

**REQUEST FOR INFORMATION
ALBERTA LAWYERS INDEMNITY ASSOCIATION
CASE RESOLUTION AND LITIGATION COUNSEL SERVICES**
This is not a solicitation.

Professional Liability Resolution and Litigation Services

The purpose of this Request for Information (“**RFI**”) is to identify lawyers and firms who are interested in providing case resolution and litigation services to the Alberta Lawyers Indemnity Association (“**ALIA**”) under the current Defence Counsel fee scale. All Alberta lawyers and firms are invited to participate. ALIA has identified a particular need for counsel with a background in family law and insurance coverage and encourages counsel with that expertise to participate; however, the RFI is open to all lawyers and firms.

ALIA administers professional liability claims and manages Alberta’s statutorily mandated indemnity program (the “**Program**”) to address errors, omissions, and misappropriation by Alberta’s private practice lawyers. The Program provides coverage to every lawyer who participates in the Program (“**Subscriber**”) and compensation to members of the public who have suffered indemnified losses due to negligence and misappropriation of Subscribers. In this capacity, ALIA evaluates, and reviews claims, assesses reasonable settlement options and hires external counsel to litigate claims when required.

ALIA’s existing external defence counsel are not required to respond to the RFI.

Enhancing Efficiency

All Alberta lawyers in private practice must purchase mandatory coverage under the Program.

The cost to address claims against Subscribers can be substantial. Legal actions against lawyers are based on a number of rationales, including tangible claims (e.g., failure to advance actions, missed limitation periods, failing to follow instructions, and drafting errors), but claims are also increasingly based on less tangible foundations, including actions framed in negligence but essentially claiming against a lawyer because the client is unhappy with the result of the case or its cost. Under these circumstances, even the best organized and most conscientious of lawyers can be the subject of an action either because they made a mistake or are unjustly accused of doing so.

ALIA is continuously seeking to identify and evaluate improved methods to fulfill its role in an efficient and effective manner. ALIA has expanded its programs aimed at loss prevention, including education and resources to prevent claims, increasing systems and methods to identify and warn counsel of scams and frauds, and looking at methods to continue to contain the cost of its case evaluation, resolution, and defence work. To assist with reducing the cost of defence work and to ensure efficient and effective resolution of claims where litigation services are required, ALIA has built a small in-house defence counsel team to either defend or resolve selected claims through all stages of litigation to final disposition.

When a claim is made against a Subscriber, and the circumstances require, ALIA either engages internal defence counsel or external defence counsel. External defence counsel are engaged from a list of interested and qualified counsel in order to defend or resolve the claim. Upon retention of external counsel, all of the litigation work on the matter is completed by the external counsel, who reports to and receives direction from ALIA's claims counsel who manage the claim. ALIA caps hourly rates paid by ALIA to external counsel.

Objective of this RFI

The objective of this RFI is to:

- seek general information about the availability and level of experience of lawyers and law firms who are interested and qualified to provide outside case resolution and litigation counsel services to ALIA regardless of prior direct experience;
- develop a better understanding of current external counsel demographics, capabilities, cost and willingness to work for ALIA within the existing rate scale; and
- identify external counsel with a background in family law and/or insurance coverage; however, as previously stated, the RFI is open to all lawyers and firms.

Lawyers and law firms interested in being considered for this work are encouraged to respond to this RFI.

Scope of Request

ALIA seeks information regarding the availability and interest by external litigation counsel to provide efficient and effective resolution and litigation services to ALIA for the defence of claims made against Subscribers. This would involve all litigation steps, including the following:

- receiving claim details, preparing a case evaluation and recommendation, and preparing all litigation documents that may be required (e.g., Statement of Defence, motions, and briefs);
- preparing for and attending questioning and preparing and submitting responses to discovery requests;
- representing a Subscriber throughout the litigation, including at trial if required;
- providing objective third-party advice and counsel to Subscribers and to ALIA to allow the defending parties to make well-informed decisions regarding litigation;
- working in conjunction with ALIA's claims counsel, or senior management with respect to the above;
- periodically reporting to ALIA in accordance with the ALIA Defence Counsel Guidelines including use of the ALIA Standard Claim Reporting Letter and following the ALIA Minimum Reporting Requirements;

- preparing and submitting legal budgets to ALIA's claims counsel as well as regular updates in respect of such budgets, as well as following the ALIA billing procedures;
- undertaking the work based on the tariff rates established from time to time by ALIA, which are currently set out in the fee scale referred to in this RFI, above; and
- periodically attending ALIA defence counsel meetings and participating in legal trend discussions as required.

Content of Response

Respondents to this RFI are encouraged to send a submission describing their experience to **ALIAinitiatives@lawsociety.ab.ca**.

If a lawyer or law firm is interested in providing case resolution and litigation services to ALIA, they are encouraged to describe ways in which they believe that their service capability is well suited to ALIA's needs

If there is additional or supplemental documentation that a lawyer or law firm wishes to provide to augment their responses to the questions, they may include this in their submission. Any supplemental material should be specific and germane to these RFI enquiries. ALIA may disclose any information received to its affiliates (including the Law Society of Alberta and its directors, benchers, officers, employees, and consultants).

No contract can or will be awarded based on the submissions. This RFI is designed as a tool to collect information and will not itself result in a procurement contract for legal services. A response does not bind or obligate the responder or ALIA to any agreement of provision or procurement of services. Questions and responses may be directed via email to **ALIAinitiatives@lawsociety.ab.ca**. No phone calls will be accepted. However, as this is not a bid solicitation, ALIA will not necessarily respond to enquiries in writing or by circulating answers to all potential respondents.

Response Costs

This is a voluntary process and ALIA will not reimburse any respondent for expenses incurred in responding to this RFI.

Treatment of Responses

- Responses: The Responses will be used by ALIA to identify lawyers and firms interested in undertaking defence work and in its considerations relating to improving case resolution and litigation services and procurement strategies.
- Review Team: A review team composed of representatives of ALIA will review the responses. ALIA reserves the right to hire an independent consultant or use any resources that it considers necessary to review any response. Not all members of the review team will necessarily review all responses.

- Pre-Submission Information Sessions: ALIA may, in its discretion, host information sessions for the purpose of explaining its requirements and to allow lawyers and firms to ask questions and seek clarifications. These sessions may be held in person or online.
- Post-Submission Review Meetings: ALIA may, in its discretion, hold a Post-Submission Review Meeting with parties or request individual Post-Submission Review Meetings with selected respondents to provide clarity regarding the information provided, or to invite a presentation about some or all of the proposed comments. The intent of these meetings will be to provide an opportunity for a face-to-face discussion with respondents. Although respondents may request a meeting, and their request will be considered, ALIA will determine whether or not it requires additional information from any given respondent and will schedule meetings accordingly.

Respondents should provide their responses no later than 5:00 p.m. MDT on March 15, 2023, to ALIAinitiatives.lawsociety.ab.ca.

Lawyer's Interest, RFI Comments and Responses

Demographics

Firm or Lawyer Name

- Address
- Judicial District

Contact Name

- Title
- Email Address
- Phone Number

Questions

Individual or Firm Engagement

If a Lawyer or Law Firm is interested in being considered to provide case resolution and litigation services to ALIA, please provide the following information:

Qualifications and Experience

Legal Experience - Provide a description of the qualifications of you or your firm and the extent of your case resolution and litigation experience, including dispute resolution, conducting trials in the Court of King's Bench and undertaking appeals before the Court of Appeal. The description should include information about the complexity of the matters and the nature and extent (preferably in approximate hours) of motions, discovery, and trial. Include relevant biographies and highlight expertise specific to negligence and professional negligence matters. Provide representative estimates of the numbers of hours that were involved in each case, roughly broken down by the type of service provided. For instance, how many hours, in general and as an average, did you undertake to complete motions, discovery, trial, and post-trial matters, etc.

Demonstrated Expertise - Indicate the number of clients you or your firm have acted for in contested litigation matters in the last three years. How many of the cases involved negligence or professional negligence claims? Indicate how many of those actions were settled, adjudicated through trial, abandoned, or appealed? Have you undertaken defence or other legal work for an insurance company?

Organization and Structure – If you are a firm, please describe your business organization, size, structure, areas of practice, and office location(s). Provide details of your relationship management approach describing how you will ensure efficient management of our relationship with you. Please describe your backup procedures in the

event you or one of the lawyers assigned to ALIA's work leaves the firm. How do you or your firm build, retain and capitalize on the institutional knowledge you develop while working with ALIA? Do you have a succession plan to ensure that another lawyer can efficiently and effectively continue to undertake ALIA's work? Describe how you or your firm ensures cost efficiency while maintaining quality client service. Include references to your staffing leverage philosophy, i.e., how you best use staff of differing experience and expertise to complete litigation matters.

Team – If you or your firm were selected to provide case resolution and litigation services to ALIA, which lawyers would undertake this work? Please include biographies and relevant experience for you and your team (and billing rates, as requested under Billing, below) and describe your approach to staffing files.

Services – Describe the type and scope of the litigation services that you or your firm can provide to ALIA concerning professional negligence claims. Include a description of a representative experience. Also, please state whether your firm would be interested in seconding lawyers to ALIA, and if so please describe your approach to secondment.

Conflicts – Please discuss any conflicts that you are aware of or which you believe could arise relative to work you may undertake for ALIA. Have you previously or do you currently represent a party with a claim or action against a Subscriber or ALIA? How would you address conflicts that exist or are reasonably expected to arise?

Billing – Please indicate whether your firm typically performs work on an hourly basis or for a flat fee. Describe any non-traditional fee arrangements that your firm has offered or is willing to consider. Please include current fees or hourly billing rates charged by you or the lawyers in your firm who would undertake ALIA's defence work. Please confirm that you are prepared to undertake work for ALIA based upon the current fee scale.

General – Please raise for consideration any matter that would be of assistance in evaluating your ability to perform defence services for ALIA. Indicate any information, conditions or procedures concerning the provision of case resolution and litigation services that would facilitate, enhance or improve your ability to deliver those services cost-effectively.

If you were providing services to us, would you be prepared not to take files against ALIA where ALIA is defending the claim on behalf of a Subscriber?