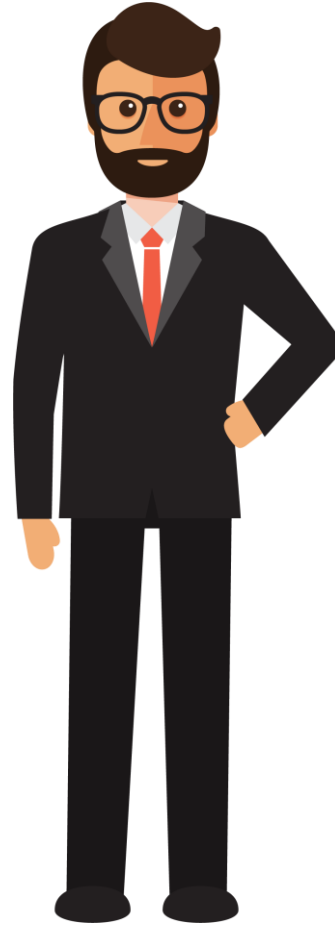




What Would You Do? **Presentation Series:** Working in Your Area of Expertise



Setting the scene...



Shawn
(REALTOR®)

Setting the scene...



Buyers
(Shawn's Clients)



Shawn
(REALTOR®)

A blurred background image showing several people in business attire (suits and ties) gathered around a table, possibly in a meeting or negotiation. Their hands are visible, some holding documents or tablets, suggesting a professional setting.

What might Shawn need to consider in preparing the offer, given:

- 1. the buyers' concerns around COVID-19,**
- 2. the potential implications of COVID-19 on purchasing a property, and**
- 3. the buyers' request to include a COVID-19 clause?**

Considerations?

Funds

Market Value

COVID-19 Clause

Area of Expertise

Due Diligence

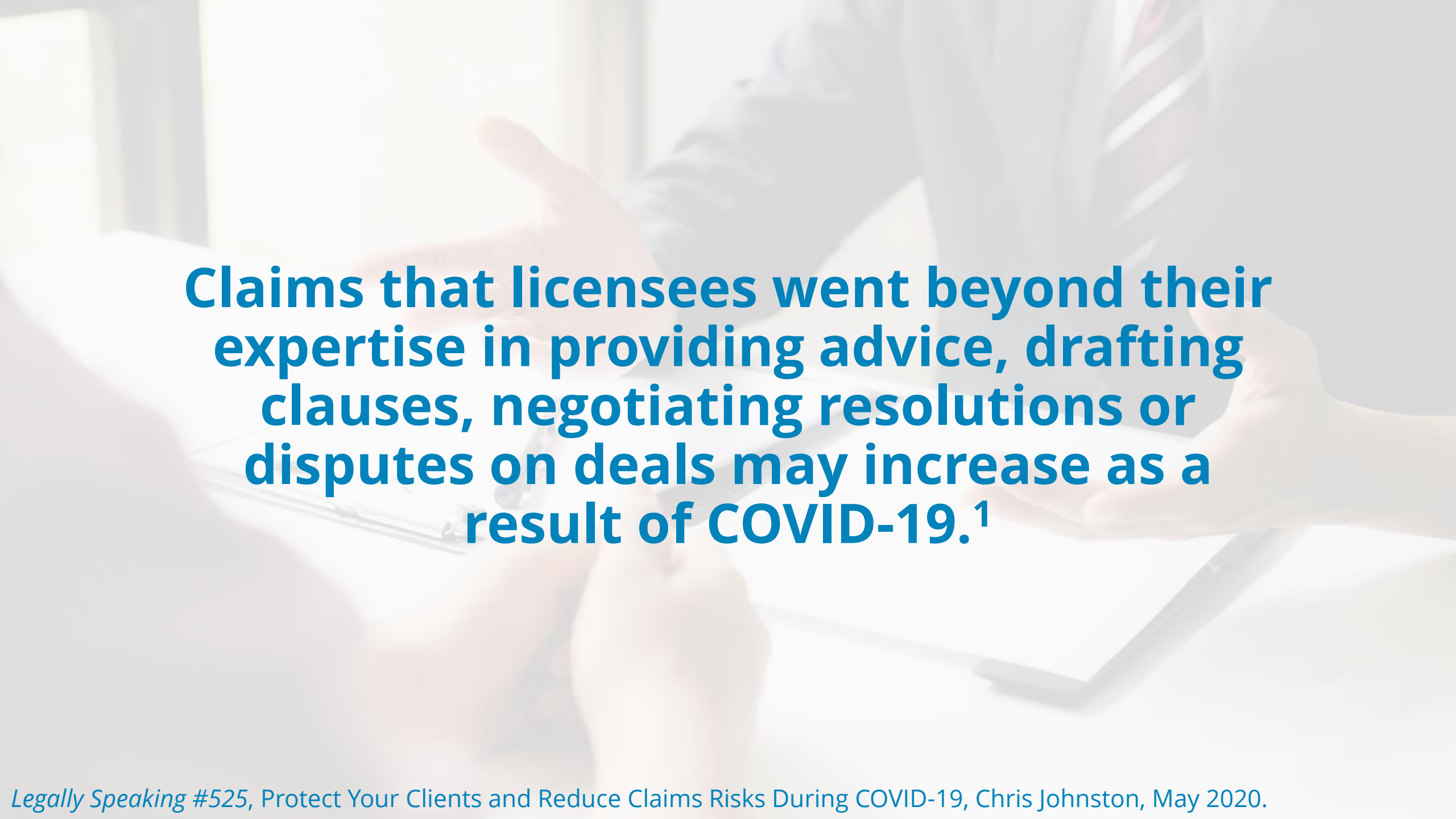
Legal Advice

**Owner or Tenant
Occupied**

Timeline



***What would
you do?***



Claims that licensees went beyond their expertise in providing advice, drafting clauses, negotiating resolutions or disputes on deals may increase as a result of COVID-19.¹



**Acting Outside Your Area of
Expertise**

Examples where Realtors may be found to be acting outside their area of expertise:

1. Offering advice or not referring clients to seek professional advice when and where appropriate
2. Drafting clauses
3. Residential Realtors selling commercial or business properties,
4. Being unfamiliar with property types with unique considerations such as strata or rural real estate
5. Providing services outside of their (geographic) practice area and not being familiar with zoning, bylaws, environmental issues, etc.
6. Offering services they are not licensed for such as property management

Practicing Within Your Competency Areas

Addressed in:

- Section 35 of the *Real Estate Services Act*
- Sections 3-3 [duties to clients] and 3-4 [duty to act with reasonable care and skill] of the Real Estate Rules
- The REALTOR® Code of Ethics



Buyers
(Shawn's Clients)



Shawn
(REALTOR®)



**Case Study #1: Acting Outside
Your Area of Expertise -
Unsubstantiated Comments**

What happened?

- The licensee showed buyers a bare land strata lot
- The buyers asked the licensee if they could add some fill to the property to make it more suitable for their needs
- The licensee recalled advising that there was no wetlands covenant on the property, and she believed they could make their desired changes
- After the buyers completed their purchase, they discovered there was more to the story...

A blurred background image showing two people shaking hands over a table. The table has papers, a pen, and a glass. The scene is brightly lit, suggesting an indoor setting like a meeting or office.

Where did the licensee go wrong?

What were the results?

- A RECBC discipline committee found that the licensee:
- failed to advise the said buyers to seek independent professional advice on matters outside her expertise;
 - failed to use reasonable efforts to discover relevant facts respecting the property; and
 - failed to make appropriate recommendations to the buyers.



**How could you identify and reduce risk
in this scenario?**

Identifying and reducing risk

- Act within your **competence area**
- Consider where it may be best to **refer to a colleague** or recommend **professional advice**
- Document, **document**, document (always)!

A scenic view of a mountain village in winter. The houses are multi-story wooden chalets with snow-covered roofs and balconies. The trees are evergreens, some heavily laden with snow. In the foreground, a person in a red jacket is skiing down a snowy slope. The overall atmosphere is bright and wintry.

Case Study #2: Acting Outside Your Area of Expertise – Specialized Property Types

What happened?

- A licensee acted for a buyer looking for a home in ski country
- The buyer was from overseas and was not present to view or inspect the property
- The licensee said he would ensure the buyer had all they needed in order to make an informed decision
- The deal completed with the buyer being unaware that they could not move into the property full-time as it had restrictions on owner usage

A scenic view of a mountain village in winter. The houses are multi-story wooden chalets with snow-covered roofs and balconies. The surrounding area is covered in snow, with evergreen trees and a lone skier in a red jacket visible in the foreground. The overall atmosphere is bright and wintry.

Where did the licensee go wrong?

What were the results?

Although this claim was resolved before it turned into litigation, the licensee lost many hours compiling documents and statements and meeting with defence counsel.

In addition, the stress of being involved in a professional liability claim should not be underestimated.

A photograph of a mountain village in winter. The houses are multi-story wooden structures with snow on their roofs and balconies. The surrounding area is covered in snow, with evergreen trees. In the foreground, a person in a red jacket is walking on a snowy slope. The overall scene is bright and somewhat hazy, suggesting a snowy day.

How could you identify and reduce risk in this scenario?

Identifying and reducing risk

- Ensure you are competent to provide services specific to the **property type/geographic location**
- Consider whether you have the knowledge and skill to represent the client considering **standards of practice** in the profession
- Consider when your client might be best served by referring them to someone with **more knowledge and skill** to represent their interests

What should Shawn do?



Buyers
(Shawn's Clients)



Shawn
(REALTOR®)

What should Shawn do?



Buyers
(Shawn's Clients)



Shawn
(REALTOR®)



Reducing the risk of acting outside your area of expertise

- Identify and practice within your **competence areas**
- Provide **fact-based information**
- Seek **guidance** from your managing broker
- Use your **professional judgement**
- Take **extra training** or courses
- Use **reliable information** sources
- Document, **document**, document (always)!

Support and Resources

- BCREA Legally Speaking #525: <https://www.bcrea.bc.ca/legally-speaking/protect-your-clients-and-reduce-claims-risks-during-covid-19-525/>
- RECBC Knowledge Base: <https://www.recbc.ca/professionals/knowledge-base/guidelines/trading-services-practice-standards>
- REEOIC Risk Report: <https://www.reeoic.com/wp/wp-content/uploads/Stick-to-your-area-of-expertise.pdf>

