

February 2004

## **WARNING: ONTARIO MUNICIPALITIES**

As you may be aware, effective January 1, 2004 the three-month limitation period for highway non-repair claims no longer applies. The 10-day notice period, however, continues to apply.

A case has come to our attention where notice was sent to the Municipality by the plaintiff's solicitor beyond the 10-day notice period. In the letter the plaintiff's solicitor has attempted to have the Municipality waive the 10-day notice period as described below.

The letter states:

**"I have included an acknowledgement with this fax which I ask that you sign and return to me as soon as possible by fax."**

The Acknowledgement states:

**"I acknowledge that I have received a notice letter on behalf of [claimant's name] which puts the [Municipality] on notice of her intention to commence the claim described there and that the notice is sufficient [underlining added]."**

Please instruct your staff to beware of such requests for acknowledgement of notice, as this may prejudice the defence of the claim in cases where the notice provided is late or insufficient.

We strongly advise our clients not to sign such a letter, and if you get a letter of this kind, follow your usual claims reporting procedures.

**We care about what you care about.**

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