REPORT

When the lawsuit arrives first: inside Canada's financial lines claims

How disciplined claim handling moves E&O and D&O files from first notice to resolution.

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What sets financial lines claims apart

Most Financial Lines files arrive with a statement of claim already attached. Determining whether coverage applies, and on what terms, becomes the first step that informs subsequent claim handling decisions. Counsel briefing, framing of reserves, reservation of rights, defence cost advancement and indemnity position all hinge on that initial coverage review.

At the same time, financial pressure across Canadian households and institutions is changing where these files originate. Volume in financial institution Professional Liability Errors & Omissions (E&O) has grown alongside more frequent fraud activity, while Directors & Officers (D&O) claims are now triggered by a broader set of events, including shareholder action, insolvency-related disputes and regulatory scrutiny.

These trends make the discipline of early-stage claims work more consequential for insurers and brokers writing or placing in this market. The way a Financial Lines file is handled in its first weeks often determines how it resolves months or years later.

> Determining whether coverage applies, and on what terms, becomes the very first decision from which every step flows."
>
> Frank Bruno
> Financial Lines practice leader

Where professional liability claims are coming from

In Canada, most E&O claims arise from three areas of professional practice.

Mortgage brokers and lenders

They generate the highest claims volume, as housing affordability, fluctuating interest rates and changing underwriting standards weigh on the broker's role. Claims often turn on income verification, suitability of recommended products, and disclosure of material risks or conflicts, and can involve fraud-adjacent allegations such as misrepresentation. Private lending and syndicated mortgage exposures add complexity, especially when a deal fails, and losses crystallize, and FSRA in Ontario has increased focus on written disclosure and brokerage obligations to investor-lenders.

Accountants and tax professionals

They generate technically demanding files, commonly arising from reliance on advice, missed advice, and claims connected to insolvency. The damage model is typically pure economic loss, built from tax, penalties, interest, lost credits and the cost of unwinding transactions, which makes these files expert-heavy and highly sensitive to causation. Engagement letter scope becomes a defining issue, particularly when work crosses between compliance, advisory and tax planning.

Financial advisors and wealth managers

Disclosure remains the central exposure, but market volatility increasingly turns paper losses into formal complaints. Then the dispute often pivots to whether the client was properly profiled (KYC), whether the product was understood (KYP), and whether the recommendation or portfolio was suitable to the client's circumstances.

E&O and D&O are different shapes of claim

E&O claims sit on a single insured. The professional or firm has allegedly performed a service in error, and the file turns on whether that error caused the alleged loss.

Severity is typically driven by three patterns.

Engagement letter scope: work extends beyond what was documented and the boundary of the duty becomes contested.

Delay in technical analysis: forensic accounting is brought in too late to test the link between the alleged error and the financial impact.

Weakness in causation framing: the connection between the alleged error and the financial loss is not built out rigorously enough to support the defence.

D&O claims are a distinct, high-severity risk class fundamentally different from E&O and traditional casualty, spanning governance, fiduciary duty and reputation, and often involving multiple insureds across the company, its directors and officers.

Claims frequently commonly arises from shareholder and investor actions, insolvency pressures and regulatory investigations, often running in parallel.

Coverage can cut across towers and policies, with defence costs advanced before liability is clear. Managing erosion, timing and coordination across layers becomes central to preserving capacity and controlling outcomes.

E&O and D&O at a Glance

	E&O	D&O
Insureds	Single insured (the professional or firm)	Multiple insureds across the company and its directors and officers
The file turns on	Whether the alleged error caused the loss	Governance, fiduciary duty and regulatory exposure
Severity drivers	Engagement letter scope, delayed technical analysis, weak causation framing	Defence cost erosion, multi-insured conflicts, parallel proceedings
Coverage shape	Typically clear at the limits level	Cuts across towers and policies

Inside the adjuster's playbook: best practices in claim handling

The coverage analysis starts with parsing the legal pleading against the policy wording. Allegations may trigger a duty to defend without triggering a duty to indemnify, and a single pleading often mixes covered and uncovered allegations. That work is set down in the coverage summary letter, which outlines how the policy may respond based on the information available and applicable wording.

What happens next depends on the file type.

On E&O matters, the early question is whether the dispute is genuinely a professional error or a client position dressed as a negligence claim, particularly where the underlying issue is a poor economic outcome.

The engagement letter is examined closely; the scope of the retainer often determines whether the alleged conduct sits within or outside the policy. Forensic accounting is brought in early on accountant and tax professional files. **Subrogation is assessed as soon as fraud is suspected, where the recovery window closes quickly.** A regular reporting cadence (for example, 45 to 60 days) can help insurers monitor and respond to potential escalation.

On D&O matters, an early step may include contact with the board, because governance posture and indemnification practice shape both defence costs and exposure.

Counsel strategy is calibrated to the matter, with multi-insured coordination mapped early where the company and individual directors face different allegations.

Parallel proceedings, such as regulatory investigations running alongside civil action, are tracked together. Defence cost advancement is set up against the tower from day one, with erosion tracked carefully and resolution timing chosen to avoid unnecessary burn.

Effective claim handling can help reduce uncertainty on a class of files known for complexity.

Inside E&O claims work

CASE STUDY

Mortgage brokers and lenders

The case: Centred on fraud adjacency and disclosure challenges in alternative mortgage placements, with complex allegations of misrepresentation and unsuitable recommendations.

The work: Effective adjusting discipline played a pivotal role by dissecting coverage outcomes and providing analysis to assist in understanding how policy exceptions may apply to the losses in question. Technical analysis and expert opinions were instrumental in guiding the client through complex litigation.

The outcome: Adjusting expertise supported a favourable outcome and provided insight for handling similar disputes in future matters.

CASE STUDY

Coverage litigation

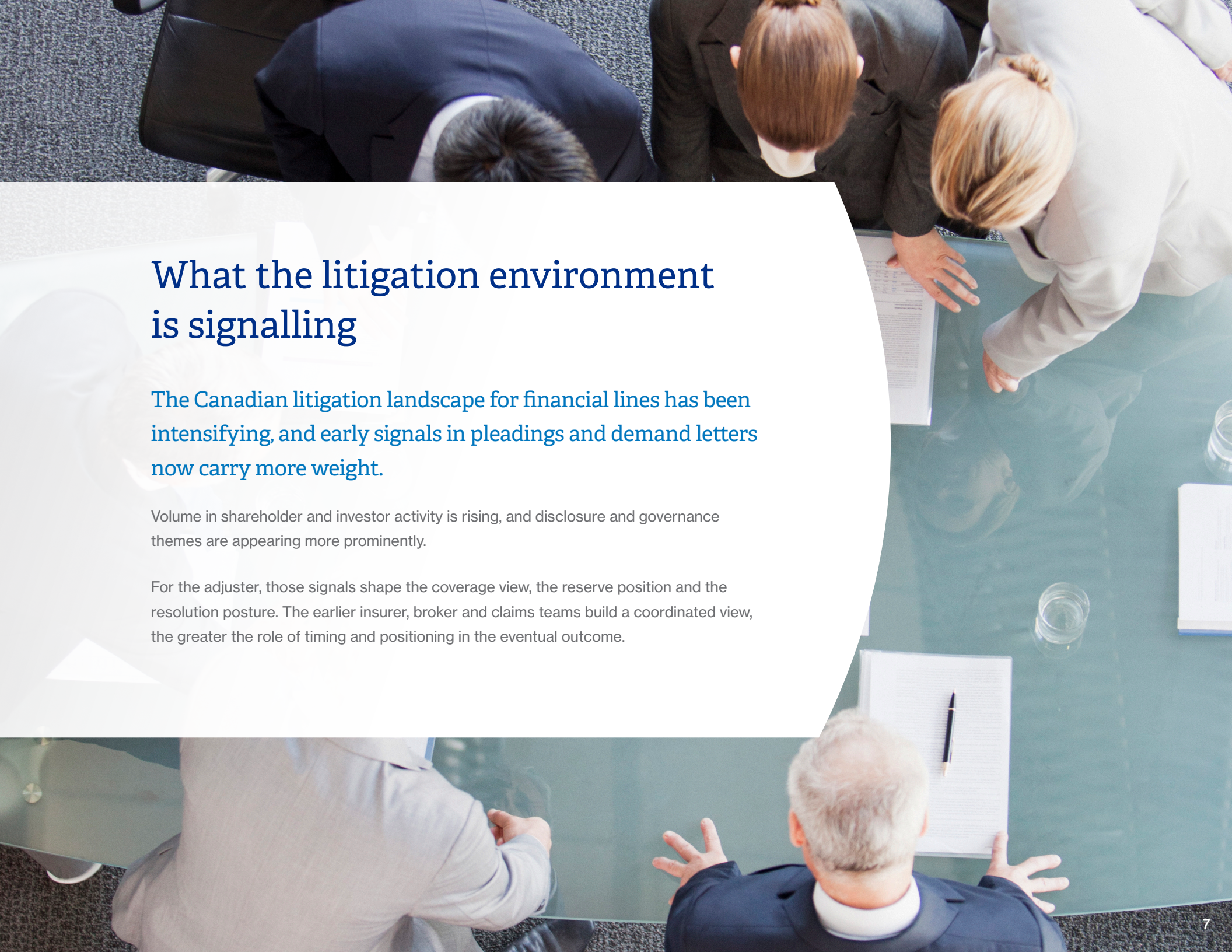
The case: A specialty insurance carrier was party to a coverage dispute focused on intentional and dishonest act exclusions and fraud endorsement boundaries.

The work: Effective adjusting discipline played a pivotal role by dissecting coverage outcomes and explaining why certain losses did not fall within the policy exceptions as argued. Technical analysis and expert opinions were instrumental in guiding the client through complex litigation.

The outcome: Adjusting expertise supported a favourable outcome and set a precedent for handling similar disputes.

> “The way a Financial Lines file is handled in its first weeks can significantly influence how it progresses over time.”

Frank Bruno
Financial Lines practice leader



What the litigation environment is signalling

The Canadian litigation landscape for financial lines has been intensifying, and early signals in pleadings and demand letters now carry more weight.

Volume in shareholder and investor activity is rising, and disclosure and governance themes are appearing more prominently.

For the adjuster, those signals shape the coverage view, the reserve position and the resolution posture. The earlier insurer, broker and claims teams build a coordinated view, the greater the role of timing and positioning in the eventual outcome.

Why disciplined handling shapes outcomes

The structural complexity of E&O and D&O files is unlikely to ease, and financial lines volume in Canada continues to grow.

The adjusting discipline supporting claim response is an important factor influencing how claims develop and resolve.

Files handled effectively produce sharper coverage positions, accurate reserves and fewer late-stage surprises.

For insurers and brokers operating in financial lines, the quality of claims work behind every file will increasingly be central to how the cover's value is measured.

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