

# LAWPRO

magazine

JUNE 2014 VOL 13.1

## 2013 ANNUAL REVIEW



## 2013 Financial Results Explained

### Also

- Malpractice insurance in foreign jurisdictions – an update
- Computers running Windows® XP SP3 or Office 2003 must be updated
- Understanding your Run-off Coverage

## upcoming events

### June 12, 2014

Law Society of Upper Canada  
Solo and Small Firm Conference  
*Space sharing – what is the right fit for you?*  
Ray Leclair presenting

*The essential legal technologies every law practice should be using*  
Dan Pinnington presenting  
Toronto, ON

### August 16, 2014

CBA Legal Conference  
Real Property Section  
*Fraud and lawyers*  
Ray Leclair presenting with Tim Kennedy  
Solo and Small Firm Section  
*60 practice and technology tips in 60 minutes*  
Dan Pinnington presenting  
St John's, NL

For a list of our  
“Cybercrime and Law Firms”  
presentations see page 22  
and for TitlePLUS events  
see page 25.

## recent events

### February 3-4, 2014

Canadian Property Tax Association (Ontario)  
CPTA Symposium  
*Claims prevention and social media tips*  
Dan Pinnington presented  
Toronto, ON

### February 4, 2014

Hamilton Law Association CPD  
*Avoiding communication errors*  
Ray Leclair presented  
Hamilton, ON

### February 6, 2014

Ontario Bar Association  
OBA Institute 2014  
International Law Section CPD  
*The international lawyers' retainer agreement*  
Ray Leclair presented  
Toronto, ON

### February 27, 2014

Ontario Association of Chiefs of Police  
*Crime prevention campaign launch*  
Ray Leclair presented  
Toronto, ON

### March 26, 2014

Law Society of Upper Canada  
The Oatley McLeish Guide to Motor Vehicle  
Litigation CPD  
*Avoiding administrative dismissals*  
Domenic Bellacicco presented  
Toronto, ON

### March 29, 2014

American Bar Association  
ABA Techshow Conference  
*60 Blackberry apps in 60 minutes*  
Dan Pinnington presented  
Chicago, IL

### April 2, 2014

Ontario Bar Association  
Mortgage Financing: Successful Due Diligence  
and Document Prep Strategies CPD  
*Who is your client and what do they need to  
know at the outset?*  
Ray Leclair presented, TitlePLUS sponsored  
Toronto, ON

### April 17, 2014

University of Toronto  
Internationally Trained Lawyers Program  
*LAWPRO insurance and practice tips*  
Ray Leclair presented  
Toronto, ON

### April 24, 2014

Law Society of Upper Canada  
11<sup>th</sup> Annual Real Estate Law Summit CPD  
*Professional tips to help you avoid claims*  
Lori Swartz presented  
Toronto, ON

### May 14, 2014

Ontario Bar Association  
Citizenship and Immigration Section CPD  
*Tips to better manage your immigration practice*  
Dan Pinnington presented  
Toronto, ON

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# New hires in the LAWPRO claims department

LAWPRO is pleased to welcome four new claims counsel: Keri Gammon, Andrew Levin, Kellie Seamen and David Waterhouse.

Before joining LAWPRO, Ms. Gammon practiced civil and commercial litigation at Fasken Martineau DuMoulin and Mr. Levin was previously in private practice with a real estate focus. Ms. Seamen worked for over a decade in securities and commercial litigation with Groia & Co. while Mr. Waterhouse joins us from Goldman, Sloan, Nash, Haber, LLP and is an experienced general practitioner and later litigation counsel.

# LAWPRO charities for 2014

As part of LAWPRO's commitment to corporate social responsibility, employees elect five charities that are supported through casual Friday and internal event contributions. LAWPRO matches those donations at the end of the year.



The five charities chosen for 2014 are: Anaphylaxis Canada, Fanconi Canada, Good Shepherd Refuge Social Ministries, The Toronto Children's Breakfast Club, and Toronto Humane Society. LAWPRO also has a "charity day" program, where employees can spend one day volunteering at a registered charity in lieu of working in the office.

# Key dates

## April 30, 2014

Real estate and civil litigation transaction levies and forms are due for the quarter ended March 31, 2014.

## April 30, 2014

Exemption forms from lawyers not practising civil litigation or real estate and wanting to exempt themselves from quarterly filings are due.

## July 31, 2014

Real estate and civil litigation transaction levies and forms are due for the quarter ended June 30, 2014.

## September 15, 2014

File your [LAWPRO Risk Management Declaration](#) by this date to qualify for the \$50 premium discount on the 2015 program premium for each LAWPRO-approved CPD program (to a maximum of \$100) completed by this date.

## On or about October 1, 2014

LAWPRO online filing of Professional Liability Insurance renewal applications for 2015 is expected to begin. If you wish to file a paper application instead, download a 2015 pre-populated paper renewal application from our website on or about October 1, 2014. Renewal forms will not be mailed out.

## October 31, 2014

Real estate and civil litigation transaction levies and forms are due for the quarter ended September 30, 2014.

## November 4, 2014

E-filing deadline: Applications filed online by November 4, 2014 qualify for a \$25 per lawyer e-filing discount applied to the 2015 insurance premium.

## November 11, 2014

Application filing deadline: 2015 LAWPRO insurance applications filed after this date will be subject to a surcharge equal to 30 per cent of the base premium.

# E/Briefs

The following is a summary of the electronic communications you should have received from LawPRO this fall/winter. The full content of these newsletters is available at [practicepro.ca/enews](http://practicepro.ca/enews).

To ensure that you receive timely information about deadlines, news and other insurance program developments, please make sure that LawPRO has your current email address and that you have whitelisted [service@lawpro.ca](mailto:service@lawpro.ca).

## Webzines



### Get cybercrime savvy!

December 4, 2013

Do you know how to avoid a cyber-attack? This webzine provided detailed, practical information about the steps lawyers and law firms need to take to protect themselves from cybercrime.



### Great communication helps keep you claims-free

January 28, 2014

Breakdowns in lawyer-client communication are one of the easiest types of errors to guard against and yet they remain the most

common. This webzine provided some of our best communication-related articles on avoiding these types of claims.



### Suspending limitation periods, Pierringer disclosure PLUS counsel job posting

April 1, 2014

Key risk management issues geared to litigation lawyers and other insurance coverage information were featured in this webzine.

## Insurance News

### LawPRO Insurance News

February 26, 2014

#### 2013 Transaction Levy Filings Overdue

An audit of our records indicates that we have not yet received all your 2013 transaction levy filings.

We ask that you please review your files to ensure that all of your 2013 transaction levy filings are up to date, and to remit any outstanding levy filings and associated payments to LAWPRO as soon as possible.

If your records indicate that you have filed all your 2013 transaction levy forms and remitted any associated payment(s) and you receive this email in error, we apologize. But ask that you contact our Customer Service Department (or send an email to [Service@lawpro.ca](mailto:Service@lawpro.ca)) so that we may verify our records of your filing, as we may have received your filing(s) after this email was generated.

As a suggestion, you may wish to make a note in your calendar of the 2014 key dates as noted below:

#### 2014 Key Dates

January 31, 2014  
Real estate and civil litigation transaction levies and forms are due for the quarter ending December 31, 2013.

April 30, 2014  
Real estate and civil litigation transaction levies and forms are due for the quarter ending March 31, 2014.

April 30, 2014  
Annual exemption forms from lawyers not practising civil litigation or real estate in 2014 and wanting to exempt themselves from quarterly filings are due.

Send this to a friend

#### Online Community

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### LawPRO Insurance News

February 7, 2014

#### LAWPRO KEY DATES FOR 2014

Please make a note of the key dates for 2014 and mark your calendars accordingly. For example, on or about October 1, 2014, we anticipate offering electronic filing for Professional Liability Insurance renewal applications for 2015.

January 31, 2014  
Real estate and civil litigation transaction levies and forms are due for the quarter ending December 31, 2013.

February 5, 2014  
Last date to qualify for a \$50 early payment discount on the 2014 policy premium (see page 13 of the 2014 Program Guide for details).

April 30, 2014  
Real estate and civil litigation transaction levies and forms are due for the quarter ending March 31, 2014.

April 30, 2014  
Annual exemption forms from lawyers not practising civil litigation or real estate in 2014 and wanting to exempt themselves from quarterly filings are due.

July 31, 2014  
Real estate and civil litigation transaction levies and forms are due for the quarter ending June 30, 2014.

September 15, 2014  
2013 insurance premium discount of \$50 for each LAWPRO-approved CDP program (to a maximum of \$100) completed by the date.

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### Transaction Levy Filings Overdue

December 11, 2013; and February 26, 2014

Reminder to lawyers about overdue transaction levy filings.

### Mark your calendar: 2014 Key dates for LawPRO filings

January 30, 2014

A message to lawyers and firms highlighting key LawPRO dates for 2014.

**LAWPRO**  
magazine

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#### Disclaimer:

This publication includes techniques which are designed to minimize the likelihood of being sued for professional liability. The material presented does not establish, report, or create the standard of care for lawyers. The material is not a complete analysis of any of the topics covered, and readers should conduct their own appropriate legal research.



# How do you prepare for the unknown?

## As an insurance company, LAWPRO addresses that question every day.

We have claims professionals, financial analysts and actuaries to help us and our insureds understand and prepare for what might happen – from the malpractice errors we see year after year (e.g. lawyer/client communications) to new technology dangers that put information and trust accounts at risk.

In 2013, we continued to see a high level of claims arising from administrative dismissals and new risks due to fraud and cybercrime.



As you know, we offer not only coverage but also advice to help you avoid and be protected from those perils. In fact, building on the “Cybercrime and law firms” issue of *LAWPRO Magazine*, we are visiting many areas of the province this year to present a cybercrime awareness CPD program to help law offices cope with these threats.

Our practicePRO claims prevention program marked its 15<sup>th</sup> anniversary in 2013. It continues to be a leading source of risk mitigation information in Ontario and practicePRO materials are accessed by professionals throughout Canada and abroad. These kinds of services help keep our insureds well informed and also help prevent claims that could end up affecting your premiums.

One of LAWPRO's corporate values is service. That is very important to us at LAWPRO, but good service is always a balancing act. The number of insureds we serve is constantly increasing, which drives higher volumes of correspondence and phone calls. Open claim files are at the highest level in a decade, requiring significant attention to our staffing needs in the claims handling operation. But insureds also consider premium costs when they evaluate an insurance company, and LAWPRO has maintained a stable base premium for the Law Society of Upper Canada's primary professional liability program since 2011. That stability has been maintained, in part, due to a rigorous focus on general expenses, and it is noteworthy that in 2013 operating expenses declined by \$1.1 million compared to 2012.



LAWPRO spends money wisely, focusing on areas where our insureds get the most value in terms of saving them both money and (hopefully) day-to-day aggravation. We also take care to invest prudently. This year we reaped a significant financial benefit in unrealized gains due to strong market performance. As well, our claims expense decreased as a result of careful actuarial analysis. These topics and more are further explained in the articles, “Financial results explained” and “Premium stability is the product of nimble adjustments: Coverage” that follow.

### Preparation, service and stability: But what if there are more than the usual perils ahead?

Our sound financial results allowed LAWPRO to handle the increasing number of insureds and maintain its base premium steady for the fourth year in a row at \$3,350. However, the growing number of open

files managed by the claims team, an increasingly strict regulatory environment, and the changing nature of the legal profession mean we need to be poised for an uncertain future.

These are some of the issues we are working towards addressing now. There are many people and organizations reviewing and discussing the implications of all the possible scenarios for alternative business structures, legal training and new ways to access justice. Our near future might be quite different from what it is today. Rest assured that LAWPRO is considering how insurance will play a part in this changing landscape. Just as importantly, we are considering how to offer the right coverage at the right price.

*K Waters*

Kathleen A. Waters  
President & CEO



# Financial results explained

## A Net premiums: \$106.5 million

Net LAWPRO revenues in 2013 were \$106.5 million. Premiums from the mandatory insurance program were \$2.1 million higher than in 2012, largely due to a greater-than-expected growth in the number of lawyers joining the mandatory program.

## B Net claims: \$96.7 million

Net claims and adjustment expenses for 2013 decreased by \$9.4 million compared to 2012. Part of that decrease was due to a net reduction in reserves of \$11.4 million following the completion of a re-evaluation of the actuarial models used to estimate outstanding losses.

## C General expenses: \$16.3 million

LAWPRO's general expenses in 2013 were \$1.1 million lower than in 2012, and \$1.6 million lower than budgeted, due to continued cost containment efforts undertaken by the company.

## D Investment income: \$16.3 million

Investment income increased by \$1.4 million to \$16.3 million in 2013. Investment income from interest receipts decreased by \$0.4 million to \$15.8 million as a result of market volatility – also the cause of a \$6.0 million decrease in net unrealized gains on the fixed income security portfolio that the company uses to match claims liabilities (compared to a decrease of \$1.9 million in 2012). Net capital gains on disposition of assets during the year were higher than in 2012: \$5.6 million compared to \$1.4 million. Finally, LAWPRO was required to report a write-down of \$0.9 million in unrealized losses on equity securities that met the International Financial

| INCOME STATEMENTS                                   |                   |                     |
|---|-------------------|---------------------|
| STATEMENT OF PROFIT OR LOSS                         |                   |                     |
| Stated in thousands of Canadian dollars             |                   |                     |
| For the year ended December 31                      | 2013              | 2012<br>(restated*) |
| <b>Revenue</b>                                      |                   |                     |
| Gross written premiums                              | \$ 113,561        | 110,676             |
| Premiums ceded to reinsurers                        | (7,051)           | (5,899)             |
| Net written premiums                                | 106,510           | 104,777             |
| (Increase) decrease in unearned premiums (note 9)   | (26)              | (60)                |
| <b>Net premiums earned</b>                          | <b>106,484</b>    | <b>104,717</b>      |
| Net investment income (note 5)                      | 16,255            | 14,893              |
| Ceded commissions                                   | 1,535             | 3,841               |
|   | <b>\$ 124,274</b> | <b>123,451</b>      |
| <b>Expenses</b>                                     |                   |                     |
| Gross claims and adjustment expenses (note 8)       | \$ 99,178         | 105,721             |
| Reinsurers' share of claims and adjustment expenses | (2,475)           | 385                 |
| <b>Net claims and adjustment expenses</b>           | <b>96,703</b>     | <b>106,106</b>      |
| Operating expenses (note 14)                        | 16,330            | 17,462              |
| Premium taxes                                       | 3,408             | 3,321               |
|   | <b>116,441</b>    | <b>126,889</b>      |
| <b>Profit (loss) before income taxes</b>            | <b>\$ 7,833</b>   | <b>(3,438)</b>      |
| Income tax expense (recovery) (note 13)             |                   |                     |
| Current   | \$ 2,126          | (856)               |
| Deferred  | (226)             | (350)               |
|   | <b>1,900</b>      | <b>(1,206)</b>      |
| <b>Profit (loss)</b>                                | <b>\$ 5,933</b>   | <b>(2,232)</b>      |

\* See Note 3d

Accompanying notes are an integral part of the financial statements.

\* LAWPRO's financial statements were prepared in accordance with both new and revised International Financial Reporting Standards. These standards were applied effective January 1, 2012 and the transition resulted in adjustments to amounts reported in previous financial statements. See the *LAWPRO Annual Report* for more details.

Reporting Standards (IFRS) definition of "significant or prolonged decline."

## E Net income: \$5.9 million

LAWPRO experienced total net income for 2013 of \$5.9 million (compared to a net loss

of \$2.2 million in 2012). After including \$12.7 in other comprehensive income (see F, opposite, for details), this resulted in shareholder's equity of \$189.9 million at the end of 2013 – for a year-over-year increase of \$18.6 million (compared to a \$4 million increase in 2012).



LAWPRO experienced total **net income** for 2013 of **\$5.9 million**. After including \$12.7 million in other comprehensive income, this resulted in a **\$18.6 million** year-over-year increase in shareholder's equity.

#### STATEMENT OF PROFIT OR LOSS AND OTHER COMPREHENSIVE INCOME

Stated in thousands of Canadian dollars

For the year ended December 31

##### Profit (loss)

Other comprehensive income (loss), net of income tax:

Items that will not be reclassified subsequently to profit or loss:

Remeasurements of defined benefit obligation, net of income tax expense (recovery) of \$174 [2012: (\$131)]

Items that may be reclassified subsequently to profit or loss:

Available-for-sale assets

Net changes unrealized gains (losses), net of income tax expense (recovery) of \$5,780 (2012: \$2,052)

Reclassification adjustment for (gains) losses recognized in profit or loss, net of income tax (expense) recovery of (\$1,618) [2012: (\$319)]

Reclassification adjustment for impairments, recognized in profit or loss, net of income tax expense of \$226 (2012: \$650) (note 5)

**Other comprehensive income (loss)**

**Comprehensive income**

|  | 2013             | 2012<br>(restated*) |
|--|------------------|---------------------|
|  | \$ 5,933         | (2,232)             |
|  |                  |                     |
|  | 480              | (363)               |
|  |                  |                     |
|  | 16,034           | 5,693               |
|  | (4,486)          | (886)               |
|  | 625              | 1,802               |
|  | <b>12,653</b>    | <b>6,246</b>        |
|  | <b>\$ 18,586</b> | <b>4,014</b>        |

Accompanying notes are an integral part of the financial statements.

### F Other comprehensive income: \$12.7 million (after tax amounts quoted)

In 2013, the markets rallied and LAWPRO benefited from an increase in net unrealized gains on its surplus investments in the amount of \$12.2 million. The surplus portfolio provided an unrealized return of \$16 million. Securities were sold reflecting a gain of \$4.5 million which was released into investment income (see D, opposite). An additional adjustment to transfer \$0.6 million to investment income was due to the impairment of certain equity securities. In addition to these investments, LAWPRO recognized a \$0.5 million gain on the company defined benefit plan as a result of rising corporate bond yields.

## Minimum Capital Test: A key solvency benchmark

The Minimum Capital Test (MCT) is designed to ensure that a financial institution's assets are sufficient to meet its present and future obligations.

As the MCT is currently formulated, LAWPRO's score is 233 per cent – up from 223 per cent on December 31, 2012, and well within the company's preferred range.

However, regulatory changes on the horizon are expected to place significant pressures on the company's MCT results going forward. Less favourable changes to the MCT calculation will become effective on January 1, 2015, forcing LAWPRO to reassess its financial strategies in the intervening months to prepare for compliance. ■

# 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

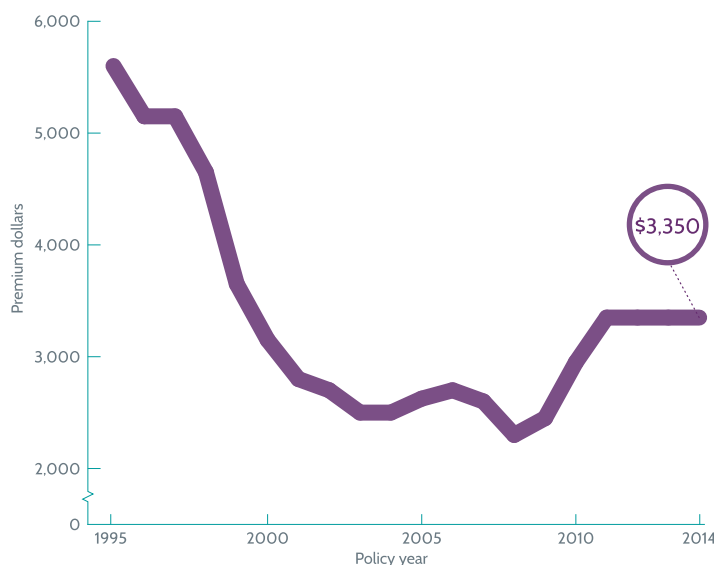


Figure 2: Participation rates for discounts and coverage options

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

## 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\*

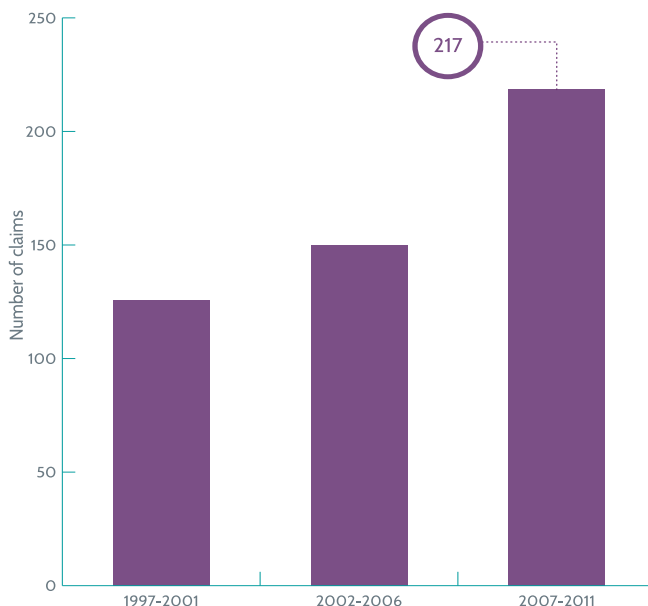
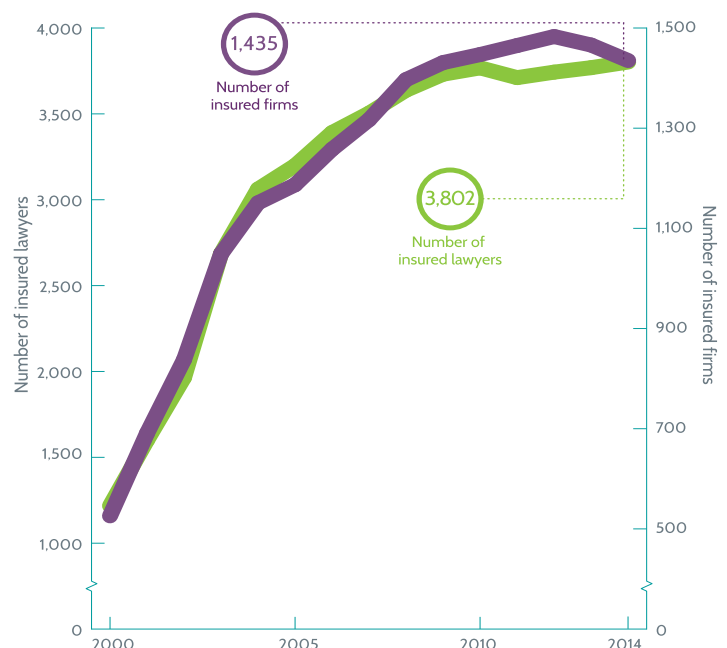


Figure 4: Growth of LAWPRO Excess Insurance Program\*



\*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).

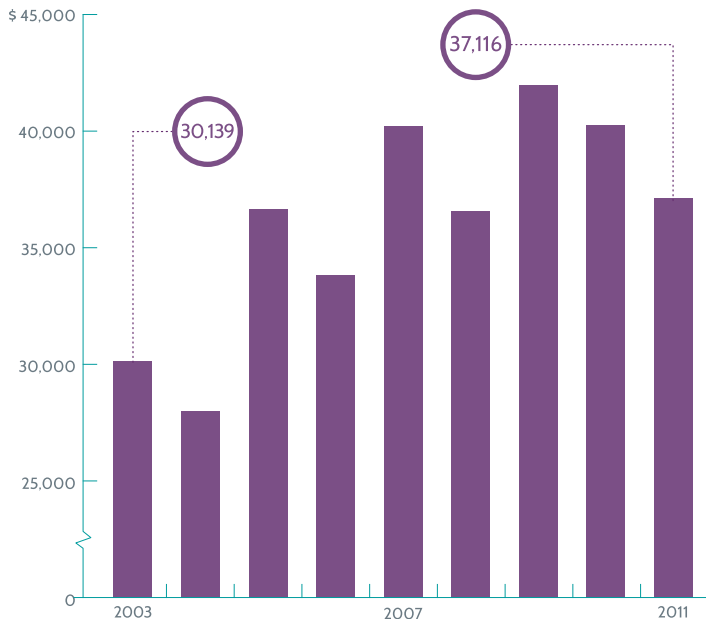
While a moderating claims rate is encouraging, the claims cause-of-loss data (see Figure 7) is much less reassuring.

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.

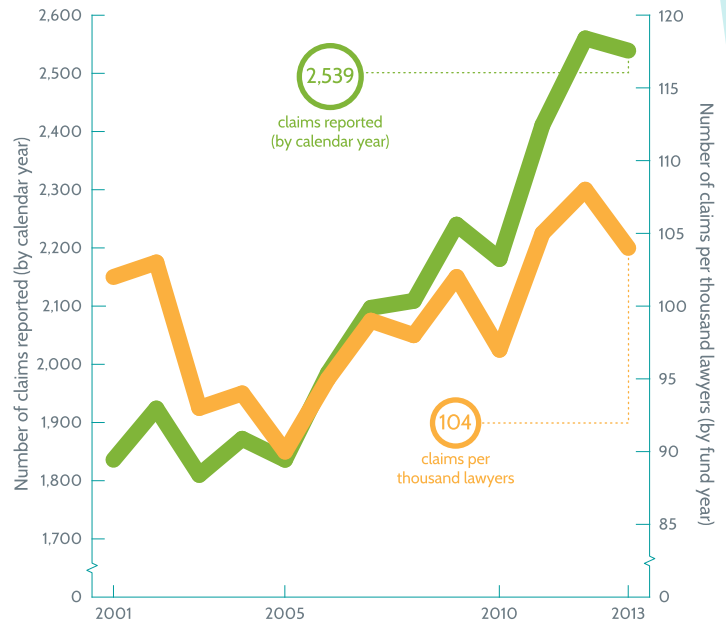


Figure 5: Average cost per claim at 38 months after start of year in which claim was reported\*



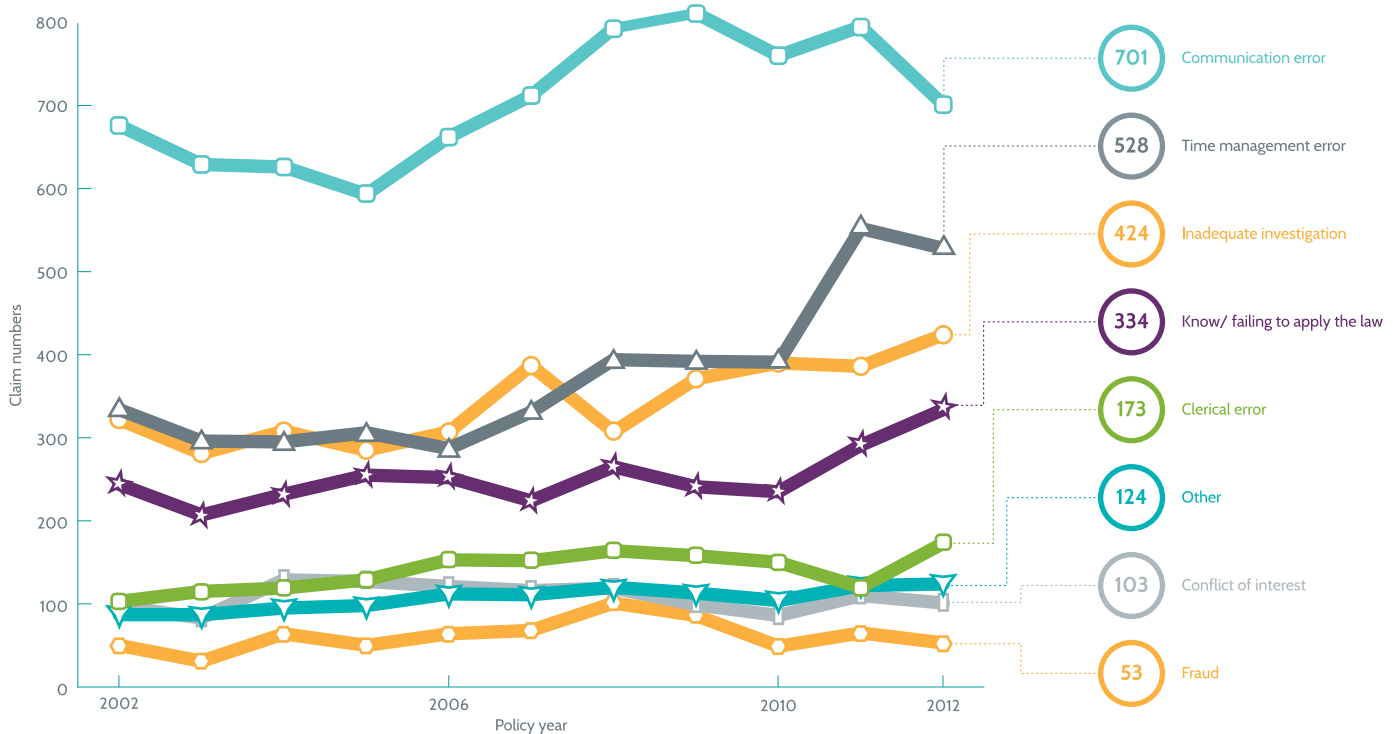
\*As at February 28, 2014

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.

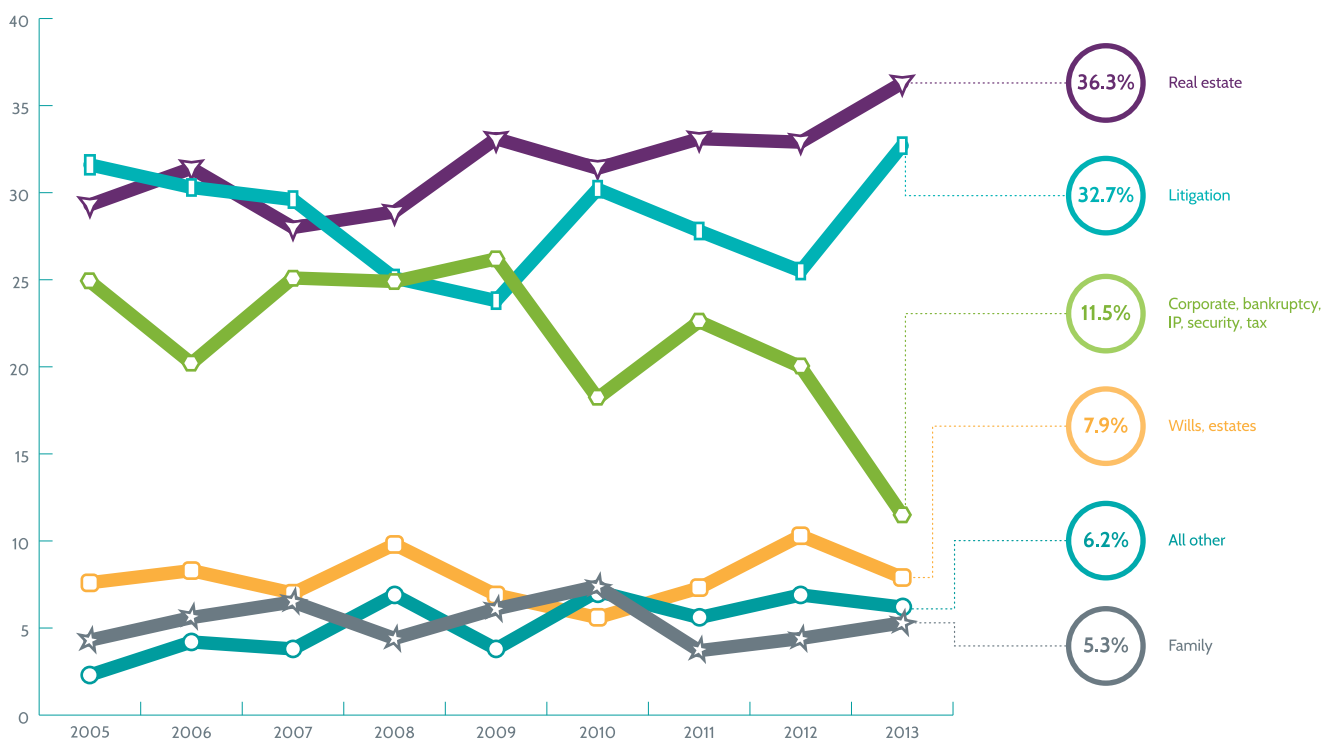
highest claims costs  
by area of practice



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.

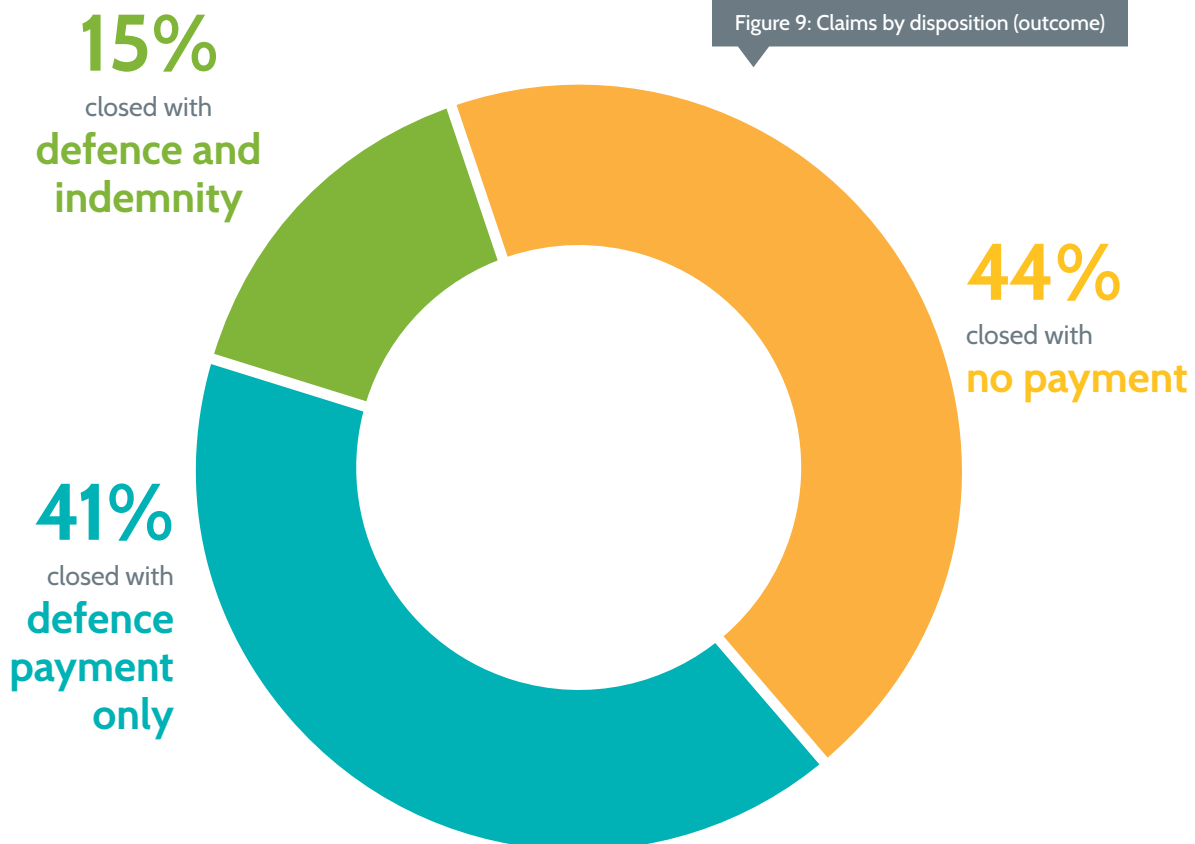
Reporting an error or potential claim alone has no negative impact on your insurance premium (though costs associated with repairing a claim may trigger a deductible). As you can see from Figure 9, only 15 per cent of claims closed in 2013 required an indemnity payment.

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.**

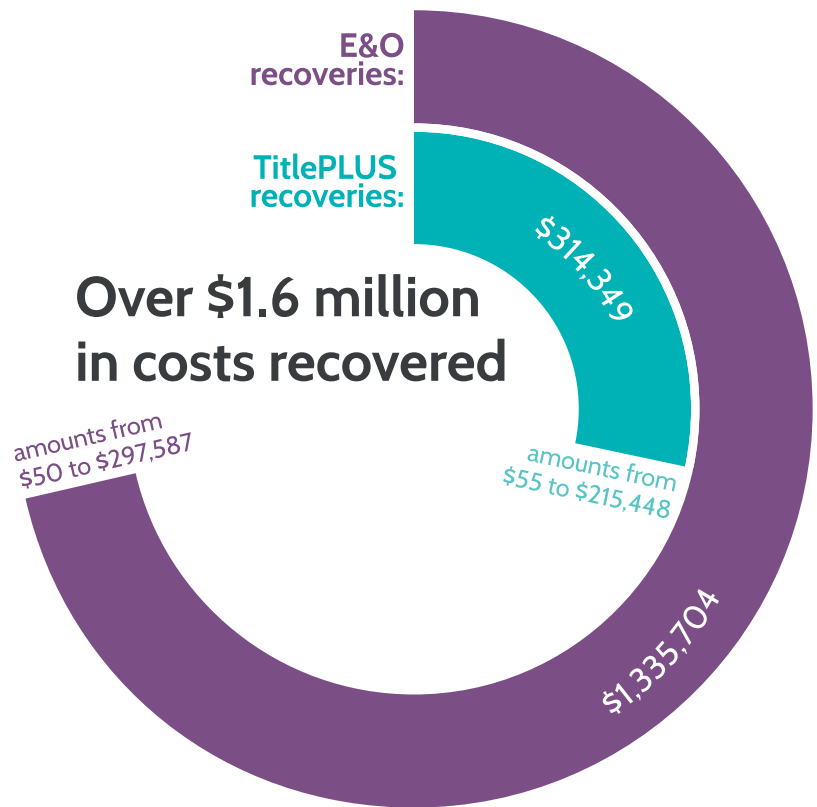


# Recoveries:

## Persistence and patience to recover costs



LAWPRO staff actively pursue recovery costs throughout the year. In some cases, a party other than the insured is found liable for all or part of a loss that is the subject of a claim. We take all reasonable steps to obtain reimbursement from these parties, no matter the amount, because the recovery of these costs reduces our claims expenditure. In 2013, LAWPRO was successful in recovering over \$1.6 million in costs. ■



# Repairs:

## Keeping rights of action alive keeps claims costs down

When assessing newly reported claims, LAWPRO carefully considers the potential for a repair to avoid or extinguish a claim, or at least to reduce any damages created by the lawyer's error. Many of the claims that LAWPRO handles involve an error that can be repaired. These repairs are important to LAWPRO's bottom line as they help reduce the cost of claims.

In the litigation area, a repair often involves reviving or preserving a client's right of action. This article highlights some of our successful litigation repairs from 2013. They involved 1) restoring actions to the trial list; 2) dealing with limitation periods; and 3) amending pleadings.

### Restoring actions to the trial list

#### Test for restoring actions to trial list confirmed

In a 2013 case<sup>1</sup>, the Court of Appeal confirmed the appropriate test for restoring actions to the trial list. It's a two-part, conjunctive test: the plaintiff bears the burden of demonstrating that there is an acceptable explanation for the delay in the litigation; AND that,

if the action were allowed to proceed, the defendant would suffer no non-compensable prejudice.

#### Fairness will allow reinstatement in the absence of prejudice

A plaintiff brought a multi-million dollar lawsuit against a financial services company, alleging that it gave her negligent investment advice.<sup>2</sup> The action was set down for trial, but later struck off the

<sup>1</sup> 2013 ONCA 361 (CanLII), canlii.ca/t/fxrbr

<sup>2</sup> 2013 ONSC 7685 (CanLII), canlii.ca/t/g2dg6

trial list due to the inaction of the plaintiff's first lawyer. She retained a second lawyer, who delayed in moving to have the action restored to the trial list. When the second lawyer eventually did bring the motion, Master Graham dismissed both the motion and the underlying action.

Newbould, J. set aside Master Graham's orders, and held that in considering whether to restore an action to the trial list under Rule 48.11, Rule 48.14(13) should be applied flexibly. The court must consider, above all, whether it would be fair to dismiss the action. In the context of this case, the court noted that:

- There was sufficient explanation for the delay, where the plaintiff always intended to proceed and instructed her lawyers to do so. Neither the plaintiff nor her solicitors intentionally delayed the matter.
- The delay was understandable, where the solicitor encountered personal problems, and therefore failed to deal with the file.
- The expiry of a limitation period ought not to be relevant to the issue of presumed prejudice, especially now that the limitation period is two years.
- The defendant ought to adduce affirmative evidence of prejudice, because there are limits to a plaintiff's ability to speculate about what prejudice the delay may have caused the defendant. In this case, there had been extensive discoveries and documentary evidence, and no suggestion that defence witnesses were unavailable and could not refresh their memories with the available documents. The plaintiff demonstrated that if the action were allowed to proceed, the defendant would suffer no non-compensable prejudice.
- The law will not ordinarily allow innocent clients to suffer the irrevocable loss of their actions because of the inadvertence of their solicitors. The fact that there is an outstanding solicitors' negligence action ought not to be relevant. In any event, the potential value of the claim greatly exceeded the solicitors' E & O policy limits.

### Court can consider entire history of delay

Justice Firestone found that there was a "satisfactory explanation for the delay," where the claim arose in 2006, and the 48.11 motion was brought in late 2011.<sup>3</sup>

Justice Firestone held that:

- From the time this action was commenced (2007) right up until the pre-trial (2008), it proceeded without delay.
- At the pre-trial, the matter was struck from the trial list so that additional parties could be pursued.

- The registrar did not serve the parties with a status notice. Such notice might have alerted plaintiff's counsel to take steps to restore the action to the trial list much earlier than he did.
- Through inadvertence, this case fell out of the plaintiff's counsel's diary.
- Defence counsel never brought a motion under Rule 24 to dismiss this action for delay.
- It is open to the court to consider the entire history of delay.

The defendants participated in documentary disclosure, examinations for discovery, mediation, and a pre-trial. The interests of justice required that this action be restored to the trial list, BUT the plaintiff was disentitled to pre-judgment interest from the date the action was struck from the trial list, until the date of the judgment.

## Limitations

LAWPRO considers motions which contest that actions are statute barred to be "repair" motions, because a negligence claim is averted if a court finds that the plaintiff's action is not statute barred.

### Where contract repudiation not accepted, limitation period runs from date of performance failure

A plaintiff's action was NOT statute barred where the plaintiff refused to accept the defendant's position that it intended to pay a lesser rate of commission than that stipulated in the contract.<sup>4</sup> Instead, the plaintiff continued to call upon the defendant to honour its bargain. The plaintiff's action was brought more than two years after the defendant announced that it would not pay commission at the agreed-upon rate, but less than two years after the date at which the defendant was obliged to pay the commission.

Because the plaintiff refused to accept the defendant's repudiation, the limitation period ran from the date on which the commission was payable.

### No contracting out of *Limitations Act, 2002* for consumer auto insurance contracts: Court of Appeal

The Court of Appeal held that where the plaintiff was injured in an accident in July, 2006, the limitation period for his claim against his OPCF 44R insurer was governed by ss. 4 and 5 of the *Limitations Act, 2002*, NOT the 12-month limitation period set out in para 17 of the OPCF 44R change form.<sup>5</sup> Nor could the "discoverability" criteria used in para 17 be imported into s. 5 of the *Limitations Act, 2002*. The two-year limitation period provided by s. 4 of the

<sup>3</sup> 2013 ONSC 6433 (CanLII), canlii.ca/t/g1p04

<sup>4</sup> 2013 ONCA 733 (CanLII), canlii.ca/t/g26b9



in family law litigation. An alternative claim for a monetary award also shelters under the 10-year limitation period.

Ordinarily, the claim should be taken not to have been discovered until the parties have separated and there is no prospect of resumption of cohabitation.

In *obiter dicta*, the court said that a claim for a constructive trust over personal property is governed by the *Limitations Act 2002*.

#### Express written agreement not essential to toll action during mediation

In another case, the limitation period was suspended for 18 months pursuant to s. 11 of the *Limitations Act 2002*, where the parties agreed to mediate the claims arising from the collapse of a building.

It was held that an express, written agreement was not essential.<sup>7</sup>

## Amending pleadings

### LAWPRO obtains amendment to preserve construction lien claim

LAWPRO counsel were successful, in another case, in salvaging a lien action even though the statement of claim did not claim enforcement of a lien, or mention the lien registered on title.<sup>8</sup> Rather, it claimed damages for breach of contract, unjust enrichment, and *quantum meruit*. However, on the Court Information Form, “construction lien” was ticked off.

The defendants alleged that the statement of claim was ineffective to preserve the lien, and that the lien claim should be vacated.

Whalen, J. dismissed the defendant’s motion, and ordered the plaintiff to deliver an amended statement of claim. The law requires a generous and liberal interpretation of the lien claimant’s pleading. The plaintiff was attempting to perfect and preserve its lien. Many of the details in the statement of claim were the same as those underlying the registered lien claim – including the identification of the parties, the project, the roles of the parties in the project, the time frame of the work and the amount claimed. ■

Debra Rolph is director of research at LAWPRO.

*Limitations Act, 2002* ran from the day after the plaintiff requested payment from the insurer under the OPCF 44R endorsement.

The motion judge’s endorsements made it clear that the plaintiff was a “consumer.” S. 22 of the *Limitations Act 2002* therefore prohibited any contracting-out of that statute. In any event, the accident occurred before October, 2006. No contracting-out at all was permitted before that date. The writer believes this analysis should apply to uninsured/unidentified motorist claims.

### Real Property Limitations Act 10-year limitation period applies to constructive trusts in family law

A plaintiff’s claim for a constructive trust on her ex-partner’s real property was NOT statute barred.<sup>6</sup>

The 10-year limitation period found in section 4 of the *Real Property Limitations Act* governs a claim for a remedial constructive trust on real property, brought in connection with an unjust enrichment claim

<sup>5</sup> 2014 ONCA 88 (CanLII), [canlii.ca/t/g2xl6](http://canlii.ca/t/g2xl6), affirming 2013 ONSC 4298 and 2013 ONSC 7140. The motion judge’s two endorsements were never reported on CanLII. Visit [practicepro.ca/magazinearchives](http://practicepro.ca/magazinearchives) to access the documents. Leave to appeal to the SCC filed April 4, 2014.

<sup>6</sup> 2014 ONCA 86 (CanLII), [canlii.ca/t/g2wrf](http://canlii.ca/t/g2wrf), dismissing appeal from 2013 ONCA 948, 113 O.R. (3d) 727

<sup>7</sup> 2013 ONCA 434 (CanLII), [canlii.ca/t/fzcks](http://canlii.ca/t/fzcks), dismissing appeal from 2013 ONSC 658

<sup>8</sup> 2013 ONSC 4500 (CanLII), [canlii.ca/t/fzhsj](http://canlii.ca/t/fzhsj)

# LAWPRO defends lawyers:

## 2013 highlights

LAWPRO defends a wide variety of cases in any given year. In almost 80 per cent of the claims files we handle, there is ultimately no finding of negligence against the lawyer that was the subject of a claim.

Occasionally, our work on a lawyer's behalf is made easier by having compelling facts on our side. But even where the facts are more balanced, LAWPRO counsel strive to put forward rigorous and well-supported defences on the part of our insured – not only to avoid a loss in any particular case, but also in the interest of creating precedents and standards of care that are fair to all lawyers. Here is a sampling of some the cases we successfully defended in 2013.

### No negligence where lawyer relies on client's waiver of searches<sup>1</sup>

A lawyer acted for a client in the purchase of a condominium and associated retail business. The client instructed the lawyer not to search for work orders. Title insurance was purchased.

After closing, a work order was found. The client settled with the title insurer with respect to the work order, and proceeded to sue the lawyer in negligence.

The action was dismissed, and the title insurer was ordered to indemnify the lawyer for his defence costs.

While the client's failure to prove harm to her business interests or to mitigate her losses was in itself sufficient to justify the dismissal of the claim, Van Rensburg, J. also held that the client had produced no expert evidence that the lawyer was negligent. The court was unwilling to infer negligence where the lawyer was instructed not to search for work orders and title insurance was purchased. The fact that the lawyer failed to keep extensive file notes was not negligence.

### Failure to insist on ILA not negligent where transaction clearly benefits client<sup>2</sup>

In 1992, a father transferred his shares in a business to his daughter and son-in-law, receiving a promissory note in exchange. One lawyer

represented all the parties: mother, father, daughter and daughter's husband, none of whom obtained independent legal advice.

Many years later, the mother sued the daughter and son-in-law on the promissory note, and the couple third-partied the original lawyer, alleging that he should have insisted that they obtain independent legal advice before proceeding with the transaction.

After reviewing the details of the transaction, the court dismissed the claim against the lawyer. Glithero, J. found that the lawyer: 1) had no obligation to insist that the younger couple get independent legal advice; 2) that the younger couple understood the transaction; 3) that the transaction was beneficial to the younger couple; 4) that there was no better advice an independent solicitor could have given to them; and 5) that the lawyer did not cause the couple's loss.

The court rejected an expert opinion to the contrary because it was based on false assumptions: that the lawyer had failed to inquire into the business background and purpose of the transaction, and that he failed to appropriately explain the transaction to the younger couple.

### Lawyer not liable for transaction client completed after lawyer's retainer ended<sup>3</sup>

A lawyer acted for a client with respect to an attempt to sell a property held by a joint venture in which the client was a participant. The sale attempt was unsuccessful; in its wake, the lawyer closed his file.

Unbeknownst to the lawyer, the client entered into a new sale agreement with another party several months later. The lawyer received a telephone call from another lawyer, who simply asked the original lawyer about proper service of notice of sale under the joint venture agreement. The original lawyer gave the requested information. He heard nothing more.

Eventually, the client was sued for failing to properly complete that transaction. He third-partied his original lawyer.

Wilton-Siegel, J. summarily dismissed the client's third party claim against his first lawyer on the basis that there was no retainer and no

<sup>1</sup> 2013 ONSC 6242 (CanLII), canlii.ca/t/g0x7b, (2014) 36 R.P.R. (5<sup>th</sup>) 256

<sup>2</sup> 2013 ONSC 4437 (CanLII), canlii.ca/t/fznzg

<sup>3</sup> 2013 ONSC 421 (CanLII), canlii.ca/t/tx8jv appeal dismissed 2014 ONCA 98



In almost

**80%**

of the claims files we handle, there is ultimately **no finding of negligence against the lawyer that was the subject of a claim.**



basis for finding a duty of care. The court rejected an expert opinion to the contrary.

Wilton-Siegel, J. accepted that the telephone call did not constitute a retainer to advise about the new sale agreement. None of the indicia of a solicitor-client relationship were present. No one told the original lawyer that he was retained in respect of the new transaction. The original lawyer did not provide legal advice regarding the sale agreement, nor was he asked to do so. He was not given a copy of the agreement. He did not send either an account or a reporting letter, nor was he asked to do so.

The fact that the original lawyer had acted for the client in the past did not create a solicitor-client relationship in respect of all future dealings with the property. The reality of practice is that clients choose different lawyers for different transactions, even involving the same property.

## Lawyer owed no duty of care to non-client intermediary that paid out funds against client's forged instrument<sup>4</sup>

A lawyer represented a client, who turned out to be an impostor, in obtaining a mortgage.

After receiving the mortgage proceeds, the impostor client used them to purchase a bank draft. He forged an endorsement on the draft, and presented it to the claimant intermediary (a “payday loan” – type company). The intermediary paid the impostor cash on the note.

The forgery was discovered, and the issuing bank reversed the payment. The intermediary's account was debited. The intermediary sued the impostor's lawyer (among others).

The court held that the lawyer, who acted for the mortgage lender and the purported mortgagor, owed no duty to the intermediary. Justice Stinson rejected the intermediary's contention that a lawyer in a mortgage transaction owes a duty of care to parties who subsequently negotiate a cheque or bank draft purchased with the proceeds of the mortgage to ensure that the transaction was legitimate and that the cheque or bank draft was valid and negotiable. Because the client's endorsement was forged, and therefore entirely ineffective to convey title to the bank draft, the intermediary converted it. The courts have so far refused to import negligence considerations into the strict liability regime governing the conversion of bills of exchange.

## Opponent's satisfaction is not standard of care in separation agreement drafting<sup>5</sup>

A lawyer drafted a separation agreement for a client. It included no provision for spousal support for the client's former spouse.

After the agreement was signed, the client's income increased sharply. The former spouse, who had dissipated the settlement funds, moved to have the agreement set aside. The client paid a substantial sum to settle the litigation, and brought an action in negligence against the lawyer.

The action was dismissed. McEwen, J. found that the lawyer met the standard of a family law expert in drafting the agreement, and in advising the client about it. The lawyer made it clear to the client that there was a possibility that it could be set aside. The client's evidence to the contrary was rejected as he was found not to be a credible witness.

The court further held that the only other advice the lawyer could have given the client which might have prevented the former spouse from attacking the settlement agreement was that the client give the former spouse everything he owned. The client would not have accepted this advice, and even if he had, the payment would have cancelled out the money which he subsequently paid to settle the litigation. ■

Debra Rolph is director of research at LAWPRO.

<sup>4</sup> 2013 ONSC 7181 (CanLII), canlii.ca/t/g1zgf

<sup>5</sup> 2013 ONSC 6600 (CanLII), canlii.ca/t/g2dh1

## practicePRO program

celebrates 15<sup>th</sup> anniversary

LAWPRO's risk and practice management program, practicePRO, celebrated its 15<sup>th</sup> anniversary in 2013. To mark the occasion, the September 2013 issue of *LAWPRO Magazine* featured practicePRO articles and an anniversary pullout highlighting LAWPRO's best claims prevention tools and resources.

The pullout included:

- The top 15 things you can do to avoid a malpractice claim
- 15 of our most practical and helpful precedents, checklists, and resources
- Top 15 technology articles and resources
- Advice for avoiding a claim: 15 articles we wish lawyers would read



Download it at  
[practicepro.ca/15](http://practicepro.ca/15)



## practicePRO by the numbers

practicePRO materials and resources are reaching more lawyers and law office staff than ever before.



**112** to **>16,300**  
presentations lawyers & paralegals

on risk management topics at CPD programs,  
law association events and law firms

To book a presentation for  
your firm or CPD program  
session, email  
[practicepro@lawpro.ca](mailto:practicepro@lawpro.ca)



**468** posts & **>233,000**  
visitors

to the **AvoidAClaim** blog  
an average of **639** visits/day



**9** new titles added

**210** loan requests fulfilled  
from the Lending Library

**>362,000**  
downloads of practicePRO  
materials and resources



**+12%**  
from 2012

LAWPRO was mentioned in

**39** trade and mainstream  
press media articles **WITH** **92%** of them  
positive or neutral

## AvoidAClaim blog

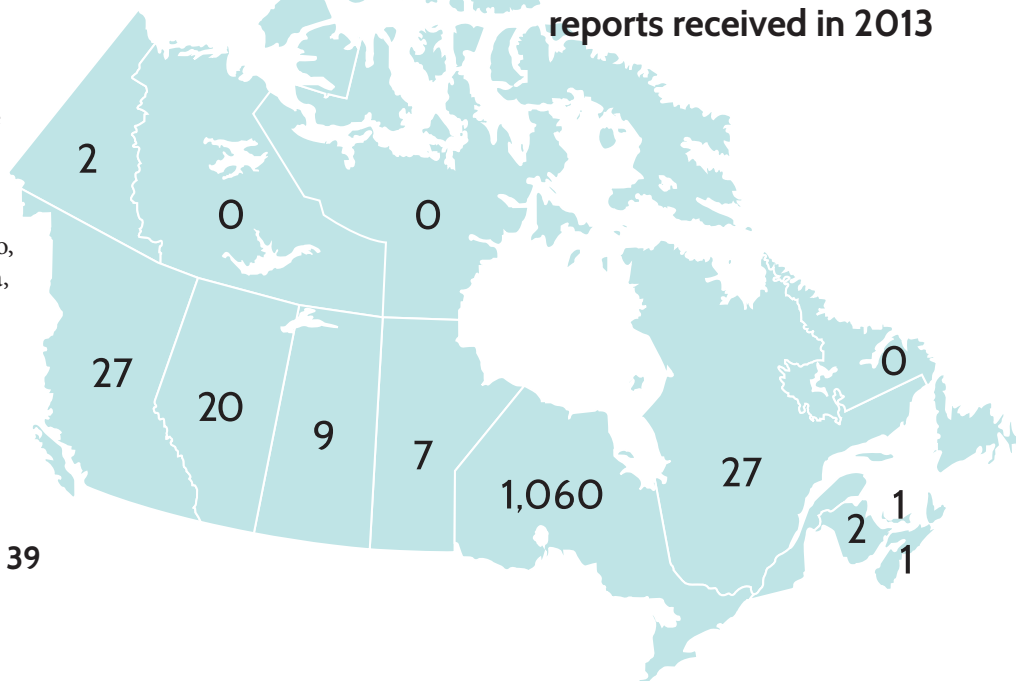
Since 2010, the AvoidAClaim blog has been sharing the fraud alerts lawyers email to us from around the world by publishing the details as blog posts. The pace of emails and posts has increased each year, and 2013 saw 3,550 emails resulting in 250 blog post warnings. A third of the emails came from Ontario, and the balance from the rest of Canada, the U.S. and around the world.

We heard from lawyers in 28 new countries in 2013, bringing the total to 92 countries reporting these fraud attempts.

**U.S.: 1,828**      **South America: 39**  
**Europe: 77**      **Asia: 16**  
**Australia & New Zealand: 10**  
**Africa: 6**

In 2013, AvoidAClaim also increased the number of posts on risk management and claims prevention, with several articles each week featuring books in the Lending Library, articles from *LAWPRO Magazine*, practicePRO resources, original content by LAWPRO staff and other practice management news of interest to the profession.

### reports received in 2013



Keep your clerks, assistants, and other staff in the loop!

Is there a member of your staff who might like to receive *LAWPRO Magazine* and our e-newsletters? Please encourage him or her to get in touch with us at [communications@lawpro.ca](mailto:communications@lawpro.ca), or sign up at [practicepro.ca/enewsletters](http://practicepro.ca/enewsletters)

### practicePRO by the numbers

The LAWPRO Risk Management Premium Credit continues to get the risk management and claims prevention messages to large numbers of lawyers.

*In our best year yet,*

240



CPD programs were approved in 2013 for the credit, with

total attendance of approximately **58,000**

### Social Media:

>2,400

followers of

@lawpro

@practicepro

>680

followers

nearly 200  
Facebook 'likes'





## Top 10 Downloads in 2013 from practicePRO.ca

- ① E-Discovery reading list
- ② LawPRO Fraud Fact Sheet
- ③ Sitting on a non-profit board:  
A risk management checklist
- ④ General retainer letter precedent
- ⑤ LinkedIn dos and don'ts
- ⑥ Employee departure checklist
- ⑦ Critical issues facing the legal  
profession by David Bilinsky
- ⑧ Judith Wahl article on capacity  
and capacity assessment
- ⑨ Sample budget spreadsheet
- ⑩ Top ten technology tools and  
how to use them

### Have you checked your legal health?

Just as we see a doctor before undertaking a new fitness program or consult an advisor before making a major financial decision, talking to a lawyer can ease your worries and protect you and your family.

Don't wait until a crisis hits. Like many other things in life, dealing with legal issues before they become serious will reduce stress and help you plan for the future.

Do any of these questions apply to you:

- Starting a business?
- Considering a change in your family?
- Do you have a will?
- Are you new to the country?
- Are you considering buying a property?

If yes, visit [practicepro.ca/legalCheckUp](http://practicepro.ca/legalCheckUp) where you will find a list of occasions when consulting a lawyer is the right move.



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LawPro Professional Indemnity Company.

## The annual legal health check-up

The annual legal health check-up, a resource to help people spot the common issues where a lawyer can help, was distributed online, at presentations and on our blog.

2014

### Cybercrime and Law Firms: The dangers you need to know and how to avoid them CPD:

Ray Leclair, Dan Pinnington or  
Yvonne Bernstein presenting

Toronto  
Law Association



Welland  
Law Association



Stormont, Dundas  
and Glengarry  
Law Association



Bruce  
Law Association



Dufferin  
Law Association



Hamilton  
Law Association



Renfrew  
Law Association



Kent  
Law Association



Durham  
Law Association



Hastings  
Law Association



Simcoe  
Law Association



Frontenac  
Law Association





2013

JAN

FEB

MAR

APR

MAY

JUN

JUL

AUG

SEP

OCT

NOV

DEC

## LAWPRO Magazine

### May 2013 – Year in Review

How do Ontario's E&O premiums compare?

Avoid the unintentional expansion of your retainer

Whitelist LAWPRO and don't miss important news and resources

How and when to report a claim to LAWPRO

A desire for deluxe service at a compact price?



### September 2013 – practicePRO: 15 years of claims prevention

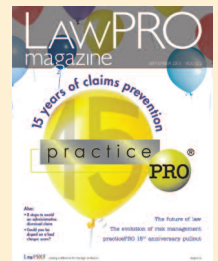
**The practicePRO program: What has, and hasn't changed in 15 years?** A look back at the origins of the risk management program and how the claims prevention message is still as relevant as ever.

**The evolving face of risk management – practicePRO, the next 15 years:** How risks and risk management have changed and will change to address new claims risks.

**The future of law – The challenges and opportunities of practising law in a global village:** Dan Pinnington gave a detailed overview of where the practice of law will be going and some of the issues that lawyers and legal regulators will have to tackle in the years ahead.

**Know how administrative claims happen and 8 steps to immunize against them:** Important advice on how lawyers can avoid the pitfalls of administrative dismissals – an increasing area for claims.

**Tech tip – 15 tips for preventing identity theft and online fraud:** Practical tips to help lawyers avoid the time and expense of dealing with identify theft.



### December 2013 – Cybercrime and law firms

**Cybercrime and law firms: The risk and dangers are real:** Recognizing that lawyers and firms are increasingly the target of cybercrime, this issue was a call to action for lawyers and firms to take steps to address their vulnerabilities.

**Protecting yourself from cybercrime – The steps you need to take:** This article reviewed 16 cybercrime dangers and provided direction and tips on how firms can address them.

**The LAWPRO \$250,000 cybercrime coverage sublimit: What it covers and why:** Details on LAWPRO's \$250,000 cybercrime coverage sublimit.

**Other cyber risk insurance options: Do you have the coverage you need?** A reminder that for proper coverage, firms should look at other cyber insurance options.

**Could this happen to you? Would you take the bait on a phishing scam?** Advice for lawyers and law firm staff on how they can avoid falling victim to phishing scams.

**Tech Tip – Keeping your passwords strong and secure:** A review of best practices for using passwords, because weak passwords and the sloppy use of passwords are one of the biggest security risks.



# TitlePLUS<sup>®</sup> program update

## The mission continues

The TitlePLUS initiative started in 1997 after consultations with the real estate bar. There was more than title insurance on the agenda. The mission was to combine the best of title insurance with the skills and knowledge of the real estate bar. The goal: maintain the important role of the real estate lawyer as the client's key independent advisor in a transaction. This is an integral part of what keeps the program's heart beating today. In 2013 the TitlePLUS program's subscriber base increased to 4,900 lawyers and Quebec notaries.

The TitlePLUS program's commitment to the real estate bar is demonstrated in many ways, one being the annual public awareness campaign that started eight years ago. The goal of the campaign is to educate the public on the valuable role of lawyers and to create awareness that consumer interests are best protected through independent legal advice. In 2013, this public awareness campaign resulted in 110 articles appearing in 91 publications across Canada. This exposure generated over 10.7 million impressions. The TitlePLUS program also maintained an active presence on Twitter (@TitlePLUSCanada) and Facebook (TitlePLUS Home Buying Guide – Canada).

To support and encourage the real estate bar, the TitlePLUS program continued to participate in legal education by sponsoring and/or exhibiting at 59 conferences and trade shows across the country last year. Speakers from LAWPRO and the TitlePLUS program regularly addressed real estate and risk management topics.

## The changing landscape of real estate practice

By keeping a close eye on the market and the evolving nature of real estate practice, the TitlePLUS program remains competitive without compromising the goal of supporting the real estate bar and providing title insurance with Legal Service Coverage<sup>1</sup>.

In 2013, reduced premiums and streamlined underwriting processes enabled lawyers to be more cost effective in their practices while providing cost savings to clients.

In December 2013 we announced a 25 per cent decrease in base premiums for purchases of residential resale properties in most provinces and territories. An extensive market analysis also led to a number of premium reductions for the purchases of new homes from builders under the "New Home Direct" and "Ontario New Home Program" categories.

The limit for automated underwriting for residential properties in Ontario was increased to \$2 million for condominiums, new homes and vacant land intended for residential purposes, and to \$1.5 million for resale homes on municipal services. Applications for properties at these values no longer require manual review (if no other factors for manual review are present).

Underwriting requirements for realty taxes and utilities on Ontario residential resale homes were changed to accept vendor's undertakings.

## Claims update

Over the last number of years, the rate of claims for the program has remained relatively stable. The average indemnity payment on a TitlePLUS claim (based on claims closed as of December 31, 2013) was approximately \$5,000, and 90 per cent of claims were resolved for less than \$10,000.

In 2013, building compliance, survey-related, and legal service claims continued to generate the highest claims costs. The number of building compliance claims remained steady at 25 per cent of the total claims count, but costs for those claims decreased to 24 per cent from 49 per cent. This benefit was as a direct result of significant underwriting changes implemented in 2011.

The most common survey-related claims were encroachments by or onto the insured property and easements. Other claims areas of significance include utility and realty tax arrears (by far, the most frequent type of claim), legal description problems and adverse registrations on title.

Last year, we saw a significant increase in the cost of legal service claims resulting from lawyers failing to disclose information material to the lender's decision to advance funds under the mortgage.

## Screening of applications saves money

The TitlePLUS department continues to screen each application for suspicious circumstances and fraud. In 2013, screening of applications based on potential fraud saved the program approximately \$1.5 million. Screening applications based on properties identified as possible former marijuana grow operations, and either declining coverage or attaching the appropriate exception to coverage, saved the program approximately \$1.2 million.

<sup>1</sup> Except for OwnerEXPRESS® policies and Québec policies.

## Recovering money through subrogated claims

When paying a claim, LAWPRO claims counsel carefully analyze the file and try to recover funds through subrogation, for example by pursuing vendors for property tax arrears, or recovering costs in circumstances where work on a property was done without the appropriate permits. In 2013, overall recoveries amounted to over \$314,000.

## Integration with RealiWeb® in western provinces

For users in Alberta and Manitoba, the integration of the TitlePLUS web application process into RealiWeb (a document production and file management system from LawyerDoneDeal Corp.) means saving time and reducing errors. With a click of a button, you can pre-populate information to generate a TitlePLUS application and multiple other closing documents from within RealiWeb. ■

### TitlePLUS program exhibits and sponsors around the country in 2014...

Law Society of Upper Canada  
Practice Gems: Title and  
Off-Title Searching CPD & Construction  
Contracts for Real Estate Lawyers CPD



Manitoba Bar Association  
Mid-Winter Meeting, Winnipeg



Canadian Bar Association  
CBA Alberta Law Conference 2014, Edmonton



Ontario Bar Association  
OBA Institute 2014, Toronto



Canadian Bar Association  
CBA Saskatchewan Mid-Winter meeting, Regina



Ontario Bar Association, Webinar  
*Partnerships: Avoiding pitfalls in commercial &  
real estate transactions CPD*



CCLA East Region  
Solicitors Conference, Quebec



Ontario Bar Association, Toronto  
Step-By-Step Series: Your Residential Purchase  
Transaction Toolkit



Law Society of Upper Canada, Toronto  
Real Estate and the Elderly Client CPD



Law Society of Upper Canada, Toronto  
Annotated Agreement of Purchase and Sale CPD  
and Buying and Selling Real Estate CPD



# Making corporate social responsibility part of every work day

While the formal expression of LAWPRO's Corporate Social Responsibility (CSR) commitments is relatively new, many of the activities in which staff participate under the program have been part of LAWPRO working life for many years. Below are a few highlights from 2013.

## Fostering the legal community and access to justice

- Celebrated the awarding of the Caron Wishart Memorial Scholarship to University of Toronto Faculty of Law student, Alison Mintoff
- *The future of law* article in the August issue of *LAWPRO Magazine* provided readers with an understanding of the challenges and opportunities arising from our rapidly changing legal service environment
- Our consumer survey measuring Canadians' understanding of the impact of debt on estate planning highlighted the valuable role of lawyers to the public
- Employee participation in professional associations and groups led to learning and sharing of knowledge and skills in diverse segments of the legal profession
- Presentations at law schools, a Student Edition of *LAWPRO Magazine*, and the New Lawyer Resources page on practicePRO.ca helped to nurture the skills of future lawyers
- Wellness services for our insureds was encouraged through funding to and promotion of the Law Society of Upper Canada's Member Assistance Program for lawyers, law students, licensed paralegals, judges and their families



Alison Mintoff and  
Kathleen Waters

## Providing a healthy and rewarding workplace

- Long term staff members, LAWPRO employee committee members and those who exemplified exceptional effort, initiative, or leadership were recognized at events throughout the year
- LAWPRO presented in-house CPD events and facilitated access to presentations sponsored by the TitlePLUS program – a cost-effective



Lunchtime skating at Nathan  
Phillips Square

way for LAWPRO employee-lawyers to fulfill their CPD requirements

- An on-site flu shot clinic for employees, and via the employee-led Wellness committee, community walks, skating outings, and a presentation about effective communication at work helped keep employees healthy and active

## The LAWPRO CSR

program helps maximize employee retention and minimize claims, and aligns with both LAWPRO and the legal profession's interests

## Respecting the environment

- LAWPRO began distributing its board materials in electronic form, a move that has saved both paper and transportation resources
- The LAWPRO green committee held transit raffles to encourage employees to use public transit and hosted a vegetarian potluck lunch and a bake sale to celebrate Earth Day



Earth day bake sale

## Supporting the broader Canadian community

- LAWPRO employee-led events and Denim Friday contributions resulted in a total of \$24,250 being donated to five charities chosen by employees. The charities benefiting from the program in 2013 were: Alzheimer Society of Canada, Anaphylaxis Canada, Fanconi Canada, Good Shepherd Ministries, and Toronto Humane Society
- LAWPRO employees engage in many staff-led charitable initiatives in addition to the official charitable giving program. In 2013, these included: donation of 283 dishes to the Good Shepherd Homeless Centre; collection of canned goods for the Daily Bread Food Bank; sale of daffodil pins in support of cancer research; and employee support of the International Justice Mission's NourishHope event ■

# Malpractice insurance in foreign jurisdictions: An update

In past *LAWPRO Magazine* articles we have highlighted malpractice insurance issues in other countries around the world.<sup>1</sup> In this issue we provide an overview of the recent experiences in England, Wales and Ireland, where a transition from mandatory programs to the open commercial market occurred.

## Background

In the 1990s, the Solicitors Indemnity Fund (“SIF”), the captive insurer for lawyers in England and Wales, was experiencing significant debt. In response, it doubled its premiums for many lawyers and applied special levies. This prompted calls to open the mandatory insurance to the commercial market, and ultimately a decision was made to do this. There were many commercial insurers offering legal professional liability insurance at that time and many firms that purchased insurance from carriers other than the SIF were able to negotiate better premiums and deductible options. In 2000, the SIF was abolished and all firms were left to buy insurance in the commercial market.

Over the next several years, the largest law firms had no difficulty obtaining insurance coverage. However, lawyers in higher risk firms, in particular small firms and/or conveyancing firms, began to find it difficult to obtain affordable, or at times any, insurance from regulated insurers. Many turned to unrated insurers who were unregulated by their domestic government insurance supervisor.

<sup>1</sup> For example, “Mandatory professional indemnity insurance & a mandatory provider: A global perspective” by Jennifer Ip and Nora Rock in the Communications Breakdown issue of *LAWPRO Magazine* (Fall 2011); “When you do legal work involving foreign law or lawyers: Are you covered?” by Dan Pinnington, *LAWPRO Magazine*, (December 2010).



On top of this, Europe's economy shrank and there was an increase in claims. The competition within the commercial professional indemnity insurance market grew increasingly fierce and many insurers did not charge premiums sufficient to cover the cost of claims, which in turn meant that further premium increases were required, especially for smaller firms. As a result, through the late 2000s, firms in England, Wales and Ireland saw wildly fluctuating availability and premiums for lawyers' professional indemnity.

## The current situation

In the spring of 2010, UK bar associations warned their members that the fall insurance renewal deadline was expected to be "difficult." As many lawyers already knew from their dealings with insurers over the previous year, this warning would turn out to be a colossal understatement. Lack of access to affordable professional indemnity insurance for the 2009/2010 and 2010/2011 insurance years forced dozens of law firms in England, Ireland and Wales to shut their doors.

By 2010 there were widespread calls for the legal regulator, the Solicitor's Regulation Authority, to re-address insurance requirements for solicitors and work with the insurance sector in an effort to stem the rate increases. At the same time, the commercial carriers insuring lawyers began to run into significant financial difficulties because of the under-reserving and competitive pricing that had been taking place. This led some insurance companies to go into receivership, plans of administration or suspension, including the Solicitors Mutual Defence Fund, which was for most of its existence the largest insurer of Irish solicitors, and the Latvian insurer, Balva, which insured 1,300 law firms in England and Wales – roughly 9 per cent of the market. Some insurers voluntarily withdrew and the larger insurance companies, such as QBE®, Zurich®, and Chartist® (which together, in 2010, controlled 43 per cent of the market) withdrew from insuring, and stopped pursuing new business with, small firms. The reduced availability of insurance and increased premiums suddenly left many small firms out in the cold, unable to obtain the required annual professional indemnity insurance of £3 million.

The Law Society of England and Wales tried to address some of these problems by changing the mandatory "minimum terms and conditions" (or MTC) that insurers must abide by and also tried to reintroduce a master policy that would ensure all members of the bar were insured on equal terms (similar to the LAWPRO single policy which is issued to the Law Society of Upper Canada and insures individual lawyer-licensees and qualifying non-lawyer partners, as specified in its terms). However, the commercial insurers pushed back on these initiatives, sometimes for sound commercial reasons.

In Ireland, minimum terms and conditions were set by the Irish Law Society each year to ensure insurers offered the same basic coverage. In 2008 these minimum terms and conditions sought to introduce a requirement that insurers must offer terms to firms that they would normally have steered away from through an "Assigned Risks Pool" or ARP. Insurers reacted negatively to this idea, which came at the same time as claims more than doubled and the economy was in

decline. The Law Society drew back and the ARP was suspended before being reintroduced later, with a smaller scope.

In England and Wales, the Assigned Risks Pool was already well established. The ARP was insured by all of the qualifying insurers together and provided gap coverage for firms unable to get insurance at all or at an affordable premium by the annual renewal date. When insurers that had specialized in insuring small, high risk firms, such as Ireland's Quinn, went into administration, the ARP saw a spike in the number of firms applying to it. Some insurers pulled back from the ARP and voluntarily left the market due to the cost of participating. Changes were made to the ARP, reducing it from being available for coverage of up to 24 months in any five year period, to only 12 months, and then eventually to six months. If a law firm did not have alternate insurance in place by the time its ARP period ended, the firm would be required to close, which a number of smaller firms over the years did. Ultimately, the ARP was dismantled in October 2013.

As a result, many small firms were unable to obtain or afford to maintain professional liability insurance for their firms. While some lawyers in these small firms were able to join with larger firms, thereby reducing their risk profile which allowed them to obtain insurance, reports indicate that many small firm and sole practitioners faced having to retire early or assume positions as *locums* so they could rely on the insurance of the firms that hired them. In the last quarter of 2013, when insolvency levels in the UK for other types of businesses had finally begun to fall, there was a spike in the number of law firms entering into administration or receivership and the number of winding-up petitions and appointment of liquidators increased. In January 2014, the Solicitors Regulation Authority (SRA) published a list of 136 firms which had not been able to obtain alternate insurance by the end of the ARP's final run-off period.

The SRA is now struggling with its minimum insurance requirements for law firms. In the wake of insurers' insolvency and withdrawals there were calls for action to be taken against the use of unrated insurers. Ultimately the SRA chose not to ban firms from using unrated insurers, as this would have made it even more difficult for many firms to obtain insurance. Consideration is now being given to reducing the MTC to encourage competition and make it easier for firms to obtain insurance. The drawback, of course, is that in order to have lower premiums the protections under an insurance policy are typically reduced, most notably in terms of limits of liability and the length of run-off coverage.

Hopefully Ontario lawyers will never suffer the type of insurance troubles that lawyers in the UK and Ireland have in recent years, given that the Ontario bar had its own insurance learning experience in the mid-1990s before LAWPRO assumed full responsibility for the primary program. LAWPRO continues to monitor insurance-related developments in other jurisdictions, looking for any lessons that can be learned and how the program can be refined to address new and changing risks. ■

Victoria Crewe-Nelson is assistant vice president, underwriting at LAWPRO.

# Is there a deductible for claims under my Run-Off coverage?

You may be one of the many lawyers that were in private practice at one point – but have now retired, opted to work for the government, as in-house counsel, or in another career entirely.

Wouldn't it be great if your exposure to claims ended as soon as you took down your private practice shingle? Unfortunately, it doesn't work that way. Claims can and do arise after lawyers leave practice. In a typical year, roughly eight per cent of the claims LAWPRO handles – more than 150 claims by count – are against lawyers that have left practice.

It will be some comfort then that LAWPRO provides \$250,000 in Run-Off coverage to lawyers who have left private practice and are exempt from the payment of premiums under the Law Society's primary professional liability program (there are certain exceptions; see [lawpro.ca](http://lawpro.ca) for details).

Occasionally, LAWPRO is asked whether there's a deductible applied to claims made under its Run-Off policy. The answer to this question is yes. There is a \$5,000 deductible applicable to claim expenses, indemnity payments, and/or costs of repairs together for claims under Run-Off coverage.

This deductible is *per claim*. In other words, while the total coverage available is \$250,000 (less the deductible(s)), you might exhaust that coverage on a single claim (and pay a single \$5,000 deductible). If the insured had more than one claim of less than \$250,000, a separate deductible would be applied to each one.

The good news is that the basic level of Run-Off coverage of \$250,000 is free: there

is no premium charged. The bad news is that it may not be adequate for the claims you might face. Wondering if you might need more than \$250,000 in cover? You can apply

to purchase increased Run-Off coverage up to \$500,000 per claim and in the aggregate or \$1 million per claim and \$2 million in the aggregate. See [lawpro.ca](http://lawpro.ca) for details. ■

## Other quick facts about LAWPRO Run-Off coverage

- To “apply” for Run-Off coverage, simply file online for exempt status on My LAWPRO
- Standard Run-Off coverage does not renew annually – once the limits have been reached by one or more claims, coverage is exhausted. For information about increasing your coverage (for example, to eliminate a “gap” between this coverage and the dollar amount where your firm's excess coverage kicks in), visit [lawpro.ca](http://lawpro.ca)
- Expecting to act as estate trustee, trustee for an *inter vivos* trust, or attorney for property after leaving private practice? Run-Off coverage does not automatically cover these activities after leaving practice, but you can contact us to apply for coverage for these activities
- The provision of *pro bono* services through a LAWPRO-approved *pro bono* program is treated slightly differently under Run-Off: *pro bono* services completed *while exempt* continue to be covered up to the Run-Off coverage limit of \$250,000, and there is no deductible for claims related to the provision of these services
- Remember – Run-Off coverage does NOT cover the provision of professional services as defined in our policy (other than under LAWPRO-approved *pro bono* programs as described above) after you have claimed an exemption, even if it is a favour for a friend or family member. That means you can't rely on Run-Off coverage if you expect to provide occasional legal services, for example, after retirement or for family while working as in-house corporate counsel. Contact LAWPRO for information about your coverage options

# Computers running Windows® XP SP3 or Office 2003 must be updated immediately

As reported widely in the media and mentioned in the December 2013 *LAWPRO Magazine*, Microsoft® ceased supporting Windows XP SP3 (Service Pack 3) and Office 2003 (SP3) as of April 8, 2014. There will be no new security updates, non-security hotfixes, free or paid assisted support options or online technical content updates from Microsoft for either of these products. After the deadline, your Windows XP computer will still operate and Office 2003 programs will still run, but you will be vulnerable to any new security risks including harmful viruses, spyware, and other malicious software which can steal your personal information or destroy your data.

Microsoft Security Essentials, Microsoft's anti-malware program, has not been available for download on Windows XP since April 8, 2014. But if you already have Microsoft

Security Essentials installed, you will continue to receive anti-malware signature updates through July 14, 2015. Similarly, Microsoft's Malicious Software Removal Tool, which works in conjunction with Security Essentials' anti-malware engine and signatures, will continue to be supported for Windows XP through July 14, 2015. Despite these continuing updates, PCs running Windows XP or Office 2003 after April 8, 2014 should not be considered to be properly protected from malware.

You should immediately take steps to update all law firm and home computers running Windows XP SP3, and upgrade to a newer version of Office on any computer running Office 2003. You can download and run the <Windows Upgrade Assistant> to check if your current PC meets the system requirements for Windows 7 or 8.1. If your current

PC meets the system requirements, you can buy Windows 7 Professional or Windows 8.1 Pro from a local retailer so you can upgrade your computer. If your PC does not meet system requirements, you will need to purchase a new computer.

Cyber criminals and hackers are expected to target computers that are running this unsupported software. The time and expense you will incur if your systems are compromised, and the potential risks to your firm's and clients' confidential data, are far greater than the cost of purchasing a new computer or updating Office. Please immediately take steps to update any computers running Windows XP or Office 2003. For more information, visit Microsoft's XP end-of-support information page at [microsoft.com/en-us/windows/enterprise/end-of-support.aspx](http://microsoft.com/en-us/windows/enterprise/end-of-support.aspx). ■

## Cybercrime and law firms: How prepared are you?

Ontario law firms and lawyers are being targeted by cyber criminals on a daily basis. Several have suffered significant financial losses after being duped or hacked. Cyber criminals commonly target lawyers and law firms because they have valuable information and large sums of money in trust accounts.

To assess your cybercrime preparedness, see if you can answer the following questions:

- Are your passwords secure enough?
- Would you or your staff be duped by a phishing message?
- How would your firm respond if one of its servers was hacked?

- Is your anti-malware software the most current version and is it updated?
- Could you tell if your computer had malware on it?
- Are your computer's security settings adequate?
- Is there a backdoor into your network?
- What would happen if a firm laptop or smartphone were lost or stolen?
- How would you deal with a major data theft by an ex-employee?
- Is your home computer safe?

If you don't know the answers to one or more of these questions, see the "Cybercrime and



law firms" issue of *LAWPRO Magazine* (published December 2013) for more information on cyber dangers and the steps you need to take to protect yourself and your firm. In that issue of the magazine there was also an article on the rationale behind LAWPRO's new \$250,000 cybercrime coverage and what it covers. ■

# Teraview<sup>®</sup> tip:

## Is searching by municipal address getting you the right property?

Do you search by municipal address when using Teraview software? LAWPRO defence counsel have reported seeing construction liens filed on the wrong property where lawyers solely relied on municipal addresses.

Note that Teraview presents you with an onscreen caution that “Addresses are approximate.” It is the legal description that determines which property is being impacted.

Of course, prior to electronic land registration, all searches were conducted based on the legal description. This helped ensure that you were reviewing the title of the property you were intending to deal with on a real estate deal, financing or construction lien. Teraview software has made performing searches using the owner’s name, municipal address, PIN and roll number possible. This can help speed up your title search.

However, it is still necessary to confirm that the legal description obtained (plan, or metes and bounds) properly reflects the property in question. Of course, an up-to-date survey with boundaries and structures identified is the best evidence of the extent of the property being affected. However, many clients may not have a survey. In those cases, reviewing relevant documents and questioning clients about their understanding of the property details can help ensure you are looking at the correct and entire property in the Teraview system.



This is particularly important for condominiums. For example, a search of the municipal address may reveal the dwelling unit, but not always the parking and/or storage units. In other cases, it might reveal one unit, but not an additional unit with which it was merged to create the premises the client is enjoying. Over the years (even apart from this searching issue) we have seen claims where people got the wrong storage unit and even the wrong

residential unit in a condominium. We have also seen claims where the purchaser got the wrong house on a street.

Be careful: search and reference tools created by technology may make searching easier, but they can never replace the attention to detail a lawyer can provide. ■

Ray Leclair is vice president, public affairs at LAWPRO.



# Feeling the pressure?

Each of us faces challenges in life. Sometimes we welcome those challenges, like marriage, the birth of a child, a promotion or a new job. And sometimes we don't, like divorce, job loss, a serious illness or the death of a loved one. It is no secret that a legal career brings with it many pressures and from time to time, a great deal of stress. Major events in our personal lives can also create pressures and stresses.

These pressures and stresses can become a serious concern if you don't have outlets to manage, control and resolve them. They can cause serious health issues (ranging from burnout to anxiety, substance abuse or depression) and be a contributing factor to malpractice claims and Law Society complaints. They can affect not just you, but your colleagues and loved ones as well.

Member Assistance Program (MAP), which is funded by the Law Society of Upper Canada with the financial support of LAWPRO, provides a number of resources that can help you deal with stress and achieve your health and wellness goals. MAP is operated by Homewood Human Solutions™, a trusted Canadian company with more than 33 years of experience providing support services. Confidentiality is guaranteed through an individual's right to privacy protection and enforced within the limits of the law. No personal identifying information whatsoever is disclosed to the Law Society of Upper Canada or LAWPRO.

## Accessing MAP services

MAP services are available to lawyers, judges, paralegals, law students and their families. They are multilingual and accessible 24 hours a day, 7 days a week, in a variety of convenient ways and without needing a referral. You can access services:

- Online by visiting the protected Member Area of the MAP website
- Over the phone by calling the MAP
- Face-to-face

## MAP resources available to you

MAP offers three different ways for you to get help to respond to the challenges you are facing. There are online resources, counselling and coaching services.

The website is user-friendly and it is easy to setup a secure account. It provides everything from an orientation to a listing of the services, tools and other resources that are offered. There is an extensive online library of health and wellness articles as well as elder care and child care resource locators. There are e-courses to help you improve your skills (wellness, workplace effectiveness, etc.). Virtual e-counselling (simultaneous chat or secure message-based counselling) is available for a wide variety of topics.

There is also a multi-media health centre, where you can find information on everything from exercises for different breathing techniques, identifying areas of tension, health and wellness self-assessments, to videos and articles. The site has a "12 Weeks to Wellness" program – a weekly check-in on your health and fitness goals after assessing your health risk factors.

One of the most frequently accessed MAP resources is the counselling service. Experienced, credentialed therapists are available for in-person or online counselling and they are trained to help you throughout the different stages of life.

The peer-to-peer support program is a confidential and uplifting program. Legal professionals who themselves have



**Member Assistance Program**

Your Member Assistance Program (MAP) is available 24/7

1-855-403-8922 (toll free)  
 TTY: 1-866-433-3305  
 International (call collect): 514-875-0720  
[homewoodhumansolutions.com/MSA/](http://homewoodhumansolutions.com/MSA/)  
[lawsocietyuppercanada](http://lawsocietyuppercanada)

experienced struggles in the past, help others overcome obstacles – such as depression, alcohol abuse or stress. Those who volunteer in this program are compassionate people who can empathize with issues that lawyers face. The peer support program encourages participants to discuss their experiences.

In addition, live lunch-and-learn sessions, which usually include stress management workshops, have received positive feedback. If you are interested in hosting a health and wellness session at your firm, contact MAP via the email or phone number listed above to make arrangements.

## Next steps

Finding work-life balance is one of the more difficult tasks we all face, and one that we often put to the side. The Law Society's MAP program has numerous resources and services that can help you and your family meet the challenges of work and life. You are not alone and can reach out to MAP at any time: electronically, in person, or on the phone. Take the time to visit the MAP website or seek help if you or a loved one is struggling with stress or other challenges. ■


Doron Gold is staff clinician and presenter at Homewood Human Solutions.



# Twitter®: What's all the fuss about?

Twitter has become a powerful tool to stay up-to-date with the legal industry – and it's free! This social site is not just for kids. Many legal industry influencers and law firms participate and are actively posting interesting perspectives. Take a look at a few example accounts and tweets below – you may be surprised to see a former colleague on Twitter with whom you can reconnect.

Thomas Conway is the first Law Society of Upper Canada Treasurer to join the Twitterverse. Conway tweets regularly, mainly about his blog posts in the Law Society's Gazette, current news and trends in the legal profession, and Law Society updates.

 **Thomas G.Conway** @ThomasGConway · Mar 4  
New on my blog: A new approach to access to justice [gztt.ca/MLqbHQ](http://gztt.ca/MLqbHQ)

The education of practising and soon-to-be lawyers is a popular topic on Twitter. Stay up-to-date with this news by following law schools and legal organizations, such as the Ontario Bar Association.

 **Ontario Bar Assoc.** @OBAtoday · Apr 1  
Countdown to Canada's Anti-Spam Legislation: Make Sure You Are Ready @obacpd [cbapd.org/details\\_en.asp...](http://cbapd.org/details_en.asp...)

No time to sort through your legal industry publications to find articles of interest to you? Most publications tweet the headlines of their stories – just click through the link to read more! Law Times, Lawyers Weekly and the Canadian Bar Association's National Magazine (as seen below) all tweet informative news articles on the legal profession.

 **National Magazine** @CBAnatmag · Mar 18  
Niche practices in #law: building your brand and expertise [nationalmagazine.ca/Articles/March...](http://nationalmagazine.ca/Articles/March...) via @CBAnatmag

Don't forget – you can find us on Twitter: @LAWPRO, @practicePRO and @TitlePLUSCanada. ■

Victoria Caruso is communications coordinator at LAWPRO.

## Social media profile: Ray Leclair

Ray Leclair  
vice president,  
public affairs



**Time at LAWPRO:** Six years

Ray has been active on LinkedIn for four years and Twitter for two years.

When asked how social media has shaped the legal profession, he says:

“It's amazing how much the pace of change has increased over the past few years. Technology and communication channels permit easier dialogue and most of that can be attributed to the social media channels out there.”

### Target audience:

- Lawyers and paralegals
- Political stakeholders
- Real estate industry
- Real estate clerks and law office staff

### Topics of interest:

- Developments at Queen's Park that impact lawyers
- Real estate issues in Canada and the United States
- Title insurance developments in Canada and the United States
- Claims prevention and office management issues
- Public policy relating to lawyers
- Lawyer and paralegal education
- Technology for lawyers and their practices



Risk management  
practicepro.ca



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liability insurance  
lawpro.ca/excess



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