



# PRÆVENTIO

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## TABLE OF CONTENTS

Management Report	1
Reduced Premium for Members as of April 1, 2017	3
Lawyer Analyst Wanted	3
Legal Malpractice Prevention	3
Appointments to the Professional Liability Insurance Fund of the Barreau du Québec	4

## MANAGEMENT REPORT

The Professional Liability Insurance Fund of the Barreau du Québec ended its twenty-eighth fiscal year as at December 31, 2016 with an annual surplus of \$6.5 million (\$7.8 million in 2015). It should be noted that the insurance premium decreased by \$152 per insured in 2016.

The premiums written were sufficient to cover the insurance program's operating costs.

After the \$27.5 million deficits suffered during the 2011 and 2012 fiscal years, we once again improved the Fund's solvency, thereby increasing the flexibility required to properly satisfy the coverage needs of the profession's members.

In the best interests of our members and the public, better control of the risks associated with the practice of law continues to be crucial. In 2016, the Fund once again presented a number of prevention activities aimed at reducing these risks.

### Some Figures

Equity amounted to \$77.9 million, compared with \$70.2 million in 2015.

The Fund's actuary, whose figures were validated by his peers and by the independent auditor's actuary, evaluated claim liabilities at \$54.3 million, an increase when compared with \$52.9 million in 2015.

The reinsurers' share of these provisions increased from \$1.8 million in 2015 to \$2.1 million in 2016.

During the same period, investment income was \$4.1 million (\$5.5 million in 2015). The decision to add exchange-traded index funds to the Fund's portfolio, including a foreign currency component, as well as preferred shares led to enhanced returns notwithstanding the decline in bond rates over the past few years.

Operating risks, including continuity of business, fraud and reputation, continue to be managed in accordance with strict internal control policies that comply with the requirements of the Autorité des marchés financiers.

Claims and settlement expenses (reserves and payments) for new claims presented in 2016 amounted to \$7.2 million (\$7 million in 2015). Favourable developments related to claims presented in previous years amounted to \$2.7 million, reducing total claims and settlement expenses to \$11 million (\$12.5 million in 2015).

Given the general coverage of \$10 million per loss available to insureds, the Fund continues to cushion its financial risk through reinsurance coverage of \$8 million for claims exceeding \$2 million.

During the fiscal year, the Fund paid out \$8.1 million in claims and settlement expenses, excluding internal costs (\$10.5 million in 2015), for the files of all years combined. In addition, the Fund settled 98 disputes out of court (76 in 2015), 14 of which involved no payment (11 in 2015), and obtained 30 discontinuances (27 in 2015).

Among the cases closed in 2016, the lawyers retained by the Fund were successful in having 26 cases dismissed (33 in 2015), with four (4) final judgments having been rendered against our insureds (2 in 2015). We continue our efforts to ensure the Fund implements the best strategies and makes the best decisions regarding whether or not to proceed to trial.

General overhead expenses increased slightly to \$2.3 in 2016 (\$2.2 million in 2015).

Through tight monitoring, defence costs decreased to \$3.9 million (\$4.3 million in 2015). We continue to hope that the new philosophy behind the *Code of Civil Procedure* will allow us to further reduce these costs.

The number of new claims decreased slightly, dropping from 649 in 2015 to 641 in 2016. At the end of the year, there were still 724 active cases (675 in 2015), representing a total of 19,075 notices since the Fund began its operations.

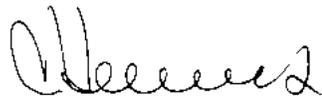
Our members once again expressed their satisfaction with the Fund. Our surveys of members after the processing of insured claims revealed that all our members expressed satisfaction with all of the services rendered by the Fund.

As at December 31, 2016, the Barreau insured the professional liability of 15,316 members through the Fund (14,931 in 2015). Another 11,071 members (10,893 in 2015) had sought and obtained an exemption from the insurance requirement on the ground that they worked exclusively for the public service or did not perform any of the acts reserved exclusively for lawyers in Québec.

On the prevention front, the Fund presented more than 30 free training workshops throughout Québec and online through Webpro, reaching a total of more than 1,500 participants. These training activities include the audiovisual presentations *Maîtres en mémoire!* (criminal law and family law) and *Maîtres en affaires!* (business law),

Montreal, February 22, 2017

Madeleine Lemieux, Ad. E., ASC



Chair of the Board

Maria De Michele, Lawyer, ASC



Executive Director

that set out various situations in which professional errors can occur.

The *Praeventio* bulletin, always highly valued by our insureds, was published 5 times in 2016. The bulletin included articles prepared by lawyers from the Fund's legal department discussing the new *Code of Civil Procedure*.

## The Board of Directors

During the fiscal year, there were 5 statutory meetings of the Board of Directors as well as 2 other meetings, plus 17 committee meetings.

In addition to its regular activities, this year the Board discussed the Fund's integrated risk management policy, management of the Fund's capital, maintaining the insurance coverage provided to the Fund's insureds and setting the premium for the insurance period beginning April 1, 2017.

We are pleased to point out the excellent quality of communications with the management team of the Barreau du Québec.

In closing, we thank our directors, each of whom participates wholeheartedly in guiding and monitoring the Insurance Fund. Lastly, we would also like to thank all of the Fund's employees for their professionalism, dedication and involvement, which are the foundation for our insureds' trust in the Fund. ☂

## REDUCED PREMIUM FOR MEMBERS AS OF APRIL 1, 2017

By M<sup>e</sup> Maria De Michele  
Executive Director

The Board of Directors of the Barreau du Québec has confirmed the recommendations of the Insurance Fund and the Sections Council and has decided to keep the existing mandatory coverage of \$10 million dollars per occurrence, subject to the specific limits set out in the insurance policy.

The insurance premium has been reduced to \$970 for each insured for the period from April 1, 2017 to April 1, 2018 (a \$78 decrease compared with the previous year's premium).

The Insurance Fund will continue to provide members of the Barreau du Québec with the best possible protection at the best possible price, while maintaining the financial stability required to sustain its activities. ☂

## LAWYER ANALYST WANTED

The Professional Liability Insurance Fund of the Barreau du Québec is seeking a lawyer analyst to work in its Claims Department.

### Responsibilities:

The lawyer analyst will report to the Director, Claims Department and have the following responsibilities:

- receive and evaluate the admissibility of claims filed by insureds and third parties;

- investigate claims, evaluate liability and quantum, and identify solutions and strategies;
- establish financial provisions, and control costs and delays;
- decide which claims to contest and which ones to settle, and negotiate settlements;
- instruct the lawyers in the legal department and retain outside counsel, and actively monitor files;
- track and record the progress of files, and follow-up with the reinsurers;
- maintain a high rate of satisfaction among insureds;
- inform members and contribute to prevention activities.

### Requirements:

Candidates must have been members in good standing of the Barreau du Québec for the past ten years, have experience in insurance and/or professional liability, master French and English and be able to work independently in a computerized environment.

Candidates must be team players and demonstrate sound judgment.

We invite you to submit your application by e-mail to the Executive Director at [maria.de.michele@farpbq.ca](mailto:maria.de.michele@farpbq.ca). ☂

## LEGAL MALPRACTICE PREVENTION

### Pitfalls to avoid so you don't trip up!

- Accepting a mandate from a difficult client
- Accepting a mandate from a member of the family/friend
- Accepting a mandate in an area of law with which you are not very familiar
- Accepting a mandate when you don't have the time and/or the resources required to handle the matter
- Accepting a last-minute mandate (such as a few days before a trial)
- Accepting a mandate when you are the n<sup>th</sup> lawyer in the case
- Not trusting your instincts
- Hesitating or failing to inform the client about the fees and costs to be incurred
- Failing to sign an agreement on fees
- Failing to confirm the mandate in writing

**Because an ounce of prevention is still worth a pound of cure!** ☂

## APPOINTMENTS TO THE PROFESSIONAL LIABILITY INSURANCE FUND OF THE BARREAU DU QUÉBEC

I am pleased to announce the most recent appointments to the Professional Liability Insurance Fund of the Barreau du Québec.



**Me Sophie Archambault was appointed Director, Claims Department.**

Me Archambault was called to the Bar in 1995. She was a litigation lawyer in private practice before joining the Fund's Claims Department, first as an analyst and then as head analyst. Over the past 15 years at the Fund, she has handled numerous claims against members of the Barreau du Québec in a variety of legal fields.



**Me Marie-Josée Bélainsky was appointed Director, Legal Department.**

Me Bélainsky was called to the Bar in 1982. She worked primarily in the fields of civil litigation, professional liability and ethics, both in private practice as well as within the Barreau du Québec. In 2011, she joined the Fund's Legal Department. In addition, Me Bélainsky has been a member of several committees and associations and continues

to teach at the École du Barreau and lecture at conferences.

Me Archambault's and Me Bélainsky's vast experience will undoubtedly contribute to maintaining the quality of the services provided by the Fund to its insureds. ☂

Maria De Michele, Lawyer, ASC

Executive Director



NOTICE

### Service de prévention

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This Loss Prevention Bulletin is published by the Professional Liability Insurance Fund of the Barreau du Québec.