

# INDEMNITY ISSUES:

## *Program Report*

### What's in this issue?

- [Annual indemnity fee remains at \\$1,800](#)
- [Indemnification program overview](#)
- [Easy and useful resources](#)
- [What's new for 2025?](#)
- [Exempt: to be or not to be?](#)
- [A look at 2024 claims](#)
- [Cyber and privacy insurance](#)
- [2024 risk management in review](#)

*Since 1986, the Lawyers Indemnity Fund (LIF) has managed the Law Society's Professional Liability Indemnification Program. The Program protects lawyers and their clients from the risk of financial loss due to errors in the ever-changing and challenging practice of law.*

### 2025 indemnity fee

For the 8th consecutive year, the indemnity fee remains at \$1,800. The fee has increased only once since 2011, and then only by \$50. In comparison, inflation (CPI) has increased the cost of living by 26% over the last 10 years, whereas the indemnity fee has gone up less than 3% over the same period. As shown in the chart on the following page, the fee compares favourably with other provinces and territories, especially considering that BC has the broadest professional liability coverage in the country and other programs charge additional fees that are not shown on the graph for the same risks.

Our consistently low fee 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 many errors and mitigate loss;
- Our experienced in-house claims counsel and external repair and defence counsel provide you with effective and efficient service; and
- We invest LIF's assets sensibly, which provides income to offset expenses, absorbs spikes in claim payments, and securely maintains flexible capital that minimizes reliance on costly external insurance.

### Indemnification program overview

The program has two parts:

1. The BC Lawyers Compulsory Profes-

sional Liability Indemnification Policy that provides coverage for:

- Part A Professional Liability – if you make a mistake that results in financial loss for a third party;
- Part B Trust Protection – if you dishonestly take money or property entrusted to you as a lawyer;
- Part C Trust Shortage Liability – if you incur a trust shortage from depositing a fraudulent certified cheque or are tricked by social engineering into sending trust funds to a fraudster; and

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

Although the \$1 million dollar limit is generous coverage for the majority of Part A claims, we recommend that you speak with a broker about the risks your firm may face and whether excess insurance is appropriate. Your discussion should include buying additional coverage for cyber/privacy risks as — unlike professional liability risks — they bear little relation to the size of files the firm handles. Contact any of the [brokers listed on LIF's website](#) for information and quotes.

## Easy and useful resources

- Every lawyer who purchases the professional liability insurance policy can download a current Certificate of Indemnity from the [Member Portal](#) profile on the Law Society's website.
- Each firm participating on the Coalition cyber/privacy group policy can obtain an Insurance Certificate. The firm's Designated Representative can download this from the DBA page of their Member Portal. LIF recommends downloading this certificate annually to confirm that coverage is in place.
- Policy wordings for the current year and

prior years back to 2000 are available on [LIF's website](#), including explanations of coverage changes.

## What's new in our policy for 2025?

No significant changes were made to the policy for 2025. Three modifications worthy of note are:

- Secondary verification, which requires authenticating new or changed payment instructions (except those received in person) and substantially reduces your Part C deductible, does not need to be performed for account information that has previously been properly verified.
- Part C limits are no longer a sub-limit of Part A limits. This means that a Part C claim will not reduce the aggregate limit available to you for Part A claims made in the same year. Also, a Part C deductible will not lead to a double deductible applying to a subsequent Part A claim.
- Claims for errors arising from unauthorized practice are not covered because such practice does not fall within the

### Reminder to lawyers

*If you become aware of a mistake or someone has suggested you made one, or you face any circumstance that could reasonably be expected to lead to a claim, however unmeritorious, you must give written notice immediately. Do not attempt to fix it on your own.*

Report a claim or potential claim

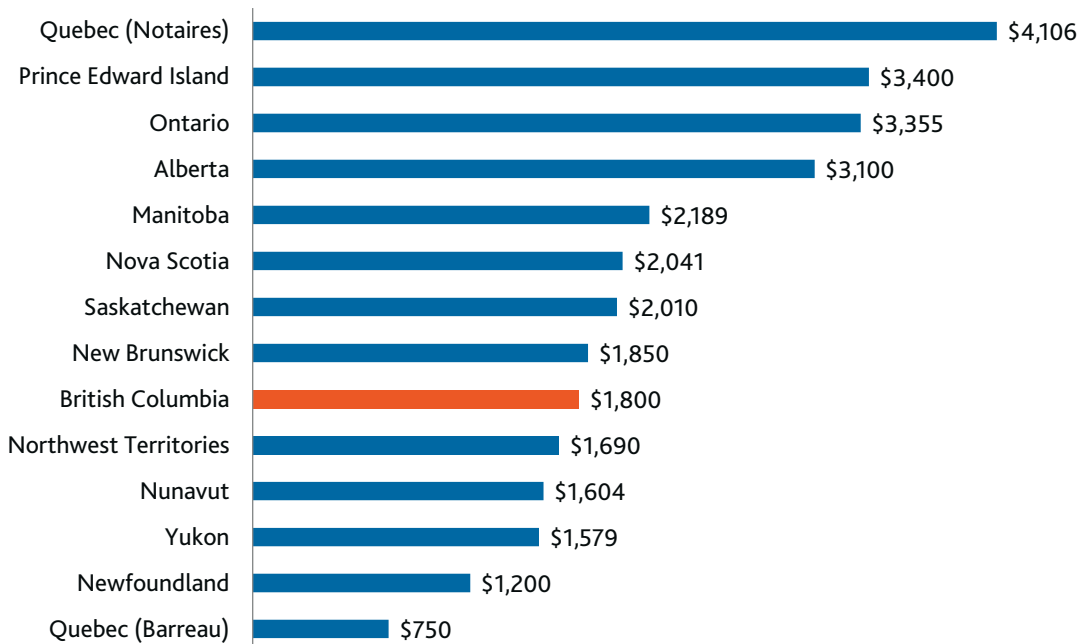
definition of "professional services". Previously, the policy allowed payment for certain unauthorized practice claims subject to a clawback of all amounts paid. Now, all unauthorized practice is treated equally.

Other amendments were made to improve policy clarity.

### Exempt: to be or not to be?

In-house lawyers are exempt from purchasing the compulsory indemnity coverage,

## 2024 INDEMNITY FEES



but exemptions are optional. If you are in-house but prefer to have protection for a greater range of pro bono services (not just sanctioned services) or providing legal services or advice outside of your in-house job, you can purchase the policy instead of applying for the exemption. Depending on your hours, you can purchase coverage on a full-time or part-time basis. Read more on why you might want coverage [here](#). Since we made the coverage available to in-house lawyers in 2021, more and more of them are deciding to buy the protection.

A look at 2024 claims

Part A – Professional Liability (errors & omissions)

2024 was an exceedingly busy year for LIF. We received 1,358 Part A claim reports, which is more than any year since LIF’s inception in 1986. It is also a 3.7% increase over 2023, which itself saw 21% more reports than 2022. At \$15.4 million for all claims and over \$14 million for Part A claims alone, payments for defence costs and settlements in 2024 were among the very

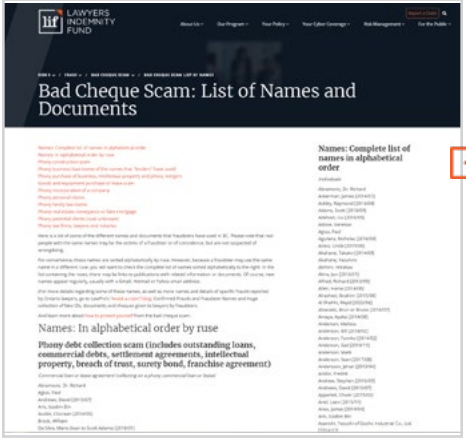
highest since the program began. We can now officially state that last year was not an anomaly, but it is still too early to declare this increased volume of claims and annual payments to be a new normal.

Despite the consecutive records in frequency, we strongly encourage you to report immediately when you’re aware of a potential error or claim. When you report early, we are in the best position to give you advice and possibly avoid a claim entirely. Do not attempt to fix the problem before you report because your efforts may compound the problem or put your coverage in jeopardy. Although claims and potential claims must be reported in writing, our claims counsel are always available to you by phone or email.

The charts on page 4 show the frequency and severity of claims by practice area and highlight those that generated the greatest number of claims and which we expect to cost the most to resolve.

Part B – Trust Protection (dishonest appropriation)

In 2024, we opened seven Part B claims involving five lawyers, all of whom are

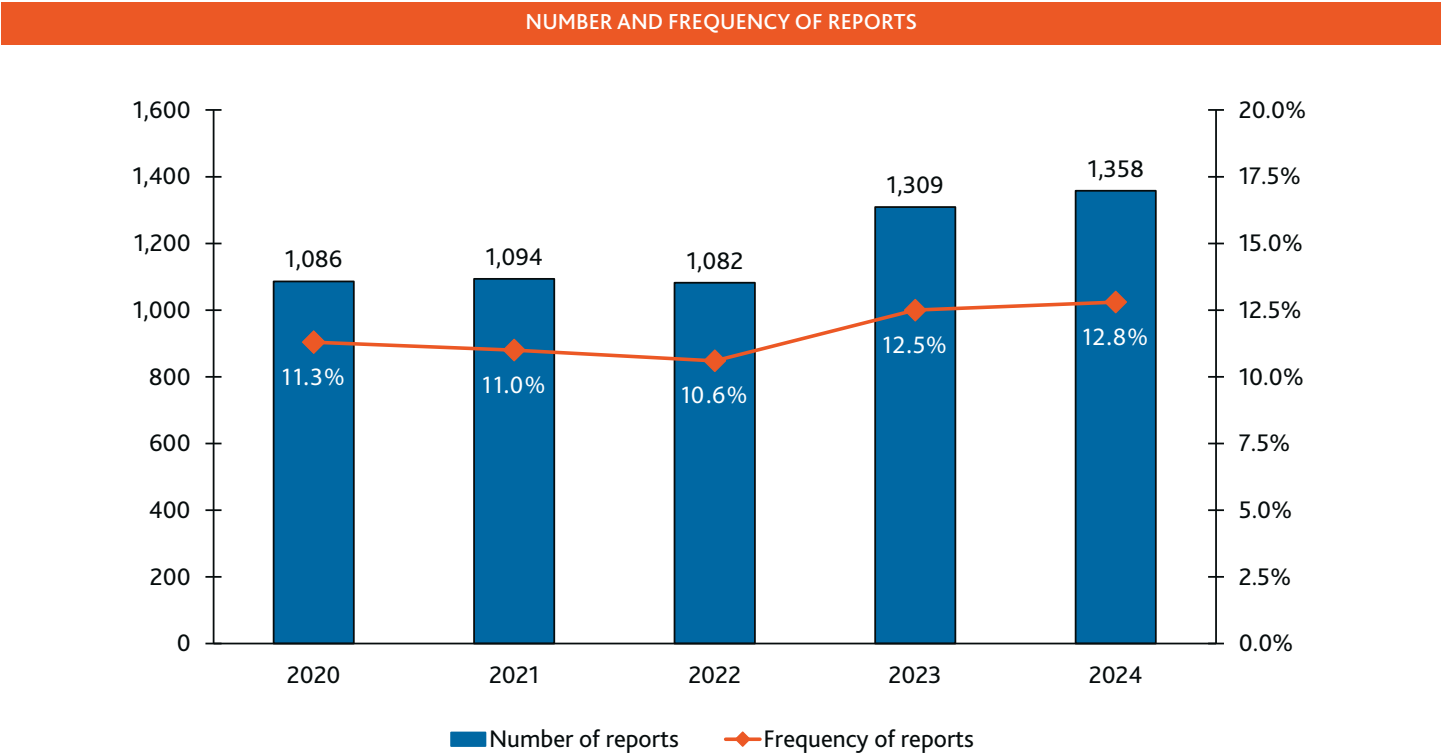


The LIF website provides a list of actual names and documents fraudsters have used in BC.

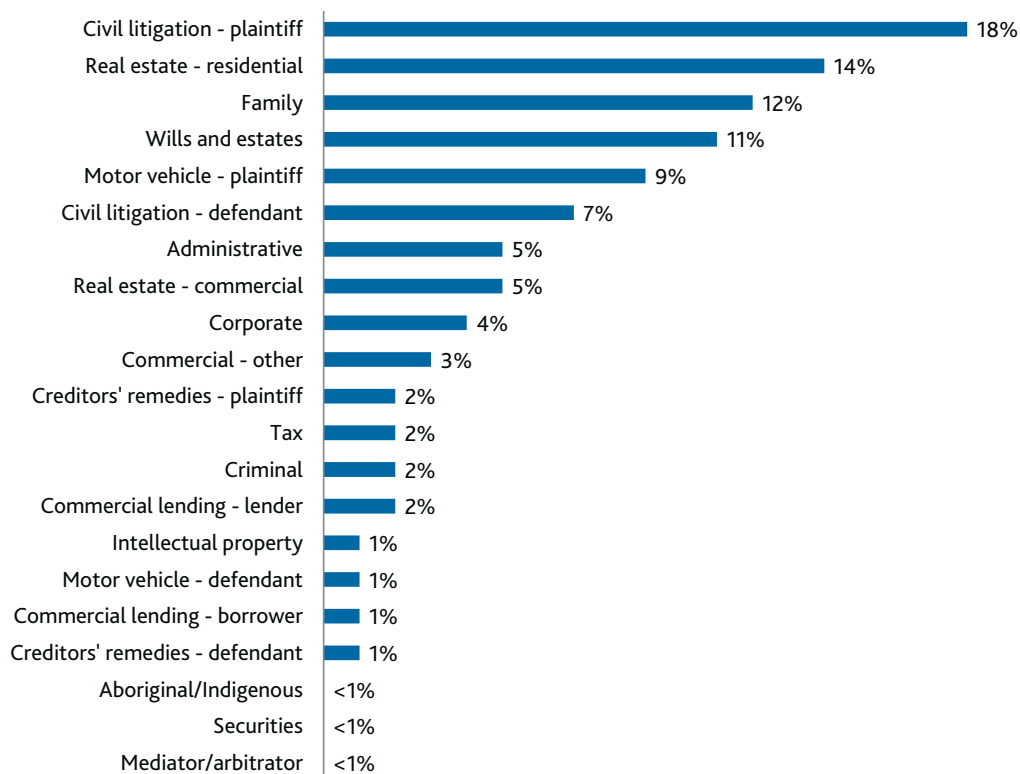
former members by voluntary withdrawal or disbarment. One of the claims was settled in 2024 while the others remain in progress. In the 21 years since Part B was introduced, compensation of over \$5.8 million has been paid to 135 claimants arising from dishonest appropriation by 41 lawyers.

The purpose of Part B is twofold: to

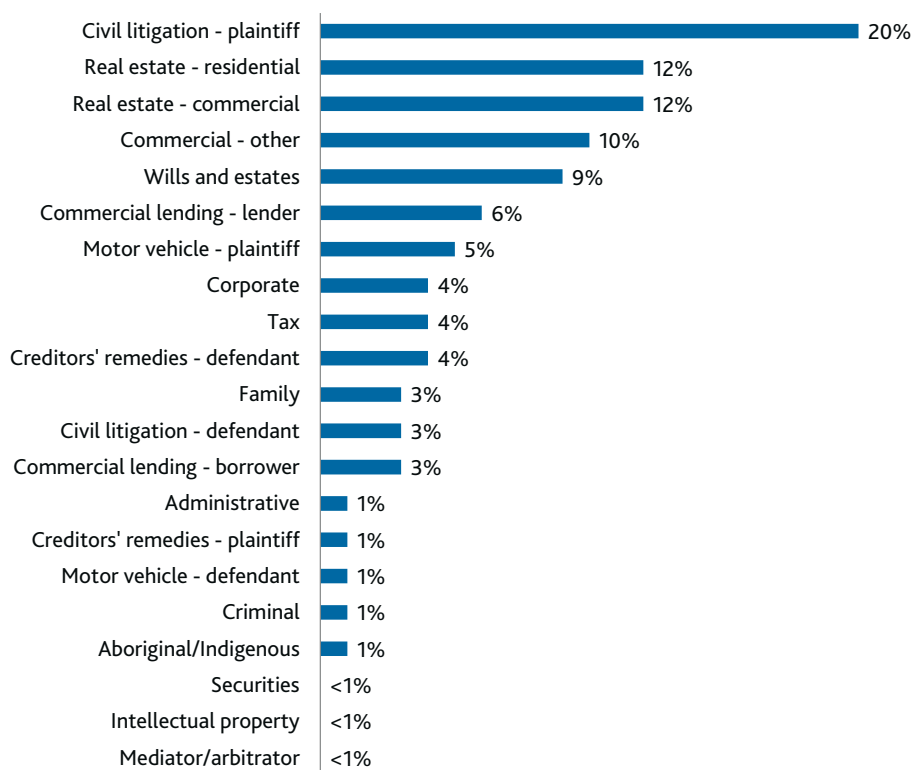
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## FREQUENCY OF REPORTS BY AREA OF LAW – 2024



## SEVERITY OF REPORTS BY AREA OF LAW – 2024



*continued from page 3*

protect the public and to safeguard the profession's reputation. Given the many thousands of BC lawyers engaged in hundreds of thousands of transactions annually, the claims experience demonstrates the extremely small proportion of lawyers whose actions produced Part B claims. Most claims are small but are nonetheless painful for clients, many of whom are already in vulnerable circumstances. In very rare instances, the amounts taken by a lawyer are significant. Absent claims generated by just two lawyers, the average amount taken by the rest is about \$48,000.

LIF makes every effort to recover the amounts paid. Sometimes we can come to a reasonable arrangement with the lawyer involved and other times we must sue and execute on judgments. It's modest, but we're pleased that we have so far recovered over \$327,000 for the fund.

We have found that many lawyers with Part B claims were struggling with various life issues. If you are struggling with your well-being, please seek compassionate assistance before pressure and opportunity conspire against your better judgment. Watch LIF's [video](#) on this important topic and consult the Law Society's links to many sources of support at [Lawyer Well-Being Hub](#).



In the above video, LIF's Chief Operating Officer, Su Forbes, KC tells the story of two lawyers who suffered from mental health issues. We encourage you to watch the video to learn not only what you can do to prioritize your own health and mental well-being, but how to be a better colleague too.

### Part C – Trust Shortage Liability (bad cheques and funds transfer frauds)

In 2024, we received four Part C claim reports. All arose from social engineering

where a cyber criminal pretended to be the rightful recipient of a pending payment and submitted false payment details to the lawyer or law firm staff. Early discovery and bank cooperation allowed transactions to be reversed in two of the incidents. Let us believe that bank cooperation is instant and automatic, note that court orders are sometimes required, and months can elapse before money is returned. For the other two claims, we paid over \$16,000 for one and almost \$200,000 for the other.

Funds transfer fraud reports are a shocking reminder of how easily huge sums of money can be irretrievably lost within minutes, with potentially ruinous consequences for the law firm and client. It is imperative that you maintain vigilance against this crime and ensure all firm employees are trained to examine and verify payment instructions not received in person. You must always verify any new or changed deposit information received by you. Using our [checklist](#) will strengthen your payment processes against fraud. Also, if you anticipate receiving funds, encourage your clients or other parties to phone your office if they receive any request to initiate or change deposit account information that purports to come from you.

Bad cheque scams continue to be attempted in BC. If you receive a suspicious email from someone seeking to retain you to collect money on any kind of matter, check our [list of names and documents](#) that fraudsters have used in BC. You can review unfamiliar documents against this list and avoid these frauds.

### Cyber and privacy insurance

The cyber/privacy group insurance policy from Coalition, Inc. began June 1, 2021 and renews annually. Coverage protects 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. Limits are pro-rated for interprovincial firms. The firm must also meet Coalition's security requirements, which is confirmed when the firm first joins the program and annually thereafter.

Exposures range from rare and terrifying ransomware events to enormously inconvenient network compromises

to embarrassing typos causing privacy breaches. [Report](#) all incidents as soon as you become aware of them. Cyber insurance will also help you resolve cases of criminals impersonating your lawyers or firms online. Since policy inception, Coalition has handled dozens of claims, incurred over \$2.5 million of cyber and privacy losses, and provided invaluable guidance to firms, large and small, facing these distressing events. When claims occur, we are seeing that the best response is one led by an experienced breach coach, which this insurance can provide.

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 resources](#) online, with links to further resources, all aimed at helping you avoid common threats.

LIF pays the cost of this group policy, so it is free to your firm. Even if you have other cyber insurance, it's prudent to have this one as well. If your firm ever does not qualify for this coverage and later makes security improvements, please contact us for a new evaluation.

### 2025 and beyond

Effective risk management is a combination of professional, prudent practices and insurance tailored to your firm. Review all of your insurance annually to ensure it is keeping up with your practice risks.

If you encounter a fraud attempt or other suspicious activity, [let us know](#). We may be receiving similar reports from others and a warning to the profession may be warranted. As we learn of exposures, new and evolved, we will continue to provide you with information and solutions aimed at helping you avoid those risks.

## 2024 Risk Management in Review

*Our 2024 risk management advisories will give you a head start in 2025*

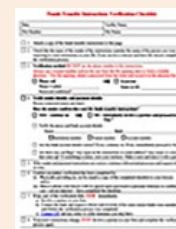
**CLICK HERE**

1. What's new in your 2024 indemnity policy

» [January 18, 2024 Notice to Lawyers](#)



2. Funds transfer frauds: A scary new twist



» [January 19, 2024 Notice to Lawyers](#)

3. New T3 filings required by March 2024 for trusts

» [March 2024 E-Brief](#)



4. Attention family law lawyers: New pet custody provisions now in force

» [February 2024 E-Brief](#)

5. Transparency obligations for federal corporations

» [February 2024 E-Brief](#)

6. Wills & Estates Lawyers: Claims hit an all-time high in 2023



» [February 27, 2024 Notice to Lawyers](#)

7. 2023 – Annual Report Summary

» [April 17, 2024 Notice to Lawyers](#)

» [2023 Digital Annual Report](#)

» [2023 Program Report](#)




8. Spoofed websites and phishing emails

» [May 2024 E-Brief](#)



9. Let's talk mental health... because sometimes we can't fix it on our own	» <a href="#">May 7, 2024 Notice to Lawyers</a> 
10. Reminder: Electronic filing exemptions will be removed on October 2	» <a href="#">June 2024 E-Brief</a>
11. Attention family lawyers! Claims hit an all-time high in 2023	» <a href="#">June 18, 2024 Notice to Lawyers</a> 
12. Vacation alerts and precautions	» <a href="#">July 2024 E-Brief</a>
13. Holds on trust cheques, certified cheques and bank drafts	» <a href="#">July 2024 E-Brief</a>
14. Four BC firms hit as cybercriminals ramp up attacks for summer	» <a href="#">August 21, 2024 Notice to Lawyers</a> 
15. Attention real estate lawyers: Be aware of Tarsem Singh Gill and Surinder Kaur Gill	» <a href="#">September 25, 2024 Notice to Lawyers</a> 
16. Limitations and deadlines quick reference list	» <a href="#">September 2024 E-Brief</a> 
17. Attention real estate lawyers: Non-financial encumbrances – to review or not to review?	» <a href="#">October 16, 2024 Notice to Lawyers</a> 
18. Two reminders for real estate lawyers	» <a href="#">November 2024 E-Brief</a>

continued on page 8

19. Civil litigators: Pleadings can make or break your case	<p>» <a href="#">November 20, 2024 Notice to Lawyers</a></p> 
20. Stay alert for frauds this holiday season	<p>» <a href="#">December 3, 2024 Notice to Lawyers</a></p> 
21. Multi-million dollar funds transfer fraud: A must read for all BC lawyers	<p>» <a href="#">December 19, 2024 Notice to Lawyers</a></p> 



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