

INDEMNITY ISSUES:

Program Report

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The Lawyers Indemnity Fund manages the Law Society's Indemnification Program, including the BC Lawyers Compulsory Professional Liability Indemnification Policy and the "cyber" policy underwritten by Coalition, Inc.

2023 Indemnity Fee

For the 6th consecutive year, the indemnity fee remains at \$1,800 per full-time lawyer. The fee has increased only once — and by only \$50 — in the last 12 years, showing a consistency and stability that you can be proud of. As shown in the accompanying graph on page 2, the fee compares favourably with other provinces and territories, especially considering that BC has the broadest professional liability coverage in the country and that other programs charge additional fees not shown here for the same risks. Be assured that LIF's consistently low fee is no accident and is a product of several factors, including:

- We regularly alert you to important risk management issues, helping you to avoid errors;
- You report claims promptly, permitting loss mitigation to begin right away, whether that be repairing the mistake, settling the claim early, or successfully

defending the allegations; and

- We have a highly effective claims management team dedicated to providing you with excellent service.

Indemnification Program Overview

The Indemnification Program has two parts:

- 1) The BC Lawyers Compulsory Professional Liability Indemnification Policy, which protects lawyers and members of the public and is comprised of:
 - Part A: Professional Liability Indemnity – if you make a mistake that results in financial loss for a third party;
 - Part B: Trust Protection Coverage – if you dishonestly take money entrusted to you in relation to legal services;
 - Part C: Trust Shortage Liability Indemnity – if you incur a loss from depositing a fraudulent certified

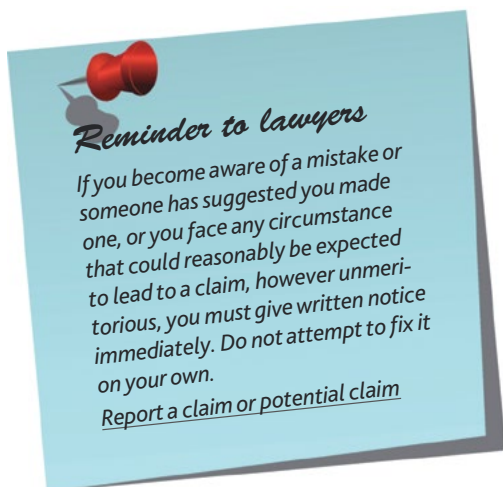
cheque or you are tricked by social engineering into sending trust funds to a fraudster; and

- 2) The "cyber" insurance policy that applies to network security and privacy liability risks. The "cyber" policy, which is arranged and paid for by LIF, is underwritten by Coalition, Inc. and insures most BC law firms.

Every covered lawyer can download a copy of their professional liability Certificate of Indemnity from their [Member Portal](#) profile on the Law Society's website. Policy wordings for current and previous years are available on [LIF's website](#). Each firm with Coalition's coverage can obtain a cyber policy insurance certificate. This is available on the Member Portal and can be accessed by the firm's Designated Representative(s).

What's New for 2023?

Part C, applicable to social engineering frauds, was updated to reflect a change in the "cyber" policy. LIF ended the Funds



A Look at 2022 Claims

Part A – Professional Liability Indemnity (Errors & Omissions)

As demonstrated in the chart on page 3, errors in oversight and handling of emerging legal issues continue to be the primary causes of loss in the 1,082 reports we received in 2022. Happily for lawyers and clients, last year we resolved 20% of these reports by way of repair. This is due in large measure to our experienced claims counsel and directors. If you contact us early — even before a claim is made — we will be in the best position to fix a problem and avoid a claim. Even if we cannot effect a repair, your early reporting enables us to gather and secure evidence and helps us provide intelligent and efficient claims handling.

The charts on page 4 show frequency and severity of reports by practice area. The first chart shows the percentage of reports generated by the different practice areas. Civil litigation, residential real estate and plaintiff’s motor vehicle practices remain in the top 3 from last year, generating over 40% of the claims. Civil litigation and plaintiff’s motor vehicle practice areas attract a

higher risk of a missed deadline or settlers’ remorse claim, and the claims activity likely reflects that risk. Given the busy residential real estate market in the first half of 2022, it is not surprising residential real estate claims remained in the top 3. The second chart shows the areas of practice according to severity — the expected costs of claims. Civil litigation and residential real estate practices have placed in the top 3 for the past few years.

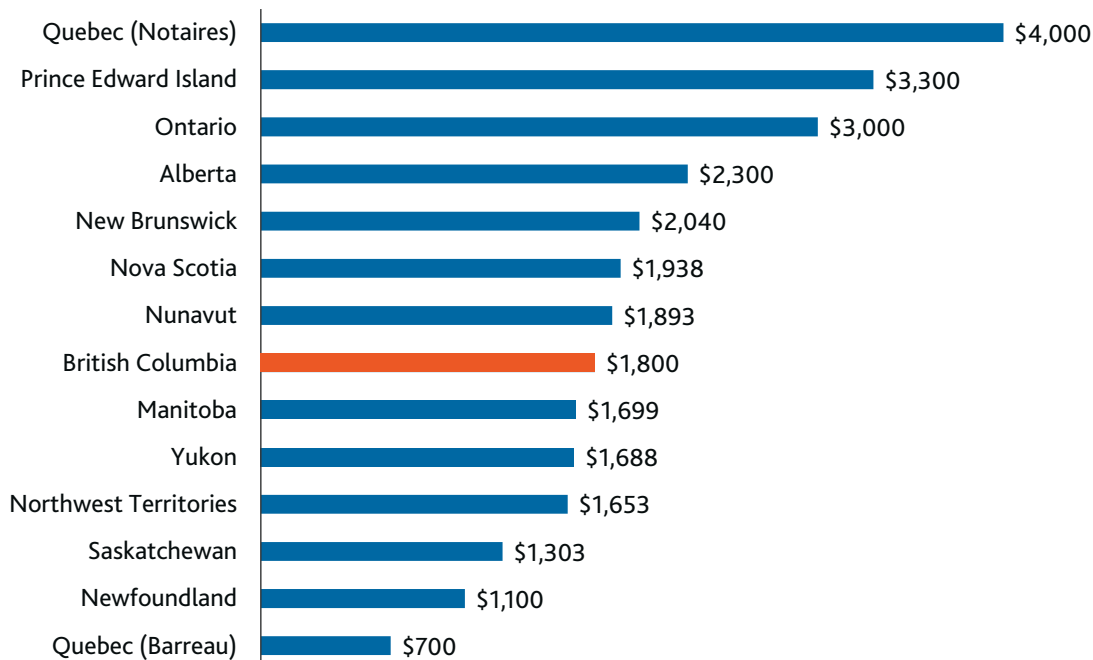
Part B – Trust Protection Coverage (Dishonest Appropriation)

Part B was introduced in 2004 and, in the 19 years since then, total compensation of \$5,756,238 has been paid to 129 claimants relating to thefts by 39 different lawyers. The goals of this coverage are twofold: to protect the public, and to mitigate damage to the profession’s reputation. We believe Part B achieves these objectives. Given the approximately 10,000 lawyers in private practice in BC, the claims experience demonstrates the very small proportion of lawyers who have engaged in theft. Most claims are small — 83% are \$50,000 or less — however, in thankfully rare instances,

Transfer Fraud coverage with Coalition and reinstated its own, broader coverage for these events. A 2-tier deductible — 15% or 35% of the loss — was added to Part C, emphasizing the need for lawyers to make secondary verification of payment instructions.¹ LIF produced a short video summarizing these changes and it is available [here](#). Other than that, a few clauses were amended to add clarity.

1. See Part C claims discussion on page 3.

2022 INDEMNITY FEES



the aggregate amounts stolen by a single lawyer are significant. This risk was demonstrated in 2022 when \$2,388,460 was paid to 9 claimants after two lawyers stole funds held in trust. One took funds held in trust for CRA-mandated holdbacks, and the other took funds received in trust from a divorce settlement.

The lawyers involved are no longer members of the Law Society and LIF will endeavour to recoup these amounts. Whenever feasible, we take steps to recover amounts paid on all claims, including suing lawyers and executing on judgments. To date, we have recovered over \$205,000.

Other claims presented in 2022 either did not involve dishonest appropriation, are still in investigation or defence stages, or are not being pursued.

Part C – Trust Shortage Liability Indemnity

Part C was introduced to provide coverage for losses arising from lawyers depositing into trust what appears to be a genuine certified cheque or bank draft, but is actually a well-made fake. If funds are subsequently paid out on the assumption the deposited

instrument is good, the lawyer is liable for the resultant shortage when the bank reverses the deposit. This loss is covered by Part C as long as the lawyer complied with the client identification and verification rules. Part C was then broadened to provide coverage for certain fraudulent social engineering schemes resulting in payments from trust to fraudsters.

In 2022, we received five Part C claim reports, all from social engineering trickery where a bad actor pretended to be the rightful recipient of a pending payment and submitted false information in one brief email to the lawyer to redirect the wire transfer.

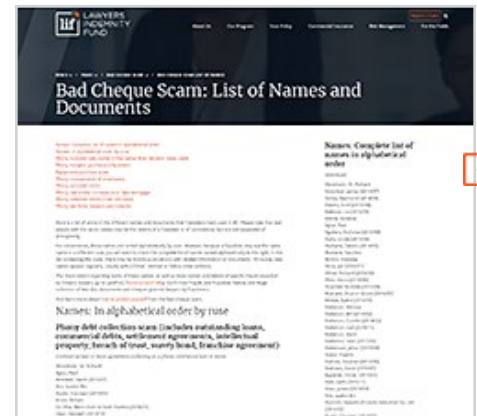
These incidents serve as a stark reminder of how easily huge sums of money can be irretrievably lost within minutes. These frauds are not going away — because they work so easily for cyber-criminals — so it is imperative that you maintain vigilance and ensure all firm staff members are trained to avoid them. To assist, LIF created a [checklist](#) to help you harden your payment processes against fraud.

As of January 1, 2023, Part C provides an incentive, in the form of a lower deductible,

if a secondary verification process is followed. Always double-check payment instructions — your clients will appreciate your caution.

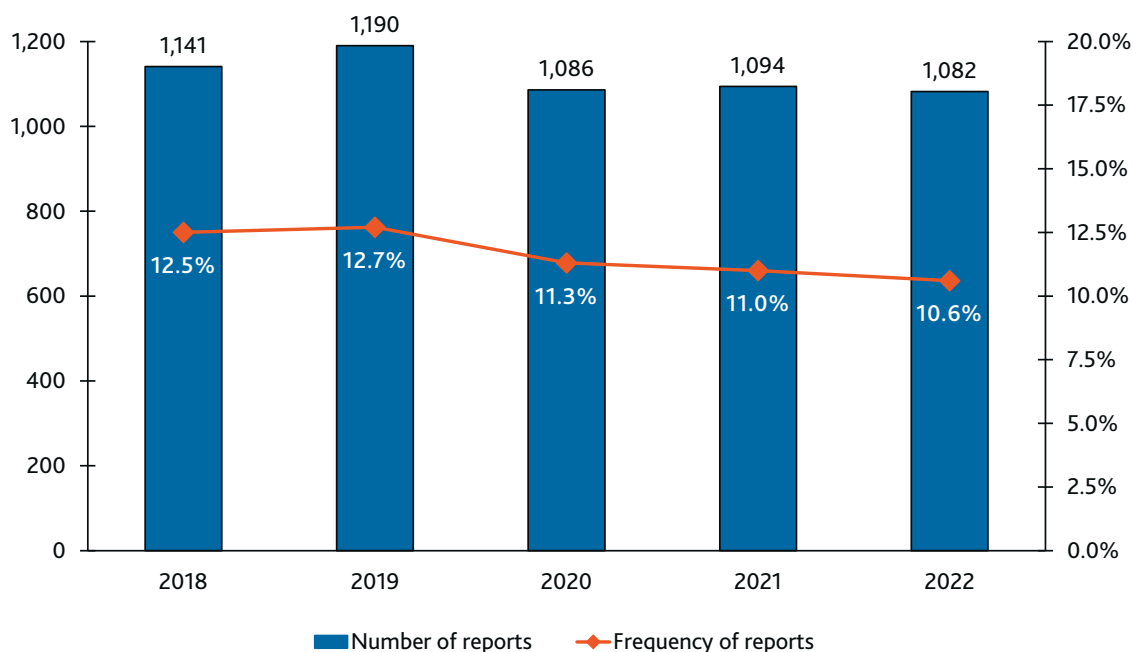
Relating to cheque frauds, LIF continues to maintain a [list of names and documents](#) that fraudsters have used in BC. Lawyers can review unfamiliar documents against this list and avoid these frauds.

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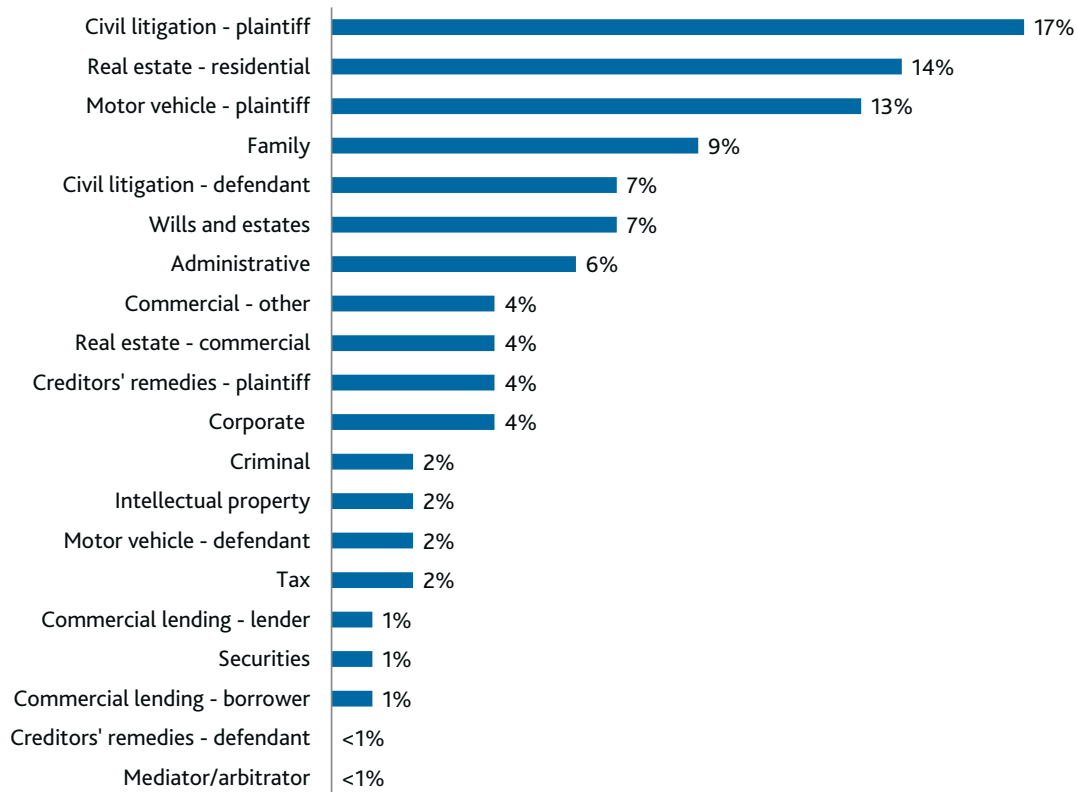


The LIF website provides a list of actual names and documents fraudsters have used in BC.

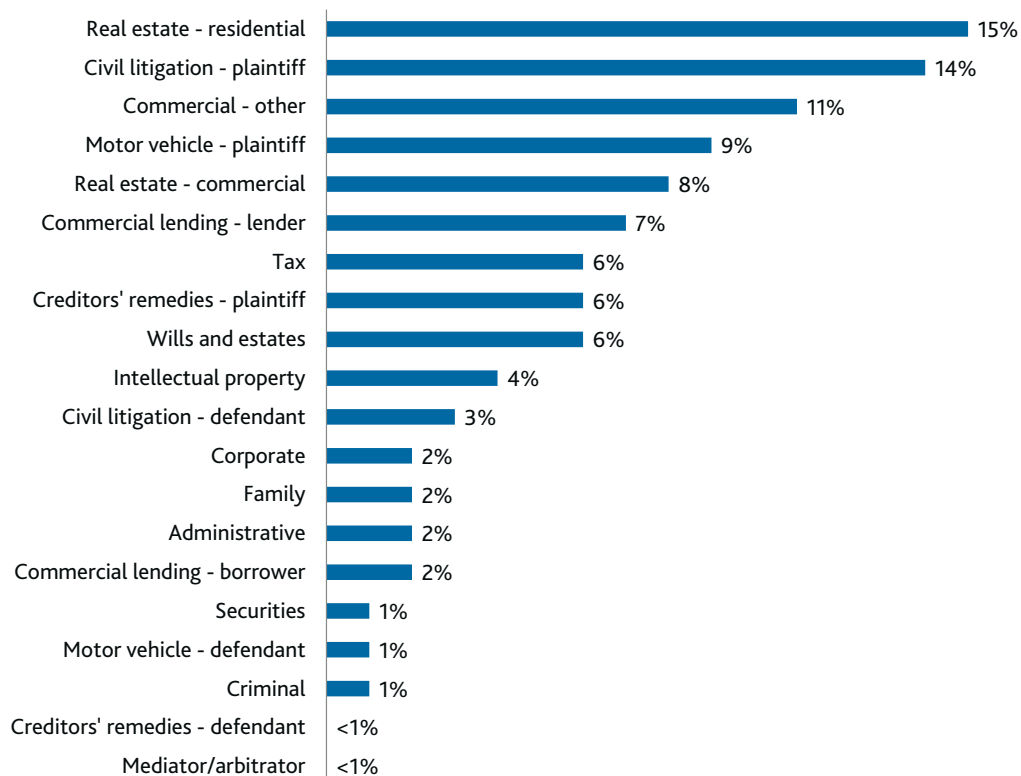
NUMBER AND FREQUENCY OF REPORTS



FREQUENCY OF REPORTS BY AREA OF LAW – 2022



SEVERITY OF REPORTS BY AREA OF LAW – 2022



Cyber and Privacy Insurance Update

The cyber insurance policy, which also provides law firms with privacy liability coverage, was initially arranged as of June 2021 and continues to protect BC firms against common cyber risks and privacy breaches. To qualify, your firm must have at least one BC location and at least one lawyer paying the annual indemnity fee. Also, your firm must meet Coalition’s minimum security requirements as tested when it joins the policy and at subsequent renewals.

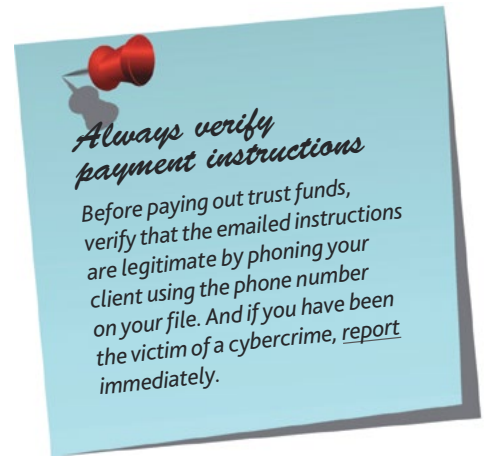
The policy provides excellent coverage across a broad range of exposures. The claims experience for the BC Lawyers Program since policy inception is shown in the graph below.

Like most hazards, your best strategy for combatting ever-present cyber risks is not to just buy insurance and hope. Awareness, training, and prevention are key. Coalition offers a free risk monitoring service with [Coalition Control](#) to aid firms in keeping ahead of threats. LIF and Coalition also

provide a [wealth of risk management](#) information, with links to further resources, all aimed at helping you avoid the most common threats of:

- Ransomware
- Business email compromise
- Funds transfer fraud
- Privacy breaches

[Excess cyber insurance](#) is available and firms are encouraged to supplement the cyber insurance arranged by LIF with higher limits.



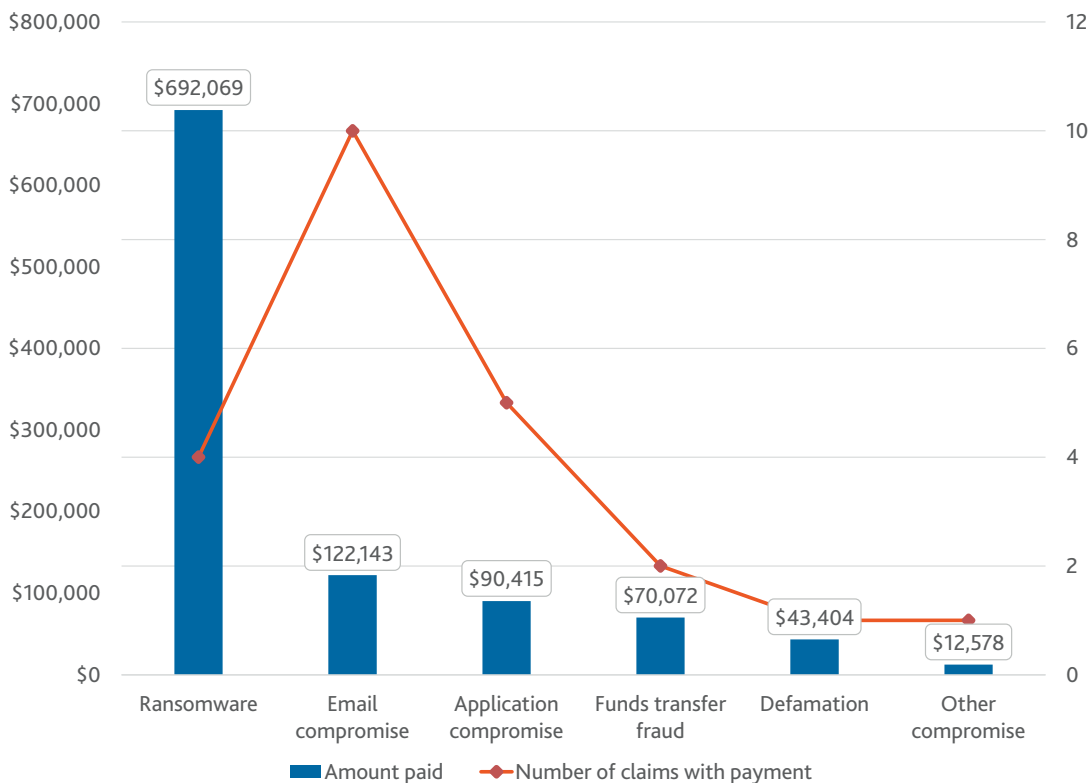
2023 and Beyond

Your efforts to manage your practice well are the best tools to protect your firm and clients from losses. We will continue to provide you with information on new and evolving risks and ideas for how to avoid those risks. Effective risk management is a combination of prudent practices and commercial insurance.





Although LIF’s professional liability indemnity policy provides the broadest

professional liability coverage in Canada, it is not the only insurance lawyers require. Talk to your insurance broker to ensure you have appropriate coverage for your office contents, premises liability, and crime risks such as employee theft of trust funds. You may also wish to purchase excess professional liability and cyber coverage depending on your needs and budget. Review all of your insurance periodically to ensure it is keeping up with your practice risks.

“CYBER” PROGRAM: CLAIMS PAID – June 1, 2021 to December 31, 2022



<h2>2022 Risk Management in Review</h2> <p><i>Our 2022 risk management advisories will give you a head start in 2023</i></p>	
<p>1. Attention real estate lawyers – Mortgage fraud</p>	<p>» January 12, 2022 Notice to Lawyers</p>
<p>2. Risk Management Video Series: GST traps and tips</p>	
<p>3. Avoid becoming a victim of cybercrime</p>	<p>» February 2022 E-Brief</p>
<p>4. Risk Management Video Series: The home stretch – how to avoid common civil settlement mistakes</p>	
<p>5. Junior Lawyers Virtual Risk Management Conference on April 27, 2022</p>	<p>» March 2022 E-Brief</p>
<p>6. Real estate lawyers – mortgage fraud update</p>	<p>» March 2022 E-Brief</p>
<p>7. November deadline to file land owner transparency reports</p>	<p>» March 2022 E-Brief</p>
<p>8. Risk Management Video Series: Purchase or sale of a business – common claims and how to avoid them</p>	
<p>9. 2021 Annual Report – strength and stability</p>	 <p>» 2022 Annual Report » 2022 Program Report</p>
<p>10. Risk Management Video Series: Common conflict of interest missteps</p>	
<p>11. Junior Lawyers Risk Management Conference on April 27, 2022</p>	
<p>12. 2021, a strong year for the Lawyers Indemnity Fund</p>	<p>» April 2022 E-Brief</p>

<p>13. Risk Management Video Series: Mental Health Video (re-release)</p>	
<p>14. Don't Bankrupt Your Firm Part I</p>	<p>» May 31, 2022 Notice to Lawyers</p>
<p>15. Reminder: Don't wait to file land owner transparency reports</p>	<p>» June 2022 E-Brief</p>
<p>16. BC Court of Appeal confirms CRT's jurisdiction</p>	<p>» June 23, 2022 Notice to Lawyers</p>
<p>17. Risk Management Video Series: Giving ILA? It's risky business</p>	
<p>18. Don't Bankrupt Your Firm, Part II – Your questions answered</p>	<p>» July 6, 2022 Notice to Lawyers</p> 
<p>19. Vacation alert and precautions</p>	<p>» July 2022 E-Brief</p>
<p>20. Foreign Buyers Banned from Purchasing Canadian Residential Property</p>	<p>» September 2022 E-Brief</p>
<p>21. Reminder: File your Land Owner Transparency Reports Now</p>	<p>» September 2022 E-Brief</p>
<p>22. Real estate lawyers: Don't forget additional property transfer tax is payable for foreign nationals, foreign entities and taxable trustees</p>	<p>» November 2, 2022 Notice to Lawyers</p>
<p>23. Was your action suspended? Don't wait until March 26 to file your Notice of Civil Claim.</p>	<p>» November 2022 E-Brief</p>
<p>24. Three reminders for real estate lawyers:</p> <ul style="list-style-type: none"> • Additional property tax payable for foreign nationals, foreign entities and taxable trustees • Land Owner Transparency filing deadline • Foreign buyer ban 	<p>» November 2022 E-Brief</p>
<p>25. Risk Management Video Series: For family law lawyers – Find out what goes wrong with pension divisions</p>	
<p>26. Attention real estate lawyers: Value and identity frauds continue</p>	<p>» December 2022 E-Brief</p>
<p>27. Be alert! Holiday coverage and fraudsters</p>	<p>» December 2022 E-Brief</p>
<p>28. Reminder: Foreign buyers are banned from purchasing Canadian property as of January 1</p>	<p>» December 2022 E-Brief</p>



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