2016
ANNUAL REPORT

OSB Professional Liability Fund

INTRODUCTION

Welcome to our reformatted Annual Report. Although the PLF has been providing Oregon lawyers with a year in review for over 30 years, we concluded that the format was dated and we were missing an opportunity to provide more information in a more inviting format. We hope you agree. As always, I welcome your feedback about this or any other questions or concerns you may have about the PLF.

Thanks to lower-than-anticipated claim costs and a continued general slowdown in total claims, the PLF ended 2016 in a strong financial position. For the seventh year in a row, the assessment remained unchanged. Our net position at year end was just over $10.5 million. Our net position helps ensure that we maintain a stable assessment because we can absorb higher-than-projected losses, as occurred in 2015. Despite the near $1 million loss at the close of 2015, we did not raise the assessment. We do not anticipate raising the assessment for 2018, although it is still early enough in the year that no decision can be made. Last year at this time, we projected a claim count of 885 for the year. The pace of new claims slowed considerably in the second half of the year, however. This change in predicted claim count contributed to our positive year-end results.

PLF STATISTICS

2001–2016

	Assessments	Claims
2012	$3,500	1,030
2013	$3,500	902
2014	$3,500	911
2015	$3,500	808
2016	$3,500	839
2017	$3,500	850*

**Projected*

We spent significant time in 2016 rewriting all of our Coverage Plans. While both the PLF staff and the Board of Directors review the Plans every year, we had not done a major overhaul for over 10 years. While there were a few substantive changes, discussed below, the significant change was to the order and flow of the Plans. We believe the new Plans now flow more naturally and allow the reader to more easily read and understand the Plans without having to refer back and forth to different sections. The Primary and Excess Plans are available online, and we urge you to read them. Although many people put in a lot of time to this effort, special thanks go to Madeleine Campbell, one of our Claims Attorneys, for her significant efforts to ensure the success of the rewrite.

You will notice throughout our Annual Report that some of the statistics we have traditionally reported have changed. For the last 18 months, we have updated the way we track information about every claim that is filed. We believe this information will give us an increased ability to understand how claims develop and to better target both our loss prevention and claims handling efforts to ensure maximum value and best outcomes.

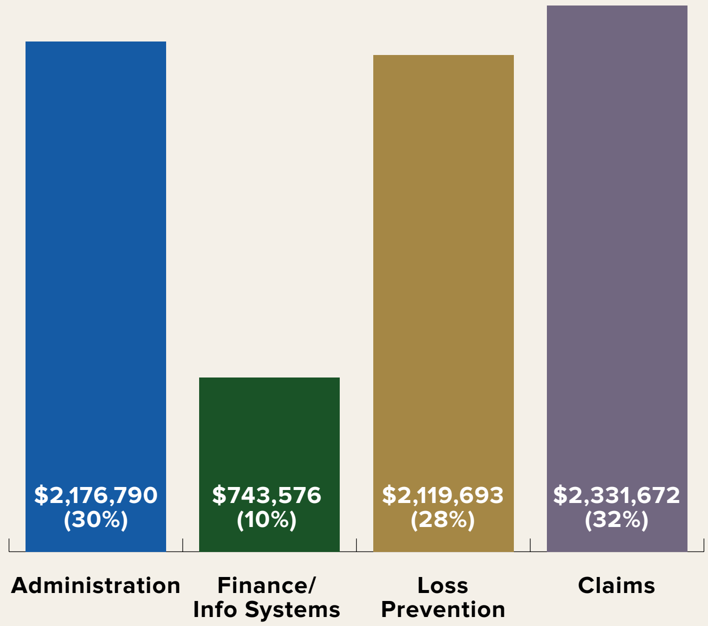
While there was much to celebrate in 2016, we have to acknowledge the loss of our senior Claims Attorney and friend, Steve Carpenter. His humor, warmth, and commitment to Oregon lawyers are missed both in the office and across the state.

Finally, the recent events during the new president's administration highlighted the benefits of the PLF. In response to some of the immigration enforcement efforts, many lawyers wanted to volunteer to provide pro bono legal services to impact individuals. The PLF quickly gathered information – which we published on our website – to ensure that lawyers who wanted to donate their time in this highly specialized area had the necessary resources to do so in a way that minimized risk. Our Board Chair, Teresa Statler, an immigration attorney with 25 years of experience, was invaluable in helping us get this information available so quickly. The PLF spends 28% of its operating budget on loss prevention efforts, and we believe this benefits both Oregon lawyers and the clients they serve.

Carol J. Bernick
PLF Chief Executive Officer

Operating Costs by Department

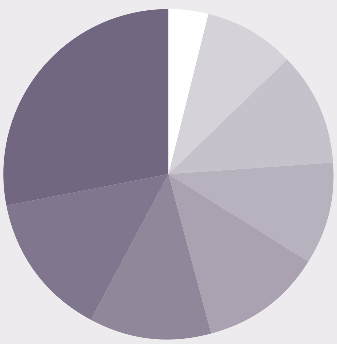
2016



Claims Frequency by Years in Practice since 2012

0-5 YEARS	5%
6-10 YEARS	17%
11-15 YEARS	16%
16-20 YEARS	12%
21-25 YEARS	12%
26-30 YEARS	10%
31-35 YEARS	9%
36-40 YEARS	19%

Claims Severity by Years in Practice since 2012



0-5 YEARS	4%
6-10 YEARS	9%
11-15 YEARS	11%
16-20 YEARS	10%
21-25 YEARS	12%
26-30 YEARS	12%
31-35 YEARS	14%
36-40 YEARS	28%

TABLE OF CONTENTS

How Is the PLF Doing With Claims Handling?

492 successful repairs from January 1, 2012 through December 31, 2016

"Repair" has been part of PLF terminology going way back. A "repair," in PLF-ese, is where the PLF agrees to pay for a lawyer to represent the claimant in an effort to reverse, cure, or mitigate the consequences of an error by a covered party (lawyer covered by the PLF). The most common repairs are those that can put a matter back on track in the same condition it was before the lawyer's error, such as setting aside defaults and fixing other missed deadlines.

Whether the PLF will embark on a repair is completely within the discretion of the PLF. See, Section I.B.2. of the 2017 PLF Primary Coverage Plan and PLF Policy 4.300 (PLF Policies and Bylaws Manual).

New Claims

By Calendar Year 2012–2016

Cost of Closed Claims by Area of Law

January 1, 2012 to December 31, 2016

AREA OF LAW	NUMBER OF CLAIMS	INDEMNITY PAID	EXPENSES PAID	TOTAL PAID	AVG COST PER CLAIM BY AOL
Appellate	63 (1%)	$411,130 (40%)	$606,964 (60%)	$1,018,094	$16,160
Bankruptcy & Debtor-Creditor	611 (13%)	$4,693,584 (47%)	$5,361,443 (53%)	$10,055,027	$16,457
Business Transactions/Banking & Finance/Commerical Law	315 (7%)	$5,388,043 (40%)	$7,952,276 (60%)	$13,340,319	$42,350
Construction/Liens	8 (.17%)	$32,900 (40%)	$50,155 (60%)	$83,055	$10,382
Criminal	300 (6%)	$349,367 (20%)	$1,416,100 (80%)	$1,765,466	$5,885
Domestic Relations/Family Law/ Parental Rights/Juvenile Law	780 (17%)	$4,426,602 (51%)	$4,280,280 (49%)	$8,706,881	$11,163
Employment/Employee Benefits/ Labor	9 (.19%)	$0 (0%)	$31,394 (100%)	$31,394	$3,488
Estate Planning/Probate/Trust/Gift Tax	408 (9%)	$4,151,093 (50%)	$4,133,132 (50%)	$8,284,225	$20,304
Immigration	12 (.26.%)	$0 (0%)	$20,460 (100%)	$20,460	$1,705
Intellectual Property	5 (.11%)	$0 (0%)	$24,879 (100%)	$24,879	$4,976
Other	808 (17%)	$6,131,551 (45%)	$7,617,138 (55%)	$13,748,690	$17,016
Personal Injury	581 (13%)	$7,658,668 (58%)	$5,497,136 (42%)	$13,155,805	$22,643
Personal Injury; Tort/Personal Injury (Plaintiff)	3 (.06%)	$21,531 (83%)	$4,416 (17%)	$25,947	$8,649
Public Body Claims/Government/ Municipal	1 (0%)	$4,471 (100%)	$0 (0%)	$4,471	$4,471
Real Estate/Land Use/Zoning	401 (9%)	$5,055,605 (45%)	$6,207,260 (55%)	$11,262,864	$28,087
Securities/Investments	24 (1%)	$395,000 (25%)	$1,209,859 (75%)	$1,604,859	$66,869
Tax/Non-Profit	31 (1%)	$350,347 (48%)	$383,064 (52%)	$733,411	$23,658
Tort/Personal Injury (Plaintiff)	32 (1%)	$164,295 (40%)	$244,328 (60%)	$408,623	$12,769
Tort/Personal Injury (Plaintiff); Tort/ Personal Injury (Plaintiff)	35 (1%)	$877,486 (70%)	$367,712 (30%)	$1,245,198	$35,577
Tort/Personal Injury (Plaintiff); Other Civil Litigation	45 (1%)	$270,560 (28%)	$707,357 (72%)	$977,917	$21,731
Workers Compensation	122 (3%)	$1,512,895 (67%)	$737,935 (33%)	$2,250,830	$18,449
No Area of Law Given	26 (1%)	$43,914 (14%)	$275,268 (86%)	$319,181	$12,276
	4,620 (100%)	**$41,939,041.23**	**$47,128,554.80**	**$89,067,596.03**	

What Is the PLF Doing in the Areas of Personal and Practice Management Assistance?

The PLF continues to provide free and confidential personal and practice management assistance to Oregon lawyers. These services include legal education, on-site practice management assistance (through the PLF's Practice Management Advisor Program), and personal assistance (through the Oregon Attorney Assistance Program).

750+ people
attended the PLF CLE in-person seminars.

Approximately 3,500 CLE programs
were downloaded or streamed from our online CLE service providers.

1,005 requests for CDs and 787 requests for DVDs.

Personal and practice management assistance seminars in 2016 included our annual practice skills program for new admittees, Learning The Ropes, programs on various law practice management software products, technology updates, how to avoid ethics violations and malpractice claims, practicing law with ADD/ADHD, retirement planning, and career workshops.

In addition, the PLF continues to offer free audio and video programs that are available as CDs, DVDs, or by downloading or streaming from our website:

- **91 free audio and video programs available**
- ***In Brief* and *In Sight* publications**
- **over 400 practice aids**
- **4 handbooks:**
  Planning Ahead: A Guide to Protecting Your Clients' Interests in the Event of Your Disability or Death (2015); A Guide to Setting Up and Running Your Law Office (2016); A Guide to Setting Up and Using Your Lawyer Trust Account (2016); and Oregon Statutory Time Limitations (2014).

Our practice aids and handbooks are all available free of charge. You can download them at **www.osbplf.org**, or call the Professional Liability Fund at 503.639.6911 or 800.452.1639.

Practice Management Advisor Program

Our practice management advisors (PMAs), Sheila Blackford, Hong Dao, Jennifer Meisberger, and Rachel Edwards answer practice management questions and provide information about effective systems for conflicts of interest, mail handling, billing, trust accounting, general accounting, time management, client relations, file management, and software. In 2016, the PMAs presented seminars all over the state on practice management. In addition to these presentations, the PMAs also provide in-house CLEs for law firms.

100% of the people who returned surveys were “very satisfied” or “satisfied” with the following areas: (1) reaching a PMA by telephone; (2) the promptness within which the lawyer received a return phone call; (3) the amount of time between calling for an appointment and when the appointment took place; (4) practice management advisor’s ability to explain information clearly; (5) how the lawyer was treated by the practice management advisor (patience, courtesy, etc.); (6) receiving information that was helpful; (7) follow-up; and (8) overall level of satisfaction with service.

100% of the people who returned surveys were "very satisfied" or "satisfied" with eight aspects of the PMA program.

Oregon Attorney Assistance Program

The Oregon Attorney Assistance Program (OAAP) attorney counselors, Shari R. Gregory, Mike Long, Douglas Querin, Kyra Hazilla and Bryan Welch, provide assistance with alcohol and chemical dependency; burnout; career change and satisfaction; depression, anxiety, and other mental health issues; stress management; and time management. In 2016, the OAAP sponsored addiction support groups, lawyers-in-transition meetings, career workshops, a depression support group, a support group for lawyers with ADD, a women’s wellness retreat, a men’s work/life balance support group, a *trans support group, a resiliency building group, a support group for minority lawyers, a mindfulness group, creating healthy habits support group.

744 lawyers assisted with personal issues in 2016, including alcoholism, drug addiction, career satisfaction, retirement, and mental health issues.

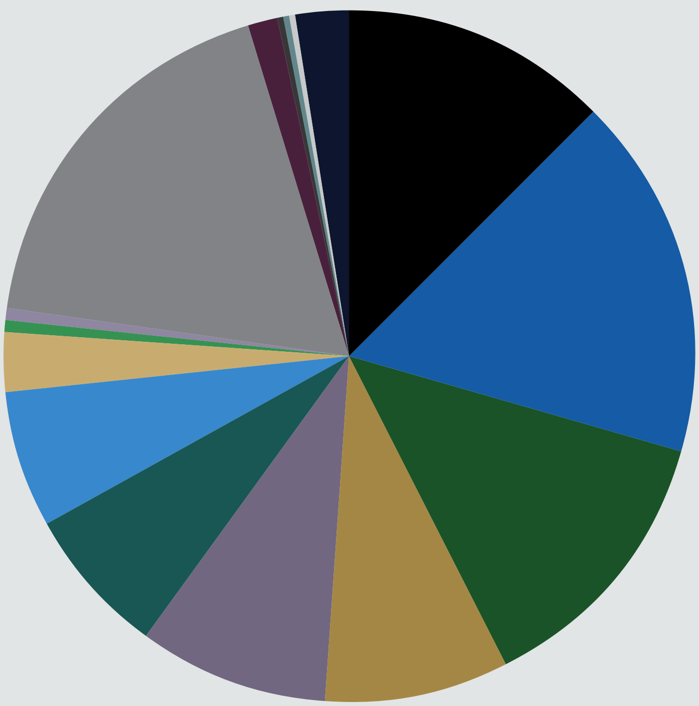
What Are the Changes to the Coverage Plan?

Last year, the PLF completely overhauled the Primary and Excess Coverage Plans. The Plans were significantly reorganized and reformatted, but the substantive changes were limited. Some, but not all, of the revisions are discussed below. In order to understand the scope of coverage under the 2017 Plans, it is important to read them in their entirety.

The revised Primary and Excess Plans are reorganized to eliminate unnecessary or repetitive language and to make it easier to find and identify related provisions. For instance, all Plan language relating to who qualifies as a Covered Party is integrated into Section II of the revised Primary Plan. By making this change, we were able to eliminate current Plan Exclusion 14 (Government Lawyers) and Exclusion 15 (Other Lawyers Not in Private Practice). Under the new language,

Frequency of Closed Claims

By Area of Law – January 1, 2012 to December 31, 2016



Personal Injury	12.58%
Domestic Relations / Family Law	16.88%
Bankruptcy & Debtor-Creditor	13.23%
Real Estate/Land Use/Zoning	8.68%
Estate Planning & Estate Tax	8.83%
Business Transactions / Commercial Law	6.82%
Criminal	6.49%
Workers Compensation / Admiralty	2.64%
Tax/Non Profit	0.67%
Securities	0.52%
Other	18.05%
Appellate	1.36%
Construction Liens	0.17%
Employment/Benefits/Labor	0.19%
Immigration	0.26%
Intellectual Property	0.11%
Public Body Claims/Government/Municipal	0.02%
Tort Personal Injury Plaintiff	2.49%

an attorney is simply not a Covered Party regarding work that was within the scope of these previous exclusions. Similarly, everything relating to covered activities under the Plan, including language that previously appeared only in Comments and Examples, is integrated into Section III of the revised Primary Plan, Covered Activity. We believe these changes make the Plan clearer and eliminate the need for extensive explanations in the form of Comments or Examples.

1. Legally Obligated.

The Primary Plan has long included language that coverage is provided only for Damages that the Covered Party is "legally obligated" to pay. The new Plan includes, for the first time, a definition of "Legally Obligated." This definition is added to the 2017 Plan in response to a ruling in *Brownstone Homes Condominium Association v. Brownstone Forrest Heights, LLC*, 358 Or 223 (2015). In *Brownstone*, the Court ruled that the words "legally obligated," as used in a liability policy, are ambiguous. The new definition in the Plan is intended to remove any ambiguity as to the PLF's intended meaning of these words. Under the definition of Legally Obligated, the PLF has no obligation to pay a settlement or Stipulated Judgment where the attorney has no actual obligation to pay money Damages and/or is protected or absolved from actual payment of Damages by reason of any covenant not to execute, a contractual agreement, or a court order, preventing the ability of the claimant to collect such Damages directly from the attorney. However, the bankruptcy of a Covered Party, standing alone, does not affect the PLF's duties under the Plan.

2. Damages Definition.

The 2017 Plan revises the Damages definition and clarifies, but does not change, the PLF's intent as to what types of damages are covered under the Plan. The Plan applies only to monetary damages arising from a legal malpractice claim. Under the Damages definition, the Plan does not apply to fines; penalties; punitive or exemplary damages; statutorily enhanced damages; rescission; injunctions; accountings; equitable relief; restitution; disgorgement; set-off of any fees, costs, or consideration paid to or charged by a Covered Party; or any personal profit or advantage to a Covered Party.

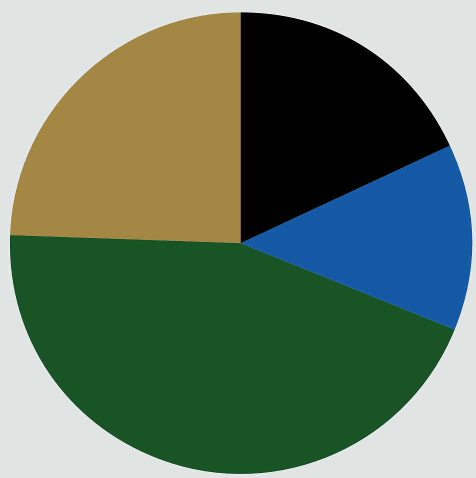
3. Defense Provisions.

A. Arbitration Agreements.

The revised Plan Section I.B.1 adds language to make clear that the PLF is not bound by fee agreements entered into by any Covered Party that call for arbitration of malpractice claims. The PLF does not want to be restricted by the terms of these agreements.

Payment Allocation of Closed Claims

January 1, 2012 to December 31, 2016



Payment to Claimant and Expense	18%
Payment to Claimant and No Expense	13%
Expense Only	44%
No Expense or Payment to Claimant	24%

B. Nature and Scope of Defense.

The PLF has long had a practice of attempting to repair “mistakes” before they become claims. Repair efforts by the PLF are not a right or duty under the Plan. Section I.B.2. makes clear that the PLF has sole discretion to decide whether to undertake a repair.

C. Defense Regarding Certain Excluded Claims.

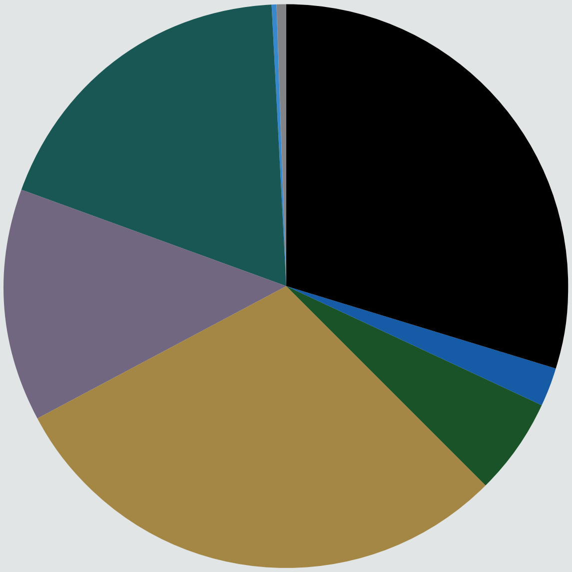
The revised Plan adds a specific defense provision stating that the PLF will defend, but not indemnify, claims for malicious prosecution, abuse of process, wrongful initiation of legal proceedings, and sanctions claims subject to Exclusion 4 of the Plan. The Plan language reflecting this policy and practice is relocated and clarified.

4. Addition of Definitions for “Private Practice” and “Principal Office.”

The revised Plan adds two new definitions, one for Private Practice and one for Principal Office. These definitions clarify the PLF’s meaning and are now stated as qualifications for who is a Covered Party, rather than being in the Covered Activity section, as in the previous Plan.

Disposition of Closed Claims

January 1, 2012 to December 31, 2016



Settled - Agreement of Parties	1382 (29.91%)
Coverage Denied	106 (2.29%)
Disposed of By A Court	253 (5.48%)
Claim Abandoned	1373 (29.72%)
Claim Denied	616 (13.33%)
Claim Repaired	861 (18.64%)
Other	8 (0.17%)
Disposed Binding Arbitration	4 (0.09%)
Referred to Prior Carrier	2 (0.04%)
Consolidated for Trial	1 (0.02%)
Limits Exhausted-referred to Excess	14 (0.30%)

5. Related Claims.

The concept of "Same or Related" has been renamed Related Claims, and clarifying language has been added. The revised Plan also contains examples that demonstrate how limits work when there are Related Claims against multiple Covered Parties.

6. Exclusions.

There are some substantive changes to exclusions in the Plan. These include, but are not limited to, Exclusion 4 relating to punitive damages and sanctions, and Exclusion 11 relating to family members.

In the 2016 Plan, Exclusion 4 excluded coverage for all amounts awarded as sanctions "intended to penalize" certain types of conduct, but provided for a defense regarding such claims. The previous Plan Exclusion applied whether or not the sanction was awarded against the Covered Party or the Client. There are, however, numerous kinds of sanctions, not all of which necessarily require bad faith, malicious or dishonest conduct, or misrepresentation on the part of an attorney. Moreover, it is not always clear whether a sanction awarded is "intended to penalize" because the court may or may not include findings or other language to allow the Fund to assess the intent of the sanction.

The 2017 Revised Plan excludes imposition of attorney fees, costs, fines, penalties, or remedies imposed as sanctions against the attorney regardless of whether there was an allegation or a finding of bad faith by the attorney or a finding of such by a court. Under the new language, vicarious liability for the sanction against the Covered Party is also excluded. However, if a sanction is imposed against a Client, there is coverage for a resulting claim against the Covered Party or those vicariously liable for the Covered Party, but only if the Covered Party establishes that the sanction was caused by mere negligence. The burden of proof is therefore on the Covered Party.

The Family Member Exclusion is expanded to include additional family members and to exclude work done by family members of those who reside in the household in a spousal equivalent relationship with the Covered Party.

A chart showing changes to the exclusions between the 2016 Primary Plan and the Revised 2017 Primary Plan is available at **www.osbplf.org**.

Some of the exclusions described above also apply to the Excess Plan. The primary change to the Excess Plan is to eliminate redundant provisions. A new Section IV regarding when a claim is First Made has been added to the Excess Plan. The new language clarifies that when a claim is First Made under the Excess Plan may not be the same plan year as when the claim is First Made for the Primary Plan. There is also a new Section V clarifying which claims are Related and subject to the same Claim Year Limit. The intent is to clarify the distinction between when Claims are Related for Primary purposes versus Excess purposes.

Finally, we have made relevant exclusions identical in both Plans.

A chart showing changes between the 2016 Excess Plan and the Revised 2017 Excess Plan is available at **www.osbplf.org**.

What is the Status of the Excess Program?

Participation in the PLF Excess Program remains stable. In large part due to the new underwriting and rating model, 2016 was the first year in many years that the excess program saw an increase in firm and attorney participants over the prior year. This increase included adding back midsized firms to PLF Excess coverage that were lost to the commercial market over the past five years.

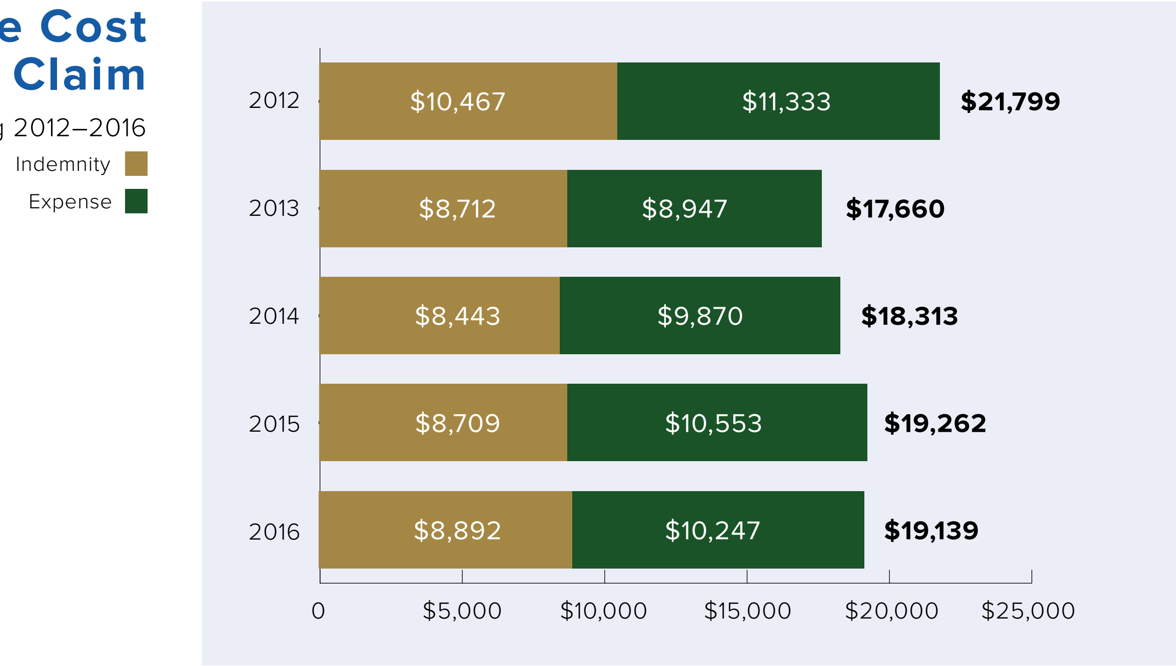
For the 2016 plan year, 720 firms with a total of 2,126 attorneys purchased excess coverage from the PLF.

The modest growth in the size of the excess book is primarily due to the use of a new rate sheet and underwriting model. Unlike in prior years, the excess program now prices law firms using a variety of factors including: area of practice, attorney CLE attendance, use of practice management systems, firm size, use of an office manager, claims history, desired coverage limits, etc. The resulting premium charged to a firm based on the new rate sheet now more accurately reflects the risk presented by that particular firm.

The 2016 year was not without its challenges, however. A spike in the number and severity of excess claims in mid to late 2016 required an increase in premium for the 2017 coverage year as well as a reexamination of how the excess program underwrites law firms engaged in practices that generate exposure under ORS Chapter 59 (Oregon Securities).

Average Cost Per Closed Claim

By Year of Reporting 2012–2016



Many of the large and expensive claims experienced by the excess program over the years have related to ORS 59 exposure ($9 million in claims in the past five years). To address this issue, the PLF engaged a consultant to review and rewrite the Securities Law Supplemental application and develop a new Business Law Supplement. For firms that completed either supplement, underwriting review is enhanced and occasionally requires additional review by an outside securities consultant. Because of this process, we were better able to review and underwrite law firms that presented this additional risk under the Oregon Securities laws.

The PLF Excess Program continues to be entirely re-insured and financially independent from the mandatory PLF Primary Coverage Program. Limits available range from $700,000 to $9.7 million. All excess coverage sold also includes an endorsement for Cyber Liability and Data Breach response. In 2016, three claims were reported under this Endorsement. Higher limits for Cyber Liability coverage are now available upon request.

Summary Financial Statements

(Unaudited, Primary and Excess Programs Combined)

	12/31/2016	12/31/2015
ASSETS		
Cash and Investments at Market	$57,314,337	$52,663,201
Other Assets	$1,768,367	$3,582,586
Capital Assets	$743,576	$740,183
TOTAL ASSETS	**$59,826,280**	**$56,985,970**
LIABILTIES AND FUND EQUITY		
Estimated Liabilities For Claim Settlements and Defense Costs	$34,300,000	$35,300,000
Deferred Revenues	$10,771,503	$10,847,994
Other Liabilities	$750,353	$666,585
PERS Pension Liabilities	$2,948,600	$2,255,126
Net Position	$11,055,824	$7,916,265
TOTAL LIABLITIES AND NET POSITION	**$59,826,280**	**$56,985,970**
REVENUE		
Assessments	$24,299,773	$25,461,021
Investment and Other Income	$3,806,737	$91,920
TOTAL REVENUE	**$28,106,510**	**$25,552,941**
EXPENSE		
Administrative	$7,510,264	$8,768,450
Provision for Settlements	$7,668,773	$10,362,499
Provision for Defense Costs	$9,017,791	$7,323,794
TOTAL EXPENSE	**$24,196,828**	**$26,454,743**
NET INCOME	**$3,909,682**	**-$901,802**

OSB Professional Liability Fund

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