justice (A2J)

- Steps to Justice Guided Pathways (CLEO)
- Legal Aid
  - A2J Guided Interviews and use of trusted intermediaries
  - Legal Aid eligibility app
- Pro bono innovations
  - Embedded services (ex: PBO Sick Kids)
  - Tech to scale and maintain quality of programs
  - LAWPRO: Coverage innovation to enable pro bono
- Private bar innovations
  - Day of court counsel program (family law)
  - Low bono programs (ex: JusticeNet)
- Regulatory innovations
  - Solutions by region (Sandboxes, roles beyond lawyers)
  - Ontario: MDPs, paralegals, Referral Service Enhanced Directory, Civil Society Organizations





# Legal innovation case studies:

## Legal tech: A vibrant ecosystem

- Toronto: 3 law schools
  - Legal innovation initiatives
- Law practice and time management (ex: Clio, soluno)
- Legal research / legal publishing
  - Ex: CanLII – Innovation: law freely available to all
  - Ex: CiteRight, Loom, Blue J, LexisNexis, Thomson Reuters
- Document review and analysis
  - Ex: Kira Systems
- Corporate commercial
  - Ex: Closing folders
  - Ex: Firmex: Virtual data room
- Family / wills
  - Ex: Divorcemate; s-State planner
- Litigation (ex: ACL by Korbitec)

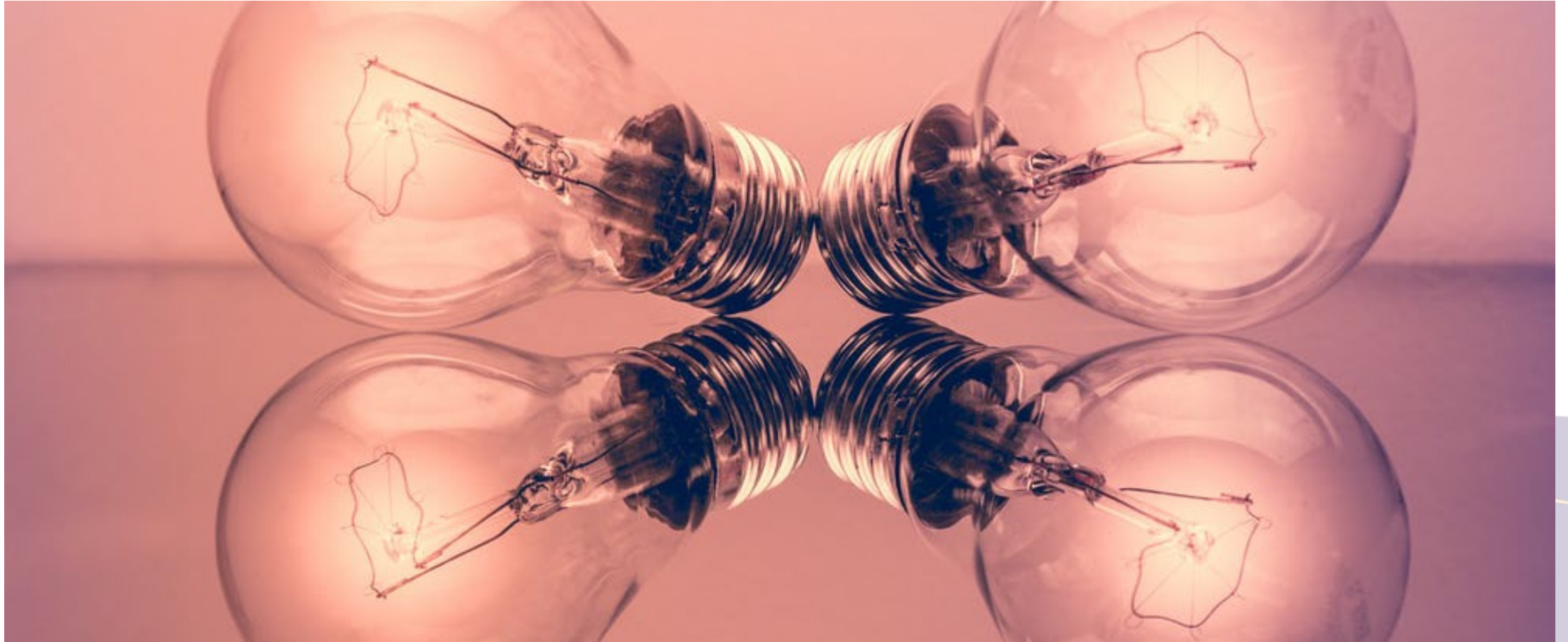


# KEY TAKEAWAYS

- The legal services sector is *always* changing
- Despite COVID....
- The future looks bright
- There are lots of exciting changes happening *now* to make law better – for lawyers, for clients, for the public



# Building your innovation mindset







240



241



248



249



250



256



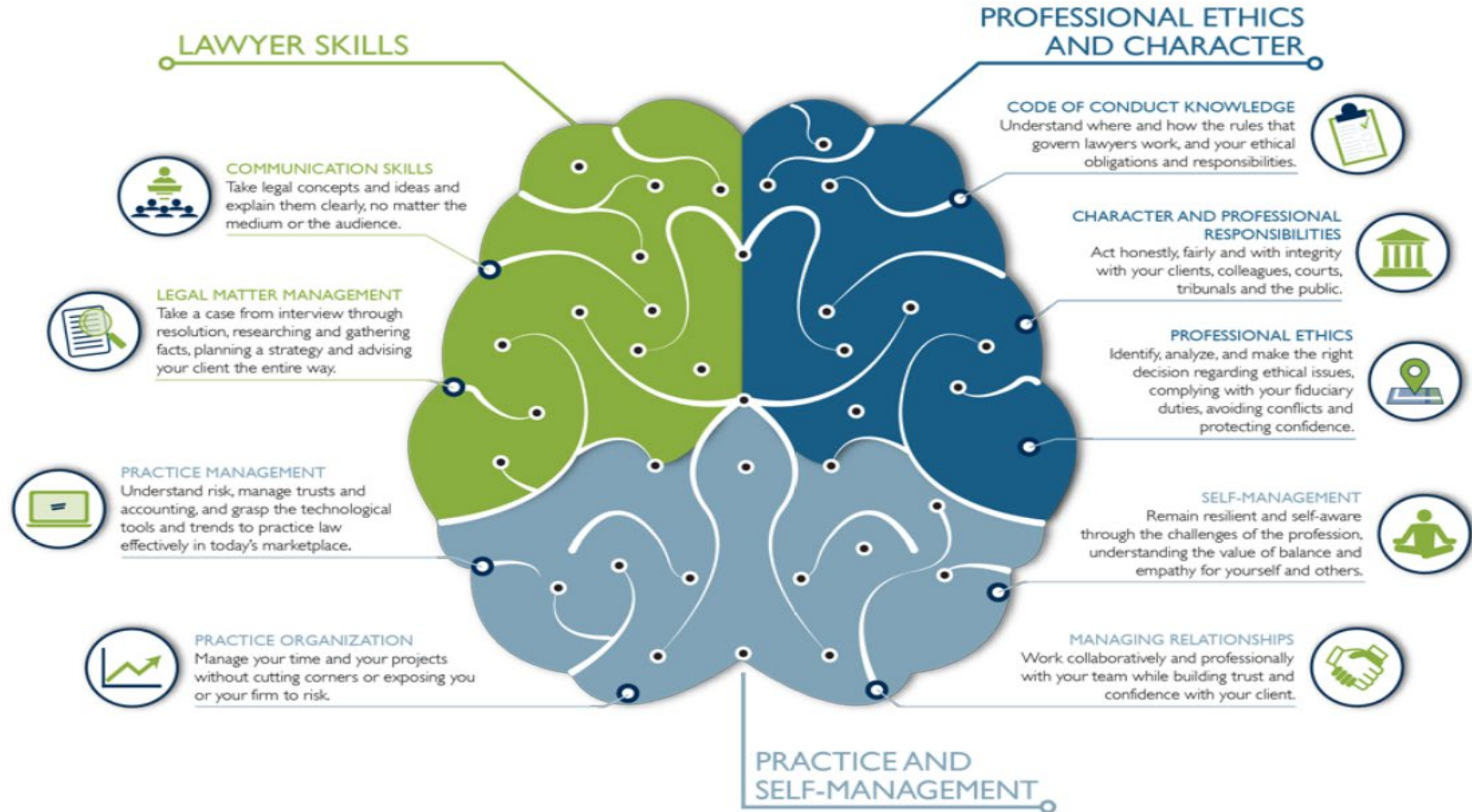
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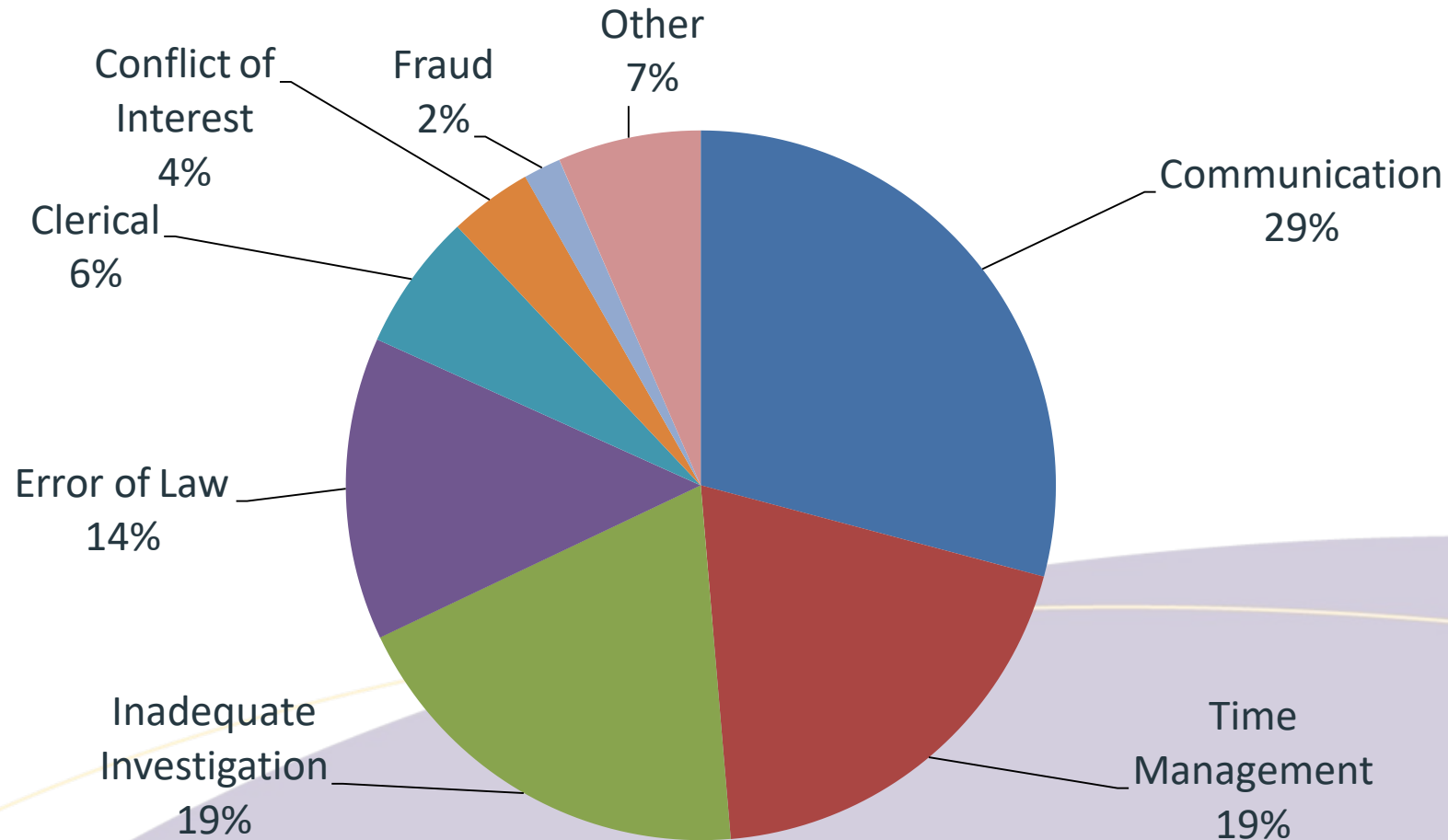
# THE MIND OF A CPLED-TRAINED LAWYER





Know your risks...  
To manage them.

# 'Global' Descriptions of Claims (2009 to 2019) By Count



# *Service errors*

- *Communication*
- *Investigation*
- *Time management*



Skills for success:  
People and project management  
*not just legal expertise*

# Emotional intelligence as part of the innovation mindset

## Emotional intelligence: the essential skill for the workplace and life

Posted October 15, 2020 by [Mahwash Khan](#)

Share On: [Twitter](#) [Facebook](#) [LinkedIn](#)



The concept of emotional intelligence isn't new but has seen exponential growth over the years and is said to be the essential skill in the workplace and in our personal lives.

We've all heard about the dichotomy of the heart and mind – it is at the centre of the concept of emotional intelligence. Stopping to think about what we are feeling prevents emotions taking charge of our behaviour.

### Benefits of good emotional intelligence skills

- navigate social complexities and manage conflict
- overcome challenges
- empathize with others
- lead and motivate others
- improve overall physical and mental health by reducing stress and anxiety
- communicate effectively and forge stronger relationships

### LawPRO 5 Tips for Developing Emotional Intelligence

Developing emotional intelligence can make you a more effective lawyer.



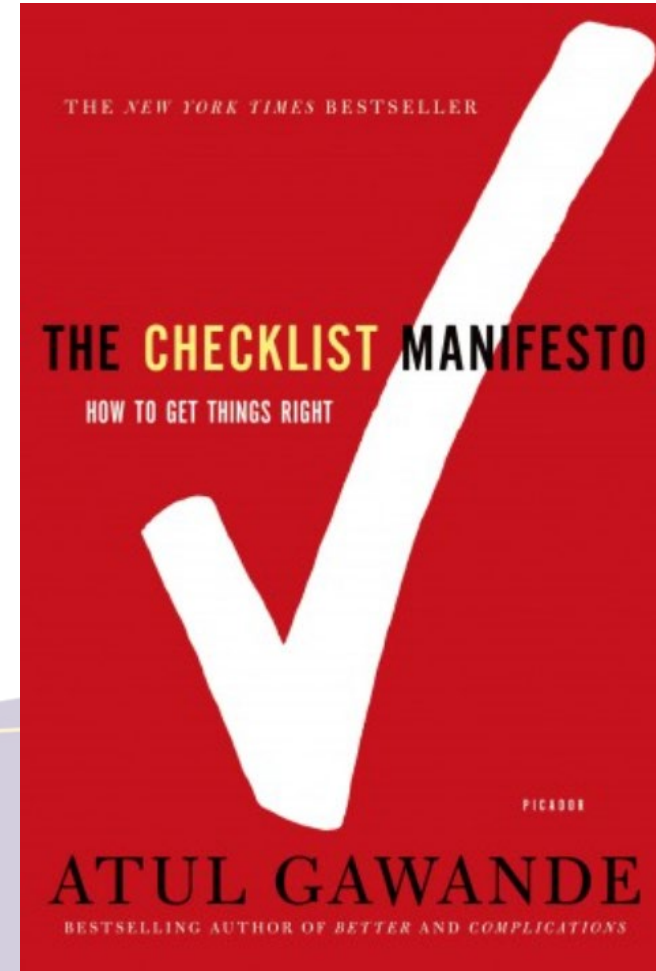
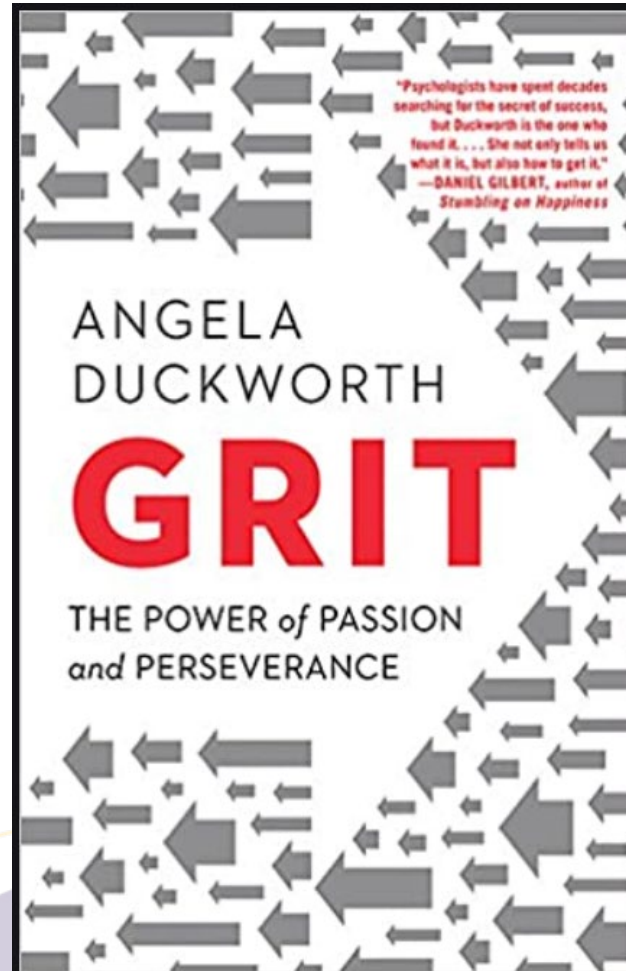
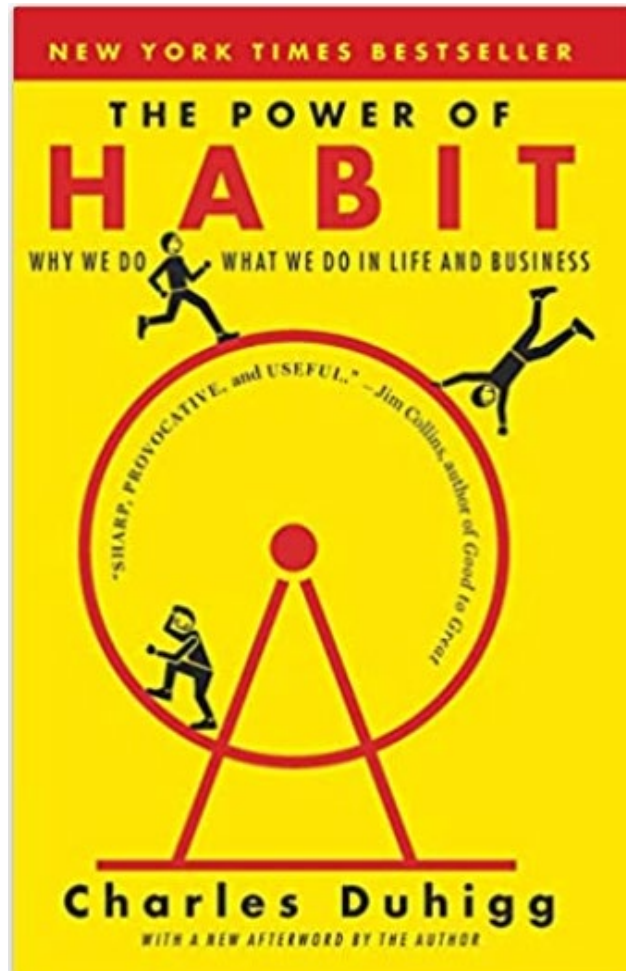
### Building emotional Intelligence: 5 Practice Tips

Unleash your curiosity!





# Read to feed your curiosity!



Consider different perspectives...

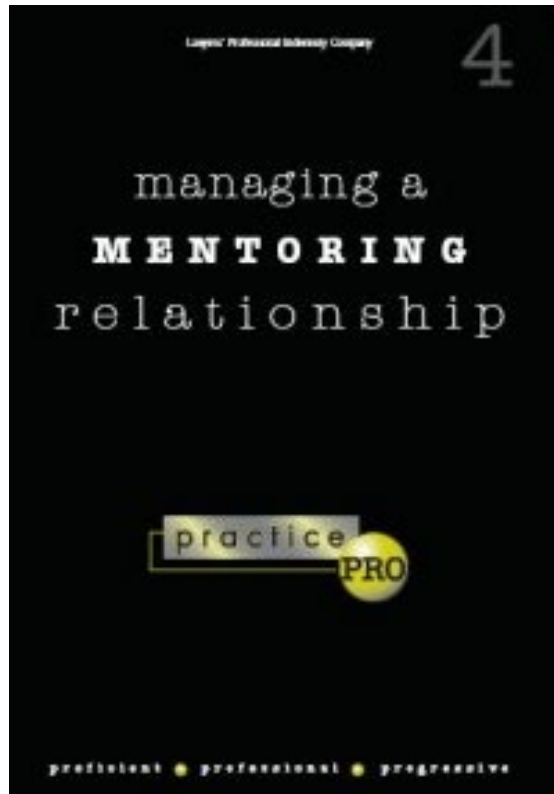




Find your communities!  
Law student clubs, clinics, law associations



# Get a Mentor



Take your breaks!

A lush green background with various plants and foliage. The text "and breathe" is written in a glowing, cursive font, centered in the lower half of the image. The word "and" is on the top line and "breathe" is on the bottom line. The text has a soft, pinkish-white glow.

and  
breathe



Mistakes happen – how can we fail better?

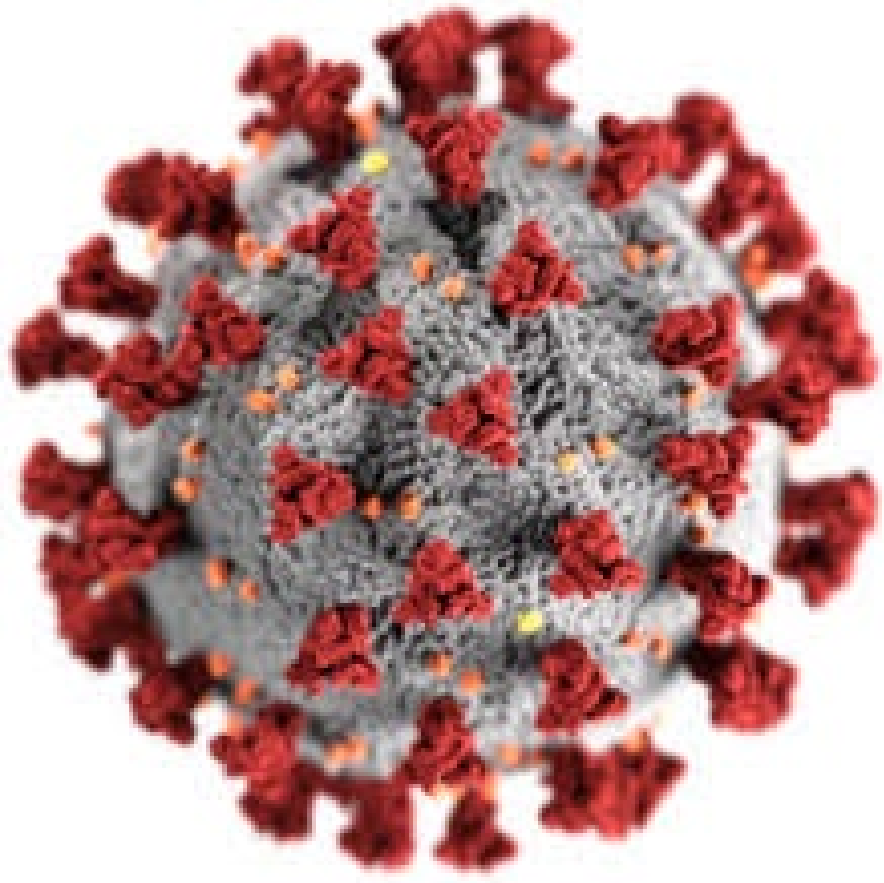


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**Insurance as innovation**

# COVID-19: Risks *and* opportunities



# Ask + Listen: Learn from your client's experiences\*

\*While keeping your professional obligations in mind – avoid unreasonable client pressures





# Tips for your professional paths





# You have options

- **Private practice**

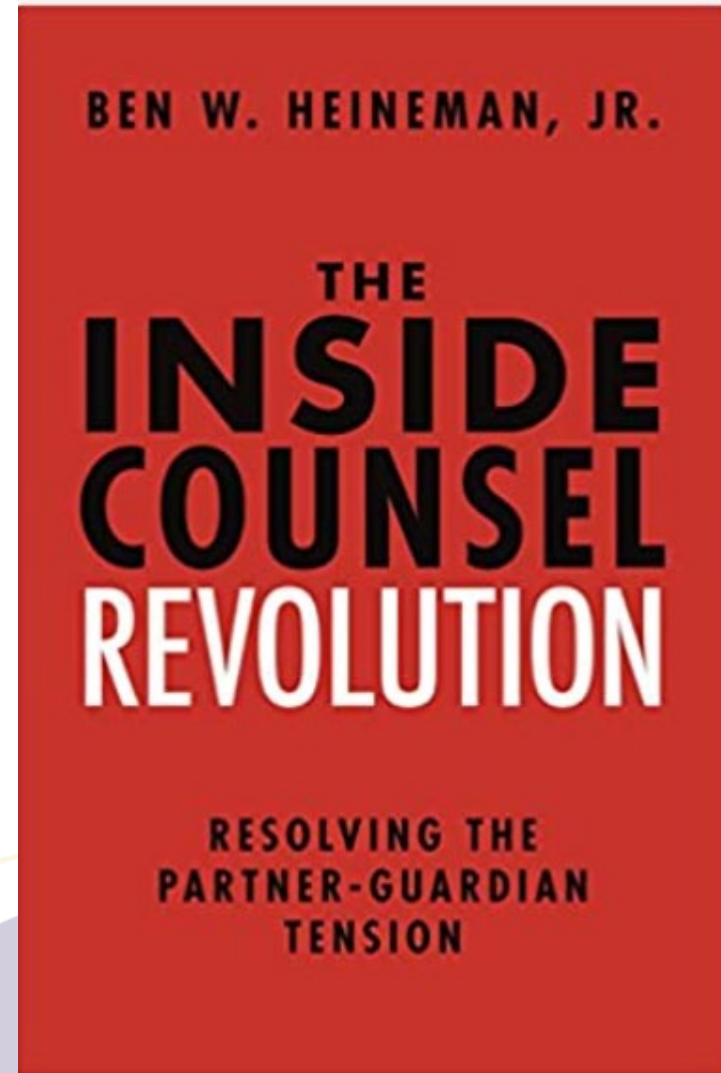
- Solo
- Small firm
- Medium size
- Large / international

- **Government**

- Legislative drafting
- General legal services to departments
- Advocacy
- Criminal law
- Policy

- **Agencies, Boards, Commissions, Tribunals**

# More options: In-House



# There are many choices!



You will likely make a few turns on the way!





# Map My Practice



What kind of lawyer  
do I want to be?



Honestly assess what makes  
sense for you






What makes you  
unique? What do  
you enjoy?



What do you not enjoy?



# Questions To Help Develop Your Practice



What type  
of clients do  
I want to  
attract?

What will be  
my practice  
area(s)?

How do I  
want to  
practice?

What kind  
of life do I  
want?

# Life Choices



Hours dedicated on task vs. outside interests

What level of income do I need?

What other factors are there in my life to take into consideration?  
(Ex: geography, family)

Pick an area of law you are passionate about.  
Specialize.



**Animals Attorney**  
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(800) 714-3204



# Got a moonshot practice idea?

## Minimum viable product

## modeling to start\*

Then visit [practicepro.ca](http://practicepro.ca) for budget precedents and other helpful resources

BE PROUD  
OF HOW  
HARD YOU  
ARE WORKING





- LAWPRO co-funds the Member Assistance Program (MAP) with the Law Society of Ontario
- The MAP is a **confidential health and wellness service**, operated by Homewood Health and provided at no cost to all lawyers, paralegals, law students, and judges in Ontario, as well as their family members

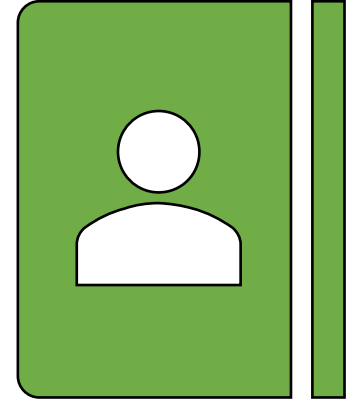
# Services offered by the MAP

- **Lifestyle coaching**
  - Coaching on childcare and parenting, elder and family care, financial and legal issues, nutrition and smoking cessation, as well as career, retirement, and workplace issues.
- **Peer-to-peer support**
  - Provides lawyers with a volunteer from the profession who can model recovery while providing empathy and understanding. These volunteers have also lived with mental health and wellness issues in the past and have continued to maintain successful and fulfilling careers.
- **Short and longer-term counselling**
  - Confidential short-term and crisis counselling is available in-person, online, or over the phone from experienced therapists who specialize in issues such as stress, anxiety, substance abuse, depression, burnout, and other personal and mental-health issues.



# The Lessons

- ✓ We're seeing change, accelerated
- ✓ There are lots of ways to develop your innovator's mindset
- ✓ There are many paths to meaningful work
- ✓ There are lots of ways to innovate to make law better
- ✓ Actively manage your path into practice and yourself
- ✓ Practice supports are available
- ✓ We're here to help!



Places to  
Learn More



*Risk management, claims prevention and loss management resources*

<a href="#">Home</a>	<a href="#">Hot Topics</a>	<a href="#">Practice Aids</a>	<a href="#">Publications</a>	<a href="#">CPD</a>	<a href="#">About</a>
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# LAWPRO Student Magazine

## Tips to help you succeed in the practice of law

The image shows the cover of a magazine titled "Student to Lawyer". The title is written in a large, stylized font with a particle effect. Below the title, it says "20 tips for a successful transition". There are three icons representing different career paths: "Sole Practitioner", "Small Firm", and "Big Firm". A central text "CHOOSE YOUR ROLE" has arrows pointing to each of these icons. There are two columns of text on the right side of the cover, providing introductory information about the tips. At the bottom left, there is a small page number "6" and the year "2018". At the bottom right, there are navigation arrows.

### Student to Lawyer

## 20 tips for a successful transition

There isn't a magic formula for mapping out a career in law. You will make some decisions on where you would like to go, but there are many things outside your control which will impact where you end up. Factors such as economic conditions, personal circumstances, and even a bit of luck will affect the career path you will follow.

Some law students have a very strong idea about the area of law they ultimately see themselves practicing in. Other students may have no idea, or perhaps an idea of areas of law they would prefer to avoid. Your thoughts may change as you go through law school. Whether you already have an articling position, an LPP placement, or are still searching, it is worthwhile to spend time organizing your thoughts about the direction you would like your professional life to take. This can help you make better choices. This article outlines some tips and self-assessment questions that will help you find your way to a satisfying and successful legal career.

6 2018 | Student Issue 7



## CONFLICT OF INTEREST TIPS

A conflict of interest happens when there is a substantial risk that a lawyer's duties to a client will be compromised by the lawyer's own interest or the lawyer's duties to another client, former client, or another third person.



### 1. DEVELOP AND FOLLOW A CONFLICT CHECKING SYSTEM

- Every new client means new potential conflicts. Implement and follow a rigorous conflict-checking system that applies to every new client and new hire. Also, make sure there are no conflicts with other lawyers at the firm, or with your own business interests. You can't always objectively judge your own conflicts, so it may be a good idea to get the opinion of someone outside the matter.



### 2. KNOW WHO YOUR CLIENT IS

- Ask yourself "who is my client?" Some family or business disputes find lawyers taking instructions from multiple individuals. Ensure you know which natural or corporate persons you represent in all circumstances. Send clients for LA when appropriate. Remember that conflicts can unexpectedly arise in the middle of a matter.



### 3. DON'T ACT FOR FAMILY MEMBERS OR FRIENDS

- It's best not to act for family or friends. They are too close to you. It increases the risk that you may have an interest in the matter, be unable to remain objective or manage your client's expectations. We see claims where lawyers didn't make proper enquiries or proper documentation because they assumed they knew their family or friends' personal circumstances or didn't treat their friend or family member's matter as they would normally. It's best not to act for them, but if you must, treat them as if they were strangers.



### 4. DON'T BE AFRAID TO WALK AWAY

- When a real or potential conflict of interest situation arises, it is critical that a lawyer immediately informs the client, and either withdraws, or proceeds with the client's consent where this is permitted.



### 5. SEEK FURTHER GUIDANCE WHERE NECESSARY

- For further guidance, consult the Law Society of Ontario's [Steps for Dealing with Conflicts of Interest Rules](#) resource, the [Canadian Bar Association Conflicts of Interest Toolkit](#) and our [Managing Conflict of Interest Situations](#) booklet.

LEARN MORE ABOUT AVOIDING CONFLICTS AND MANAGING YOUR RISKS:  
See the "[Malpractice Claims Fact Sheets](#)" and the [practicePRO conflicts of interest webpage](#).

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## INVESTIGATION TIPS

We often see claims related to lawyers who have not uncovered all the facts or developed a sufficient understanding of a client's matter. Here are tips to ensure a thorough understanding of the file.



### 1. MAKE INQUIRIES TO KNOW YOUR CLIENT

- Ask about clients' circumstances to ensure your advice takes everything into account. For example, a client's immigration status can be a key consideration when representing a person in criminal law, bearing a client's family tree, including previous marriages, is vital to preparing a will.
- Consider whether any title, corporate, or litigation searches may be necessary to develop a complete understanding of the file.



### 2. ASK FOR DOCUMENTATION AND USE PROBING QUESTIONS

- Some lawyers do not request client documents or ask the questions that could uncover material facts. Not knowing key information can cause significant problems in how you serve your client.
- To reduce this risk, ask open-ended questions during client intake and throughout the retainer.
- Inform your client what documents you will need from them. Follow-up with them with further questions. Ask, ask, ask. And then do a reporting letter to confirm your understanding of the facts and to confirm your instructions for next steps.



### 3. TAKE TIME TO CATCH AND CONSIDER ALL THE DETAILS

- Whether it is misreading (or not reading) information on a document, not conducting a search or not researching thoroughly, rushing or taking shortcuts can come back to haunt you. Make sure clients understand the risks if they instruct you to take shortcuts (usually to reduce fees), and that those discussions are documented. Do not be pushed into taking shortcuts that make you uncomfortable.



### 4. IF YOU ARE GOING TO OFFER LIMITED SCOPE RETAINER SERVICES, DO IT RIGHT

- Learn about unbundled legal services best practices, sample retainers and other resources on the [practicePRO Limited Scope Representation Resource page](#).
- Recognize that unbundled legal services are not always appropriate.
- A limited scope retainer does not mean less competent or lower quality legal services.
- Identify the discrete tasks that can be undertaken completely, confirm the scope of the retainer in writing and stick to it.



### 5. MAKE USE OF CHECKLISTS AND REPORTING LETTERS

- A final reporting letter detailing what you did and the advice you gave can be a great help if a claim occurs, which may arise long after you've forgotten the details of a particular file.

LEARN MORE INVESTIGATION TIPS AND MANAGING YOUR RISKS:  
See the "[Malpractice Claims Fact Sheets](#)" and the [practicePRO inadequate investigation webpage](#).

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## COMMUNICATION TIPS

The #1 cause of claims in almost every area of practice is communication breakdown. Implement the following actions to help avoid communication problems in your practice.



### 1. START CLIENT MANAGEMENT AT THE FIRST MEETING

- Use the initial client meeting to set clear client expectations.
- Meet with the client face-to-face (in person or online if necessary) to discuss the client's legal issue, understand their needs, and set parameters for the relationship.
- This is the time to find out all the information you will need to effectively act.
- If you end up not acting for a prospective client, confirm it in writing.



### 2. SET THE SCOPE IN WRITING

- Have written retainer agreements with clients. This ensures that you and your client agree on the cost of your services and help manage client expectations.
- It is important that you clearly express what is and what is not included in your services. Helping clients avoid surprises can lower your claims exposure.



### 3. KEEP YOUR CLIENT INFORMED

- Keep clients up-to-date on the status of their matters.
- Explain obligations and deadlines that will arise.
- Ensure your client understands the implications of signing key documents (such as contracts and settlement agreements) and the potential ramifications of all decisions (such as guilty pleas and conditional sentences on employment or immigration status).
- An unhappy client who feels neglected or ignored may try to challenge your actions later.



### 4. DOCUMENT INSTRUCTIONS, ADVICE, AND STEPS TAKEN

- Take detailed notes and confirm client conversations in writing to minimize misunderstandings, manage client expectations, and stay on course.
- Clients only have one lawyer, but lawyers have many clients. The details of the case are therefore memorable for the client. Unless you have detailed notes, the client's recollection may be more credible than yours.



### 5. CONFIRM RECEIPT OF CORRESPONDENCE

- When sending correspondence to your client or third parties, especially foreign agents, ask them to confirm receipt of that correspondence. If you don't receive confirmation within a reasonable time, follow-up to ensure the correspondence was received.



### 6. BE CLEAR WHEN THE RETAINER IS OVER

- A final reporting letter detailing what you did and the advice you gave can be a great help if a claim occurs, which may arise long after you've forgotten the details of a particular file.

LEARN MORE ABOUT EFFECTIVE COMMUNICATION AND MANAGING YOUR RISKS:  
See the "[Malpractice Claims Fact Sheets](#)" and the [practicePRO communication webpage](#).

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## CYBERSECURITY AND FRAUD PREVENTION TIPS

Phishing attacks and other forms of cyberfraud are an increasingly common source of loss for lawyers. Our constantly changing technology, and the changing tactics used by fraudsters, require constant vigilance and adaptation. Here are a few tips to keep your and your clients' information secure and prevent fraud.



### 1. IMPLEMENT ROBUST COMPUTER AND PHONE SECURITY PRACTICES

- Ensure that you have robust password protocols, including training your staff to use complex alphanumeric passwords along with two factor authentication.
- Make sure computers have adequate anti-virus protection and are regularly updated. Use end-to-end encryption when transmitting data over the internet.
- Implement regular data back-ups to a secure server or storage to prevent fraudsters from holding your data hostage following a ransomware attack.
- Consider trying penetration testing tools to assess network vulnerabilities.



### 2. PROVIDE STAFF TRAINING ON IDENTIFYING BAD CHEQUES AND PHISHING MESSAGES

- Train yourself and your staff to notice red flags associated with bad cheques and phishing attacks.
- Visit the [practicePRO fraud prevention webpage](#) for the LAWPRO Fraud Fact Sheets and tips for identifying fraud.



### 3. VERIFY INSTRUCTIONS RECEIVED BY EMAIL

- Spear-phishing attacks will often involve email instructions that appear to have originated from a client, law firm on the other side of a transaction or other trusted party, but are deceptions by fraudsters. Before following requests that come by email, particularly involving the transfer of funds, call the party providing those instructions on the phone to confirm their accuracy.



### 4. ENSURE YOU HAVE SUFFICIENT CYBER INSURANCE

- Malpractice insurance only protects certain cyber risks and firms should not assume their general liability insurance will cover all cyber risks. Consider whether a policy directly addressing the costs associated with cyberattacks is appropriate for your practice.



### 5. MAKE OR UPDATE YOUR INCIDENT RESPONSE PLAN

- Because a cyberattack can cause significant harm, law firms should be prepared to take action immediately. An Incident Response Plan addresses the steps for the detection, containment, and eradication of a cyber breach, recovery of normal operations, and follow-up analysis. LAWPRO's resources on [Incident Response Plans](#) can help you get started.

LEARN MORE ABOUT CYBERSECURITY AND FRAUD PREVENTION TIPS:  
See the [practicePRO fraud prevention webpage](#) and the [cyber dangers webpage](#).

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## TIPS FOR MANAGING DEADLINES

Missed deadlines are a major source of malpractice claims. Lawyers sometimes fail to determine the limitation period on a matter or fail to properly calendar it, miss other deadlines or fail to act when they arise. Here are tips to avoid these claims.



### 1. FAMILIARIZE YOURSELF WITH LIMITATION AND NOTICE PERIODS

- The most problematic limitation periods are the ones you don't know you don't know. Take time to educate yourself on limitation and notice periods and other deadlines.
- The [practicePRO resource page](#) provides helpful guides on limitation periods and notice periods in Ontario.



### 2. ADVISE CLIENTS OF DEADLINE AND DOCUMENTATION REQUIREMENTS

- Make sure the client is made aware (in writing) of all deadlines for submitting documents to you and knows the consequences of a delay or failure to provide documents.
- Give the client a response date that allows for follow-up (i.e. that allows you to review and request further documents or responses from your client before the final deadline).



### 3. KEEP YOUR FILES MOVING USING PRACTICE MANAGEMENT TOOLS

- Track key deadlines, and the steps you need to take to move your client's matter forward.
- Use practice management software and tickler systems to alert you to these approaching deadlines.



### 4. DON'T LEAVE THINGS TO THE LAST MINUTE

- Get in the habit of completing tasks before actual deadlines. If there is an unexpected problem, the extra time will allow you to take corrective action before the deadline has passed.



### 5. CHECK AND DOUBLE-CHECK DATES

- Always take the time to double-check that correct dates are entered on all documents and diary systems, and instruct staff to do the same.



### 6. AVOID ADMINISTRATIVE DISMISSALS

- Under Rule 48.14 of the Rules of Civil Procedure, matters commenced now are dismissed on a rolling basis five years after commencement. These dismissals will happen without notice to the parties. LAWPRO's [Bullseye Toolkit](#) can help you avoid such administrative dismissal claims.

LEARN MORE ABOUT EFFECTIVE TIME MANAGEMENT AND MANAGING YOUR RISKS:  
See the "[Malpractice Claims Fact Sheets](#)" and the [practicePRO time management webpage](#).

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## TIPS FOR KEEPING UP WITH THE LAW

Claims from a failure to know the law are less frequent than people think. However, it is still important to make sure you've got adequate subject-matter knowledge.



### 1. DO NOT DABBLE IN AREAS OUTSIDE YOUR EXPERTISE

- Law is complex and diverse, so don't stray outside your areas of expertise.
- Recommend your client retain the services of an expert for specialized areas like tax, intellectual property, or franchise law if you don't have a thorough knowledge of those fields.



### 2. DON'T GIVE ADVICE ON FOREIGN LAW

- Remember that the LAWPRO policy provides protection for claims that result from your "professional services" involving the law of Canada, its provinces and territories. While coverage is fact specific, generally the LAWPRO policy does not cover non-Canadian law.
- If your client requires assistance from a foreign agent consider having your clients retain a foreign agent directly. Being the conduit for communications with foreign agents increases your exposure to a claim.



### 3. ALWAYS BE LEARNING

- Subscribe to helpful newsletters, industry publications, blogs and social media within your practice areas to be alerted to new developments that may affect your clients. Many institutions, including LAWPRO, offer CPE programs that can help you keep on top of the latest legal developments and keep your practice management and risk management skills sharp.
- Visit [practicePRO's area of law page](#) for more on particular risks and practice areas.



### 4. ASK FOR HELP

- Ask others for help. Contact colleagues for general help in understanding developments in your area. For general legal research assistance, law librarians are great supports.



### 5. STAY CONNECTED TO YOUR PEERS

- Connect with colleagues in your practice areas through law associations and consider [getting or becoming a mentor](#).

LEARN MORE ABOUT MANAGING YOUR RISKS AND KNOWING THE LAW:  
See the "[Malpractice Claims Fact Sheets](#)" and the [practicePRO Failure to Know the Law webpage](#).

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# AvoidAClaim.com

Get the latest news on claims prevention and practice management

AvoidAclaim.com

Report a fraud at  
[fraudinfo@lawpro.ca](mailto:fraudinfo@lawpro.ca)

The screenshot shows the AvoidAClaim.com website. At the top right, there are social media icons for Facebook, Twitter, LinkedIn, and RSS, with the text "Follow us on". Below these is a yellow button labeled "REPORT A FRAUD". A navigation menu in purple contains links for Home, practicePRO Resources, All Fraud Warnings, About, Contact, and Subscribe. The main content area features a "Latest Blog Posts" section with a post titled "Always up-to-date LTT and NRST Frequently Asked Questions" dated May 8, 2017. Below this is a search bar with the text "Search AvoidAClaim.com" and a "SEARCH" button. A "Latest Fraud Warnings" section lists several items, including "Equipment purchase scam using the name Wim Snippe and Idreco BV" and "Equipment purchase scam using the name Michael Tornqvist".

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# Thank you and stay in touch!

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