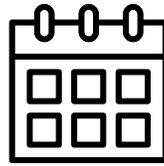




Longest claim reporting time  
15 years



Average 26 claims per year



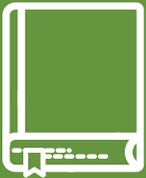
Average total cost  
\$413,000 per year

## RISK MANAGEMENT TIPS



### Don't overpromise, and keep your client informed

Claims against immigration lawyers are often prompted by a client's disappointment about the outcome of a residency application or refugee claim. Manage client expectations by fully explaining admissibility criteria, requirements and the need to have documents provided in a timely manner to comply with deadlines. Keep clients up-to-date on the status of their applications. An unhappy client who feels neglected or ignored will likely take steps to challenge your representation. Keep good notes on communications with clients which can later go into a reporting letter or follow-up letter.



### Know the changes in the law and program criteria

Over the past few years the *Immigration and Refugee Protection Act* has been amended several times. Ensure you refrain from an "assembly line" approach to processing applications. Citizenship, refugee, residency, work permits etc. all have time sensitive deadlines and the programs and criteria change frequently.



### Discuss potential consequences of criminal matters

We frequently see claims involving a failure by the lawyer to communicate the potential ramifications of guilty pleas and custodial sentences on immigration status. A non Canadian sentenced to six months or more may lose the right to apply for permanent residency. When meeting with a new immigration client, be sure to ask about criminal convictions and charges. If a client is facing a criminal charge, advise them to retain competent criminal counsel.



### Make clients aware of deadline and documentation requirements

Make sure the client is made aware (in writing) of all deadlines for submitting documents to you and knows the consequences of a delay or failure to provide documents. Give the client a response date that allows for follow-up (i.e. outside the response date imposed by the government entity).



### Promptly notify LAWPRO of potential claims

Early reporting of client complaints, missed deadlines etc. offers the best opportunity for claims repair. Allegations of ineffective assistance of counsel should be reported immediately. Early reporting allows LAWPRO to investigate, ensure the protocol is met and that there is no admission of negligence.

# COMMON MALPRACTICE ERRORS

## Communication - 39%

- Making promises to a client (for example, about likelihood of being granted residency under a particular program) that the lawyer cannot fulfill
- Failing to explain which tasks are the lawyer's responsibility and which are the client's, such that tasks are not completed and opportunities are lost
- Not keeping clients informed about the status of their matters/applications

## Errors of law - 21%

- Not understanding the consequences of guilty pleas and convictions for clients, or giving inaccurate advice with respect to criminal matters
- Failing to fully research and understand the range of options, programs and administrative procedures available to a client, or the deadlines for taking important steps
- Having an inaccurate or out-of-date understanding of the criteria associated with programs or rules

## Time management - 15%

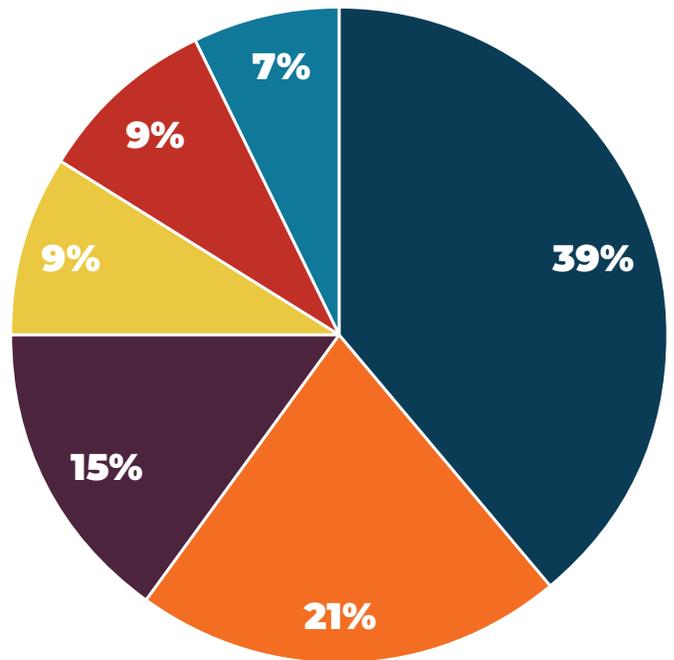
- Delays in completing applications such that intervening criteria changes lead to lost opportunities
- Failure to update client details (for example, employment or marital status) promptly on active applications

## Clerical and delegation - 9%

- Forms or applications that are incomplete, such that they are not considered
- Inaccurate documentation due to errors or confusion related to translation of information
- Failure to have clients review documents for submission

## Inadequate investigation - 9%

## Other - 7%



Visit [practicepro.ca](https://practicepro.ca) for resources including LAWPRO Magazine articles, checklists, precedents, practice aids and more

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

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

\*All claim figures from 2009-2019. All cost figures are incurred costs as of May 2020.

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