

# Premium stability is the result of nimble adjustments

## Coverage

LAWPRO's base premium has held steady at \$3,350 since 2011 (see Figure 1); but like a sailboat that tacks carefully first in one direction then the other to manage the wind, stability is the result not of a lack of change, but of continual adjustments to manage change.

For 2013, for example, the minimum premium period (for the purpose of refunds of premium if you cancel during a policy year) was reduced to 30 days from 60, and the company reaffirmed a pure claims-made approach to claims management. Also, LAWPRO began preparing to insure the paralegal partners in lawyer/paralegal partnerships.

In the May 2013 issue of *LAWPRO Magazine*, we explained how, in Ontario, the base premium for the primary program is only part of the story. In fact, many Ontario lawyers whose practices attract lower risk pay less than the base premium, while lawyers working in riskier areas pay more. Tailoring premium costs in this way ensures that the cost of coverage is appropriately risk-rated (see Figure 2: Participation rates for discounts and coverage options).

Figure 1: Base premium per lawyer

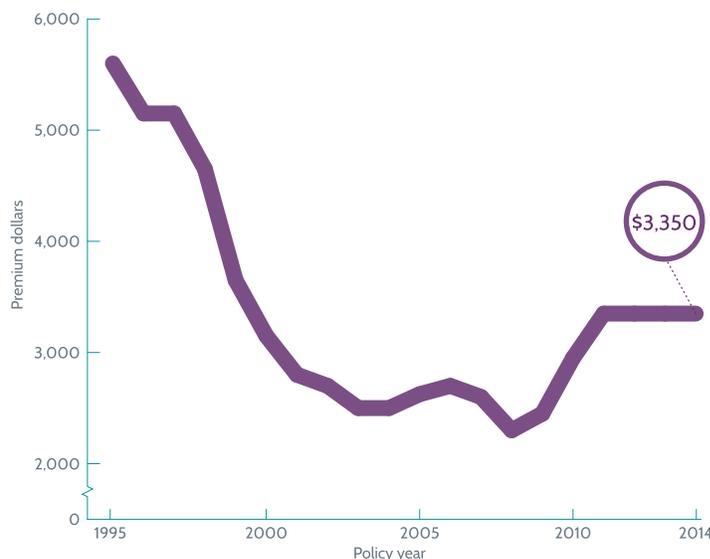


Figure 2: Participation rates for discounts and coverage options

Feature	No. of lawyers participating as of Jan. 31, 2013	No. of lawyers participating as of Jan. 31, 2014
<b>New call discount</b> 20 to 50 per cent base premium discount for those called in the last one to four years	4,196	4,499
<b>Part-time practice</b> 50 per cent base premium discount for eligible lawyers	1,562	1,675
<b>Restricted area of practice option</b> 50 per cent base premium discount for immigration/criminal law practitioners	1,484	1,512
<b>Innocent Party buy-up</b> Increase in Innocent Party sublimits up to as much as \$1 million per claim/aggregate	3,471 <small>(based on \$249/lawyer)</small>	3,424 <small>(based on \$249/lawyer)</small>
<b>Run-Off buy-up</b> Increase limits for past services from \$250,000 per claim/aggregate to as much as \$1 million per claim/\$2 million aggregate	963	965
<b>Real Estate practice coverage</b> Required for all lawyers practising real estate law in Ontario. Sublimit coverage of \$250,000 per claim/\$1 million aggregate	7,376	7,499

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The practicePRO and TitlePLUS programs are provided by LAWPRO

# Excess coverage offers peace of mind for large claims

The number of claims reported with a value exceeding \$100,000 has risen sharply in the last several years (see Figure 3 below). And while some lawyers believe that only large firms need excess insurance coverage, our claims statistics indicate that the size of the firm in which a lawyer participates does not correlate particularly closely to claim size.

As claim value increases, the risk that your basic coverage of \$1 million per claim/\$2 million in the aggregate may not cover all losses in the event of one or more large claims, or even a “cluster” of claims, increases as well. Many factors contribute to the increase in claim value; but an important factor – increase in property and other economic values – is outside lawyers’ control.

LAWPRO’s Excess™ insurance program offers coverage beyond the limits of the mandatory program and up to \$9 million

LAWPRO Excess insurance program offers coverage beyond the limits of the mandatory program and

up to **\$9 million per claim** / **\$9 million in the aggregate**

per claim/\$9 million in the aggregate. We provide excess coverage to a large and growing number of small-to-medium-size firms (see Figure 4). You may want to complete an Excess self-assessment at [lawpro.ca/excess](http://lawpro.ca/excess). We invite you to contact us to discuss your coverage needs, and to request a quotation.

Figure 3: Number of claims reported with a value greater than \$100,000\*

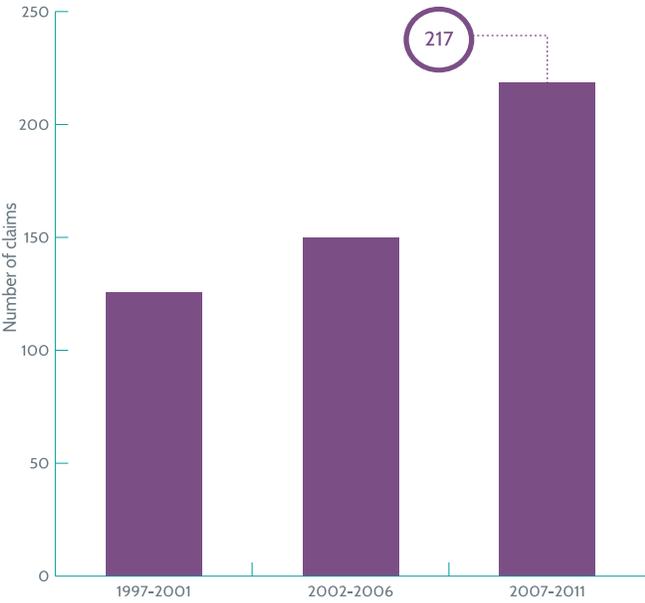
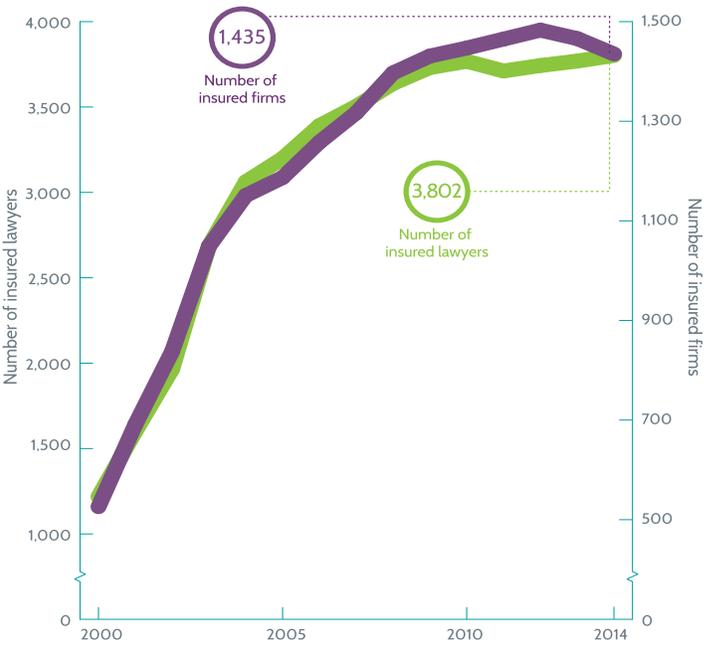


Figure 4: Growth of LAWPRO Excess Insurance Program\*



\*As at February 28, 2014

# Prompt, personalized, and knowledgeable attention to your queries



## Service

In 2013, LAWPRO provided E&O coverage to almost 24,300 lawyers, an all-time record number, up from about 23,600 in 2012.

### Personalized assistance over the phone

As the profession grows, the customer service department works to promptly and courteously address a growing volume of inquiries. Inbound calls to LAWPRO in 2013 increased 7.9 per cent over the previous year. Customer service representatives handled a total of 31,524 calls. Almost half of these were about coverage: requests for additional coverage, changes in practice status, or inquiries regarding options such as innocent party coverage.

### Convenient online tools to help you manage your coverage

New customer service initiatives were introduced in 2013 to help lawyers manage and maintain their insurance status via the secure “My LAWPRO” section of the LAWPRO website. These included:

- The creation of a new “Risk Management Credit” tab to allow lawyers to file their online declaration and to see current and past years’ credits claimed;
- To assist lawyers whose clients require proof of insurance (and are not satisfied with a copy of the lawyer’s policy declarations page), access to on-line issuance of certificates of insurance; and
- The introduction of French language policy-related documents, including pre-populated renewal forms.

# Count and costs remain high; time management claims increasing

## Claims report

The 2013 claim figures reflect an ongoing trend – continued elevated claims counts and costs. The information currently available suggests that ultimate claims expenses for the year will be in line with recent years: definitely above the \$80-90 million range and possibly exceeding \$100 million, when internal claims handling costs are included.

Not only is LAWPRO experiencing a high volume of claims reported – the number of open files now stands at over 3,600, the highest it has been in the last decade – but the average cost of a 2013 claim is expected to be over \$37,000, as compared to approximately \$30,000 ten years ago (see Figure 5).

One glimmer of good news emerged this year: the claims rate – which we express as a ratio of claims made per 1,000 lawyers – moderated slightly to 104 from last year’s alarming 108 (see Figure 6).

While a moderating claims rate is encouraging, the claims cause-of-loss data (see Figure 7) is much less reassuring.

Figure 7 shows that the 2012 uptick in claims based on time management errors was more than just a fluke – time management claims remained high in 2013, largely driven by administrative dismissal-related claims. This category of claims can be particularly costly, because if the claim relates to a missed limitation period, the claimant generally alleges that the lawyer is responsible for the lost right of action (and the related lost access to damages).

While the increase in time management claims is cause for concern in the plaintiff litigation area, communication-related errors generated the largest number of claims across every other major area of law.

Figure 5: Average cost per claim at 38 months after start of year in which claim was reported\*



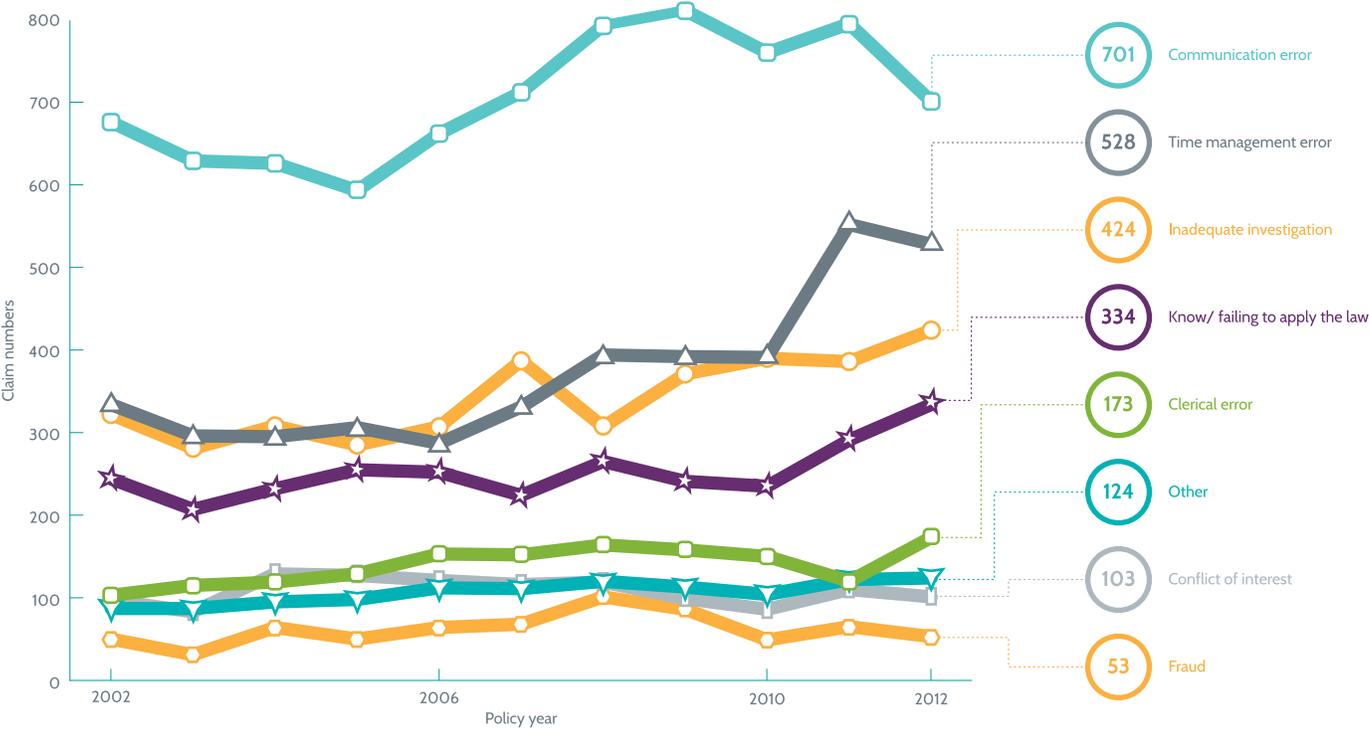
\*As at February 28, 2014

Figure 6: Number of claims reported and frequency\*



\*By calendar year, as at February 28, 2014

Figure 7: Reported claim count by cause of loss by fund year\*



\*As at February 28, 2014

## Claims by area of practice

The leader of the claims pack, in terms of area of practice, continues to be real estate: real estate claims accounted for 36.3 per cent of all claims costs reported to LAWPRO in 2013, despite a slowing of the real estate market in some parts of Ontario. Due to the increase in time management errors, litigation claims increased, accounting for 32.7 per cent of total claims, as compared to 25.5 per cent in 2012. There was a steep drop-off in corporate-commercial claims, and claims in all other areas of law remained relatively stable.

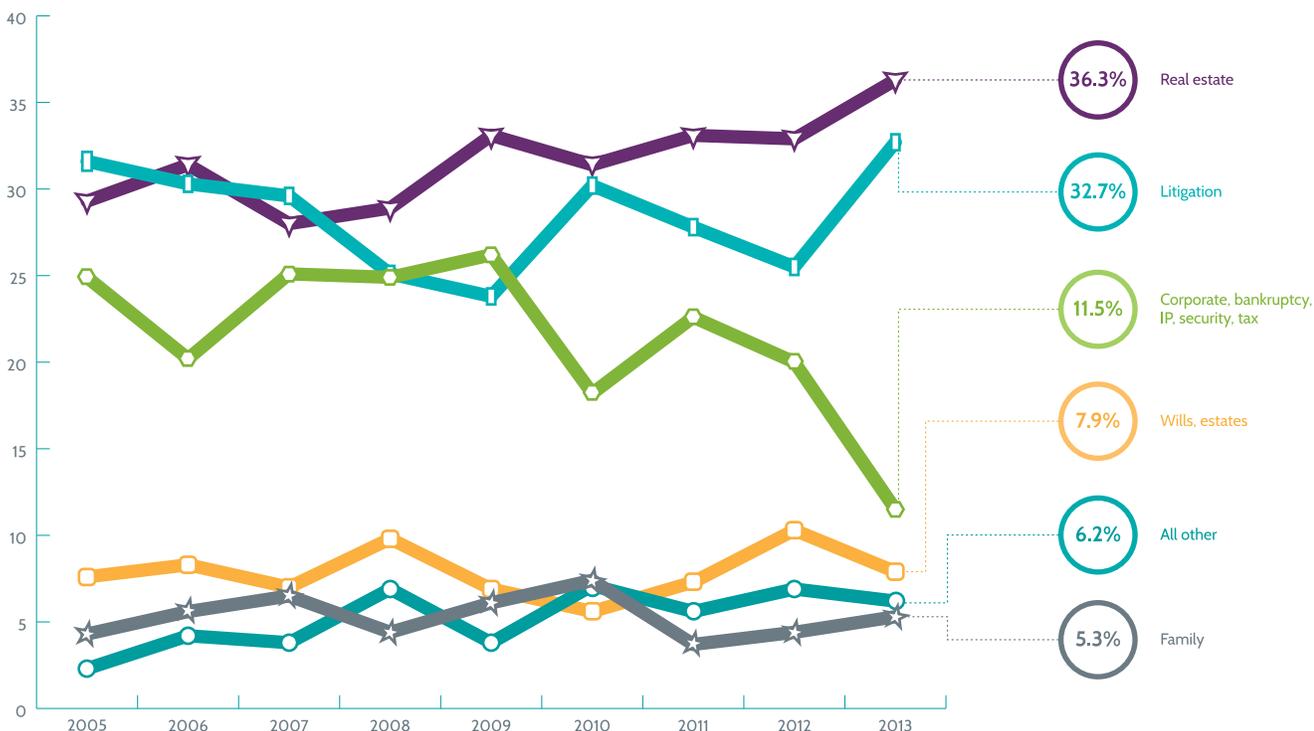
highest claims costs by area of practice



real estate claims **36.3%**

of all claims reported to LAWPRO in 2013

Figure 8: Distribution of claims by area of practice\* (% of gross claims costs)



\*As at February 28, 2014

# Controlling costs and defending lawyers where appropriate

## Claims management

The *Rules of Professional Conduct* and the terms of the LAWPRO insurance policy require lawyers to report all claims as promptly as possible, even if the likelihood that the claim will be successful is relatively low. In many cases, early reporting gives LAWPRO a better shot at “repairing” an error and reduces the likelihood of an allegation of late reporting which could jeopardize coverage altogether.

Contacting us at the earliest opportunity – as soon as you realize that something may have gone wrong (which often means before a claim has been threatened or made, or even before the client has discovered the error) – allows the best opportunity to recommend a course of action to handle the claim. Because most claims are the result of circumstances or errors seen before, LAWPRO counsel have the benefit of many years’ cumulative experience with claim avoidance and repair.

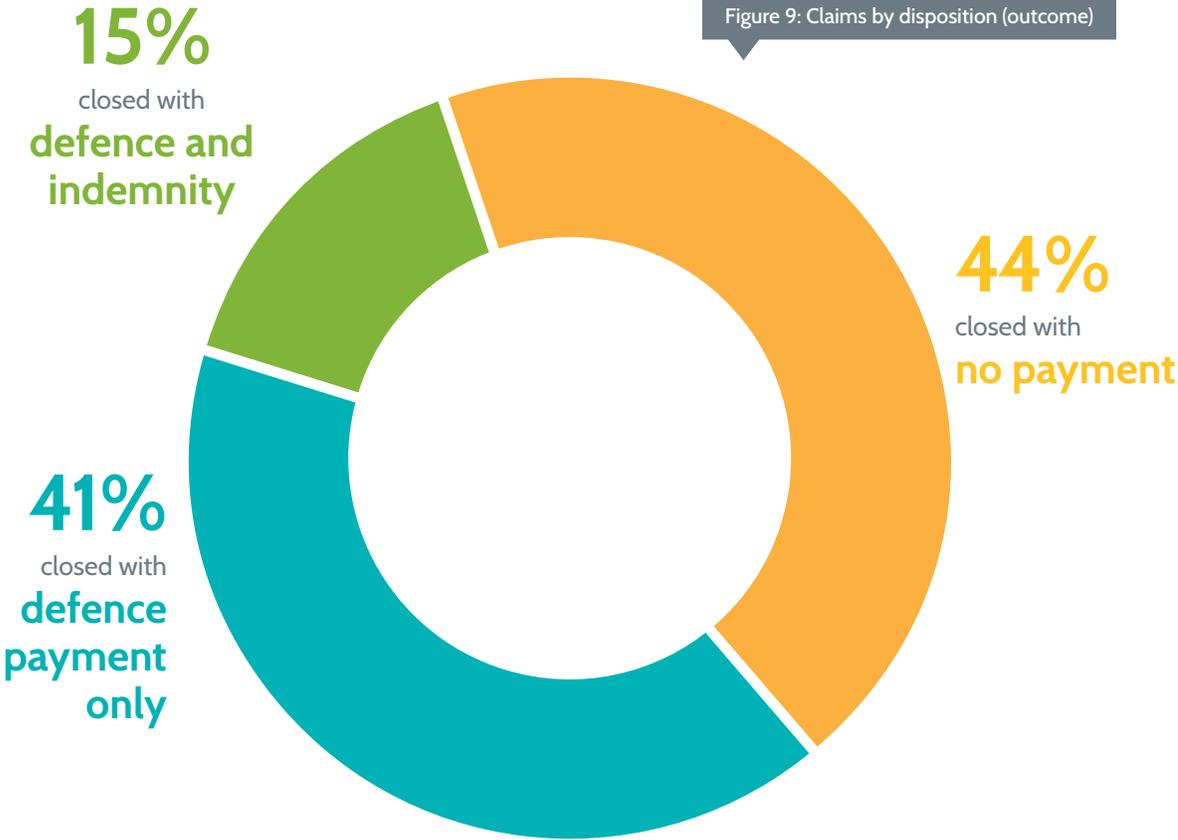
Reporting an error or potential claim alone has no negative impact on your insurance premium (though costs associated with repairing a claim may trigger a deductible). As you can see from Figure 9, only 15 per cent of claims closed in 2013 required an indemnity payment.

Want to learn more about the work we do to “repair” errors and avoid claims? See “Repairs: Keeping rights of action alive keeps claims costs down” on page 15.



**report all claims as promptly as possible**

early reporting gives LAWPRO a **better shot at “repairing”** an error



## Experience means knowing which claims to defend

LAWPRO's claims resolution philosophy is simple: resolve claims quickly in situations where there is liability, defend vigorously if the claim has no merit, and avoid economic settlements. Our annual survey of insureds with a closed claim (see Figure 10) reflected a high level of satisfaction with our claims resolution processes and results.

When it comes to our defence track record, the numbers speak for themselves. In 2013, we:

succeeded in

# 18 out of 20

matters that went to trial and for which a decision was rendered;

succeeded in

# 10 out of 13

appeals argued; and

won

# 20 out of 25

summary judgment applications made.

See page 18 for highlights of some of the cases where we successfully defended lawyers in 2013.

LAWPRO counsel also participate in seeking resolution of many claims via negotiation, mediation and arbitration. They also take all reasonable steps to recover costs through the enforcement of judgments and costs orders, and by pursuing reimbursement from third parties. For more details of our 2013 cost recovery efforts, see page 15. ■

Figure 10: LAWPRO survey results

The annual survey of LAWPRO E&O insureds with a closed claim indicated the following:

## 97%

said that they were **satisfied with how LAWPRO handled the claim;**

## 92%

said they were **satisfied with our selection of counsel;**

## 89%

said they would **have the defence counsel firm represent them again; and**

## 87%

said **LAWPRO received good value for defence monies spent.**