

Checklist for Reporting a Malpractice Claim

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Meet Mark:

Mark Bassingthwaighte, Esq., serves as Risk Manager at [ALPS](#), a leading provider of insurance and risk management solutions for law firms. Since joining ALPS in 1998, Mark has worked with more than 1200 law firms nationwide, helping attorneys identify vulnerabilities, strengthen firm operations, and reduce professional liability risks.

He has presented over 700 continuing legal education (CLE) seminars across the United States and written extensively on the topics of risk management, legal ethics, and cyber security.

A trusted voice in the legal community, Mark is a member of the State Bar of Montana and the American Bar Association and holds a J.D. from Drake University Law School. His mission is to help attorneys build safer, more resilient practices in a rapidly evolving legal environment.



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Prompt, accurate reporting of claims and potential claims is one of the most important responsibilities under a lawyers' professional liability policy. Delayed reporting, incomplete notice, or attempts to handle matters privately can create serious coverage problems. Should you find yourself facing a situation of concern and are hesitant to reach out to your insurer, the following checklist of things to keep in mind may help you decide if the time to report has arrived.

Important Note: Always review your specific policy language and follow your carrier's reporting instructions because policies differ.

What to Report

Report **all claims** and **all potential claims**, even if you believe the matter lacks merit.

A "claim" is often broadly defined and may include:

- A written or verbal demand for money, damages, or services
- A demand letter alleging malpractice or wrongdoing
- Service of a lawsuit or arbitration demand
- A grievance or disciplinary complaint, if covered or potentially relevant
- A request to toll limitations periods or preserve rights
- Any formal allegation of professional error

A "potential claim" may arise whenever you know, or reasonably should know, of an act, error, omission, or circumstance that could lead to a claim.

Common examples include:

- Missed statutes of limitation or filing deadlines
- Failure to calendar hearings or deadlines
- Conflict of interest issues
- Settlement authority disputes
- Failure to name proper parties
- Dismissal for lack of prosecution
- Missed transactional deadlines
- Drafting errors in contracts, trusts, wills, or corporate documents

Best Practice: If you are asking yourself whether something should be reported, it usually should be.



When to Report

Malpractice policies generally require **timely, if not immediate**, notice of all claims and potential claims, regardless of the merits of the allegations. Because these policies are claims-made and reported policies, notice is what triggers coverage, not the underlying act, error, or omission.

Do not wait for:

- A lawsuit to be filed
- Damages to be fully known
- The client to become angry
- The matter to “blow over”
- You to complete your own investigation

Rule of Thumb: Report immediately or as soon as practicable after awareness.

How to Report

Follow the reporting procedure in your policy exactly. Many policies require written notice to a specific address, portal, or claims department.

Include basic facts such as:

- Lawyer and firm name
- Client name
- Matter name/file number
- Date you first became aware of the issue
- Description of the alleged or potential error
- Key deadlines or dates involved
- Current status of the underlying matter
- Any demand letter, complaint, or correspondence received

Keep the report factual, concise, and professional.

Tip: Save proof of submission and keep a copy of everything sent.

Why Prompt Reporting Matters



Failure to report timely can result in:

- Denial of coverage
- The issuance of a reservation of rights letter
- A declaratory judgment action to avoid coverage
- Increased underwriting scrutiny on future applications
- Possible rescission issues in extreme circumstances involving nondisclosure or misrepresentation

Even a defensible claim can become far more expensive if reporting obligations are missed.

Do Not Do These Things Without Carrier Consent

Unless specifically authorized by your insurer:

- Do not admit liability
- Do not promise or make any payment
- Do not settle directly with the client
- Do not waive fees as part of a side resolution without advice
- Do not incur any defense expenses expecting reimbursement
- Do not alter or “clean up” the file
- Do not sign a tolling agreement
- Do not agree to arbitration

Trying to fix a claim quietly can create larger legal and coverage problems.

Final Thought

Early reporting is usually the safest and smartest decision. Insurers have seen these situations before and can often help contain problems before they become claims of greater consequence.