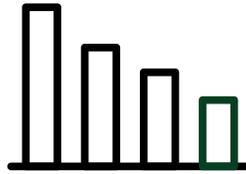
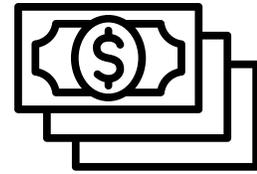
**# 5 claims area by cost**

- average total cost \$4.4 million per year

**# 4 claims area by count**

- average 210 claims per year

**\$20,700 average cost per claim****RISK MANAGEMENT TIPS****Proactively direct and control client expectations**

Family law clients can be emotional and difficult to manage. They may also have changing and unrealistic expectations. This makes it especially important that you manage their expectations from the very start of the retainer. Helping clients avoid disappointment and surprises will significantly lower your claims exposure.

**Carefully explain agreement terms to clients**

Carefully explain domestic contracts or settlement agreements so that clients cannot later allege that they did not understand the contents of these agreements.

**Be aware of the limitations of your legal knowledge**

Family law is one of the most complex practice areas, with federal and provincial statutes and voluminous case law. No lawyer can hope to be an expert in all aspects of this field, so it's important to know when to seek advice from more specialized counsel (e.g. for estate planning) or third party experts (e.g. tax advisors, accountants, appraisers or actuaries).

**Make better use of checklists and reporting letters**

LAWPRO's [Domestic Contract Matter Toolkit](#) has checklists and forms that contain issues lawyers should consider as they conduct the interview on a domestic contract matter and when they meet with the client to review and sign the document. A final reporting letter detailing what you did and what advice you gave can be a great help in the event of a claim, which may arise long after you've forgotten the details of a particular file.

**Don't lower your standards for limited scope matters**

A limited scope retainer does not mean less competent or lower quality legal services. Identify the discrete collection of tasks that can be undertaken on a competent basis and confirm the scope of the retainer in writing. Clearly document all work and communications. Recognize that unbundled legal services are not appropriate for all lawyers, all clients, or all legal problems. Sample retainers and checklists can be found on the Limited Scope Representation Resources page at [practicepro.ca/limitedscope](http://practicepro.ca/limitedscope).

# COMMON MALPRACTICE ERRORS

## Communication - 39%

- Failing to ensure the client understands the potential consequences of excluding certain property from an equalization calculation in a marriage contract
- Failing to adequately explain the terms of a separation agreement, minutes of settlement, or that a settlement is final before the client is asked to sign
- In a limited-scope retainer, not communicating clearly what you are retained to do and what you are not going to do

## Errors of law - 22%

- Errors as to entitlement, amount or duration of spousal support
- Not complying with Federal Child Support Guidelines when arrangements are made for child support
- Unanticipated and unintended tax obligations

## Time management - 10%

- Claim for spousal support is not made for a lengthy period of time, and ultimately an amount of support is lost because the court will not make a retroactive order
- Missed deadline for an equalization claim

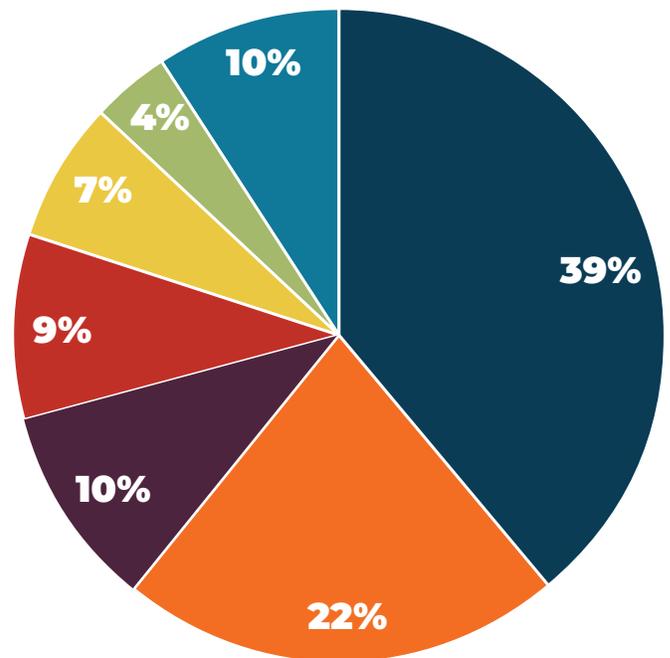
## Inadequate investigation - 9%

- Failing to properly identify all assets and liabilities for the purposes of preparing financial statements and making net family property calculations
- Failing to explore full facts and circumstances of a client's marriage so as to appreciate issues that need to be dealt with in a separation agreement or litigation

## Clerical and delegation - 7%

## Conflict of interest - 4%

## Other - 9%



Visit [practicepro.ca](https://practicepro.ca) for resources including the Domestic Contracts Toolkit, the Limited Scope Retainers Resources page, LAWPRO Magazine articles and other checklists, precedents, practice aids

We can provide knowledgeable speakers who can address claims prevention topics.

Email [practicepro@lawpro.ca](mailto:practicepro@lawpro.ca)

\*All claim figures from 2008-2018. All cost figures are incurred costs as of April 2019

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