



REPORT TO CONVOCATION  
(2025 Insurance Program Proposal)

SEPTEMBER 2024

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# LAWYERS' PROFESSIONAL INDEMNITY COMPANY ("LAWPRO")

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## REPORT TO CONVOCATION SEPTEMBER 2024

### INTRODUCTION

1. LAWPRO provides the mandatory professional liability insurance coverage for the more than 31,000<sup>1</sup> Ontario lawyers and paralegals in private practice. Each September, LAWPRO's Board of Directors reports to Convocation on changes to the insurance program for the following calendar year. The timing of this Report is necessitated by the logistics of starting the application process on October 1 so that all policies can be renewed effective January 1, and the need to negotiate and place required reinsurance treaties prior to the renewal date.
2. Over the last eight months, LAWPRO's Board and Management conducted their annual review of the Primary Errors and Omissions Program (the "Primary Program") and offer an insurance program for 2025 with the changes outlined in this Report.
3. Based on LAWPRO's mandate from Convocation, careful consideration of coverage needs, claims trends, potential risks, regulatory requirements, and affordability, the LAWPRO Board recommends that Convocation approve this Primary Program of Insurance for 2025 as offered so that it can be implemented by January 1, 2025.

Summary of changes to the 2025-001 Policy:

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| <ol style="list-style-type: none"><li>1. <b>New optional coverage to meet professional liability insurance requirements for members of the College of Patent and Trademark Agents (CPATA).</b></li><li>2. <b>New digital or electronic funds transfer exclusion.</b></li><li>3. <b>Discontinuance of quarterly payment option.</b></li><li>4. <b>Other minor changes to policy wording and program administration that are housekeeping in nature or intended to clarify underwriting intention.</b></li><li>5. <b>Base premium remains \$3,250 and all other discounts and charges remain unchanged.</b></li></ol> |
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<sup>1</sup> As at 31 July, 2024, there were 29,063 full-time lawyer insureds, 2,554 part-time lawyer insureds, and 66 paralegal insureds. As well, there were 80 non-licensees who are in Multi-Discipline Partnerships (MDPs) with lawyers and are also insured with LAWPRO. The number of insureds fluctuates month-to-month as some lawyers leave private practice and new lawyers begin practicing.

## BACKGROUND

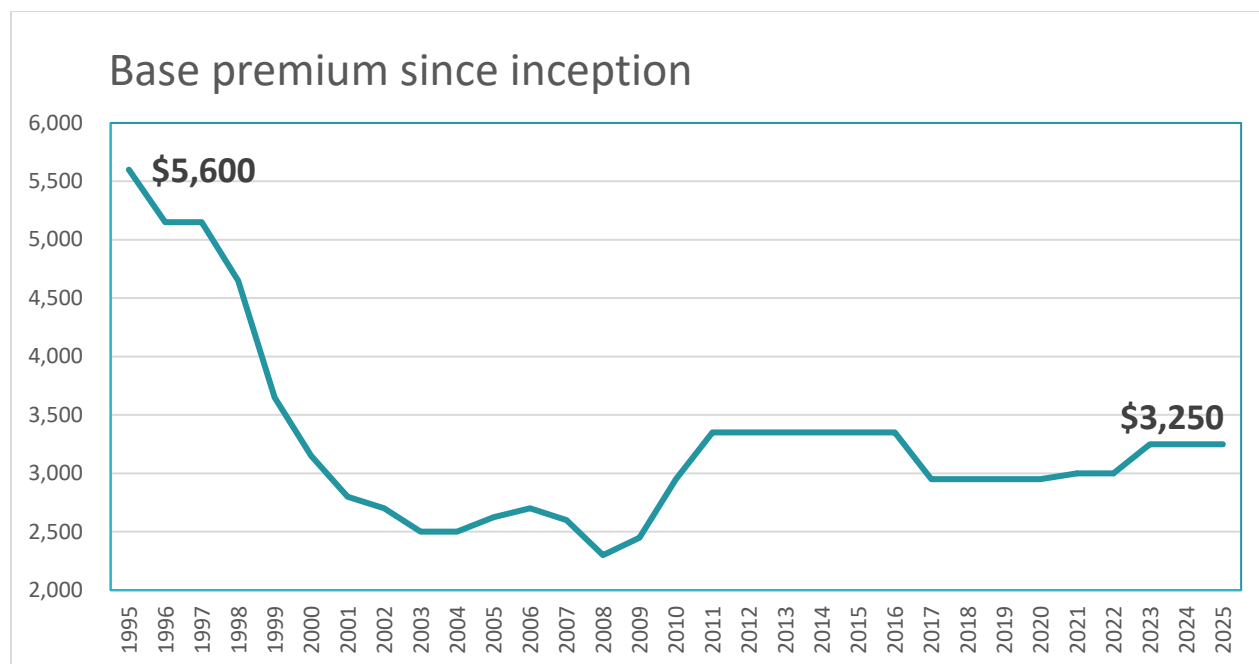
4. LAWPRO was created in response to the “insurance crisis” of the early 1990s. At that time, it was common practice for lawyers to engage in mortgage brokering when acting on real estate matters. In the aftermath of the real estate crash, many clients sued their lawyers for the financial losses they suffered. Largely as a result, in 1994, the Law Society of Ontario's (“Law Society” or “LSO”) insurance program was underfunded by more than \$154 million.<sup>2</sup>
5. The resulting crisis presented the Ontario Bar with one of the most serious challenges in its history: finding millions of dollars to cover the claims the Law Society’s insurance program faced and deciding whether to continue to provide Errors and Omissions (“E&O”) coverage for Ontario lawyers or to withdraw from the insurance market entirely. Withdrawing completely would have meant that replacement insurance would be unavailable at the previous price point and may not have been available at all if commercial carriers chose not to enter the market, or if commercial carriers would not offer insurance to some lawyers because of their individual circumstances (e.g., a history of previous claims). Either way, the Law Society determined that “Convocation can no longer attempt to deliver a Rolls Royce insurance policy at the cost of a Ford.”<sup>3</sup>
6. To address the crisis, Convocation formed a Task Force which ultimately recommended the creation of a specialised, regulated insurance company with financial accountability. Convocation accepted this recommendation and the mandate given requires that the Law Society’s insurance program:
  - Operate independently from the Law Society;
  - Operate in a commercially reasonable manner (i.e., revenues must cover expenses);
  - Offer premiums that generally reflect risk (i.e., those with greater risk pay higher premiums); and
  - Settle claims fairly and quickly, though not on a “no-fault” basis.
7. LAWPRO was created further to this recommendation and, for the last 29 years, it has operated based on the mandate and principles laid out in the 1994 Task Force Report.

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<sup>2</sup> The equivalent of \$291 million in today’s dollars.

<sup>3</sup> *Report to Convocation of the Insurance Task Force and the Insurance Committee*, October 28, 1994 (November 15, 1994), paragraph 50 on page 25.

8. LAWPRO has been remarkably successful in achieving the mandate the Law Society gave it in 1994. It is a success the Benchers who made the decision to set up LAWPRO can justifiably be proud of. Today, because of their foresight and the manner in which LAWPRO operates, it offers many advantages to the bar including:
- Guaranteed availability of affordable insurance to all lawyer licensees;
  - Consistent coverage, terms, and conditions for all lawyer licensees;
  - Proactive assistance to help prevent claims from crystallizing and repairs on potential claims that may not trigger a deductible or premium increase;
  - Proactive claims prevention efforts and practical resources to help reduce claims risks ([practicePRO](#));
  - A coordinated and principled approach to handling claims that sees us shape legal standards of care by making reasonable settlements where a lawyer truly made a mistake and defending lawyers where no clear error was made or damages suffered;
  - Automatic, free run-off coverage of \$250,000 (a lifetime limit that covers lawyers after they leave private practice for any reason), and options to increase run-off coverage for lawyers that desire a higher limit;
  - A built-to-purpose Excess insurance program with a competitive premium for small and medium sized firms of up to 50 lawyers;
  - Coverage for lawyers doing *pro bono* work in a wide variety of circumstances; and
  - An insurance provider that is financially stable and can therefore be relied upon to pay claims.
9. One of the strongest testimonies to LAWPRO's success as a professionally run insurance company is a stable base premium that is lower today than it was 12 years ago and far lower than it was after the 1994 insurance crisis. The 2025 base premium will remain the same as last year, despite the recent inflationary environment. It is worth noting that about a third of the members of the profession pay much less than the base premium by taking advantage of the various discounts LAWPRO offers (see Paragraph 68).



10. LAWPRO is integral to the Law Society’s public protection mandate as it stands behind lawyers and sets clients right in the event they suffer a loss due to the negligence of their lawyer. It operates as a captive insurance company that is not profit-driven. Although LAWPRO does not price its product for profit, it maintains its solvency through return-on-investment income. Operating in this manner provides a substantial benefit to the profession. This is discussed further in paragraphs 37 to 42 below.

11. Contrast the benefits that LAWPRO offers with the circumstances Ontario lawyers would likely face if one or more commercial insurers were providing insurance to the profession:

- To continue to offer as comprehensive coverage as is currently provided would require higher premiums as commercial insurers would underwrite to make a profit;
- Lawyers would have to pay insurance broker fees, adding 15% or more to the cost of insurance;
- Premiums would vary widely by firm size and area of practice, and for individuals with a history of reported claims;
- Carriers could simply refuse to insure individual lawyers they felt were too great a claims risk, making it impossible for some lawyers to maintain their practice status;
- Coverage terms and conditions would vary widely;

- The public would be at risk as it would be more difficult to know if a lawyer’s coverage had been cancelled;
  - A premium would likely be charged for run-off coverage, and there would likely be premiums for separate policies if the lawyer worked at different firms; and
  - There would be the potential for gaps in coverage as a new policy would be required if a lawyer changed firms, and the lawyer would have to obtain a separate policy to cover claims from work done at a previous firm.
12. The financial viability of an independent professional liability insurer is paramount to meeting the Law Society’s public protection mandate. If LAWPRO’s financial health is compromised, we run the chance of another insurance crisis, less protection for the public and no backstop for Ontario lawyers. This is the nightmare scenario the Law Society of England and Wales continues to struggle with more than a decade after several commercial insurers pulled out of its mandatory program.<sup>4</sup>

## 2025 PROGRAM FEATURES

13. As a matter of public protection, E&O insurance is required of all lawyers in private practice, including sole practitioners, lawyers practising in association or partnership, paralegals acting in partnership with lawyers, paralegals holding shares in professional corporations with lawyers, and lawyers practising in a law corporation. Lawyers can be exempt from the insurance requirement (see a full list of [exemption eligibility criteria at lawpro.ca](#)). Exemption scenarios include when lawyers engage in the practice of law only for and on behalf of a corporate or government employer, as an employee or volunteer in a clinic that is funded by Legal Aid Ontario and that meets certain criteria, lawyers on a temporary leave of absence, or lawyers otherwise not practising law.

14. The following is a brief summary of the 2025 Primary Program:

*Standard base premium (unchanged)*

\$3,250 per insured lawyer

*Coverage Limits (unchanged)*

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<sup>4</sup> See [“Mandatory professional indemnity insurance & a mandatory insurer: A global perspective”](#) LAWPRO Magazine, November 2011; [“Aon unit in shock professional indemnity insurance exit”](#), Insurance Business UK, 23 Aug 2019) and [“Retired solicitors fear ruin when insurance safety net closes”](#) The Law Society Gazette, 19 April, 2021.

\$1 million per claim/\$2 million aggregate limit applicable to claim expenses, indemnity payments and/or cost of repairs together

*Innocent Party Coverage (unchanged)*

Innocent Party coverage protects members of the public and lawyers against the dishonest, fraudulent, criminal, or malicious acts or omissions of present or former partners, associates, employed lawyers and firm employees

\$250,000 sublimit for innocent party claims per claim/in the aggregate is included in base coverage

Additional Innocent Party coverage can be purchased to increase limits to \$500,000 per claim/aggregate for \$75 per insured lawyer or \$1 million per claim/aggregate for \$125 per insured lawyer

*Optional Real Estate Practice Coverage Option (unchanged)*

A modified form of Innocent Party coverage for insureds practising real estate law in Ontario  
\$100 surcharge

*Optional CPATA coverage (new)*

Coverage for CPATA licensees including for claims arising domestically and outside of Canada  
\$2,000 surcharge

*Transaction Premium Levy (unchanged)*

\$65 per real estate transaction and \$100 per civil litigation transaction

*Deductible (unchanged)*

Standard deductible is \$5,000 per claim

LAWPRO offers deductible options from \$0 to \$25,000. Insureds can choose to have the deductible apply to both claim expenses and indemnity payments, or to indemnity payments only. Premiums will increase or decrease depending on the deductible option. Each lawyer practicing in a law partnership or law corporation must elect the same amount and type of deductible as all other lawyers in the firm.

*Premium Discounts: (unchanged)*

*For those who take approved risk management courses*

\$50 discount per approved course, subject to a \$100 maximum

*For new lawyers*

- less than 1 full year in practice: 50% discount

- less than 2 years in practice: 40% discount
- less than 3 years in practice 30% discount
- less than 4 years in practice: 20% discount

*For those who limit their practice to criminal<sup>5</sup> and/or immigration law (restricted areas of practice)*

- 50% discount

*For those who work part-time*

- 50% discount is available to practitioners who, in both their current and prior fiscal year, restrict their law practice to 20 hours per week on average for each week worked, up to 750 hours per year (including time for undocketed work), and have gross billings of \$100,000 per year or less

*For those employed at a Designated Agency<sup>6</sup>*

- 75% discount in recognition of low risk and enhanced access to justice

15. The following table contains examples of premiums which would be charged to members depending on the nature of their practice, along with historical premiums.

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<sup>5</sup> Criminal law is considered to be legal services provided in connection with the actual or potential prosecution of individuals, municipalities and government for alleged breaches of federal or provincial statutes or municipal by-laws, generally viewed as criminal or quasi-criminal.

<sup>6</sup> A “Designated Agency” can include a Civil Society Organization that has been approved for the general premium discount.

**Premium Rating Examples (In Dollars)**

	1995 <sup>7</sup>	2005 <sup>8</sup>	2015 <sup>9</sup>	2025
<b>Base premium</b>	\$5,600	\$2,625	\$3,350	<b>\$3,250</b>
<b>1. Sole Practitioner - Real Estate Law</b> - real estate practice coverage option - \$10,000 defence & indemnity deductible - early lump sum payment discount - \$250,000 Optional Innocent Party cover	\$6,000 <sup>10</sup>	\$2,528	\$3,549	<b>\$3,056</b>
<b>2. Firm Practitioner - Real Estate Law</b> - real estate practice coverage option - \$25,000 defence & indemnity deductible - \$250,000 Mandatory Innocent Party cover	\$6,000 <sup>11</sup>	\$2,547	\$3,431	<b>\$2,944</b>
<b>3. New Lawyer Practising in Association</b> - first year in practice discount - \$250,000 Mandatory Innocent Party cover - \$10,000 defence & indemnity deductible - early lump sum payment discount	\$3,900 <sup>12</sup>	\$1,478	\$1,624	<b>\$1,331</b>
<b>4. Criminal Lawyer (sole practitioner)</b> - Restricted Areas of Practice discount - \$10,000 defence & indemnity deductible - early lump sum payment discount	\$5,600 <sup>13</sup>	\$1,228	\$1,374	<b>\$1,331</b>
<b>5. Part-time Lawyer (in association)</b> - Part-time Practitioner discount - \$1,000,000 Optional Innocent Party cover - \$10,000 defence & indemnity deductible	\$6,000 <sup>1415</sup>	\$1,877	\$1,923	<b>\$1,506</b>
<b>6. Firm Practitioner with 1 Claim</b> - claims history levy surcharge - \$5,000 defence & indemnity deductible - \$250,000 Mandatory Innocent Party cover	\$8,500 <sup>16</sup>	\$5,375	\$6,100	<b>\$5,750</b>
<b>7. Sole Practitioner with 2 Claims</b> - claims history levy surcharge - \$5,000 defence & indemnity deductible	\$10,600 <sup>17</sup>	\$7,625	\$8,350	<b>\$8,250</b>
<b>8. Designated Agency Lawyer</b> - \$5,000 defence & indemnity deductible - Risk Management Credit (x 2)	\$5,600	\$2,550	\$3,250	<b>\$713<sup>18</sup></b>
<b>9. Firm Practitioner – patent and/or trademark agent</b> - CPATA practice coverage option - \$10,000 indemnity deductible - \$1,000,000 Innocent Party cover (when offered)	\$6,000 <sup>19</sup> (Coverage not as broad as in 2025)	\$3,321 (Coverage not as broad as in 2025)	\$4,100 (Coverage not as broad as in 2025)	<b>\$5,619<sup>20</sup></b>

<sup>7</sup> Members are also required to pay a \$25 levy for each civil litigation or real estate transaction not otherwise excluded.

<sup>8</sup> Members are also required to pay a \$50 levy for each civil litigation or real estate transaction not otherwise excluded.

<sup>9</sup> \$65 per real estate transaction and \$50 per civil litigation transaction. Premium for the Real Estate Practice Coverage Option was also applied.

## CONTINUING TO HELP LOWER RISK

16. A number of virtual CPDs and resources prepared by PracticePRO, LAWPRO's risk management initiative, have helped lawyers identify and avoid potential fraud, better understand their LAWPRO coverage, prepare for succession planning, and manage the day-to-day challenges facing lawyers in specific areas of law. These virtual programs produced in partnership with the Toronto Lawyers Association have proven very popular – with some sessions attracting over 1,000 participants. Each program is eligible for 1.5 hours of professionalism CPD credit and LAWPRO's Risk Management Credit. They are also available as an anytime replay from [Practicepro.ca/cpd](http://Practicepro.ca/cpd). Below are links to a few of the most recent presentations:

- [Unlocking Real Estate Wisdom](#)
- [Succession Planning for your Legal Practice](#)
- [Practice Tips for Wills and Estates Lawyers](#)
- [Client Management and Effective Client Relationships](#)
- [Building Resilience and Maintaining Mental Health in the Legal Profession](#)
- [Top Tips for Advocates](#)
- [Insurance 101 for lawyers](#)
- [Protecting your firm against fraud](#)
- [Tips for Corporate Commercial Lawyers](#)
- [Avoiding the wire fraud nightmare: protect yourself and your clients](#)

A [full listing of the 20 most downloaded resources is available on the PracticePRO website but the most popular are listed below:](#)

- Social Engineering Toolkit

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<sup>10</sup> Subject to a \$6,000 defence and indemnity deductible (adjusted to \$7,500 in the case of an insured with one previous claim, or \$8,500 in the case of two previous claims).

<sup>11</sup> Ibid

<sup>12</sup> Ibid

<sup>13</sup> Ibid

<sup>14</sup> Ibid

<sup>15</sup> Subject to \$250,000 Innocent Party cover only, additional limits not available.

<sup>16</sup> Supra, note 11

<sup>17</sup> Supra, note 11

<sup>18</sup> If a lawyer is employed exclusively by one or more Designated Agencies and any civil litigation transaction is performed in the course of such employment, the Lawyer is not required to pay a civil litigation transaction levy surcharge.

<sup>19</sup> Supra, note 11

<sup>20</sup> Optional extended coverage to meet the professional liability insurance requirements of the College of Patent and Trademark Agents.

- Check your cheques: Five ways to spot fraudulent cheques
- Subdivision Control under the Planning Act. What do you need to know?
- Non-resident Sale Holdback Flowchart
- General Retainer Letter
- Common HST Errors in Real Estate Transactions
- Tips for calculating limitations deadlines
- Common limitations period pitfalls and how to avoid them
- Limitations and Notice Periods Chart
- Managing Conflict of Interest Situations

## PROMOTING ACCESS TO JUSTICE

17. Since 2017, LAWPRO has approved 15 organizations that provide free legal services to the public for the “Designated Agencies” discount. Lawyers working in these organizations receive a discount equal to 75% off the base premium. Lawyers working in these agencies are also exempt from payment of the civil litigation levy for the services they provide through these agencies. Typically, these agencies promote human rights, justice initiatives, and otherwise enhance access to justice.<sup>21</sup>

18. LAWPRO continues to support *pro bono* and initiatives intended to bolster greater access to legal services. Lawyers who do not maintain their practice coverage and go on exemption from payment can still provide legal services to LAWPRO-approved Pro Bono Ontario (“PBO”) programs and, if there is a claim, it will be covered as part of the run-off coverage. Normally, only services provided before a lawyer ceases their practice coverage are covered under run-off coverage. Likewise, if a practicing lawyer takes part in these activities and a claim arises, that lawyer will not have to pay a claims history levy surcharge or deductible. This is particularly welcome for the many currently insured and exempt lawyers who volunteer with PBO’s popular Free Legal Advice Hotline. To encourage lawyers to support each other and develop skills within the profession, LAWPRO also treats claims associated with risk-approved mentoring activities in a similar fashion<sup>22</sup>.

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<sup>21</sup> See the [LAWPRO website for more details and a list of LAWPRO approved Designated Agencies](#).

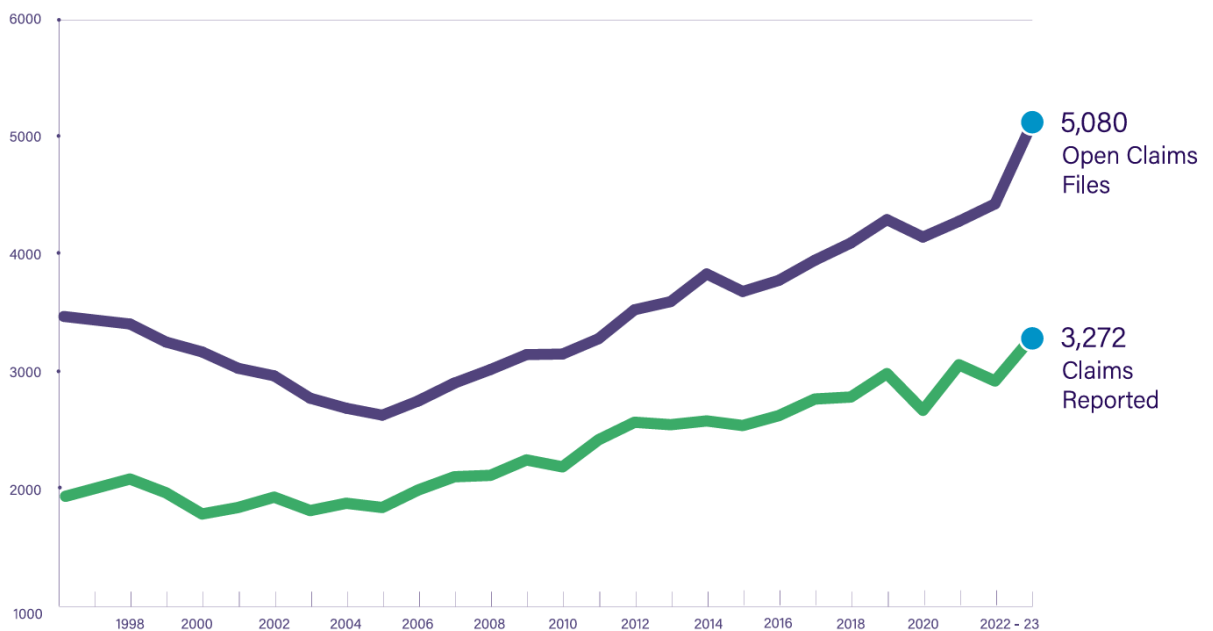
<sup>22</sup> For more on this, see the [LAWPRO Pro Bono Coverage](#) Chart.

## CLAIMS TRENDS

19. Economic downturns typically mean an increase in malpractice claims as clients seek recompense from their lawyers for the losses they have suffered. While some parts of the economy have seen devastating impacts because of the COVID-19 pandemic, other parts have not been impacted and some are thriving. Increasing inflation since 2022 has caused the Bank of Canada to increase the key interest rate significantly. There have been small interest rate decreases recently and we have yet to know exactly how the economy will react.
20. As the following graph indicates, in 2023, we saw 3,272 new claims, an increase over the previous year and the highest number of claims ever reported in one year. Despite the volatility in claims numbers during the unprecedented COVID years, the long-term trend in claims count continues to show steady year-over-year growth as the legal profession expands and the complexities of legal matters continue to multiply.

### Number of claims reported and open claims

Total number of open claims at Dec. 31, 2023



21. Beyond claims counts, LAWPRO monitors claims costs, which show an increase in high-value claims (in the \$750,001 to \$1 million range). There was a 92% increase in the cost of large file settlements in 2023 compared with 2022 (\$11.6 million in settlements compared to \$6.1 million in 2022), and

an 86% increase in the number of settlements, with 13 large file settlements in 2023, compared with 7 in 2022.

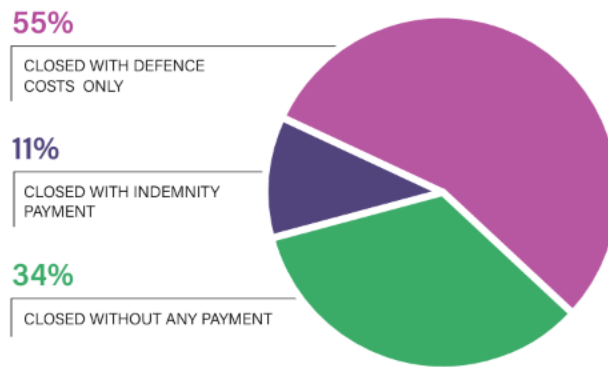
22. We also monitor the average cost of a claim over the long term. Claim costs have increased steadily over time, at an average annual rate of 2.7% for the period 2002 through 2021. Claims count has also increased, at a similar average annual rate of 2.7% over the period of 2002 to 2021. The average cost per claim for the period 2002 to 2021 is \$36,000, with a minimum of \$30,000 in 2004 and a maximum of \$43,000 in 2009.<sup>23</sup>
23. LAWPRO's long term experience is that claims come to light on average 2-3 years after the work on a matter was done. In real estate, family, and wills and estates matters, claims can arise decades after a file was closed.<sup>24</sup> In a typical year, we expect to see approximately 261 claims costing more than \$100,000, and 5-15 claims hit the \$1 million dollar per claim policy limit. Lawyers with a prior claims history continue to have a considerably greater propensity for claims than other practising lawyers. Lawyers with claims in the prior 10 years were over three times more likely to report a claim during the past year than those with no claims in the prior 10 years. The 31% of LAWPRO insureds with 2 or more claims are responsible for 87% of LAWPRO's claims costs (See [Appendix E](#)).
24. Claims outcomes reflect the Company's mandate to settle claims fairly and quickly, and to defend lawyers when required. As the chart below demonstrates, the proportion of claims closed without any indemnity payment being made was 89% and 34% of the claims closed were resolved without payment of any kind. In many cases, LAWPRO counsel can rectify problems before they become a claim.

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<sup>23</sup> Average cost per claim figures quoted here do not include claims after 2021 as it typically takes 2-3 years for LAWPRO to investigate and set a *reserve* on a claim file (i.e., the amount we expect a claim will ultimately cost us).

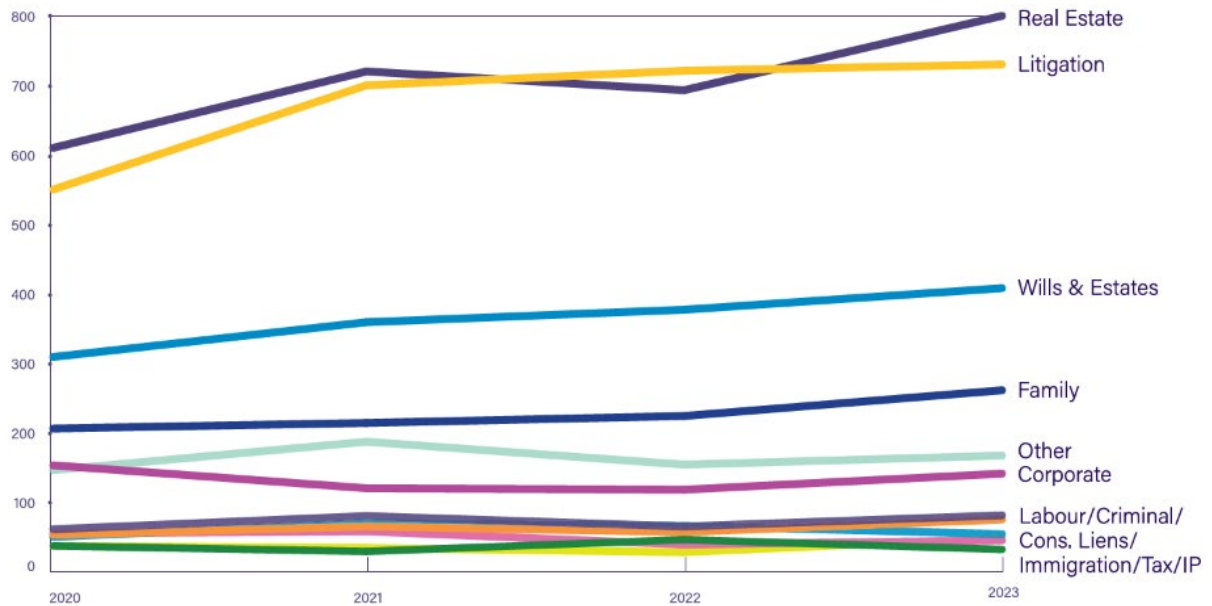
<sup>24</sup> "[Don't let claims follow you into retirement](#)", LAWPRO Magazine Vol. 16.3 (February 2017).

## Claims by outcome



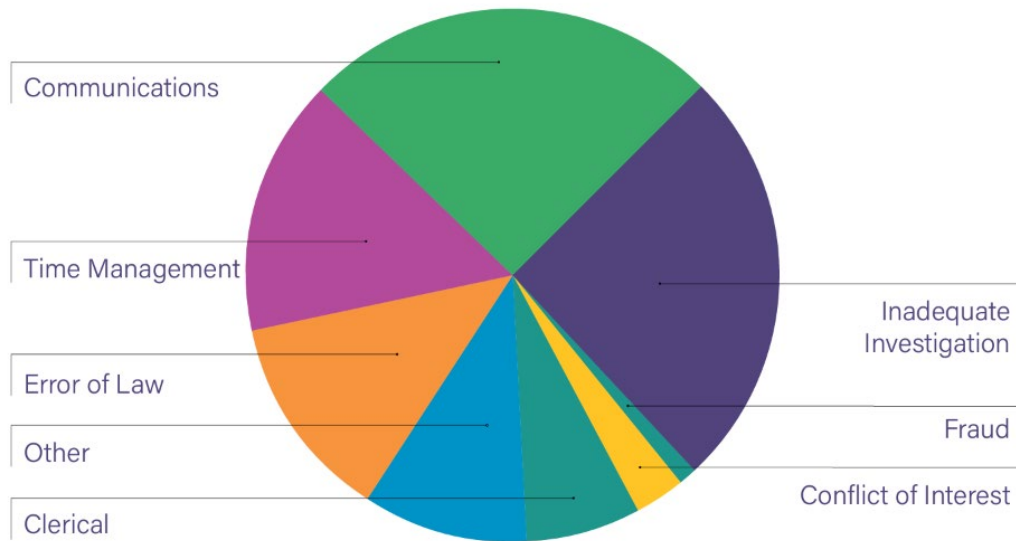
25. What types of claims are happening? Over the years, LAWPRO has seen fairly consistent claims trends by area of law and type of malpractice error, which are illustrated in the graphs below and discussed in more detail in the next two paragraphs.
26. In 2023, the largest percentage of reported claims continued to be related to real estate (28%) and litigation (26%). Litigation claims remained stable year-over-year (to 729 in 2023 from 719 in 2022) and real estate claims increased to 799 from 693.
27. We are seeing an increasing number of wills and estates claims. 407 such claims were reported in 2023, an 8% increase from 2022. With an aging population comes an increase in the number of large estates, and as the number of large estates increases, the number of potentially litigious beneficiaries also increases.

## Distribution of claims by area of law



As in the past, inadequate investigation, communication errors and time management mistakes continue to cause the most claims. In 2023, time management claims continued to be depressed compared with pre-pandemic levels likely from the continuing pause on administrative dismissals the courts continued through 2023 (where courts will dismiss cases that haven't been set down for trial 5 years after commencement). The courts resumed Administrative Dismissals in May of this year so we expect time management related claims to increase over the coming year, reverting to pre-pandemic trend levels.

## Reported claims count by cause of loss



28. Fact sheets that highlight the most common causes of malpractice claims for the major areas of practice can be viewed at [practicepro.ca/factsheets](http://practicepro.ca/factsheets).

### RISK MANAGEMENT INITIATIVES

29. A principal philosophy of LAWPRO is to help members of the legal profession reduce their claims risks by helping them understand and reduce the risks associated with practice. As Professor Richard Susskind said: *“We like to build a fence around the top of a cliff, rather than station an ambulance at the bottom.”* This is accomplished through the PracticePRO program; the TitlePLUS title insurance program, and support of the Member Assistance Plan (“MAP”) from Homewood Health. LAWPRO contributes almost one-half the cost of operating the MAP.

**PracticePRO® Program:** LAWPRO’s successful risk management and claims prevention initiative is a recognized source of high-quality risk management tools and resources that help lawyers avoid malpractice claims. All PracticePRO resources are made available to all Ontario lawyers and paralegals at no charge. These include articles in *LAWPRO Magazine* and other law-related publications, information on the PracticePRO website and AvoidAClaim blog, social media, and live presentations.

The PracticePRO.ca website features LAWPRO's claims prevention resources that are particularly valuable to solos and small firms.

**Helping lawyers avoid fraud:** Thanks to LAWPRO's efforts, Ontario lawyers are recognizing and avoiding frauds but fraudsters' continued sophistication and creativity means lawyers are still being victimized and that fraud-related claims continue to be an ongoing and significant concern for LAWPRO. Currently, funds redirection and ID theft on real estate transactions are the most common frauds we are seeing (i.e., lawyers wiring funds to a fraudster from their trust account after being duped). Insureds can call LAWPRO in the event they are targeted by a suspected fraudster. Working within confidentiality obligations imposed by the *Rules of Professional Conduct*, one of our Fraud Team members will go through the common fraud scenarios to help spot red flags that may indicate the lawyer is being duped and help determine if the matter is legitimate or not. In the event the matter is a fraud and there is a potential claim, we will work with the lawyer to try to prevent the fraud and minimize potential claims costs. By visiting the AvoidAClaim.com blog and typing in names or scenarios, lawyers can see confirmed frauds reported to us. Our [Fraud Fact sheets](#) available on Practicepro.ca, are a good reminder of ways to identify possible dangerous situations. We continue to receive many emails from lawyers asking about suspicious situations and asking for advice. We are able to go over the scenario with them and help prevent the fraud before it happens in some instances or help them recover missing money in others.

**The LAWPRO Risk Management Credit:** This premium credit, available since 2001, is a significant LAWPRO risk management initiative. To be eligible for a credit (\$50 each up to a maximum of \$100) on premiums for 2025, lawyers (and paralegal insureds in combined licensee firms) must have participated in LAWPRO-approved CPD programs or Homewood Health e-Learning courses between September 15, 2023, and September 16, 2024. 6,673 lawyers claimed 11,924 credits for the 2024 policy year. The approval process is handled by LAWPRO (we look for programs that include content on where claims happen, why they happen, and the steps that can be taken to lessen the likelihood of a claim) and is distinct from the Law Society's CPD accreditation process.

**TitlePLUS® Program:** TitlePLUS insurance is a competitive title insurance product that makes a positive difference in the Ontario real estate market. It expands the title insurance choices offered to consumers and lawyers and has helped broaden coverage while keeping title insurance premiums down. In addition, the TitlePLUS program regularly catches fraud due to automated and proprietary

flags built into its underwriting that contributes to saving money – for consumers and the mandatory insurance program.

**Member Assistance Program:** Lawyers are exposed to high levels of stress on a daily basis and long-term stress can drive people to experience challenges to physical or mental health, and to use, misuse or even become addicted to alcohol or legal/illegal drugs. While it can be difficult to identify the reasons underlying why errors occur and claims develop, stress, addictions, and other untreated wellness issues are often found or suspected to be contributing factors in many LAWPRO claims. To help support lawyers in private practice, LAWPRO contributes approximately one-half the annual cost of the Member Assistance Plan (“MAP”). The MAP provides confidential assistance to Ontario lawyers, paralegals, judges, students at Ontario law schools and accredited paralegal colleges, licensing-process candidates, and their families.

## CONTINUING STABILITY AND EVOLUTION OF THE PRIMARY PROGRAM FOR 2025

30. The LAWPRO Board and management has determined that the general structure of the current Primary Program continues to meet the needs and practice realities of the profession. In developing the details of the 2025 Primary Program, LAWPRO has considered claims trends and costs, and the pressure on our insured professionals to control costs. For the 2025 Primary Program, LAWPRO has focused on keeping premiums as low as possible despite rising claims and operational costs associated with the current economic environment, enhanced coverage, and improving the customer experience.
31. As will be discussed in more detail starting at paragraph 48, LAWPRO is pleased to advise that an optional coverage for patent and trademark agents is being introduced in 2025 that will satisfy the insurance requirements set by the College of Patent and Trademark Agents (CPATA). This coverage is available to LAWPRO’s insureds who are regulated by CPATA and require broader coverage than the Law Society program previously provided.
32. We are also clarifying coverage regarding alternate fund transfer services. Law Society licensees are currently being presented with options to transfer funds by companies other than traditional financial institutions and this presents new risks. If lawyers choose to use these alternative service providers (provided they are still permitted under the *Law Society Act* and its by-laws) the policy

will respond in the normal course unless the losses are attributable to the actions of the alternate fund transfer service provider.

33. The quarterly payment option will be discontinued in 2025. Insureds can still pay their annual premiums by lump sum or using the monthly payment option.
34. After more than two years of preparation and work, in July 2023 LAWPRO launched OneShield Market Solutions (OMS) a new policy and claims administration system. The legacy system, which was more than 25 years old, no longer met LAWPRO's operational needs and technical requirements. OMS is a modern, cloud-based system that will help LAWPRO operate more effectively and better meet customer needs far into the future.
35. Due to the OMS transition, LAWPRO simplified the renewal process for 2024 and dispensed with the renewal application form that year. This allowed LAWPRO's insureds to have a low-touch renewal process that was unhampered by any delays that the transition would have otherwise caused. As the transformation progresses, LAWPRO is reverting to the standard renewal process. This allows LAWPRO to gather up-to-date underwriting and contact information for insureds and ensures that the program remains properly risk-rated. As historical data supports that those who do not file their annual insurance applications by the deadlines set are at significantly higher risk of claims, LAWPRO will reintroduce the surcharges associated with filing late or failing to file at all.
36. We also made other minor changes to the policy wording for underwriting clarity in exclusions, conditions, definitions and endorsements.<sup>25</sup>

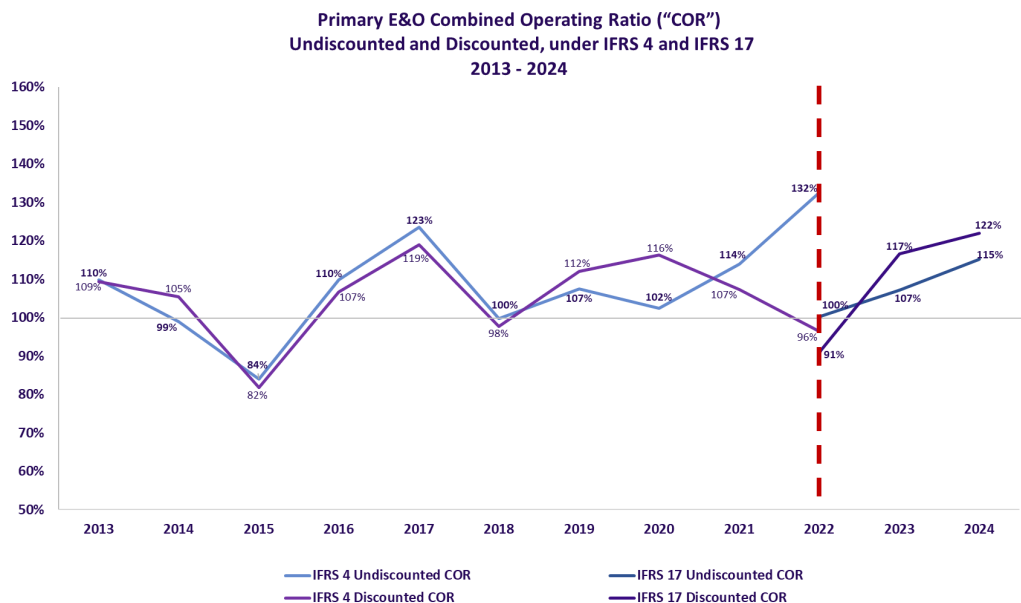
## REVENUES

37. To meet the total expected Primary Program claims costs and operating expenses for 2025, LAWPRO considers base premiums, transaction levies, other discounts and surcharges, as well as investment income. LAWPRO does not operate to make an underwriting profit due to the company's commitment to lower than market premiums for Ontario lawyers. The graph below shows the Combined Operating Ratio ("COR") under both IFRS 4 and IFRS 17 accounting standards as IFRS 17 replaced IFRS 4 effective as of January 1, 2023, with restatement of comparative financial year for 2022. IFRS 17 aims to

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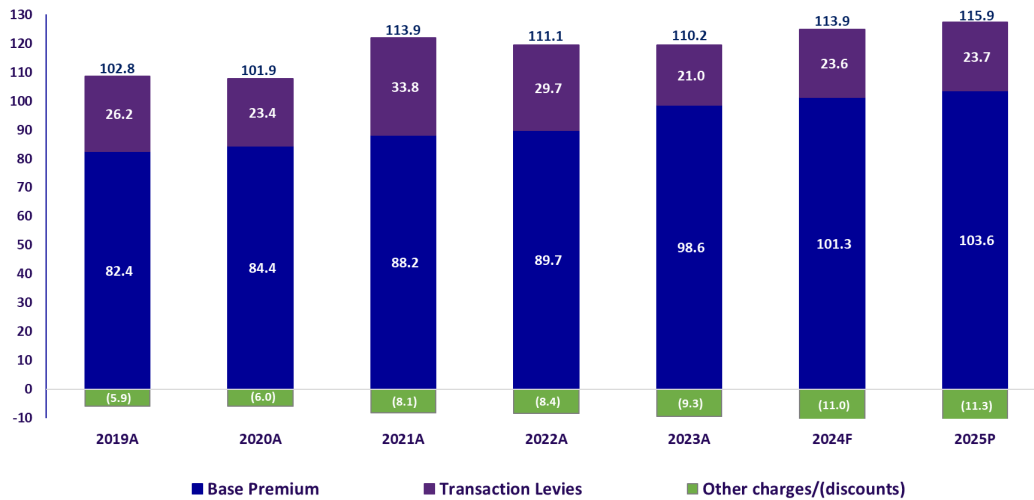
<sup>25</sup> These changes include clarifying that LAWPRO controls the defence of its claims, when there is coverage for investment advice, and what are "related errors".

enhance the matching of revenue and expenses, albeit with increased accounting complexity. Nonetheless, the COR proxy under IFRS 17 offers the same directional guidance as COR under IFRS 4, where both illustrate the claims and insurance contract related expenses represented as a proportion of revenue. As 2022 was a transition year, CORs are available under both accounting standards. The graph below illustrates the impact of reset of this ratio on transition. It includes both undiscounted and discounted IFRS 4 CORs and IFRS 17 proxy CORs. In 2024, claims and expenses represent approximately 115% of the insurance revenue on an undiscounted basis and 122% on a discounted basis. As the discounted COR includes the impact from the change in discount rates from the prior year end, when the interest rate rises, the discounted COR will in general be lower than the undiscounted COR. The opposite holds true as well, i.e. when the interest rate falls, the discounted COR will typically be higher than the undiscounted COR. Although the company generally loses money on underwriting, it can recover insurance losses from its return on investments.



38. Gross written premium for recent years is illustrated in the following chart. The total premium, which consist of base premium, transaction levies, and other charges/(discounts) are forecast to be \$114 million in 2024 and projected to be \$116 million in 2025.

### Gross Written Premiums, by Source (\$Ms)



### Investment Income

39. LAWPRO’s prudent investing philosophy works to position the portfolios for capital preservation and steady growth. LAWPRO takes full advantage of the time between the collection of premiums and the payment of claim costs by investing any available funds into conservative and well-diversified portfolios of fixed income and equity securities. LAWPRO uses the resulting investment income to help pay operating and claims expenses, thereby reducing the amount of funds that must come from premium sources.

40. LAWPRO provides further stability to the Primary Program with the assistance of two professional fund managers. By segregating sufficient money into a separate portfolio (the asset liability matched portfolio or “ALM portfolio”) to pay anticipated future claims costs as they become due, and holding any surplus capital in a different portfolio (“Surplus portfolio”). The securities in the ALM portfolio consist of high-quality government and corporate fixed income securities, with the future cash inflows to LAWPRO arranged to coincide with the expected payout patterns of the future claim costs. The Surplus portfolio consists of a prudent mix of fixed income and Canadian and Global equity securities.

41. The ALM Portfolio and the fixed income portion of the Surplus portfolio are impacted by interest rate changes, and together represent around 79%<sup>26</sup> of the total investment portfolio. The Bank of Canada's overnight interest rate increased 400 basis points throughout 2022 and 75 basis points in 2023, then decreased 75 basis points so far in 2024 to currently sit at 4.25%. These changes in rate over the last few years, coupled with the markets not always correctly anticipating the rate changes, has resulted in volatile market returns, including those in LAWPRO's portfolio.
42. LAWPRO maintains a prudent investing philosophy to reduce risk and protect its investments. LAWPRO's equity investments were negatively impacted in 2020, following the general market trend. The portfolio recovered in 2021 as the markets stabilized. The significant interest rate increases, high inflation, and recession concerns in 2022 contributed to the negative returns in both fixed income and equity market. The markets improved in 2023 with positive returns in both fixed income and equity. The first half of 2024 continued positive, although at a lower rate than the prior year. LAWPRO's portfolio has followed the market, but generally with slightly better returns.

### *Levy Surcharges*

43. As part of its commitment to operating the Primary Program in a commercially reasonable manner and better ensuring that premiums reflect the general practice risks of insureds (i.e., those that are a higher risk pay a higher premium), LAWPRO utilizes levy surcharges. The use of transaction levies ensures an element of risk rating in the Primary Program, as both real estate and civil litigation continue to represent a larger risk when compared to other areas of legal practice. The use of levies also avoids the substantial dislocation which would likely occur if the base premiums were increased to reflect the risk, and reflects the consensus reached with the affected sectors of the bar and others in the profession as the most equitable way to achieve risk rating when first introduced in 1995. For more information on risk rating, see the discussion beginning at paragraph 54 of this Report.
44. At present, the levy surcharges include a claims history levy surcharge, a \$100 civil litigation transaction levy, and a \$65 real estate transaction levy. Revenues from these levy surcharges are applied as premium revenue, to supplement base premium revenue.

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<sup>26</sup> As at 30 June 2024, the entire investment portfolio was divided as follows: 79% fixed income and 21% equity.

45. The claims history levy surcharge ranges from \$2,500 for a lawyer with one claim paid in the last five years in practice (i.e., pay an extra \$2,500 per year for the five years following a claims payment), to \$25,000 for a lawyer with five claims paid in the last five years in practice. An additional \$10,000 is levied for each additional claim paid in excess of five. Claims history levy surcharge revenues have been quite stable over time.
46. While litigation levy revenues have also been quite stable over time, the shutdown of the courts in 2020 caused a significant reduction in civil litigation transaction levy revenues. These levies rebounded 27% in 2021, decreased 8% 2022, then decreased 9% in 2023. We estimate civil litigation transaction levies will be \$7.2 million in 2024 and \$7.2 million in 2025. With respect to the real estate transaction levy, the increased use of title insurance is considered to be largely responsible for a reduction in the count of these levies since 1999. Lawyers acting for those obtaining an interest or charge in the land, in many instances, are not required to pay a transaction levy, where the interests of all parties obtaining an interest or charge in the property are title-insured, and the acting lawyer or lawyers are provided with the appropriate release and indemnity protection by the title insurer, based on a standard form agreement entered into between the title insurer and the Law Society on behalf of Ontario lawyers. The vast majority of residential real estate transactions in Ontario are title-insured. In recent years, the number of real estate transaction levies collected has moved in tandem with residential real estate sales. There was a decline in real estate transaction levy revenue in 2020 due to the pandemic shut downs, followed by a significant increase in 2021 reflecting the increase in activity in the Ontario real estate market, followed by a minor decrease in 2022, and a further decrease in 2023.
47. The Ontario real estate market has seen a slow down in the last few years, after interest rate increases. For the first half of 2024, real estate transaction levy revenue was 6% less than the same period in 2023. We estimate the real estate transaction levies will be \$16.4 million in 2024 and \$16.4 million in 2025.

#### *Real Estate Practice Coverage Option (REPCO)*

48. In 2006, title fraud had begun to spiral in Ontario. Organized crime was involved in the theft of titles from innocent homeowners in increasing numbers and a Court of Appeal decision in late 2005 affirmed that a fraudulently signed mortgage was valid and enforceable against an innocent

homeowner.<sup>27</sup> The government took action with a series of fraud-prevention reforms. These included new eligibility criteria for those registering documents through the electronic land registry system. The new criteria included a prescribed form of insurance coverage that would respond in the event of fraud relating to the registration of fraudulent documents.

49. Now, all lawyers who practise real estate law in Ontario must purchase the Primary Program's Real Estate Practice Coverage Option. This coverage provides insurance protection to ensure that members of the public, and Land Titles Assurance Fund, are protected against the registration of fraudulent instruments under the Land Titles Act. The coverage limit is \$250,000 per claim/\$1 million in the aggregate per policy period, applicable to claim expenses, indemnity payments and/or costs of repairs together. The premium is \$100 annually per insured lawyer.

#### *College of Patent and Trademark Agents Coverage Option (CPATA)*

50. Enacted by statute in 2018, the College of Patent and Trademark Agents (CPATA) is the national regulator for Canada's patent and trademark agents. Since 2023 CPATA has required all of its licensees who are providing services to the public to maintain professional liability insurance. Many of CPATA's licensees are insured with LAWPRO, but prior to 2025 the Law Society of Ontario Program policy did not meet CPATA's minimum insurance requirements, largely due to restrictions around foreign laws and territory.

51. As of 2025, LAWPRO now offers an optional coverage enhancement that meets the CPATA insurance requirements. This coverage offers insurance protection for LAWPRO's insureds who are also CPATA licensees to protect against claims arising from their work as Canadian patent and/or trademark agents, even claims originating outside of Canada. The coverage limit is within the program's standard limits, being \$1,000,000 per claim/\$2 million in the aggregate per policy period, applicable to claim expenses, indemnity payments and/or costs of repairs together. The surcharge of \$2,000 was based on risk analysis and the goal of charging the lowest possible premium.

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<sup>27</sup> For more on this, see Bob Aaron's Toronto Star article of December 30, 2006: "[In 2006, title fraud top real estate story](#)".

### *Base Premium*

52. The base premium will remain at \$3,250, the same amount as the prior program year. It should be noted that a base premium of \$3,250 per lawyer is still lower than premiums charged at some points in the past (e.g., \$3,350 during the years 2011 through 2016, and \$5,600 per year just after the insurance crisis).

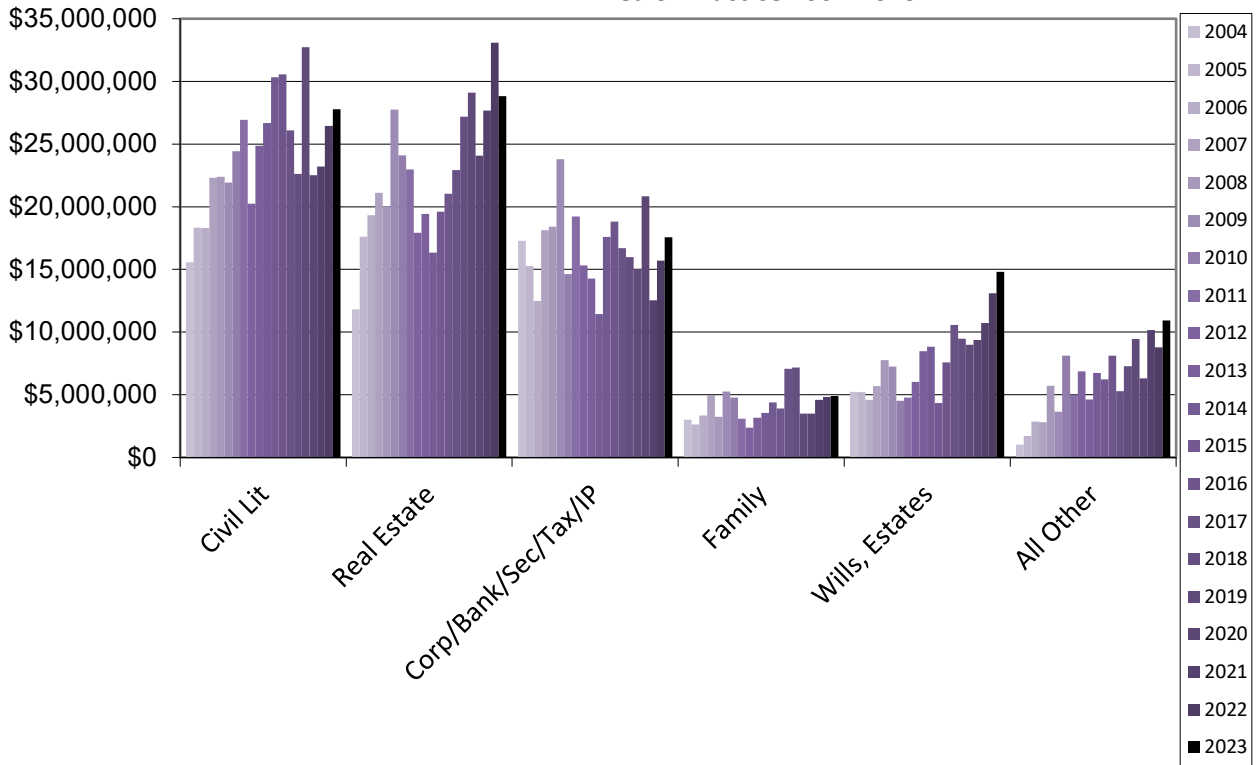
### THE ERRORS & OMISSIONS INSURANCE FUND

53. LAWPRO continues to manage the Law Society's Errors & Omissions Insurance Fund (the "E&O Fund"), the pool of funds relating to the insurance program the Law Society operated before LAWPRO was created. In recent years the E&O Fund has been in run-off mode as it has been used to settle outstanding claims for policies the Law Society's insurance program had in place between July 1, 1989, and December 31, 1994. Although it is possible that a claim from a policy from this time period could still be reported to LAWPRO, at June 30, 2024, the E&O Fund had no outstanding claims liabilities as all files for 1994 and prior years were closed. Funds in the E&O Fund are held in a separate bank account that also functions as the transfer mechanism by which lawyers' insurance premiums and transaction levies are deposited and then remitted to LAWPRO by the Law Society on behalf of all lawyers who are required to pay them.

### RISK RATING

54. Risk rating, a concept raised throughout this Report, promotes fairness by allocating premium responsibility based on risk and deters claims by apportioning higher costs to riskier practitioners. The following chart shows the distribution of ultimate expected claims costs by area of practice.

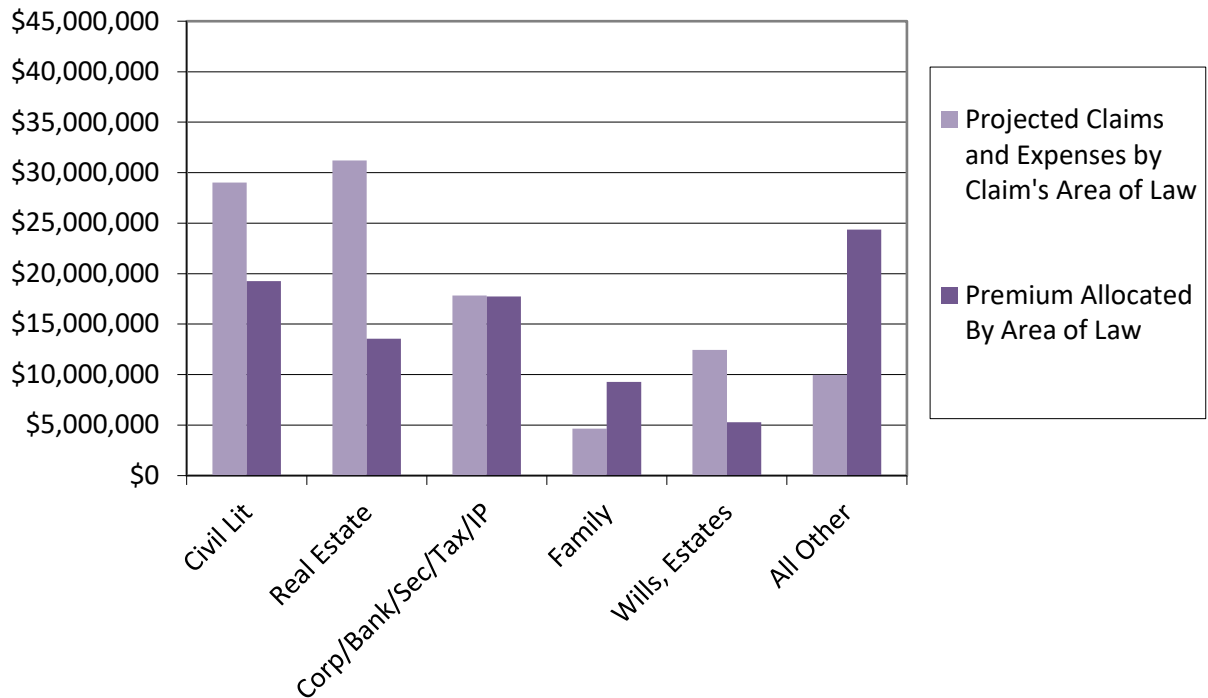
**Distribution of Claim Cost and Program Expenses, by Grouped Area of Practice 2004-2023**



55. Apparent from this chart are the significant claims costs in certain practice areas and the fact that real estate and litigation continue to have higher claims costs on a consistent basis over a multi-year period. At the same time, the fact that few lawyers practice exclusively in one area provides a compelling reason to group together common or related areas of practice.

56. For the purpose of risk rating, the Primary Program’s anticipated losses and related costs must be compared to the premiums. Based on the most recent loss experience under the Primary Program (including that seen under the Primary Program up to December 31, 2023), the following chart compares the anticipated losses and costs distributed by area of law to the proposed base premiums. The premiums in this chart include the proposed base premiums with real estate practice coverage, innocent party and base premium adjustments, but exclude transaction levies and claims history surcharges. [REDACTED]

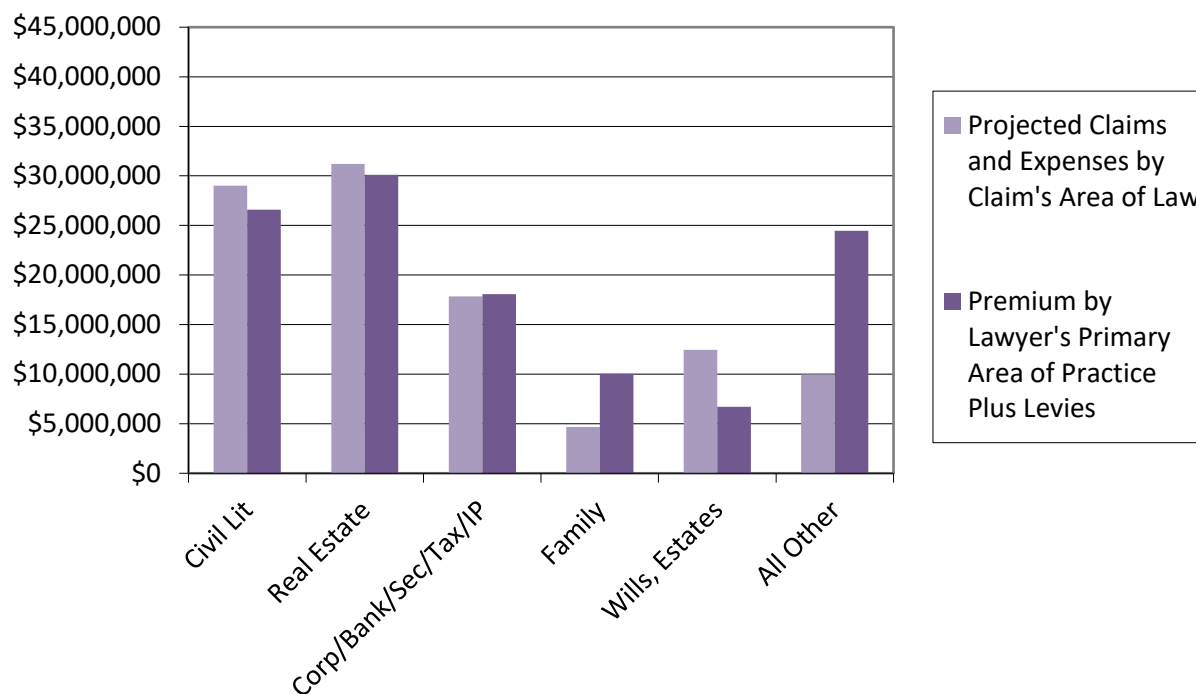
**Comparison of Projected 2025 Premium by Lawyer's Area of Practice  
to Claims and Expenses by Claim's Area of Law**



57. The shortfall between the anticipated claims costs and expenses to base premiums is particularly significant for the areas of real estate law and civil litigation. The real estate and civil litigation transaction and claims history surcharge levies are essential forms of premium, used to avoid any substantial dislocation among the bar in the higher risk areas of practice which would otherwise occur with risk rating. Without transaction levies, real estate and litigation lawyers would be paying a base premium around two times higher than the current LAWPRO base premium.

58. By including the transaction and claims history surcharge levies in the calculation, a shortfall for real estate and civil litigation claims costs is typically reduced.

**Comparison of Projected 2025 Premium by Lawyer's Area of Practice  
+ Allocated Levies to Claims and Expenses by Claim's Area of Law**



59. The above chart compares the anticipated premiums sorted by the lawyer’s primary area of practice (plus the claims history surcharge, Real Estate Practice Coverage Option (“REPCO”) premium and transaction levies) to the anticipated claims costs and expenses for each area of law. This comparison indicates that, with the benefit of the transaction and claims history surcharge levies, and including the REPCO premium, there is a more acceptable correlation between revenues and claims for real estate and civil litigation. LAWPRO will continue to monitor the real estate and civil litigation costs compared to premium revenue to determine whether transaction levy fees will need to be increased in the future. It is worth noting that LAWPRO obtains area of practice information from lawyer’s self reporting on insurance applications and from the Law Society. The data from the latter is retrospective and may reflect a lawyer’s area of practice one or more years in the past. Lawyers’ areas of practice may vary over time which also impacts this analysis.

60. The chart above does indicate some subsidy by area of practice, especially by the practitioners in the “All Other” category. This subsidy changes somewhat over time and may vary considerably

from year to year for the smaller practice areas, if they were broken down in greater detail, and especially if there is a larger claim.

61. The area of wills and estates has experienced an increase in claim costs over the past decade. Given the relatively small number of practitioners in this area, a few large claims often skew the results. LAWPRO will continue to monitor these results and propose any action, if appropriate, at a future date.
62. Despite family law claims trending upwards over time, the revenues collected from family law practitioners continue to both cover the associated losses and support the exemption of this work from civil litigation levies.
63. Appreciating the foregoing variables and possibilities of comparison by area of practice, and notwithstanding the atypical variations caused by the pandemic, it appears that the Primary Program will substantially meet its objectives of risk rating. Although some subsidy may exist for certain areas of practice, when taking into account operating costs and commercial realities, the cost of insurance under the Primary Program is considered to be generally reflective of the risk. Notably, the Task Force Report acknowledged that “...no insurance program can be solely risk-reflective and there must be some sharing and spreading of risk.”<sup>28</sup>
64. Other aspects reviewed in the analysis included the exposure based on the size of the firm, year of call, geographic location, and prior claims history. The overall results of this analysis reaffirm the premium discounts already in place, including the surcharge applied to practitioners with a prior claims history. The results of this analysis are reproduced in select graphs in [Appendices “A”, “B”, and “C”](#).
65. Although the volume (size) of practice may not be wholly determinative of risk, the transaction levies do reflect the volume of business transacted in a practice, as well as the higher risk associated with real estate conveyancing and civil litigation.
66. Accordingly, the LAWPRO Board is satisfied with the continued use of transaction and claims history levy revenues as premium, with the result that the cost of insurance under the Primary Program continues to generally reflect the risk.

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<sup>28</sup> 1994 Insurance Committee Task Force Report, at page 4.

67. Various examples of premiums which would be charged to members depending on the nature of their practice are summarized in the [Premium Rating Examples section](#) of this Report.

68. LAWPRO offers many different risk-rated discounts. The number of Ontario lawyers that qualify for the most significant premium discounts is summarized in the following table:

Description of sample discounts	Number of lawyers who claim these sample discounts as of Jul 31, 2024
New Lawyer Discount (20%-50% discount)	5,841 lawyers (18% of all insureds)
Restricted Area of Practice Discount (50% discount)	1,919 lawyers (6% of all insureds)
Part Time Practice Discount (50% discount)	2,554 lawyers (8% of all insureds)
<b>TOTAL</b>	<b>10,314 lawyers (33% of all insureds)</b>

## REINSURANCE AND CAPITAL PRESERVATION

69. LAWPRO annually assesses its need for reinsurance based on its capital position and its claims results and volatility.

70. In its early years, LAWPRO purchased Primary Program-wide quota share reinsurance<sup>29</sup>. A stronger financial position and more stable claims experience enabled LAWPRO to cease reinsuring the Primary Program with quota share reinsurance starting in 2003. In addition to relying on LAWPRO’s own capital, the resources of the Errors & Omissions Fund up to a \$15 million cap were effectively relied on starting in 2003. The \$15 million backstop was discontinued effective the 2020 Program.

71. For 2025, LAWPRO will again look to purchase reinsurance protection against the possibility of multiple losses arising out of a common event or nexus, as it has since 2005 (the “Clash Excess of Loss Reinsurance”<sup>30</sup>). This protection against aggregated losses extends across both the Primary Program and TitlePLUS business, and offers some measure of protection against a series of claims, such as fraud-related claims where the fraudster targets more than one lawyer, or a single defect

<sup>29</sup> “Quota share” reinsurance is an arrangement where an insurer (like LAWPRO) will cede or give a portion of its premiums and claims risk to another insurer (a “reinsurer”) at a fixed percentage. This allows the insurer to retain such risks and premiums as it is comfortable with, while passing on the rest to the reinsurer(s).

<sup>30</sup> “Excess of loss” reinsurance is an arrangement where a reinsurer will indemnify an insurer for losses that exceed a specified limit. The insurer and reinsurer can negotiate the amount of risk the insurer retains before the reinsurance responds, the upper limit of the reinsurance coverage, and the premium (which is typically calculated based on the insurer’s annual premiums, subject to a minimum premium amount).

in the title affecting an entire condominium project. In light of potential changes to the primary program (introduction of CPATA coverage with international exposures), potential changes to TitlePLUS limits, and the continuing hardening reinsurance market for this type of reinsurance (i.e., a situation where insurance coverage is more difficult to come by and premiums increase), LAWPRO is braced for rate increases for this type of protection for 2025.

72. Accordingly, 100% of the premiums and losses for the Primary Program will again be retained by LAWPRO in 2025, subject to reinsurance protecting the Primary Program from multiple losses arising out of a common event or nexus.

## CAPITAL REQUIREMENTS

73. As LAWPRO has worked through some quite challenging times, its prudent and conservative approach to the issues of the day has stood it in good stead. LAWPRO has maintained a solid capital base, as well as a robust asset liability matching program to ensure that the funds are available to satisfy the claims obligations undertaken to date. LAWPRO has received a consistent “A” (Excellent) rating from A.M. Best Rating Services each year since 2000, and since 2012 has retained its “stable” outlook. (An “outlook”, which looks more to the future, is different from a “rating”.)
74. As a final consideration before determining the base premium, LAWPRO must consider its capital needs. Canadian regulators use the Minimum Capital Test (“MCT”) to assess capital adequacy of a property and casualty insurer. The MCT is a risk-based ratio calculation which compares the insurer’s capital or net assets available to the capital required. Through the capital required component of the test, regulators prescribe certain additional capital or margins that must be held based on the various types of assets and liabilities on the insurer’s balance sheet.
75. A significant amount of the margin requirement relates to the 25% additional capital that must be held for all the net claims liabilities on the books that relate to commercial liability (which includes professional liability coverage). Given the steady historical growth of LAWPRO’s net claims liabilities over the last decade or so, even a positive net income result can often be accompanied by a decline in LAWPRO’s MCT ratio. The second most impactful factor on the margin requirement is the equity risk on the equity portfolio which attracts a 30% additional capital requirement. As

part of the implementation of IFRS 17, the regulator has revised the MCT formula to include a 1.1 times multiple to the capital required.

76. Canadian regulators require that an insurer's MCT not fall below 150%. If it does, the insurer can expect regulatory intervention, up to and possibly including taking control of the company. As well, regulators require the Board to set an internal MCT target above the regulatory minimum. Should the MCT fall below this target, regulators would expect the Board and management to introduce measures to increase it back up above the internal target percentage. In 2016, LAWPRO completed its first capital assessment pursuant to the Office of the Superintendent of Financial Institutions' ("OSFI") *Guideline E-19 Own Risk and Solvency Assessment ("ORSA")* and the Autorité des Marchés Financiers' *Guidance on Capital Adequacy Requirements*. Although LAWPRO is regulated by the Ontario provincial regulatory body, the Financial Services Regulatory Authority of Ontario ("FSRA"), this regulator generally follows OSFI guidance. LAWPRO's ORSA review pegged the internal target MCT at 170% which has been reaffirmed in all subsequent years.
77. In addition, as part of the above exercise, the Board set LAWPRO's long-term preferred operating range for the MCT at 210% to 240% based on LAWPRO's risk profile and its unique ability to set premiums and raise capital, which differs significantly from those of other commercial insurers in Canada. An MCT result in this range would allow LAWPRO some capacity to absorb unexpected losses or changes in market conditions, and have time to implement a strategy to restore capital levels to the desired range.
78. The MCT was 229% at June 30, 2024, and 241% at December 31, 2023. The decline from year end to mid year was expected given the seasonal nature of unexpired risk. The preferred range is set to provide an appropriate buffer that allows the Company to withstand adverse scenarios such as a sudden influx of large claims, higher than expected inflation, or investment deterioration, and remain above the various regulatory thresholds. For example, the MCT dropped from 242% at 31 December 2019 to 197% at 31 March 2020, mainly due to impacts from the pandemic. If LAWPRO had not started with an MCT at the top of the preferred range, the 45-percentage point drop could have pushed the company below the 150% supervisory intervention level.
79. The insurance industry has undergone a complete financial statement overhaul from the move to International Financial Reporting Standards ("IFRS") 17 for Insurance Contracts effective January

1, 2023. OSFI expected IFRS 17 to be capital neutral for the industry as a whole, but not necessarily for individual companies. This proved to be true. The initial impact on LAWPRO was roughly flat. OSFI intends to revise the MCT calculation for 2025. We will monitor the impact this will have on LAWPRO's capital requirements.

## CONCLUSION

80. The LAWPRO Board considers the Primary Program outlined above to be appropriate and consistent with LAWPRO's mandate as set out in the 1994 Insurance Committee Task Force Report. The LAWPRO Board recommends that Convocation approve this Primary Program of Insurance for 2025 as offered so that it can be implemented by January 1, 2025.

ALL OF WHICH LAWPRO'S BOARD OF DIRECTORS RESPECTFULLY SUBMITS TO CONVOCATION.

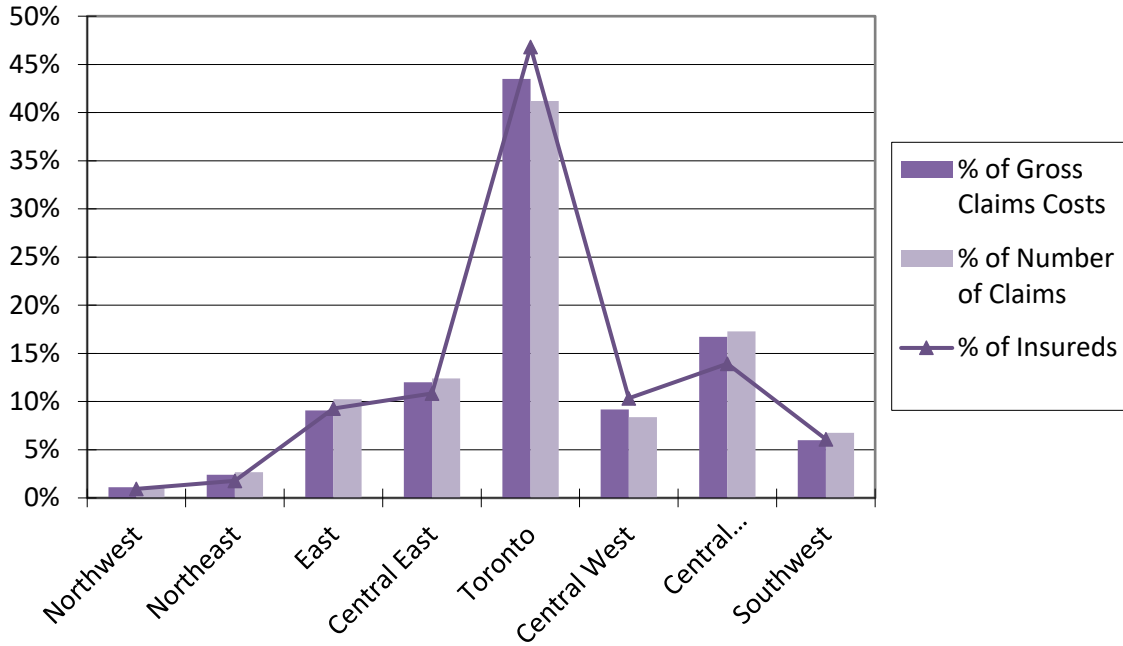
September 2024

*Andrew Spurgeon*  
Chairperson of the Board  
Lawyers' Professional Indemnity Company

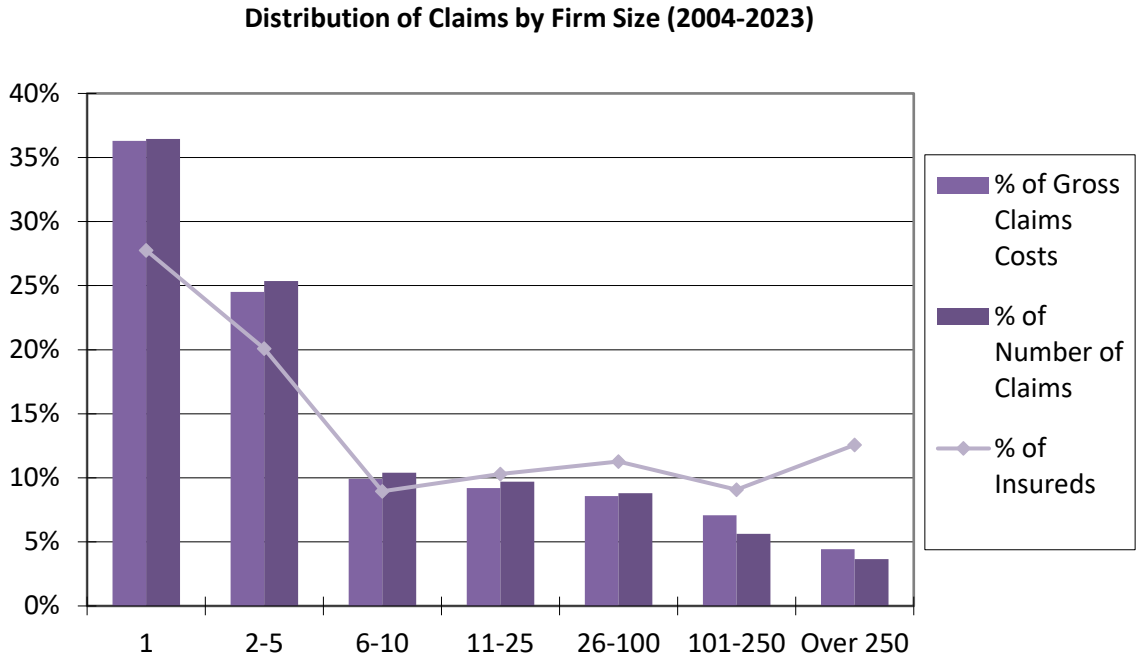
*Daniel E. Pinnington*  
President & CEO  
Lawyers' Professional Indemnity Company

## Appendix A – Distribution of Claims by Geographic Region

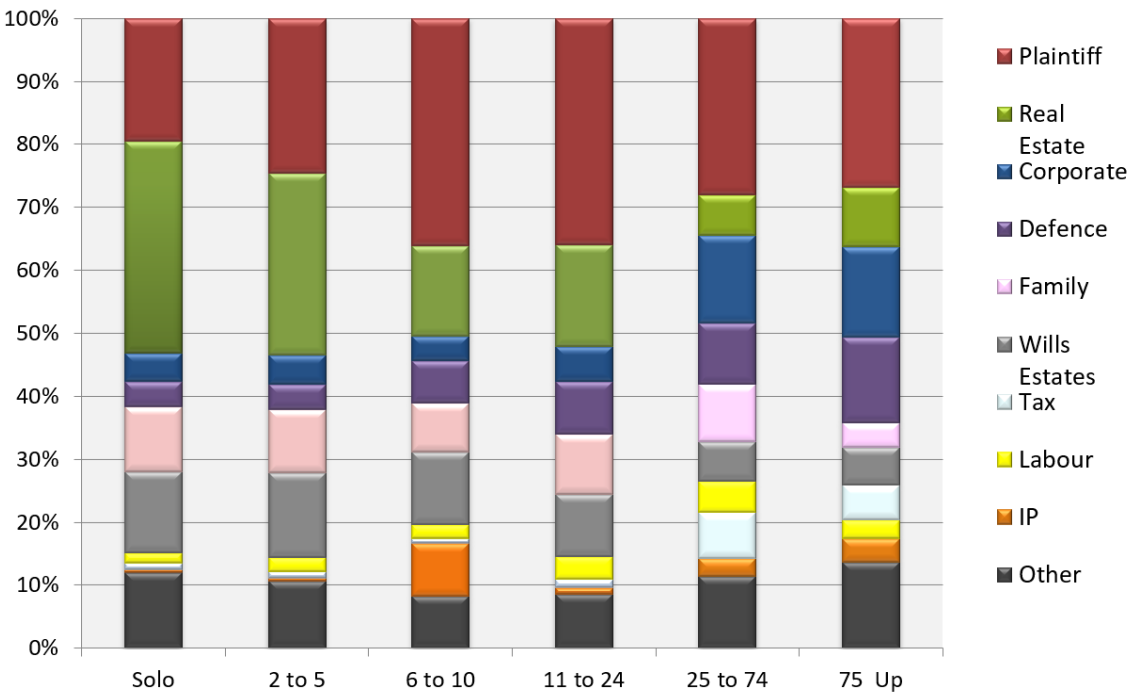
**Distribution of Claims by Geographic Region (2004-2023)**



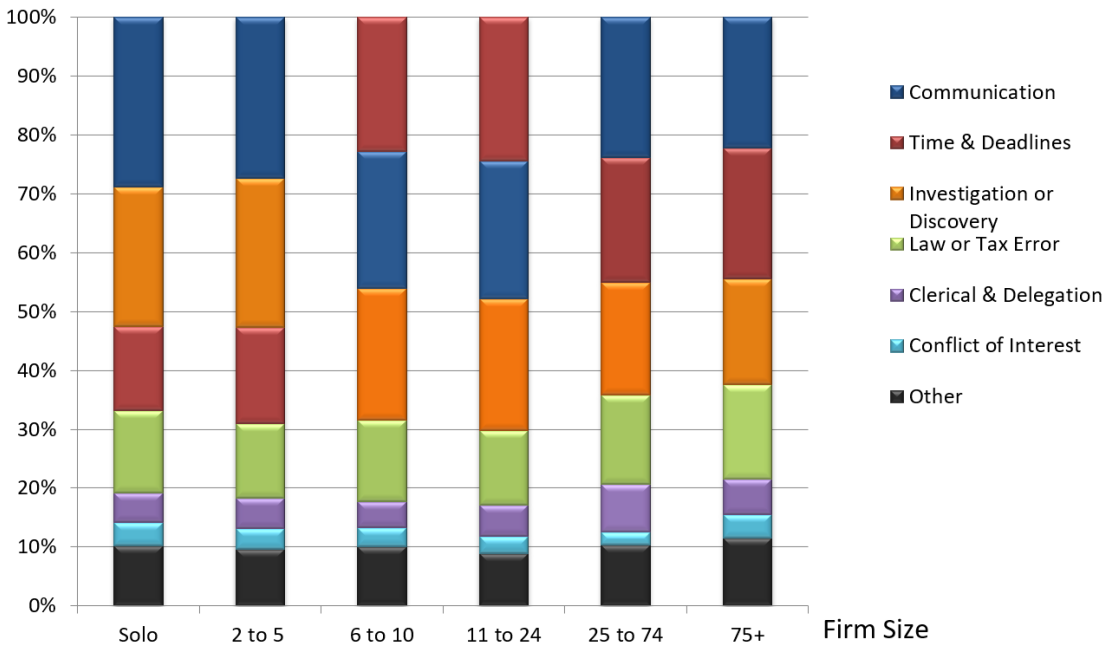
## Appendix B – Distribution of Claims by Firm Size



### LAWPRO claims count by area of law and firm size (2013-23)

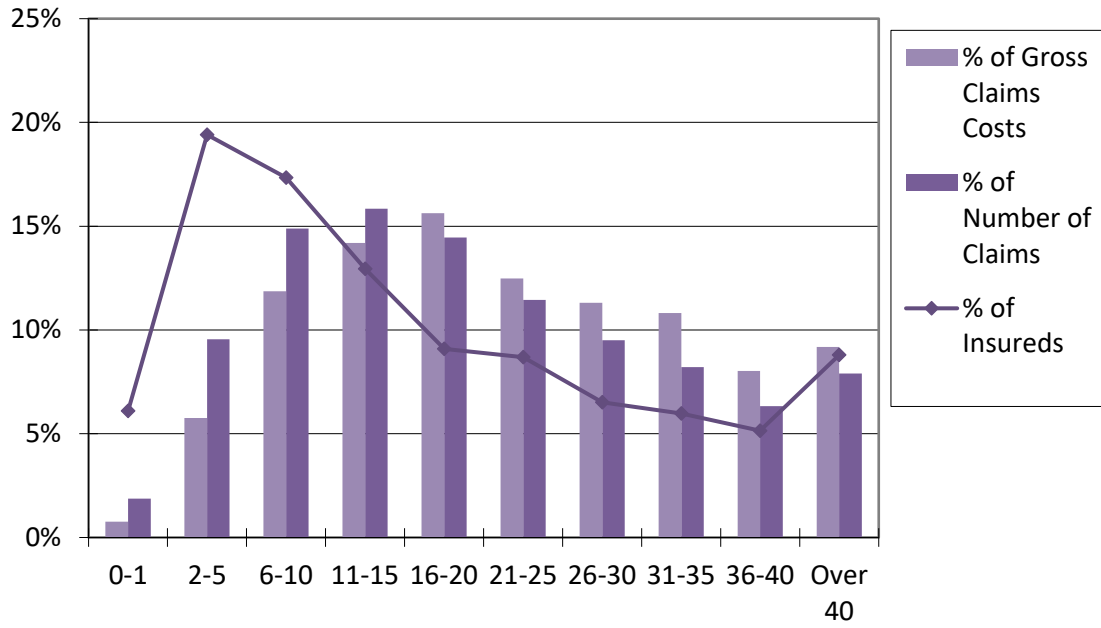


### LAWPRO claims count by error type and firm size (2013-23)



## Appendix C – Distribution of Claims by Years in Practice

**Distribution of Claims by Insured Years in Practice (1989-2023)**



## Appendix D – Detailed Descriptions of Causes of Loss

**Communications:** Communication-related errors (including poor communication, not keeping clients informed or failing to obtain client consent) are the biggest causes of claims in all areas of law (except litigation, where it is the #2 cause) and in firms of all sizes. While the most numerous claims, they are at the same time the most easily prevented. Lawyers can reduce their exposure to these types of claims by controlling client expectations, actively communicating with the client at all stages of a matter, documenting advice and instructions, and confirming in writing what work was done on a matter at each step along the way.

**Time management:** These kinds of claims including failing to ascertain a deadline, failing to calendar the deadline, and failing to react to the deadline even when it was known. These lapses often become claims when a limitation period ends up being missed or an action is administratively dismissed due to failing to move the litigation forward appropriately. There are also claims resulting from procrastination when a lawyer lets files that require work languish for extended periods of time. Time management claims are heavily concentrated in the litigation field, as it is so reliant on deadlines. Practice management software and tickler systems can help prevent these claims, as can lawyers building in more time cushions so that they are not adversely affected by unexpected delays.

**Inadequate investigation:** Modern technology and busy practices may be behind the tendency of lawyers to give quick legal advice without taking extra time to dig deeper or ask appropriate questions on a client's matter. In recent years, LAWPRO has seen a big increase in these types of claims in real estate, litigation and will/estates areas of law. High-volume real estate practice often means lawyers do not have enough time to ask the clients about their plans for the property, and as a result don't do the necessary searches or obtain the proper title insurance.

**Failure to know/apply the law:** These claims result from a lawyer not having sufficient or current knowledge of the relevant law on a matter in which he or she is working. Extensive federal and provincial legislation, as well as voluminous case law, help make this the second-most-common type of claim in family law. This category also includes failing to know or appreciate the consequences of tax law in corporate/commercial matters. Lawyers can best avoid this type of claim by sticking to the law they know best and not "dabbling" in other areas.

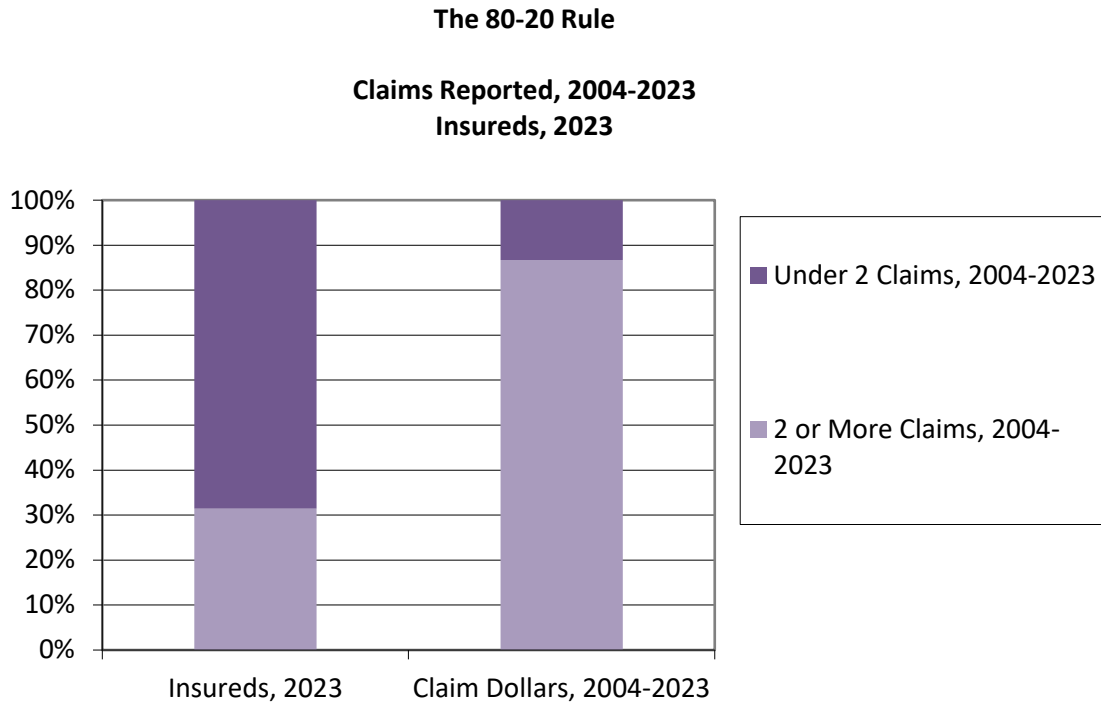
**Conflict of interest:** There are two types of conflict claims: the first arises when conflicts occur between multiple current or past clients represented by the same lawyer or firm. The second is a conflict that arises when a lawyer has a personal interest in the matter. As they regularly act for multiple clients/entities, real estate and corporate commercial lawyers experience proportionately more conflicts claims than other areas of law, while litigators have a relatively low rate of conflicts claims.

**Clerical errors:** These types of errors include things such as simple clerical mistakes, errors in mathematical calculation, work delegated to an employee or outsider that is not checked and failure to file documents. As important as delegation is to the efficient functioning of a law firm, lawyers need to take the time to review the work as they are ultimately responsible for it.

**Fraud:** Fraud continues to be a significant risk for LAWPRO, one which could cost the Primary Program significant claims dollars if not prevented. Lawyers are reporting attempted frauds to LAWPRO on a daily basis. Fraudsters on occasion still successfully dupe lawyers and law clerks, and it is not just real estate lawyers who are targeted. Litigation, business and family law lawyers are regular targets of bad cheque scams involving debt collections, spousal support payments and business loans. “Phishing” attempts and other cyber hacking methods are targeting lawyer trust accounts. Through our efforts, including publication of Fraud Fact sheets which are available at [Practicepro.ca/fraud](http://Practicepro.ca/fraud), Ontario lawyers are clearly more aware of frauds, but ever more sophisticated frauds mean lawyers must continue to be vigilant.

## Appendix E – Lawyers with multiple claims responsible for bulk of claims costs

The 31% of LAWPRO insureds with 2 or more claims are responsible for 87% of LAWPRO's claims costs.



## Appendix F – LAWPRO Vision, Mission & Values and Corporate Social Responsibility

These documents are available for download at: <https://www.lawpro.ca/about/vision-values/>

LAWPRO developed a vision, mission and values statement as a high-level road map to help us identify priorities, guide our activities, and provide a benchmark against which we measure ourselves. It also provides an ideal framework for how LAWPRO meets its mandate to be efficient, effective and accountable.

**Vision:** To be regarded as the preferred insurer in all markets and product lines in which we do business.

**Mission:** To be an innovative provider of insurance products and services that enhance the viability and competitive position of the legal profession.

**Values:** These statements inform our customers and employees of our core beliefs, fundamental goals and priorities that we pursue in our everyday work.

*Professionalism:* Individually and as a team, we hold ourselves to the highest professional standards. We deliver programs and services known for quality and cost-effectiveness, and for being practical, helpful and relevant. We demand the best of ourselves every day and in everything we do.

*Innovation:* We foster a climate in which creativity, innovation and change can flourish. We share ideas, skills and knowledge and encourage continual learning. We value teamwork and collaboration, and the diverse strengths and perspectives of others.

*Integrity:* We act with the highest levels of integrity in all of our interactions and decisions. We aim to always be consistent, fair, ethical and accountable.

*Service:* We strive for excellence in customer service. We share our knowledge, experience and expertise with our customers and with each other, so that together we can identify, prevent and solve problems. We take the time to listen and understand, so we can respond effectively and empathetically to our customers and to each other. We demonstrate courtesy and genuine respect for all.

*Leadership:* We try to make the world a better place, and to that end lend our energies and expertise to many communities.