

# INDEMNITY ISSUES:

## *Program Report*

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- [Indemnification program overview](#)
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*Since 1986, the Lawyers Indemnity Fund (LIF) has managed the Law Society's Indemnification Program that protects lawyers and their clients from the risk of financial loss in the practice of law.*

### 2024 Indemnity Fee

For the 7th consecutive year, the indemnity fee remains at \$1,800 per full-time lawyer. The fee has increased only once since 2011, and then only by \$50. As shown in the accompanying graph, the fee compares favourably with other provinces and territories, especially considering that BC has the broadest professional liability coverage in the country and all other programs charge additional fees that are not shown on the graph for the same risks. 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 avoid errors;
- You report claims promptly, which enables us to "repair" errors where possible and avoid loss;
- We have a highly effective and experienced claims management team

dedicated to providing you with excellent and efficient service; and

- We invest the funds wisely.

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### Indemnification Program Overview

The Indemnification Program has two parts:

1. The BC Lawyers Compulsory Professional Liability Indemnification Policy that is composed 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 or property entrusted to you when providing legal services;
  - Part C: Trust Shortage Liability Indemnity – if you incur a loss from depositing a fraudulent certified

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

2. The privacy/cyber insurance policy that applies to common network security and privacy liability risks. This 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 also available on the Member Portal and can be accessed by the firm's Designated Representative.

### What's New for 2024?

We have enhanced your coverage for 2024, specifically:

- Indemnity Agreement 2.11 has been

added to incorporate coverage formerly provided on an optional basis by the Business Innocent Covered Party Endorsement. This provides a potential benefit to your firm partners as long as they meet the simple risk management requirements.

- Indemnity Agreement 2.10 has been broadened to provide reimbursement for up to \$100,000 of defence costs you incur for the successful defence of an action against you under the “Foreign Buyers Ban.”

In addition, a few definitions were amended to add clarity. A short [video](#) featuring our Chief Operating Officer, Su Forbes, KC will tell you in more detail what’s new in the 2024 policy.

## A Look at 2023 Claims

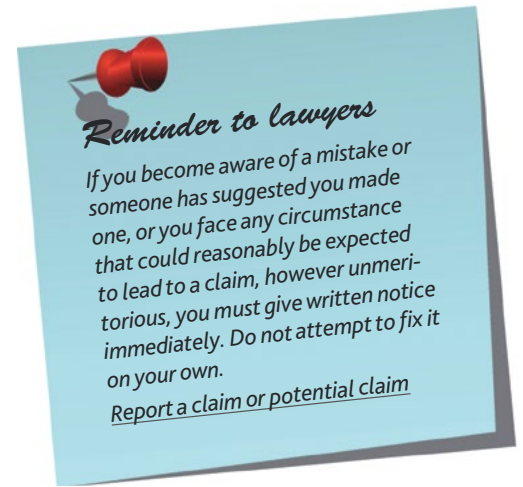
### Part A – Professional Liability Indemnity (Errors & Omissions)

2023 was a very busy year for LIF. We received 1,309 Part A claim reports which is 21% more than the previous year. Many

factors contributed to this rise in claims, including the redistribution of wealth of the baby boomers, the increase in family disputes and divorces during COVID, lawyers pivoting from plaintiff personal injury to other areas in which they lack familiarity, and problems still surfacing from the overheated residential property market.

This is more than any year since LIF’s inception in 1989. 2024 will help to inform us if the 2023 count was an anomaly or if we will continue to see more claims than usual in certain practice areas. No matter what 2024 holds, we encourage you to report immediately when you’re aware of a potential error or claim.

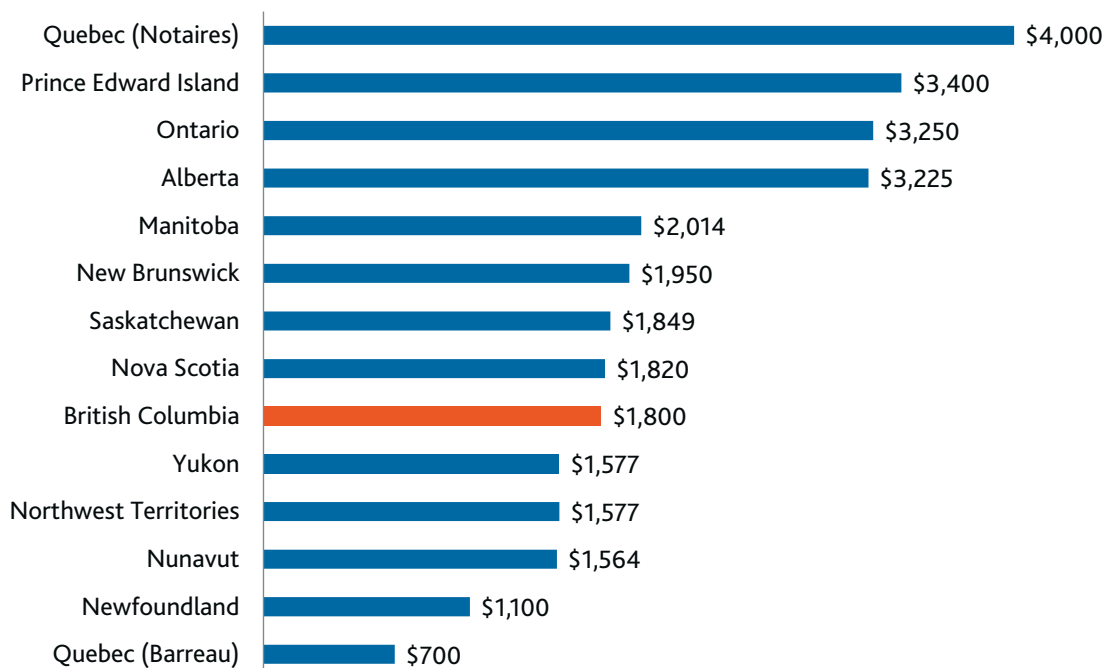
We repair 20% of all claims, which is when we are able to “fix” or mitigate the effects of a mistake that would otherwise fracture a lawyer’s relationship with the client and grow to be a much bigger challenge. In 2023, we were successful in repairing 21% of closed claims. If you contact us early, we will be in the best position to fix a problem and avoid a claim. Reporting early also enables us to gather and secure evidence, seek an advantageous settlement and defend you optimally. Do not attempt



to fix the problem before you report, as your efforts may not succeed and may put your coverage at risk. Although claims and potential claims must be reported in writing, LIF claims counsel are always available to speak with you first by telephone. Our key contact list is [here](#). Our [Reporting Guidelines](#) will help you provide us with the necessary information.

The charts on page 4 show the frequency and severity of reports by practice area and highlight specific areas of law that

2023 INDEMNITY FEES



generated the most claims activity and expect to cost the most to resolve.

**Part B – Trust Protection Coverage (Dishonest Appropriation)**

In sharp contrast to Part A, 2023 was a relatively quiet year for Part B claims. Only three claims were opened and payments were made on two of them, totalling just under \$34,000. The third claim is still under investigation.

In the 20 years since Part B was introduced, compensation of nearly \$5.8 million has been paid to 133 claimants arising from dishonest appropriation by 41 different lawyers.

The purpose of Part B is twofold: to protect the public and to lessen damage to the profession’s reputation. Given over 10,000 lawyers in private practice in BC, the claims experience demonstrates the extremely small proportion of lawyers who have unfortunately engaged in conduct that caused losses. Most claims are small – 83% are \$50,000 or less – but nonetheless painful for clients. In very rare instances, the amounts taken by a lawyer are significant.

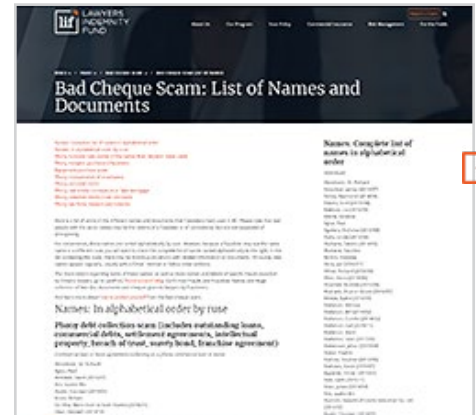
The lawyers involved in paid Part B

claims are no longer members of the Law Society and LIF makes every effort to recover the amounts paid, including suing the lawyers and executing on judgments. To date, we have recovered over \$240,000.

**Part C – Trust Shortage Liability Indemnity**

In 2023, we received five Part C claim reports. All arose from social engineering trickery where a cyber criminal pretended to be the rightful recipient of a pending payment and submitted false payment details to the lawyer to fraudulently direct a payment of trust funds. We paid over \$115,000 on one claim. Another claim, reported in late December, is still under investigation. The other fraud attempts were successful in initially fooling the lawyers, but were fortunately discovered very quickly and the funds were retrieved before loss. One foiled attempt involved over \$1.7 million, so the consequences to law firms of falling victim to these scams can be dire.

Part C also provides coverage for trust fund losses arising from depositing into trust what appears to be a genuine certified cheque or bank draft, but is actually a forged

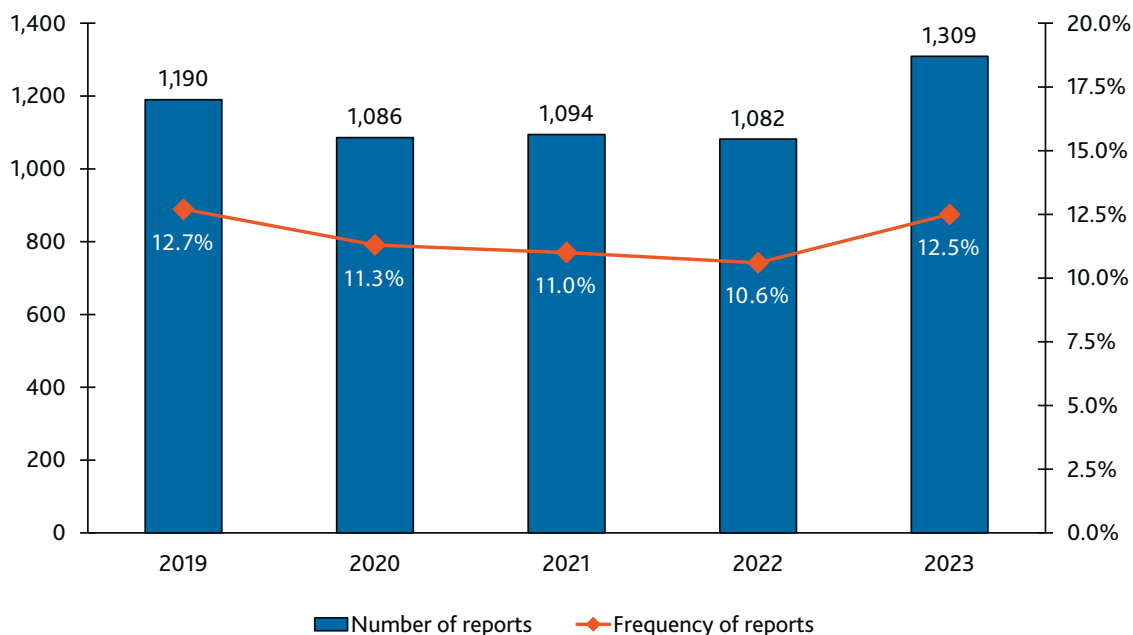


The LIF website provides a list of actual names and documents fraudsters have used in BC.

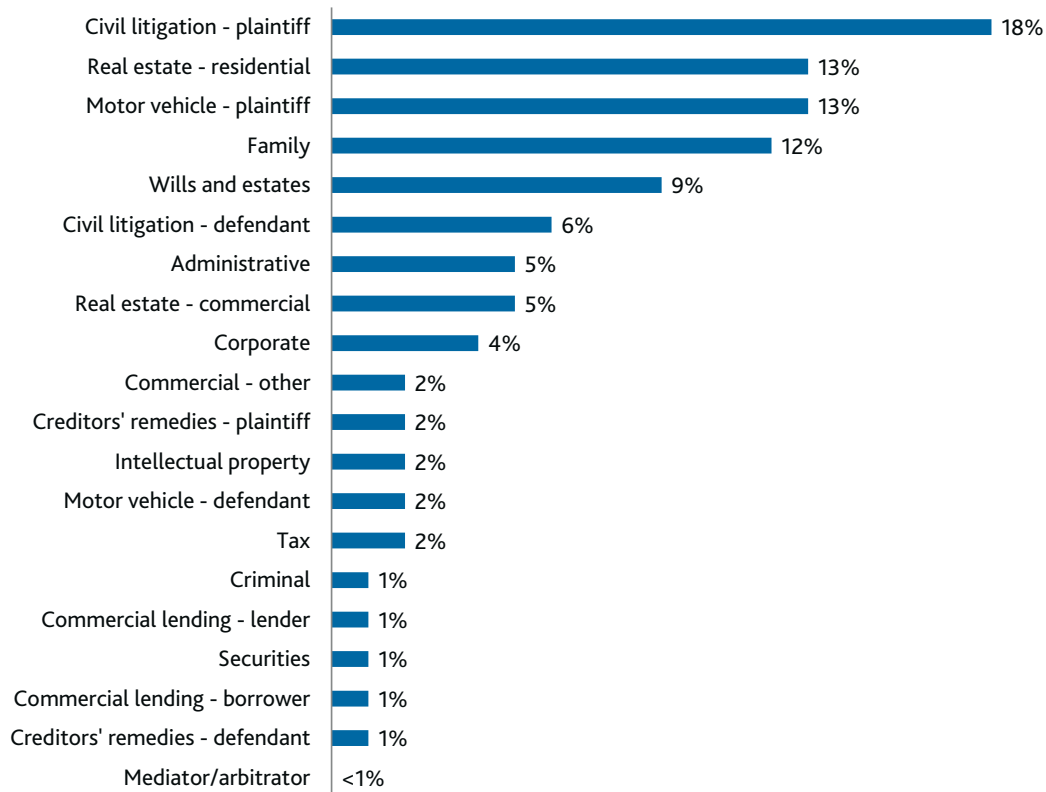
or counterfeit document. Part C responds to the loss as long as you have complied with the Law Society’s Client Identification and Verification rules. LIF maintains a list of names and documents these fraudsters have used in BC. You can review unfamiliar documents against this list and avoid these frauds.

*continued on page 7*

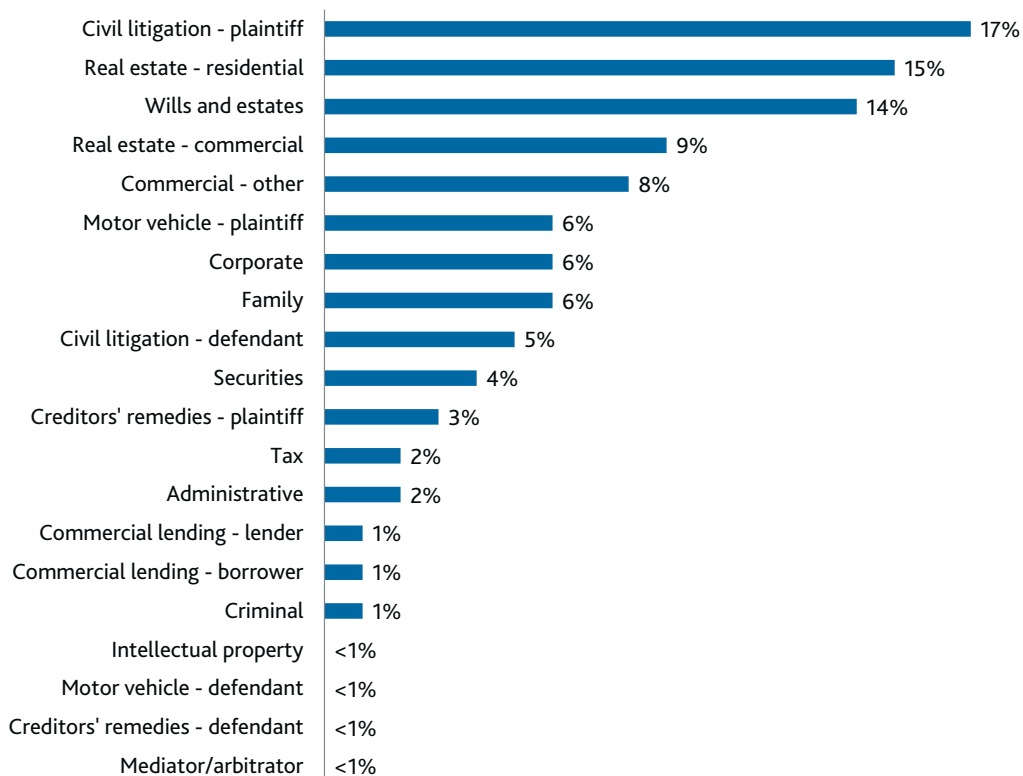
NUMBER AND FREQUENCY OF REPORTS

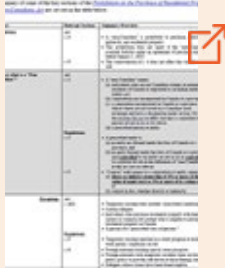

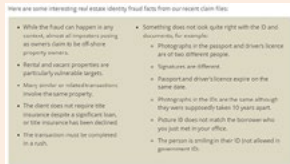




## FREQUENCY OF REPORTS BY AREA OF LAW – 2023



## SEVERITY OF REPORTS BY AREA OF LAW – 2023



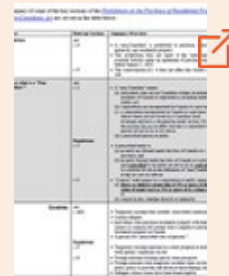
<p><b>2023 Risk Management in Review</b>  <i>Our 2023 risk management advisories will give you a head start in 2024</i></p>	<p style="text-align: center;"><b>CLICK HERE</b></p>
<p>1. Foreign buyers are banned from purchasing Canadian residential property as of January 1</p>	<p>» <a href="#">January 19, 2023 Notice to Lawyers</a></p> 
<p>2. Risk Management Video Series: What's new in your indemnity program</p>	
<p>3. Was your action suspended? You have until March 26 to file your Notice of Civil Claim</p>	<p>» <a href="#">February 2023 E-Brief</a></p>
<p>4. Reminder: BC's mandatory cooling-off period now in force</p>	<p>» <a href="#">February 2023 E-Brief</a></p>
<p>5. Protect yourself against real estate identity frauds</p>	<p>» <a href="#">February 28, 2023 Notice to Lawyers</a></p> 
<p>6. Attention solicitors: Ministry of Finance proposes applying property transfer tax anti-avoidance rule in multiple cases</p>	<p>» <a href="#">March 14, 2023 Notice to Lawyers</a></p>
<p>7. Last chance to file your suspended Notice of Civil Claim</p>	<p>» <a href="#">March 2023 E-Brief</a></p>
<p>8. Ministry of Finance proposes applying property transfer tax anti-avoidance rule</p>	<p>» <a href="#">March 2023 E-Brief</a></p>
<p>9. Three more BC law firms fall victim to funds transfer frauds</p>	<p>» <a href="#">March 23, 2023 Notice to Lawyers</a></p> 
<p>10. 2022 Annual Report – a year like no other</p>	<p>» <a href="#">2022 Annual Report</a>              » <a href="#">2022 Program Report</a></p> 

11. Risk Management Video Series: The Most Common Mistakes Made by Tax Lawyers



12. Significant changes to Canada's foreign buyer ban

» [May 2023 E-Brief](#)



13. Risk Management Video Series: The Most Common Commercial Leasing Mistakes



14. Amendments to *Family Law Act*: Excluded property, pensions and pets

» [June 2023 E-Brief](#)

15. Don't let your guard down! Funds transfer frauds continue

» [June 21, 2023 Notice to Lawyers](#)

16. Start planning ahead! New T3 tax return filing obligations for trusts, including certain client trust accounts

» [July 19, 2023 Notice to Lawyers](#)

17. Vacation alerts and precautions

» [August 2023 E-Brief](#)

18. Funds transfer fraud – It really can happen to you

» [September 6, 2023 Notice to Lawyers](#)

19. Risk Management Video Series: The Most Common Mistakes Made by Family Lawyers When Drafting Separation Agreements



20. Risk Management Video Series: Common Mistakes in Third Party Proceedings




21. Reminder: New deadlines for trial briefs and trial management conferences

» [November 2023 E-Brief](#)

**New deadlines for trial briefs and trial management conferences**

The following table summarizes recent amendments to the Superior Court Civil Rules (SCCR) and Family Rules (CFR).

Amendment	Effective Date	SCCR	CFR
Part 10 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 11 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 12 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 13 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 14 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 15 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 16 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 17 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 18 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 19 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 20 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 21 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 22 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 23 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 24 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 25 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 26 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 27 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 28 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 29 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 30 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 31 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 32 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 33 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 34 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 35 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 36 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 37 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 38 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 39 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 40 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 41 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 42 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 43 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 44 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 45 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 46 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 47 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 48 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 49 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 50 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 51 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 52 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 53 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 54 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 55 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 56 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 57 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 58 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 59 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 60 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 61 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 62 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 63 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 64 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 65 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 66 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 67 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 68 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 69 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 70 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 71 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 72 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 73 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 74 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 75 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 76 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 77 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 78 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 79 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 80 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 81 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 82 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 83 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 84 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 85 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 86 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 87 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 88 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 89 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 90 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 91 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 92 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 93 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 94 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 95 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 96 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 97 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 98 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 99 (trial management)	2023-11-01	2023-11-01	2023-11-01
Part 100 (trial management)	2023-11-01	2023-11-01	2023-11-01

22. Reminder: New T3 filings required by March 2024 for trusts	» <a href="#">November 2023 E-Brief</a>
23. Generative AI: What Lawyers Need to Know	» <a href="#">November 23, 2023 Notice to Lawyers</a>
24. Risk Management Video Series: Avoid becoming the next victim of a ransomware attack	
25. Reminder: New conditions for disbursement recovery for expert evidence and reports	» <a href="#">December 2023 E-Brief</a>
26. BCCA confirms strict two-year limitation period for third-party notices	» <a href="#">December 2023 E-Brief</a>

*continued from page 3*

Funds transfer fraud reports serve as a stark reminder of how easily huge sums of money can be irretrievably lost within minutes, with potentially ruinous consequences for the affected law firm and client. It is imperative that you maintain vigilance and ensure all firm staff members are trained to examine and verify instructions. You will face a significantly lower deductible if a secondary verification process is followed. Using our [checklist](#) will help you harden your payment processes against fraud. Note that fraudsters are further expanding their toolkits to send false payment requests to clients who may not be so aware of the risks. Training clients to authenticate your actual and purported payment instructions is becoming a prudent part of the client management process.

## Cyber and Privacy Insurance Update

The privacy/cyber insurance policy protects most BC law firms against common cyber risks and privacy breaches. To qualify, your firm must have at least one BC location and at least one lawyer who is paying the annual indemnity fee. The firm must also meet Coalition's minimum security requirements as tested when it joins the policy and annually at renewal time.

The majority of reports to Coalition are for minor privacy breaches, such as emails being sent to the wrong recipient.

While embarrassing, it is rare for these incidents to result in damages. Cyber crimes like hacking into network applications or email accounts are less common but can be expensive to resolve. The greatest risk, however, remains ransomware attacks and these, while relatively few in number, have caused the highest losses under the policy. The following table summarizes the claims with amounts reserved or paid under the cyber/privacy policy since inception.

Cyber/privacy claims		
Cause of claim	# of claims	Amount incurred
Ransomware	7	\$ 874,727
Email compromise	15	215,547
Application compromise	7	193,989
Undefined	2	193,295
Crisis response	2	70,072
Regulatory proceeding	2	22,528
Malware	1	16,700
Destructive data	1	15,000
	37	\$1,601,858

The cyber/privacy policy provides excellent coverage across a broad range of exposures.

Like most hazards, your best strategy for combatting ever-present cyber risks is

continuous awareness, training and prevention. 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. Excess cyber insurance is available from commercial insurance brokers, and LIF strongly encourages you to supplement the Coalition privacy/cyber policy as appropriate to your firm.

## 2024 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 solutions aimed at helping you avoid those risks. Effective risk management is a combination of prudent practices and commercial insurance tailored to your firm.

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 excess professional liability coverage, and insurance for your office contents, premises liability and crime risks, such as cheque forgery and employee theft. Review all of your insurance periodically to ensure it is keeping up with your practice risks.



500 – 845 Cambie Street, Vancouver, British Columbia, Canada V6B 4Z9

Telephone 604.682.8911 | Facsimile 604.682.5842

Toll-free 1.800.903.5300 | TTY 604.443.5700

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