

# 2021 ANNUAL REPORT



Professional  
Liability Fund

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# MESSAGE FROM THE CEO

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In my first Annual Report as Chief Executive Officer, I am pleased to share a brief synopsis of the PLF's operations in 2021. Every year, as we compile the information for our Annual Report, presents a new opportunity to reflect on our accomplishments as well as prepare for the challenges ahead. Upon such reflection, I am proud of what we have achieved in another difficult pandemic year and feel ready to embrace whatever the future brings with an extraordinary team of professionals by my side. As someone new to this organization, I am impressed every day by the hard work and dedication of the PLF staff in advancing our mission and, more importantly, serving our Oregon legal community.

In 2021 our team pulled together to support the legal community in myriad ways. The summaries in this publication do not do justice to what our staff carries out – individually and as a whole – in providing exemplary services to Oregon legal professionals. Nonetheless, these snapshots offer a good overview of the efforts undertaken to assist attorneys, law office staff, judges, and law students throughout the state. PLF employees from all departments and across the organization – from claims to the PMAP and OAAP, from accounting to IT and the excess program – collaborate closely to help Oregon lawyers successfully manage their practices and navigate the inevitable stresses of life and law practice, and, of course, to have their back when claims are made.

With that in mind, I invite you to peruse the information that follows to learn more about our endeavors in 2021. If you have any questions or would like to know more, please don't hesitate to reach out. My contact information is listed below.

## *Megan Livermore*

Chief Executive Officer  
Oregon State Bar Professional Liability Fund  
meganl@osbplf.org  
503.726.1476

# FINANCIAL REPORT

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While we all started to find our way out of the pandemic-induced haze of 2020, the PLF continued to hum along successfully across multiple metrics, including financial. Although we continue to see the cost of claims trending upward, the number of claims remained significantly lower than normal in 2021. The PLF's portfolio of investments also performed well, providing us with a return of approximately 11%. The income we receive from our portfolio allows us to fund the cost of operations that the assessment does not cover. It also enables us to build a surplus to fund capital projects, establish a bulwark against the vagaries of the market, and, importantly, provide a stable assessment for our covered attorneys.

In my quest to mine the data for this report, I became curious about all of the lawyers who have PLF coverage. Who are the people behind the numbers? Here is a snapshot of what I found:

- **Your numbers are decreasing. The total number of attorneys the PLF covers has declined by 7% since 2014.**
- **46% of OSB members were in private practice in 2021.**
- **51% of you are under 50 and 49% of you are over 50. Your average age is 50.45.**
- **34% of you identify as female; 65% as male; and approximately 1% as transgender or other.**
- **4% of you identify as members of the LGBTQ community; 7% identify as persons of color; and less than 1% of you identify as having a disability.**
- **652 attorneys (9% of you) had a claim in 2021. The average value of a settled claim in 2021 was approximately \$25,500.**
- **1,910 of you have been in private practice for less than five years. 1,310 of you have been in private practice for 31+ years. The average number of years in private practice is 16.4.**
- **The average firm size you work for is 13.71 attorneys. 2,833 of you are in solo practice while 642 of you work at firms of 41+ attorneys.**
- **4,466 of you attended law school in Oregon. 2,708 of you attended law school in other states and around the world.**
- **1,767 of attorneys in private practice have been admitted to the Oregon State Bar for over 31 years, while 1,147 of you have been admitted to the OSB for 5 years or less.**

*Betty Lou Morrow*

Chief Financial Officer  
Oregon State Bar Professional Liability Fund

# PLF COVERED PARTIES – WHO ARE YOU?

LICENSED ATTORNEYS IN OREGON

**15,596**

ATTORNEYS IN PRIVATE PRACTICE

**7,147**

OREGON LAW FIRMS SOLO PRACTICE

**39%**

AVERAGE AGE OF AN ATTORNEY IN PRIVATE PRACTICE

**50 YRS**

CLAIMS IN 2021

**652**

AVERAGE COST OF CLAIM

**\$24,495**

≥ 41 ATTORNEYS **9%**

AVERAGE FIRM SIZE  
**14 ATTORNEYS**

♀ **34%** ♀♂ **1%**  
♂ **65%**

YEARS IN PRIVATE PRACTICE

≤ 5 YEARS **27%**

≥ 31 YEARS **18%**

AVERAGE YEARS

**16**



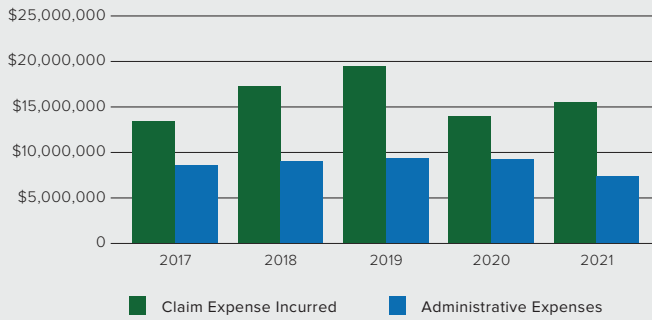
LEWIS & CLARK **26%**  
U of O **19%**  
WILLAMETTE **19%**  
OTHER U.S. **35%**  
INTERNATIONAL **1%**

ADMITTED TO OSB  
≤ 5 YEARS **25%**  
≥ 31 YEARS **16%**

LGBTQ **4%**  
PERSONS OF COLOR **7%**  
DISABILITY **.13%**  
\*SELF-IDENTIFIED

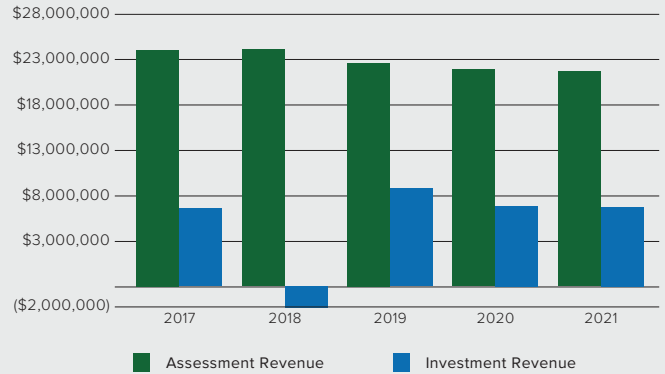
## Primary Claims and Administrative Expenses

2017 to 2021



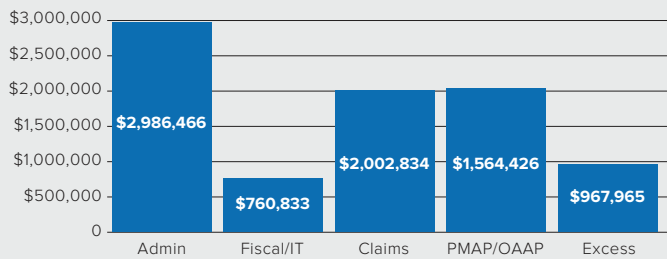
## Primary Assessments and Investment Revenue

2017 to 2021



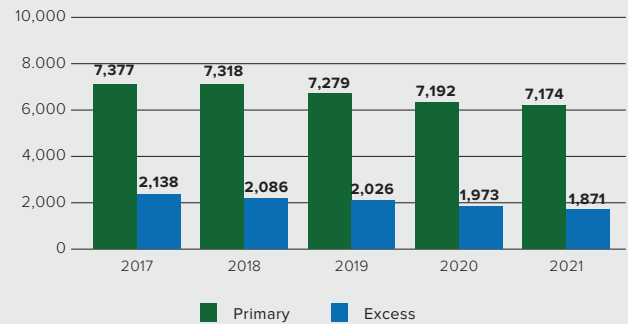
## Operating Costs by Department

2021



## Participating Attorneys

2017-2021



# CLAIMS DEPARTMENT

## A. SATISFACTION SURVEY

As a mandatory program, the PLF believes it is important to provide our covered parties (lawyers who purchase PLF malpractice coverage) an opportunity to express their opinions and give feedback on the handling of their claims. Since the early 1990s, we have sent evaluation forms to covered parties at the completion of their claim files. Given the changes in the legal community and the fact that more and more people are working remotely, it more important than ever to keep connected to our covered parties.

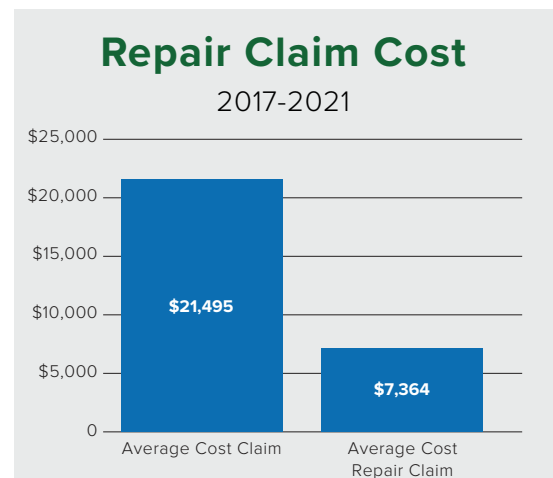
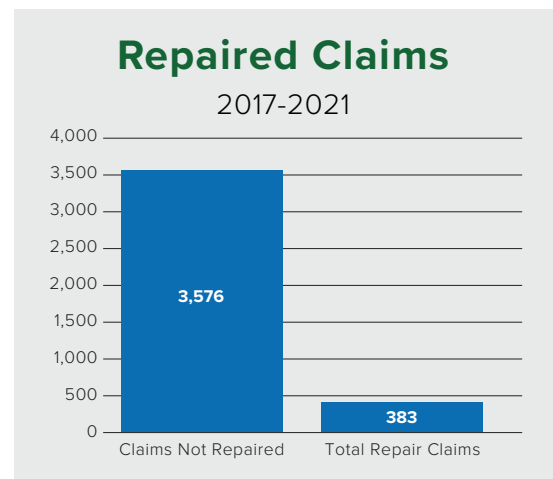
We are pleased to report that the evaluations in 2021 were positive, which is consistent with what we have seen historically. Most every covered party who responded was satisfied or very satisfied with the overall claims handling, the performance of the PLF claims attorney, and the performance of the defense counsel or repair attorney.

PLF OVERALL		PLF CLAIMS ATTORNEYS		DEFENSE COUNSEL	
Satisfied:	Very Satisfied:	Satisfied:	Very Satisfied:	Satisfied:	Very Satisfied:
7.44%	92.56%	5.78%	93.39%	6.67%	93.33%

## B. REPAIRS EXPERIENCE

When the PLF is informed about a potential malpractice issue, one of the first things the claims attorneys assess is whether the situation can be repaired and a claim avoided. The PLF may, in our sole discretion, choose to engage in repair efforts on behalf of covered parties. (See Section I(B)(2) of the 2021 PLF Primary Coverage Plan and Policy 4.300 of the PLF Bylaws and Policies Manual.) Typically, we attempt to repair a potential claim when we can identify a specific error that might be corrected by a limited representation. There is no guarantee we will engage in a repair or, if we do, that the repair effort will succeed. Often, circumstances demonstrate that a repair is not a viable option. The decision is guided by the judgment and experience of the claims attorneys.

The majority of repairs are successful in either eliminating any potential claim or limiting the damages. While repair efforts still involve costs, the average cost of a repair file from January 1, 2017, to the end of 2021 was \$7,364, compared with \$21,495 for the average cost of a claim file over the same time period.



From the period January 1, 2017, to December 31, 2021, there were **383 repairs**. Of those, **74% were successful**.

## C. CLAIMS EXPERIENCE

By the start of 2021 we had gotten past the initial shock of the onset of COVID-19. Both the PLF and the legal community adapted to a remote work environment, and we were effectively dealing with the challenges of this very unusual time. It is still difficult to measure the impact of the pandemic and equally difficult to predict what is on the horizon. Nevertheless, the Claims Department continues to remain current on changes in the law so we can assist our covered parties in the best way possible.

As mentioned in the Financial Report section, 2021 continued to see an increase in the number of attorneys leaving the private practice of law. Paralleling the decrease in the population of covered parties, we also saw a decrease in the number of claims. After a steady increase from 2017 through 2019, we saw a large drop in 2020. In 2021, the number of claims continued to decline, resulting in a claim count of 652.

The opposite patterns emerged regarding the average cost of claims. From 2017 through 2019, we saw a steady decrease in the average cost per closed claim. The trajectory shifted and rose \$2,371 per claim in 2020 and continued to rise another \$2,186 per claim in 2021. The increase in 2021 can be broken down into an increase in the indemnity spent on each claim of \$1,856 and an increase in the expense on each claim of \$330.

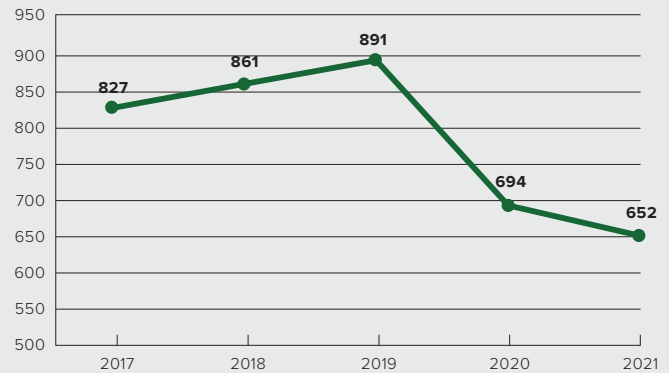
Our disposition of claims has remained relatively consistent. Of all claims we handled from 2017 to 2021, 85% were not in formal litigation while 15% were litigated. In reference to the claims that were not in litigation, 17% of the files were opened to assist our covered parties with representation for a deposition or a response to a subpoena. Of the remaining non-litigated files, 27% were settled while the remainder were denied, repaired, or abandoned by the claimant. We did not see very many cases go to trial in 2021 since the courts remained mostly closed. Of the litigated cases we did handle, about half resolved before the completion of the trial, hearing, or appeal. Of the claims disposed through litigation, much more often than not we obtained a favorable result for the covered party.

### *Matthew Borrillo*

Director of Claims  
Oregon State Bar Professional Liability Fund

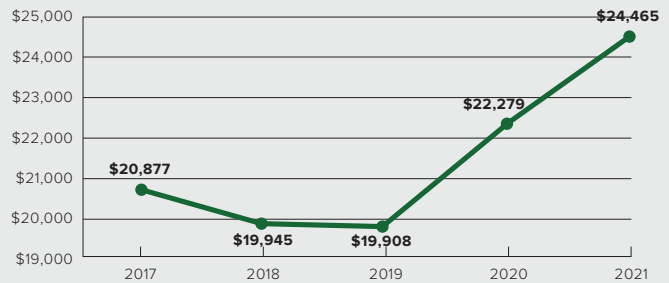
### New Claims by Year

2017-2021



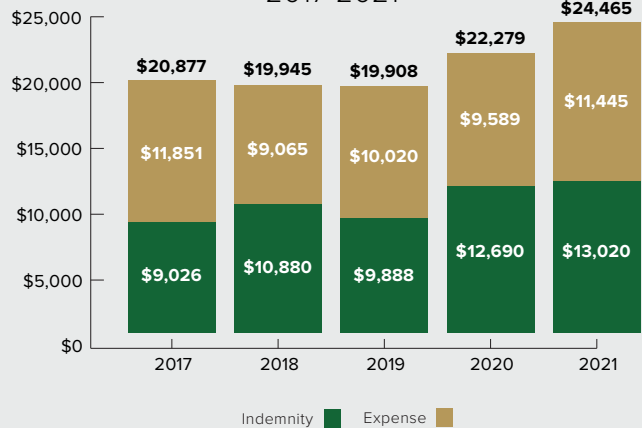
### Average Cost per Closed Claim

2017-2021



### Average Cost per Closed Claim (Indemnity vs. Expense)

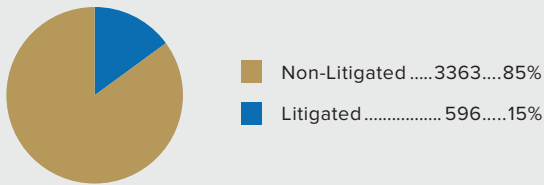
2017-2021





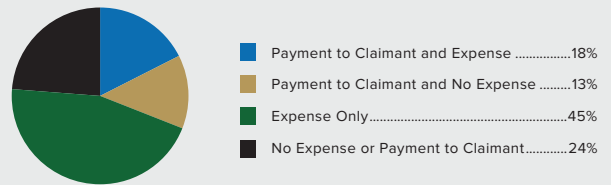
## Closed Claims 2017-21

Litigated and Non-Litigated



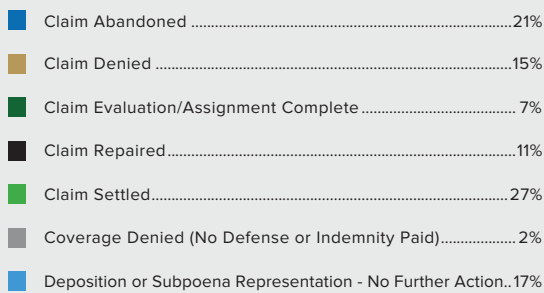
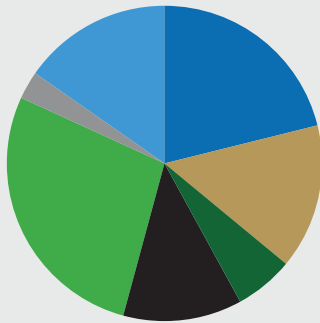
## Payment Allocation of Closed Claims

2017-21



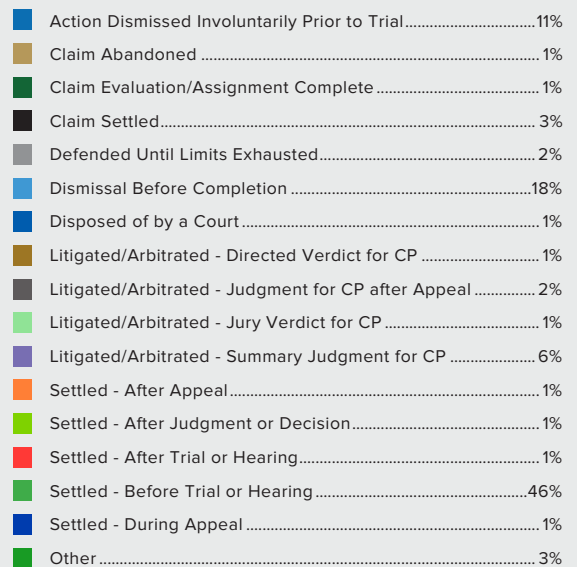
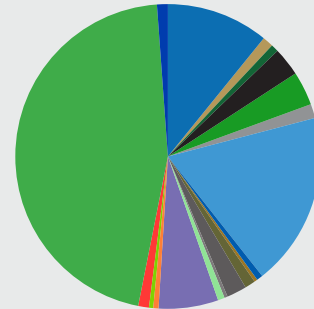
## Non-Litigated Closed Claims Status

2017-2021



## Litigated Closed Claims Status

2017-2021

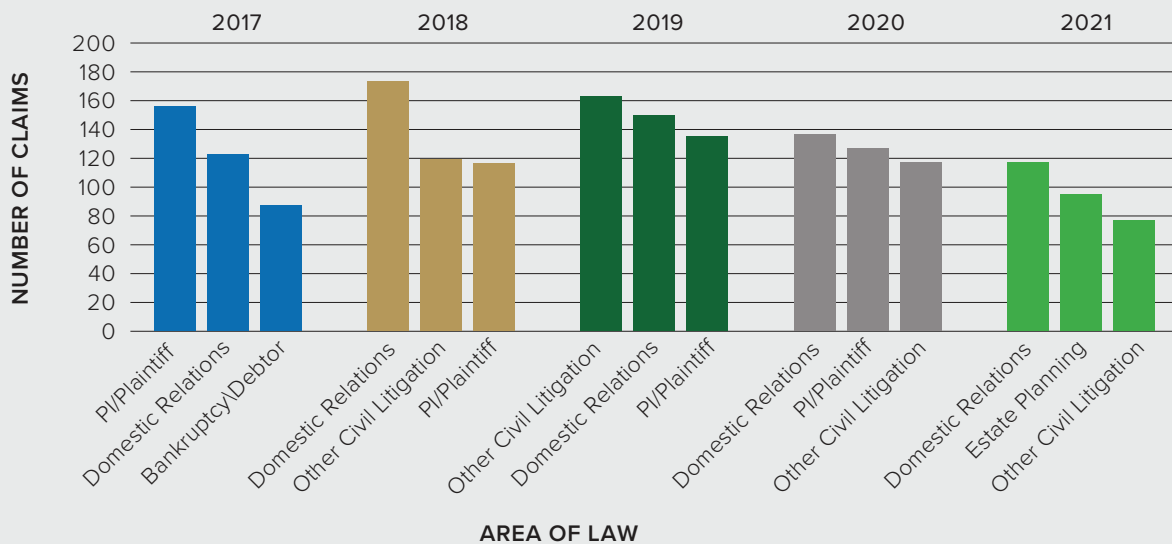


## D. FREQUENCY AND SEVERITY

As the PLF closes claim files, we track certain data to ascertain which areas of law have the most claims. The charts below show the areas of law with the highest frequency and severity of claims from 2017 to 2021.

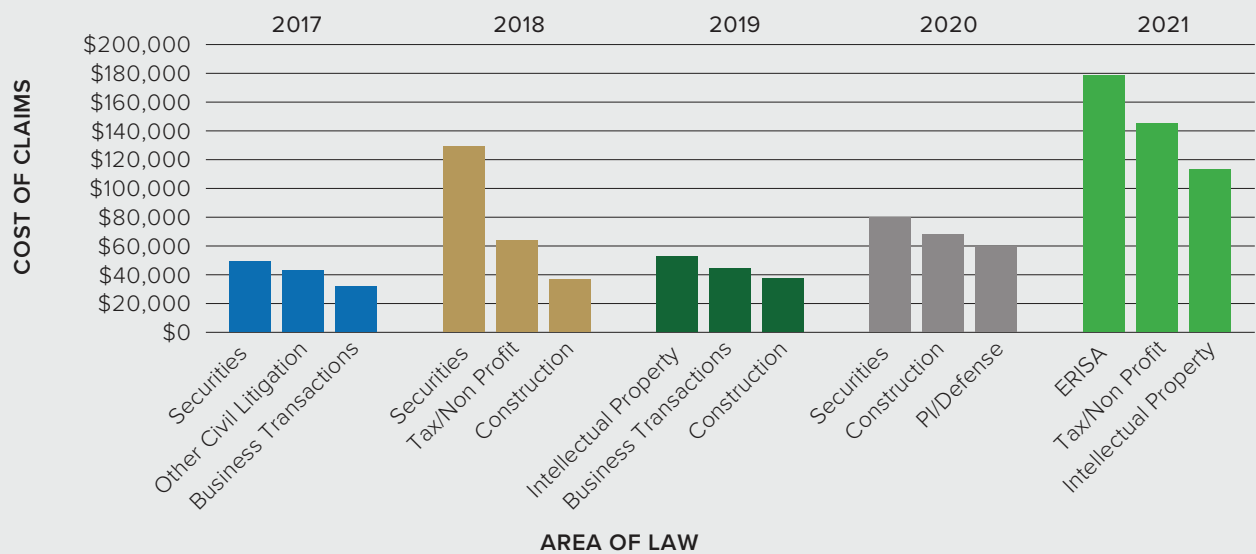
### Highest Frequency Claims by Area of Law

2017-2021



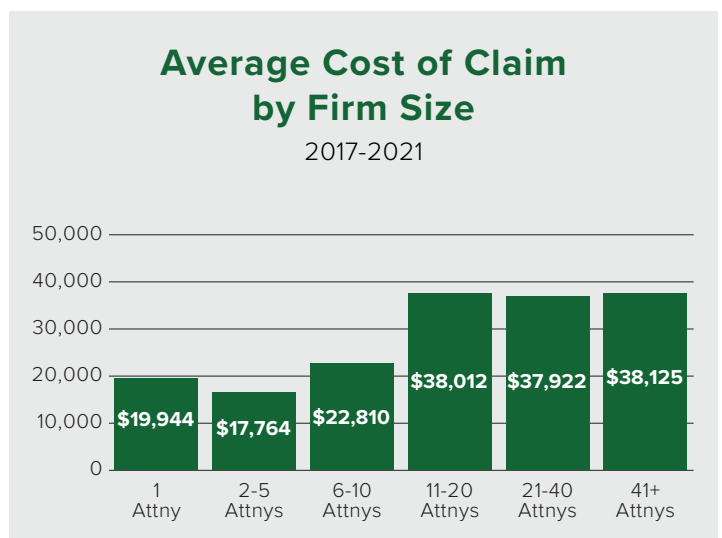
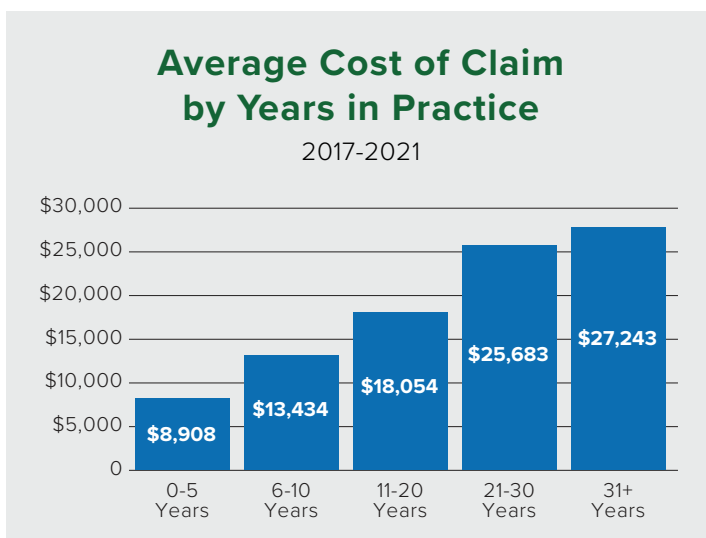
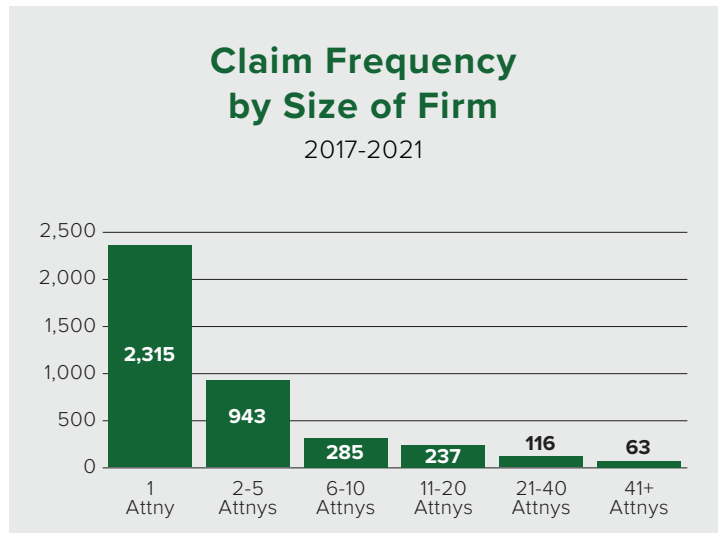
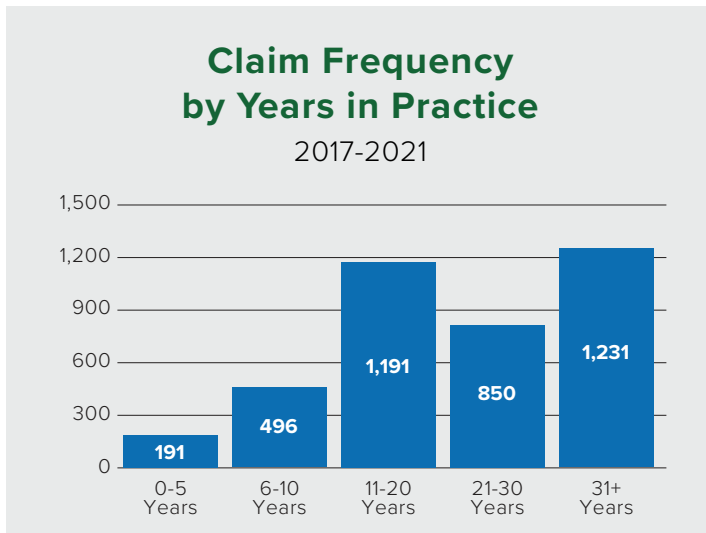
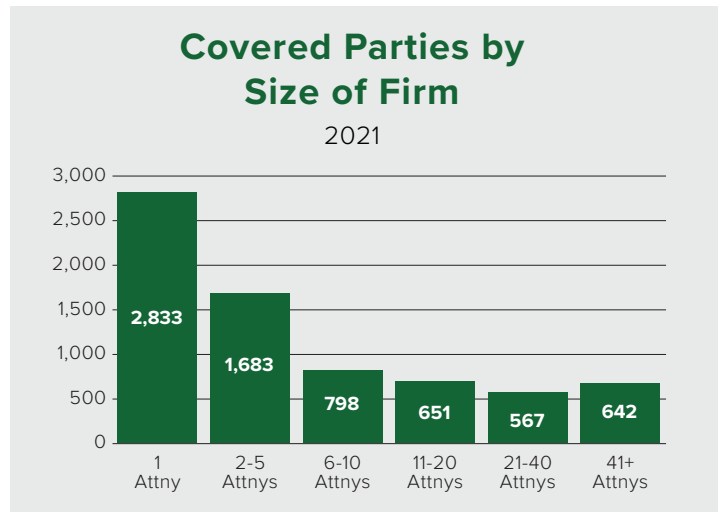
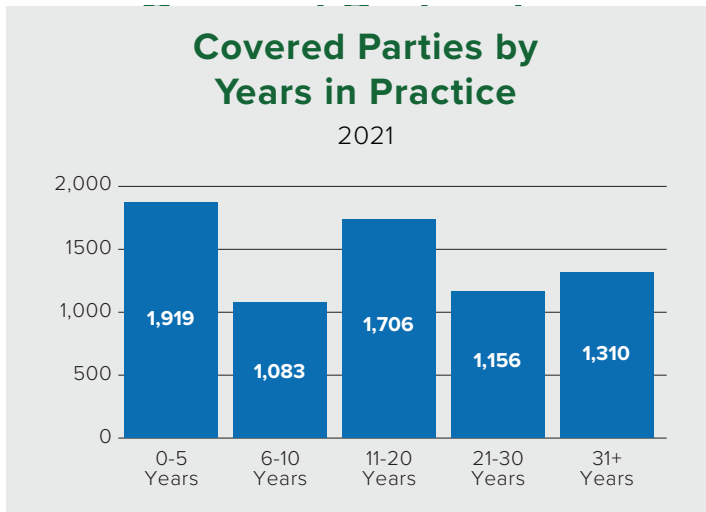
### Highest Severity Claims by Area of Law

2017-2021



## E. COVERED PARTY DEMOGRAPHICS

In addition to areas of law, we also capture certain demographics of the Oregon legal community so we can follow trends and better focus how we serve our covered parties.



# PMAP and OAAP SERVICES

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The PLF provides the Oregon legal community with free and confidential law practice management assistance through its Practice Management Assistance Program (PMAP), personal assistance through its free and confidential Oregon Attorney Assistance Program (OAAP), and legal education and resources for risk management.

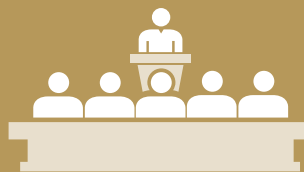
Both the PMAP and the OAAP continued to see increased demand for their services and increasing numbers of people accessing their programs in 2021. The PLF practice management attorneys noticed the following trends among the law offices they assisted: more lawyers in transition; lawyers focusing on improving their office systems and procedures; staffing issues; remote work issues; and adopting new technologies. The PMAs are responding with guidance and advice to help law firms explore options, navigate solutions, and adapt to the new law practice landscape. The OAAP attorney counselors reported seeing a higher percentage of attorneys and law students with trauma symptoms due to the collective trauma and stress caused by the pandemic, as well as increased intensity of mental health conditions. The weight of isolation and loneliness continues to affect attorneys and interrupt their typical coping skills, and the attorney counselors are providing a great deal of stabilization support and emotional regulation coaching.

## A. PRACTICE MANAGEMENT ASSISTANCE PROGRAM

Free and confidential assistance with office systems is available to all Oregon lawyers through the PLF's Practice Management Assistance Program (PMAP). The PLF Practice Management Attorneys (PMAs) Hong Dao, Rachel Edwards, Monica Logan, and Isaac Alley answer practice management questions and provide information about effective office systems and procedures (e.g., conflict checking, calendaring and docketing, file management), setting up and closing a law practice, financial management (e.g., timekeeping and billing, trust accounting), office administration and staff management, client relations, time management (e.g., organization, productivity), data breach and cyber security, lawyer employment and mobility (e.g., joining/departing a firm, contract lawyering, of counsel arrangements), retirement or transitioning out of practice, and technology.

In 2021, the PMAs presented or moderated PLF CLEs on eCourt for first-time efilers; revisiting potential malpractice risks of practicing in the COVID-19 era; avoiding malpractice claims when filing and serving a complaint; potential malpractice risks for bankruptcy practitioners; and malpractice risks in residential landlord-tenant law. These webinars were an extremely popular format, expanding

## PMAP AND OAAP EVENTS IN 2021



**1300+**  
people attended  
PMAP events and  
**1,500+**  
people attended  
OAAP events

**10,000+**  
views on recorded  
CLEs with over 8400+  
hours watched



outreach across the state and increasing attendance significantly. The PMAs also presented during the 2021 “Learning the Ropes” program, offering an essential guide to practice management, providing tips on how to successfully launch a solo practice, and giving an introduction to risk management. As many of us continued a hybrid or remote work setup in 2021, the PMAs responded with relevancy, offering seminars on protecting your firm from data breaches; collaboration and practice management software; where and how should we work: in person, virtual, or hybrid; ethics and the use of technology in the law office; paperless discovery; thriving while working remotely; and using technology to enhance client relations. Other seminar topics included starting your own practice, managing a practice, trust accounting 101, file retention and destruction, and ethics.

On the *inPractice* blog, which provides practice management tips and resources, the PMAs blogged about the following topics in 2021: building a good workplace culture; mobile banking; leadership; how to terminate a client; improving remote court hearing experiences; virtual private networks; malpractice risks in bankruptcy; tips to help clients avoid settler’s remorse; malpractice risks when filing and serving a complaint; and billing software.

## B. OREGON ATTORNEY ASSISTANCE PROGRAM

The Oregon Attorney Assistance Program (OAAP) is a confidential service provided by the PLF to assist members of the Oregon legal community with well-being and personal challenges, including stress management and behavioral health concerns like substance misuse, mental health conditions such as depression and anxiety, career transition, retirement, trauma and vicarious trauma, and relationship stress. The OAAP offers short-term individual counseling, referrals to community resources, support groups, workshops, CLEs, and other educational programs. The OAAP Attorney Counselors Douglas Querin, Kyra Hazilla, and Bryan Welch are lawyers and also professionally trained counselors.

In 2021, the attorney counselors presented 41 CLEs and workshops on these topics to bar associations, community groups, and legal employers large and small: managing stress through self-compassion; trauma-informed lawyering; healthy awareness of mental health and substance use issues; law student well-being; challenges and healthy solutions for lawyer well-being; managing stress in the practice of law; secondary trauma in the time of COVID; lawyering during the pandemic; practicing law with invisible disabilities; caring for ourselves while caring for our clients; coping with the transition back to social engagement; caring and coping during COVID; vicarious and collective trauma; working with secondary trauma and burnout; and social connection and lawyer well-being. They also presented at the 2021 Learning the Ropes program on challenges and healthy solutions for well-being and on success tips for lawyers joining a firm. The OAAP also offered education and support groups on these topics in 2021: immigration practice well-being; procrastination; women’s trauma support; developing healthy boundaries; and ongoing groups for recovery support, ADHD, depression and anxiety, trans law professionals, and burnout prevention.

The OAAP’s quarterly publication, *inSight*, offers support and information to help lawyers, judges, and law students improve their quality of life. In 2021, *inSight* published articles on the following topics: why well-being matters; surprising ways to get a better night’s sleep; and the online life: how much is too much?

### OAAP AND PMAP ASSISTANCE IN 2021

The OAAP had more than 2000 contacts

with lawyers in 2021 for individual personal assistance



The PMAs assisted 258 law offices in 2021

to establish, improve, or otherwise transform their law offices

The OAAP's blog, *Thriving Today*, provides current information, tips, and insights to enhance well-being in the legal profession. The attorney counselors blogged about the following topics in 2021: procrastination resources and solutions; lawyers and ADHD; 2021 Well-Being Week in Law; and gratitude and delight.

## C. LEGAL EDUCATION AND RESOURCES

The PLF offers a number of different educational resources to assist Oregon lawyers, including:

- **120+ audio and video programs (CLEs and other educational presentations)**
  - 27 CLEs released in 2021
- ***inBrief* publication – information on how to avoid legal malpractice, technology updates, practice tips, and resources of interest to Oregon practitioners**
- ***inPractice* blog – practice management tips and resources**
- **500+ forms (checklists, sample letters, and other practice aids)**
- **4 PLF books:**
  - A Guide to Setting Up and Running Your Law Office (2019)
  - A Guide to Setting Up and Using Your Lawyer Trust Account (2018)
  - Oregon Statutory Time Limitations (2018)
  - Planning Ahead: A Guide to Protecting Your Clients' Interests in the Event of Your Disability or Death (2015)
- ***inSight* publication – support and information to help lawyers, judges, and law students improve the quality of their lives**
- ***Thriving Today* blog – current information, tips, and insights to enhance well-being in the legal profession**

The PLF also presents an annual practical skills seminar for new admittees to the Oregon State Bar and lawyers entering private practice in Oregon called “Learning the Ropes.” This “Ropes” program helps bridge the information gap between law school and private practice. Attendance at the full program satisfies MCLE requirements for new admittees’ first reporting period. The 2021 program was a hybrid event, presented virtually on Zoom and also in person. Participants who attended the conference in person expressed their appreciation for being able to attend a live seminar and network with judges, bar leaders, and other attendees.

The full 2021 program includes individual CLE presentations on the following topics: access to justice – building a sustainable and inclusive practice; alternative dispute resolution – mandated and voluntary; courtroom do’s and don’ts; essential guide to practice management; success tips for joining a firm; pro bono, legal aid, and other tools to reach justice for all; professionalism; solo success – staying the course; solo success – launching your own practice; business law/business transactions; civil litigation/civil motion practice; criminal law; family law; lawyer well-being; PLF overview and introduction to claims and risk management; regulation of lawyer conduct in Oregon; tips, traps, and tools for successfully navigating negotiations and professional relationships; estate planning and administration, guardianships, and conservatorships; and courtroom primer.

### *Hong Dao*

Director of the Practice Management Assistance Program (PMAP)

Oregon State Bar Professional Liability Fund

### *Kyra Hazilla*

Director of the Oregon Attorney Assistance Program (OAAP)  
Oregon State Bar Professional Liability Fund

# EXCESS PROGRAM

Program stability for PLF Excess Coverage is always a top priority for the organization. Program stability is comprised of a variety of factors, including: a stable number of law firm and attorney participants from year to year, predictable cost of coverage from year to year, participation in the program by long-term reinsurance partners, and solid underwriting guidelines and criteria that, when applied, ensure we are covering Oregon law firms that do not present outsized risk potential for large claims.

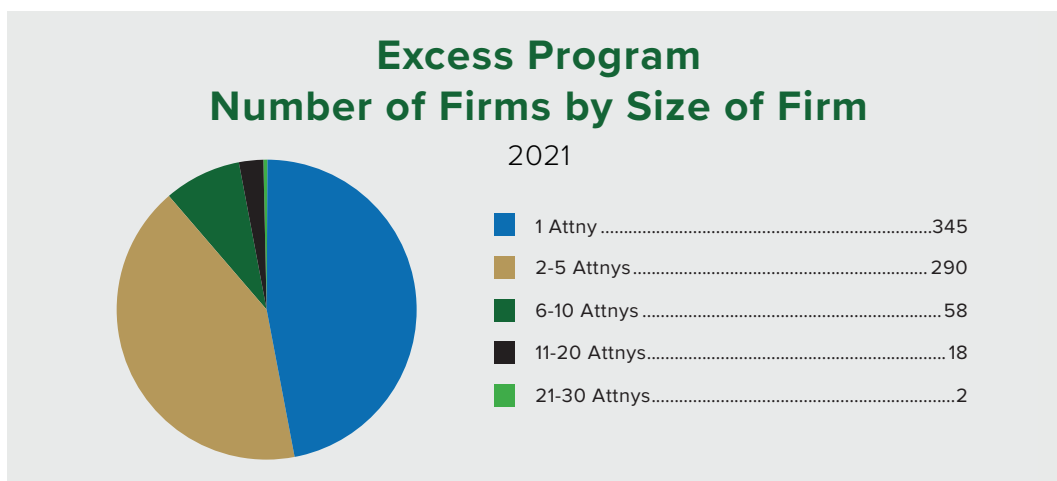
Cyber Liability & Breach Response Endorsement Included

1-10 Attorneys	\$100,000 Limit
11 + Attorneys	\$250,000 Limit



Applications accepted year-round.  
[www.osbplf.org/excess/excess-portal](http://www.osbplf.org/excess/excess-portal)

We continue to evaluate our underwriting rules and criteria each year to ensure we are offering coverage to firms with good risk profiles. For example, over the past several years we have evaluated firms presenting ORS Chapter 59 exposure (Oregon Securities Law) more stringently. We believe this enhanced review for some firms and practice areas has had a positive impact on the risk profile of the Excess Program overall – both by making firms aware of the risks associated with certain types of work and by not offering coverage to some firms that may present a significant degree of risk for large claims. Noting this, most Oregon law firms continue to meet the underwriting criteria for PLF Excess Coverage – even those that do some amount of Oregon securities work.



The story of PLF Excess Coverage in 2021 was one of stability. Due to pressures from prior claims experience and global financial and reinsurance markets, the cost of excess coverage for most renewing firms went up about 5%. It is always our goal to keep the cost of Excess Coverage steady and affordable for Oregon law firms. In 2020, most firms saw a 10% increase in their cost of coverage, so the 5% increase in 2021 was a welcome slowing of this upward trend. Even with cost pressure, the program renewal rate (percentage of renewing firms that purchased coverage again) was over 90% and in line with prior years. Similarly, 17 firms purchased extended reporting coverage (ERC or “tail coverage”) – this, too, was in line with other years.

In 2021, the Excess Program continued to add new firm business at a rate comparable with prior years. Overwhelmingly, this new business was comprised of solo practitioners and small firms. Looking at the Excess Program overall, 48% of covered firms are solo practitioners, and 41% are small firms of 2-5 attorneys.

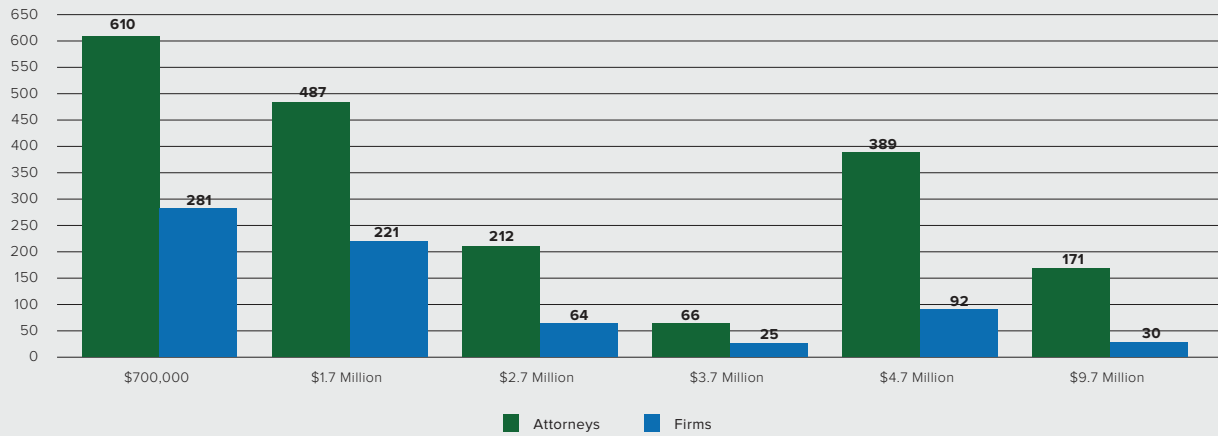
The PLF Excess Program continues to be entirely reinsured and financially independent from the mandatory PLF Primary Coverage Program. Limits available range from \$700,000 to \$9.7 million. All excess coverage sold by the PLF also includes a Cyber Liability & Breach Response Endorsement. In 2021, four incidents were reported under this Endorsement. Higher limits for cyber liability coverage are available on request.

*Emilee Preble*

Administration & Underwriting Manager  
Oregon State Bar Professional Liability Fund

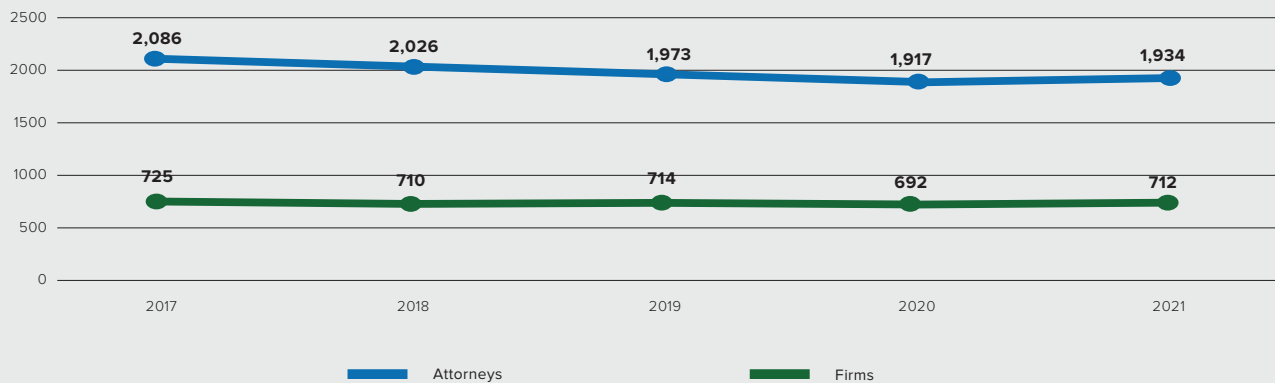
### Excess Program Attorneys and Firms Coverage Limits

2021



### Excess Program Participation

2017-2021





# SUMMARY FINANCIAL STATEMENTS (Unaudited)

(Primary and Excess Programs Combined)

	12/31/2021	12/31/2020
<b>ASSETS</b>		
Cash and Investments at Market	\$77,245,386	\$71,891,956
Other Assets	\$2,568,766	\$2,198,762
Capital Assets	\$363,924	\$272,294
PERS-Related Deferred Outflow of Resources	\$2,093,965	\$1,750,000
<b>TOTAL ASSETS</b>	<b>\$82,272,041</b>	<b>\$76,113,012</b>

<b>LIABILITIES AND FUND EQUITY</b>		
Estimated Liabilities for Claim Settlements and Defense Costs	\$29,200,000	\$29,400,000
Deferred Revenues	\$10,622,424	\$12,148,480
Other Liabilities	\$1,026,953	\$859,659
PERS Pension Liabilities	\$8,200,606	\$7,610,000
PERS-Related Deferred Inflow of Resources		\$365,000
Net Position	\$33,222,059	\$25,729,873
<b>TOTAL LIABILITIES AND NET POSITION</b>	<b>\$82,272,041</b>	<b>\$76,113,012</b>

	12/31/2021	12/31/2020
<b>REVENUE</b>		
Assessments	\$23,267,148	\$22,384,049
Investment and Other Income	\$7,554,769	\$7,448,269
<b>TOTAL REVENUE</b>	<b>\$30,821,918</b>	<b>\$29,832,318</b>

<b>EXPENSE</b>		
Operations	\$8,680,630	\$9,469,140
Provision for Settlements	\$9,345,841	\$8,704,289
Provision for Defense Costs	\$5,421,619	\$5,449,816
<b>TOTAL EXPENSE</b>	<b>\$23,448,090</b>	<b>\$23,623,245</b>

<b>NET INCOME</b>	<b>\$7,373,828</b>	<b>\$6,209,073</b>
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## Professional Liability Fund

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