

# CHAPTER 1

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## PROFESSIONAL LIABILITY FUND OVERVIEW

Megan I. Livermore  
*Professional Liability Fund*  
*Chief Executive Officer*



Professional  
Liability Fund

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Welcome to

# Learning The Ropes

presented by the Professional Liability Fund

**November 17-19, 2021**



Professional  
Liability Fund

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## PLF Overview

**Megan Livermore**

Chief Executive Officer

**Professional Liability Fund**

## WHAT IS THE PLF?

- **Mandatory malpractice provider for Oregon State Bar members in private practice whose principal office is in Oregon**
- **Created in 1977 by the Oregon State Bar Board of Governors, Began operations in 1978**
- **PLF Board—7 attorneys and 2 public members, appointed by BOG**
- **Unique in the U.S.**

## WHAT DO WE DO FOR YOU?

- **Practice Management Assistance Program (PMAP)**
- **Oregon Attorney Assistance Program (OAAP)**
- **Claims: Defense; Repair; Deposition defense (discretionary)**



## PRIMARY COVERAGE: HOW MUCH?

- Liability & Expense Limits
  - \$300,000 for indemnity
  - \$75,000 claims expense (starting 2022)
  - One claim limit per year
  
- Assessment: \$3,300 per year
  - Discounts for 1<sup>st</sup> year: 40% (\$1,980)
  - Discounts for 2<sup>nd</sup> and 3<sup>rd</sup> years: 20% (\$2,640)
  - **2022 one time \$300 discount for all full pay attorneys, prorated for others**



## PRIMARY COVERAGE: WHO IS COVERED?

- Covered:
  - OSB Member
  - Private Practice
  - Principal office in Oregon
  
- Not Covered:
  - Law Clerks (supervised attorney)
  - Employed exclusively as in-house counsel, government lawyer, in a non law-related field, employed by Legal Aid and other non-profit entities who have alternative insurance
  - Unemployed

## **PRIMARY COVERAGE: WHAT'S IN IT FOR ME?**

- No deductible
- No underwriting
- No individual rate increases for claims
- Coverage cannot be canceled

## **PRIMARY COVERAGE: ARE THERE EXCLUSIONS?**

- Wrongful conduct
- Punitive Damages, sanctions and certain fee awards
- Business transactions with clients
- Losses arising out of the business side of practice of law
  - Lost or stolen client funds or documents/property
  - Mishandling of client funds
- Defense of ethics complaints

## PLF EXCESS COVERAGE: WHY?

- Primary Plan provides only a minimum amount of money for each lawyer's mistakes
- Primary Plan **not** designed to cover a significant loss or many claims against one lawyer or a number of lawyers

## PLF EXCESS COVERAGE: WHAT IS IT?

- Independent from Primary Program and totally self-supporting
- Largest Excess carrier in Oregon
- Covers approximately 700 firms/2000 attorneys
- Limits from \$700,000 to \$9,700,000
- Cyber Liability coverage
  - Excluded at Primary

## CONTACTING US: IS THERE A DOWNSIDE?

- **Short answer: No**
- **Communications with the PLF are confidential**
- **The PLF cannot discipline and does not report lawyers to the Bar**
- **We are here to help**

## WHAT IS THE TAKE AWAY?

- **You are in good company—eventually, almost everyone who practices law in Oregon will touch the PLF in some way**
- **Call us! We've got your back.**
  - OAAP
  - PMAP
  - Claims

# CHAPTER 2

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## Introduction to PLF Claims and Risk Management

John A. Berge

*Professional Liability Fund Claims Attorney*

Hong Dao

*Professional Liability Fund Director of Practice  
Management Assistance Program*



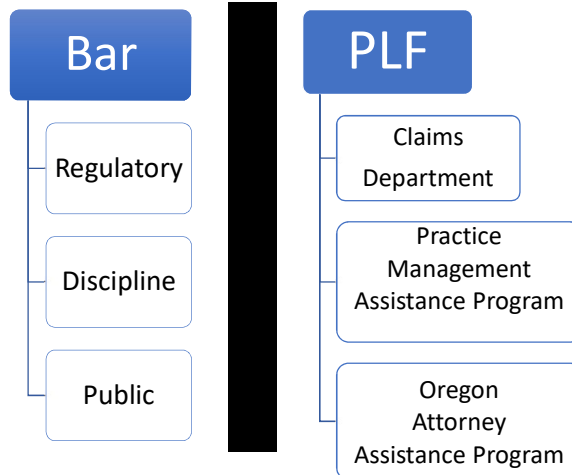
# Introduction to PLF Claims and Risk Management

John Berge,  
Claims Attorney

Hong Dao,  
Director of Practice  
Management Assistance  
Program

OSB Professional  
Liability Fund

Confidentiality  
Protected By  
Statute



ORS 9.080, 9.568; OSB Bylaw 24; PLF Policies 6.150 - 6.300; ORPC 8.3

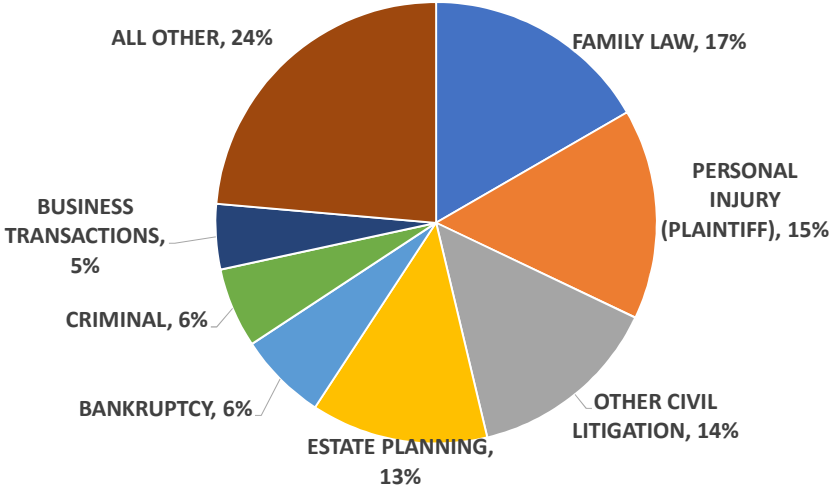


# Likelihood of Claim

- 7,192 Lawyers Covered by the PLF
- Between 850 – 950 Claims Per Year
- Chances are roughly 1 in 7 (about 15%)
- 10 yrs (75%) - 15 yrs (81%) – 20 yrs (85%)

# Number of Claims by Area of Law

PLF Claims Closed in 2020 (817 claims)

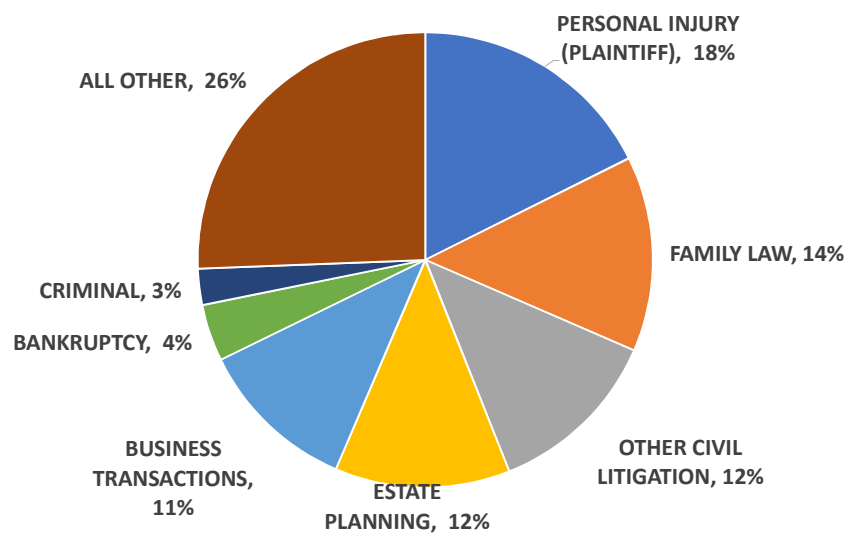


## Factors that lead to malpractice claims

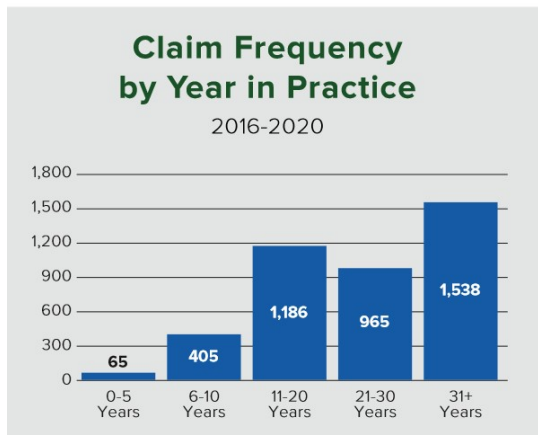
- Inadequate office systems
- Inadequate experience in the law
- Failure to follow through
- Inadequate preparation
- Document drafting errors
- Failure to file/record documents
- Failure to meet deadline
- Trial errors
- Poor client relations

## Indemnity and Expense Paid

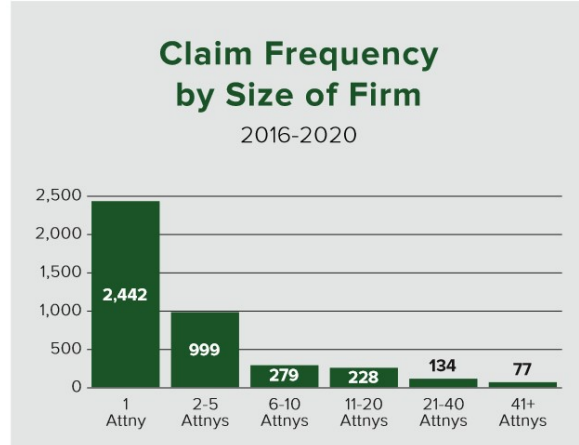
PLF Claims Closed in 2020 (\$18.1m)



## Rate of claims



New v. experienced attorneys



Solo/small firms v. big firms

## Client Does Not Know There May Be An Issue

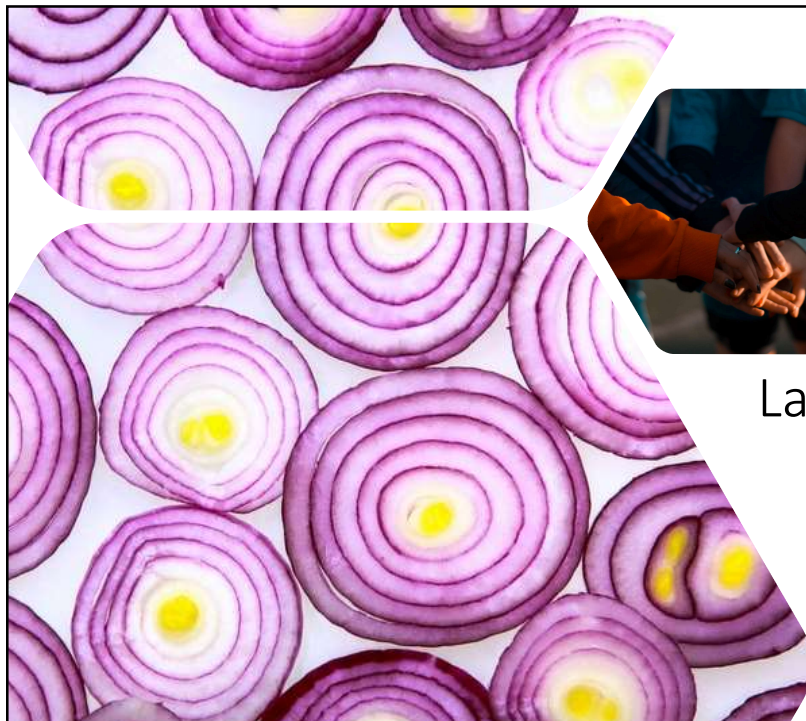
- Gather Information
- Contact PLF
- Contact Excess Carrier
- Consider “repairs” so we can discuss them
- Consider ethics issues
- Inform the client



## Informing the Client Potential/Actual Issue

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- Call the PLF First
- Facts Only
- No Opinions
- Recommend Independent Legal Advice
- Discuss Ethical Issues
- Send Confirming Letter



## Anatomy of a Malpractice Claim

Layers of Causes –  
A Teamwork  
Approach

# Let the Professionals Help You

- Accept your role as a client/covered Party
- Talk to PLF before you talk to anyone



<https://osbplf.org>

503-639-6911 | 800-452-1639

- Claims Attorneys
- Practice Management Attorneys
- Practice aids ■ Books ■ CLEs
- *InPractice* Blog ■ *InBrief* Newsletter



<https://oaap.org>

503-226-1057 | 800-321-6227

- Short-term individual counseling
- Referral to other resources
- Support groups ■ Workshops

