



Alberta Lawyers Indemnity Association

2020 ANNUAL REPORT



ALBERTA LAWYERS
INDEMNITY ASSOCIATION

ABOUT ALIA

Established in 1988, the Alberta Lawyers Indemnity Association (“**ALIA**”) is the member-funded, non-profit corporation that manages Alberta’s indemnity program (the “**Program**”) for participating lawyers (“**Subscribers**”), providing economic and reputational protection to them and compensation to members of the public who have suffered certain financial losses due to the actions of Subscribers, including professional errors and misappropriation.

ALIA operates as a separate financial entity from the Law Society of Alberta (the “**Law Society**”), ALIA’s sole shareholder, which regulates Alberta’s legal profession in the public interest and has established the Program in accordance with Section 99(1) of Alberta’s *Legal Profession Act*.

ALIA underwrites the Alberta Lawyers' Professional Liability and Misappropriation Indemnity Group Policy (the “**Group Policy**”) and manages the Program. This includes receiving and examining all claims, resolving claims by providing compensation when appropriate, and retaining external lawyers to litigate claims when required.

Every lawyer in private practice in Alberta (approximately 6,700 in 2020) must purchase a base level of professional liability and misappropriation coverage through ALIA.



CORE PURPOSE

To provide protection to Subscribers and compensation to members of the public who have experienced losses resulting from the acts or omissions of Subscribers.

MISSION

A Subscriber-funded organization delivering a trusted indemnity program through integrity, professionalism and high-quality service.

CORE VALUES

Excellence - We deliver services that meet or exceed expectations.

Integrity - We do what we say, ethically, with fairness and respect.

Reliability - We believe dependability and consistency are key to building trust and managing the relationships we develop.

Agility - We address needs in a changing environment.



Steve Raby, Q.C., Chair, ALIA Board of Directors

I couldn't possibly reflect on the events of this past year without acknowledging the extraordinary challenges that COVID-19 brought to every corner of the world. Responding to the unprecedented hurdles that suddenly appeared in our personal and professional lives required agility and resilience, and ALIA was no exception. The Board continues to work closely with the ALIA management team to ensure that risks are managed and that ALIA continues to deliver value to our Subscribers. On behalf of the Board and myself, I can say, without hesitation, that we are pleased with the excellent work the ALIA team has undertaken and accomplished while working remotely.

One of the first tasks that ALIA faced in the early weeks of the COVID-19 shutdown was setting the annual levy for the 2020-2021 policy year. This was particularly challenging because of the many uncertainties surrounding COVID-19. How would it impact claims frequency and severity; what fallout could be expected on ALIA's operations, and what effect would it have on our Subscribers? While we cannot control the uncertainties and the impacts of COVID-19, we felt it was important to do our part in assisting Subscribers with the financial hardships that resulted from a truly global virus. Consequently,

the Board approved the application of a significant capital distribution to the levy, returning \$8.8 million or \$1,212 to each Subscriber, which equates to a 23% reduction in the levy. Of this reduction, \$316 per Subscriber was a special one-time distribution of capital to assist Subscribers experiencing financial hardship during the pandemic.

Despite proactive loss-prevention activities, our ability to reduce the levy by using capital did not come about because of a reduction in claims frequency and severity, but rather due to unexpectedly strong investment returns in 2020, ALIA's strong management of the Program capital, as well as controlling administrative expenses.

Over the years, the Board has often been asked why insurance levies in Alberta have been high. The largest component of the levy is claims expenses, and over the past two years, ALIA has experienced the highest claim counts since the mortgage fraud years of 2008-2011. Despite this, ALIA has continued to reduce the levy by implementing prudent cost-focused initiatives, and by utilizing excess capital where appropriate. However, we cannot always count on strong market returns, and we all must play a part in reducing claims. This includes our 6,700

ALIA BOARD OF DIRECTORS, CHAIR'S MESSAGE

Subscribers, who must remain vigilant in avoiding negligence claims by implementing proactive loss management strategies.

I would like to thank David Weyant and his team for their above-and-beyond efforts working remotely over the past year to handle claims successfully and deliver on the many initiatives that you will read about in David's message.

**Steve Raby, Q.C.,
Chair, ALIA Board of Directors**





David Weyant, Q.C., President and Chief Executive Officer, ALIA

The early-year onset of COVID-19 made 2020 a challenging year on many fronts. Albertans struggled with sudden and unexpected social and economic upheaval, and for many this also involved adapting to a remote work environment. From the initial first wave of COVID-19 to the subsequent unprecedented economic shutdowns and public health restrictions, ALIA effectively deployed our business continuity pandemic plan to transition our employees to a virtual work environment with the fewest possible disruptions. ALIA's top priority was to protect our employees' health and well-being, while continuing to support our Subscribers. During this extraordinary time, we undertook the following initiatives to ensure we could maintain and deliver on our goal of providing Subscribers with high quality service and appropriate coverage.

1. Working remotely and continuing to provide a high level of claims service

Our technology provisions enabled our team to work remotely and handle claims the day after the office was closed March 16, 2020. As the pandemic continued throughout 2020, the Claims Counsel/Specialist team began conducting remote mediations

and settlement meetings. I am proud of the team's ability to adapt to a rapidly changing environment while continuing to provide a high level of customer service to Subscribers. In 2020, including throughout the pandemic, we maintained an overall customer service satisfaction score of 98%.

2. Levy reduction by 23% and taking action to help Subscribers address the impact of the current financial crisis

Working with our Board of Directors, we reduced the base levy by 23%, making it the lowest levy for Part A since the 2009-2010 policy year, and the lowest levy for Part B ever. In addition to ALIA's historic application of capital to reduce the levy based on calculations of its actuary, ALIA's Board of Directors approved an extraordinary one-time additional reduction in the amount of \$316 to further help Subscribers address the financial impacts of the COVID-19 pandemic.

ALIA also reduced the first instalment of the levy to \$500 instead of half of the base levy, as required in prior years. Approximately 53% of Subscribers took advantage of the instalment plan.

In addition to the above two measures, ALIA undertook several other initiatives in support of our mission to deliver a trusted indemnity program through integrity, professionalism, and high-quality service.

3. New strategic plan approved for 2020-2024

ALIA's Board of Directors approved a new strategic plan for 2020-2024. The strategic plan provides direction for the organization, including a framework for decision making, resource allocation, and priority setting. The strategic plan focuses on the balance of providing Subscribers with high-quality coverage at a reasonable price. The strategic plan can be viewed on our [webpage](#).

4. Enhancing coverage for Subscribers

In addition to lowering the base levy, ALIA enhanced its coverage for late reported claims. Specifically, rather than rejecting a claim simply because it was reported late, ALIA will now accept such claims if the Subscriber establishes that the late notice has not prejudiced ALIA. The amendment is not retroactive. If a Subscriber was aware of a claim or potential claim on or before June 30, 2020, and did not report it by June 30, 2020, this change to the Group Policy will not apply and there will be no coverage for the claim regardless of prejudice.

5. Civil litigation filing levy ("CLFL")

Civil litigation continues to generate more claims and costs than any other area of the Program. The

average severity of each civil litigation claim (i.e. its cost to the Program) has steadily increased over the past 15 years, which has been exacerbated by the increase in 4.31 claims as a result of the Court of Appeal decision in *Humphreys v. Trebilcock* in 2017. A key purpose of the CLFL is to reallocate some of the higher cost/risk associated with civil litigation. Since claim costs are a key driver in establishing the base levy payable by Subscribers (Part A and Part B), the higher costs of civil litigation are disproportionately shared by all Subscribers. The CLFL is expected to reduce each Subscriber's Part A levy from what it would otherwise have been, because amounts collected under the CLFL will help offset some of the claim costs of the Program. This is intended to make funding of the Program fairer to all Subscribers. The CLFL will be a disburseable cost that Subscribers may pass on to their clients.

Looking ahead to 2021, the ALIA team remains committed to providing Subscribers with high quality, efficient and effective service and appropriate coverage.

David Weyant, Q.C.
President and Chief Executive Officer

ALBERTA LAWYERS INDEMNITY ASSOCIATION

GOALS

- A. **QUALITY:** Stakeholders are satisfied with, and have confidence in, ALIA's delivery of a high-quality indemnity program.
- B. **COLLABORATION:** ALIA has positive relationships with each of the third parties with whom it works to achieve its mission.
- C. **SUSTAINABILITY:** ALIA's agile, proactive and risk-aware approach contributes to the sustainability of an indemnity program in which Subscribers have access to appropriate coverage at a reasonable price.
- D. **EFFICIENCY AND EFFECTIVENESS:** ALIA's high-performance, inclusive team and ALIA's practices and processes support increased efficiency in the provision of its services.



2020 ALIA BOARD OF DIRECTORS

Steve Raby, Q.C., Chair

Larry Ohlhauser, M.D., Vice-Chair

Dale Spackman, Q.C., Corporate Secretary

Rob Armstrong, Q.C.

Diane Brickner, CIP, ICD.D

Sheri Epp, B.A., LL.B

Zoe Harrison, B.Comm., CRM

Elizabeth Osler, B.A., M.A., LL.B, ICD.D

Michael Thompson, LL.B, MBA, ICD.D

Linda Vennard, CA, CPA

Program Investment Manager - Mawer Investment Management Ltd.

Program Actuary - Nicolas Beaudoin, Willis Towers Watson

Independent Insurance Consultant - Peter Kelly

ALIA Management

David Weyant, Q.C.,
President and Chief Executive Officer

Nadine Meade, CPA, CGA,
Chief Financial Officer

Yvonne Ladouceur,
Senior Manager, Operations

John Eamon,
General Counsel and Senior Manager, Risk



Board Retreat 2019



FINANCIALS

By a Management Arrangement between ALIA and the Law Society, the Law Society's management is responsible for the preparation and fair presentation of annual financial statements on behalf of the Program in accordance with Canadian Accounting Standards for Not-For-Profit Organizations. The financial statements are then approved by the Board of Directors.

To assist management in fulfilling its responsibilities, internal controls are in place to provide reasonable assurance that the financial statements are accurate and reliable.

ALIA's Board of Directors appoints external auditors each year to audit the financial records and internal controls of the Program, and to express an opinion as to the fair presentation of the financial statements in accordance with the relevant accounting standards.

The Program's 2020 Financial Statements and past statements, can be found on [ALIA's website](#).

CLAIMS OVERVIEW BY THE NUMBERS

PART A PROFESSIONAL LIABILITY 2020

Part A coverage provides protection to Subscribers for errors rendering professional services. If the Subscriber is negligent, proven damages are paid to clients who suffered a loss as a result of that negligence. One of the primary reasons the Program exists is to compensate clients or other members of the public for such losses.

Despite COVID-19 and the steadily increasing number of reported Part A claims over the past three years, the number of reported claims decreased slightly by 6.85% in the 2019-2020 policy year. This corresponded with a decrease in the total paid claims by 22.24%. The decrease in total paid is partly attributed to a slowdown in claim settlements during COVID-19. Fortunately, ALIA has not received a significant number of COVID-19 reported claims; however, claims can take several years to arise and ALIA will continue to monitor COVID-19 related claims.

Civil litigation continues to represent the highest area of reported claims and incurred losses (claims plus reserves) as shown in the charts below.

REPORTED PART A CLAIMS

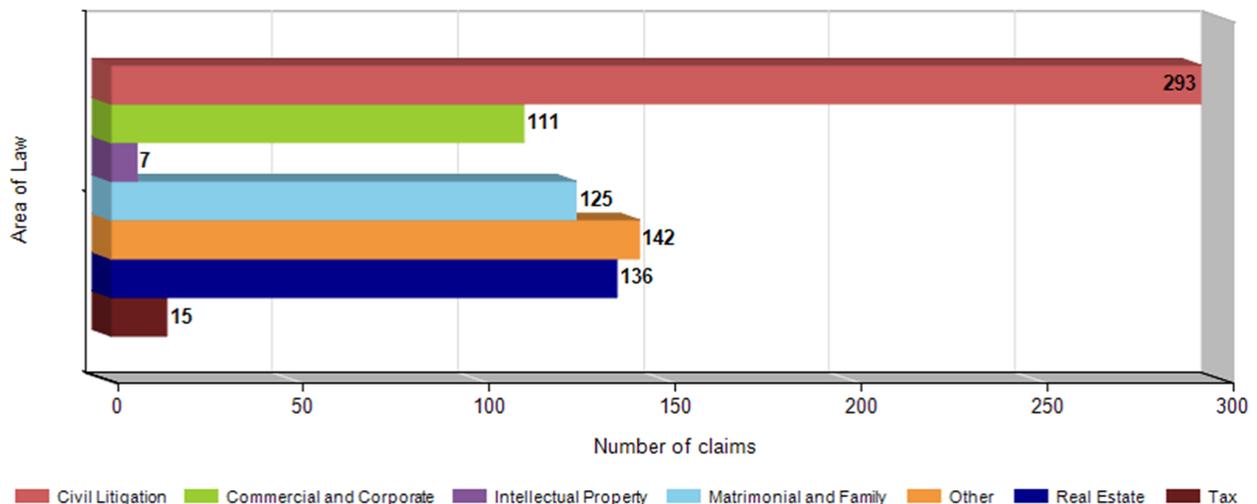
829 ↓ 6.85%

TOTAL PAID PART A CLAIMS

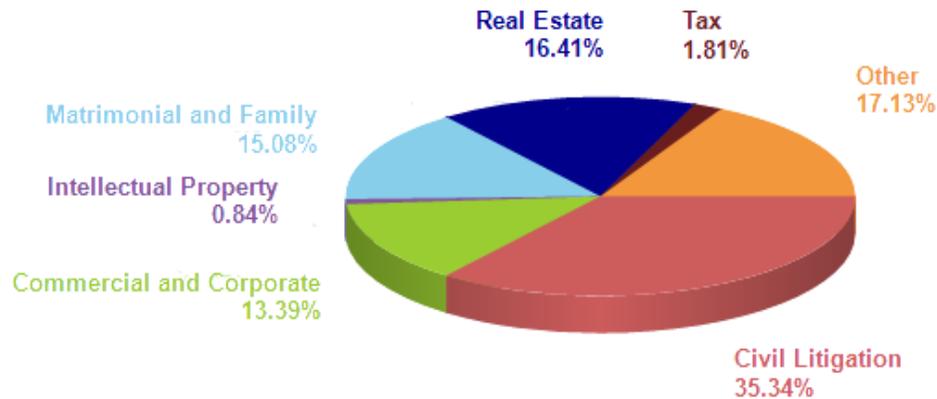
\$17,027,894 ↓ 22.24%

Distribution of Professional Liability Claims by Area of Law (Policy Year 2019-2020)

Number of Part A Claims Reported by Area of Law

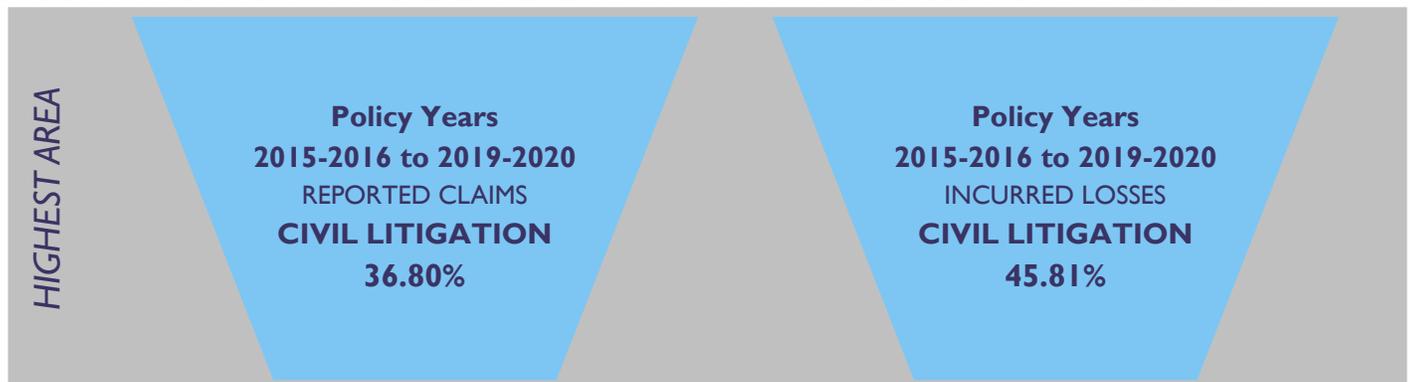


Percentage of Part A Claims Reported by Area of Law



The total paid out by the Program in 2020 for Part A professional liability claims was \$17,027,894, a 22.24% decrease from the \$21,896,681 paid out in 2019.

PART A PROFESSIONAL LIABILITY HISTORICAL TRENDS OVERVIEW

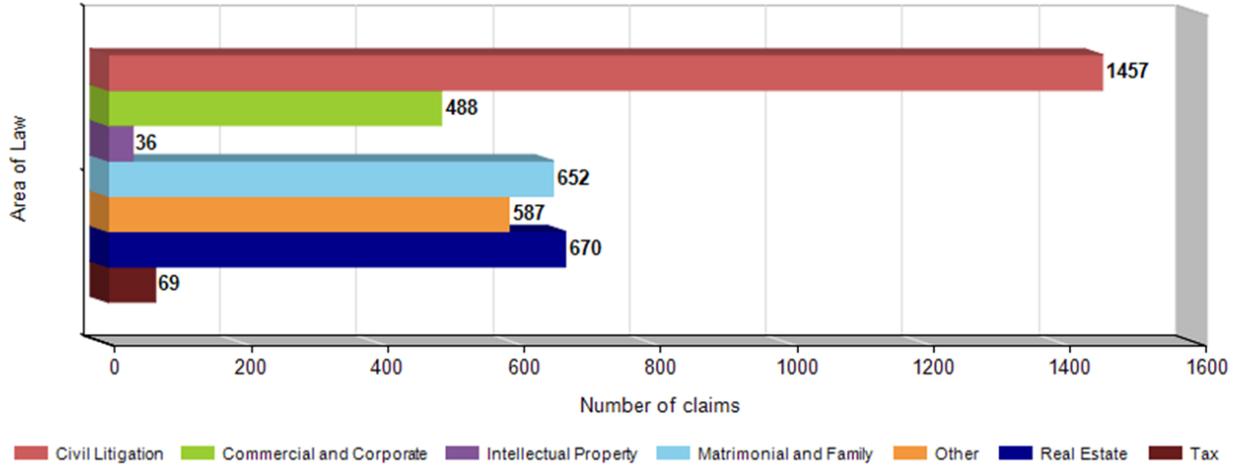


Historical Number of Part A Claims Reported by Area of Law (Policy Years 2010-2011 to 2019-2020)

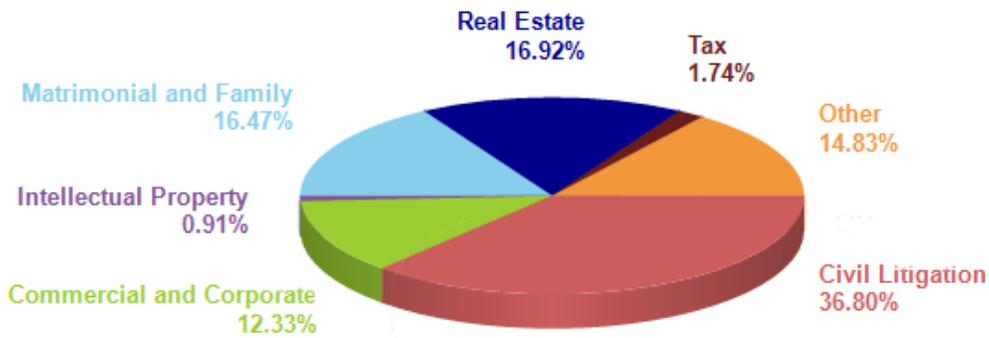
Policy Year	Civil Litigation	Commercial and Corporate	Intellectual Property	Matrimonial and Family	Real Estate	Tax	Other
2010-2011	269	110	9	84	204	16	82
2011-2012	260	121	6	96	231	10	79
2012-2013	227	86	8	75	124	13	90
2013-2014	283	87	3	90	166	11	100
2014-2015	257	59	7	88	154	12	84
2015-2016	280	88	10	96	143	9	99
2016-2017	267	82	5	118	134	15	111
2017-2018	283	91	9	146	136	13	105
2018-2019	334	116	5	167	121	17	130
2019-2020	293	111	7	125	136	15	142

**Distribution of Professional Liability Claims by Area of Law
(Policy Years 2015-2016 to 2019-2020)**

Number of Part A Claims Reported by Area of Law

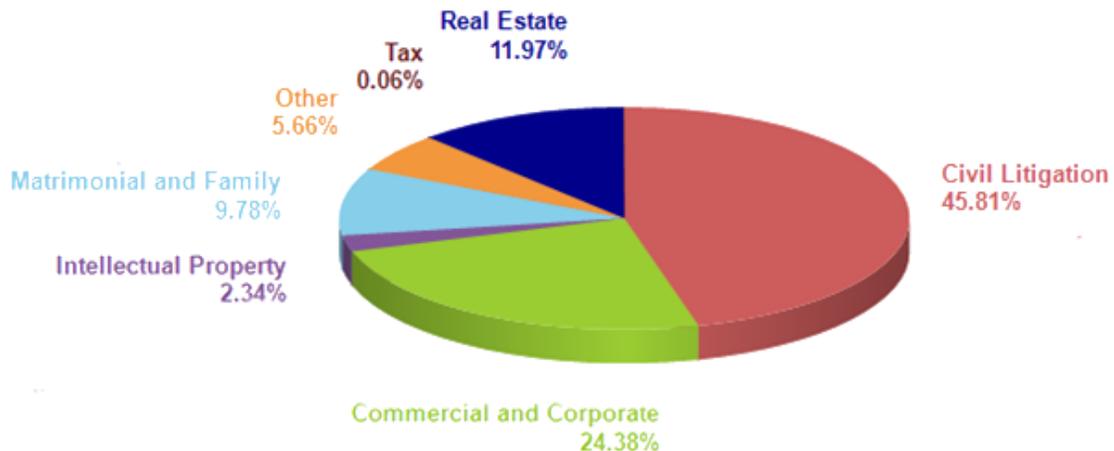


Percentage of Part A Claims Reported by Area of Law



**Incurred Damages and Defence Costs by Area of Law
(Policy Years 2015-2016 to 2019-2020)**

Percentage of Part A Incurred Damages and Defence Costs by Area of Law





Reason/Cause for Professional Liability Indemnity Claims

ALIA operates on a not-for-profit basis, so there is a direct connection between the amount it pays out to defend Subscribers and to satisfy claims against them and the total amount of the levy assessed on Subscribers.

ALIA is committed to helping Subscribers reduce the number of avoidable claims. Accordingly, one of its goals is to enhance loss prevention in various ways, including highlighting the causes of indemnity claims.

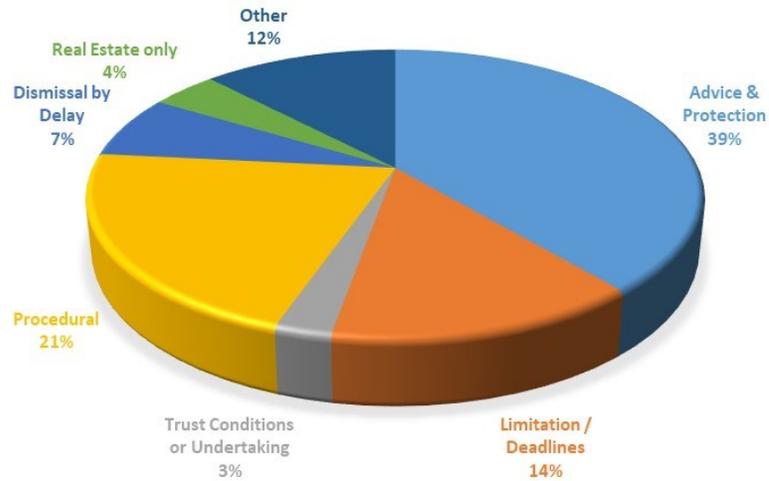
Historical trending indicates professional liability claims are primarily attributed to communications (e.g. failure to follow client instructions, disputed instructions and client remorse after settlement), practice management (e.g. clerical errors, diary system errors, inadequate office systems) and issues related to law (e.g. failure to know the law or properly apply the law and failure to know limitations/deadlines).

Claims related to failure to advance an action in a timely manner (dismissal for delay), resulting in actions being struck pursuant to Rules 4.31 and 4.33 of the Alberta Rules of Court, have generated significant losses in recent years. Over the past five years they have made up 7% of the Program's claims and generated 25% of incurred losses. This was exacerbated by the Court of Appeal decision in *Humphreys v. Trebilcock*, which resulted in an increased number of 4.31 claims.

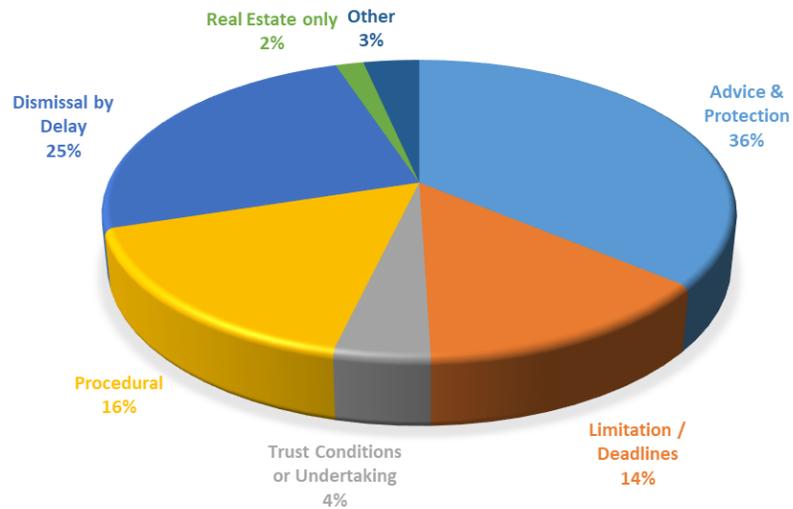
Subscribers involved generally could avoid these costly claims by proactively addressing the issues. Law Society resources are also available and accessible to assist Subscribers with loss prevention. Practice Advisors can advise Subscribers how to establish processes to address administrative, procedural and system issues. ALIA funds some of these resources through the management fee paid to the Law Society, which forms part of the annual levy paid by Subscribers.

Type of Error for Part A Claims (Policy Years 2015-2016 to 2019-2020)

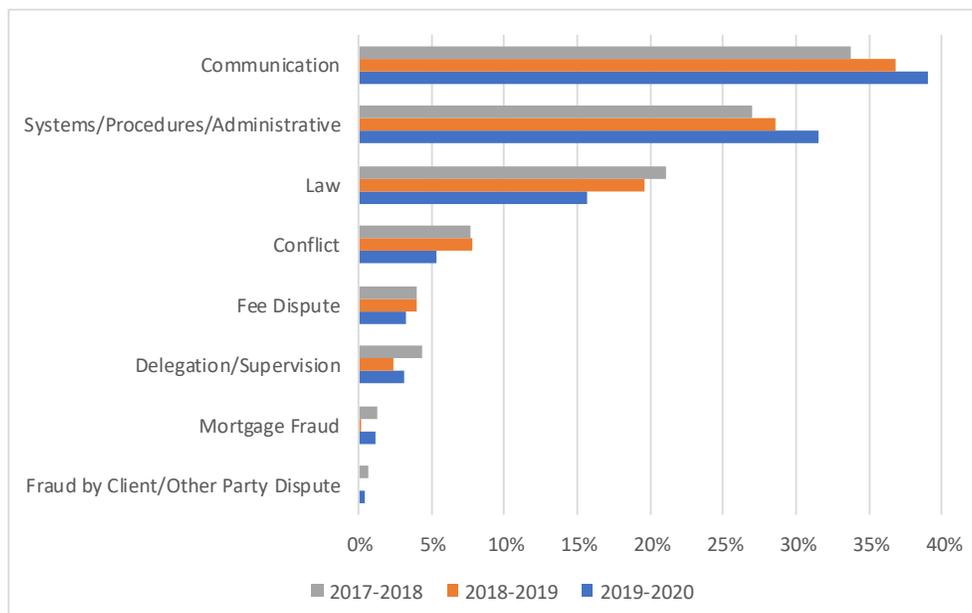
Percentage of Part A Claims Reported by Error



Percentage of Part A Incurred Damages and Defence Costs by Error



Reason/Cause of Errors - Part A Claims (Policy Years 2017-2018 to 2019-2020)



PART B MISAPPROPRIATION CLAIMS BY THE NUMBERS 2020

ALIA is frequently asked why Subscribers who do not maintain trust accounts are still required to have Part B indemnity coverage. The confusion arises because people assume Part B coverage is for theft from trust accounts only, whereas it actually provides for compensation for misappropriated money, securities or property entrusted to the Subscriber in their capacity as a barrister or solicitor.

The impact is felt by all Subscribers because these actions cause damage to the profession's reputation. These actions also result in payments under the Program, which result in higher levies for all Subscribers.

In 2020 the Program saw a substantial increase in the number of misappropriation claims reported and paid.



SATISFACTION RATING FROM SUBSCRIBERS: 98%

As part of the ongoing effort to continually improve its practices and services, ALIA surveys Subscribers upon the closing of their claim files. ALIA recognizes that having a claim can be stressful for a Subscriber and wants to ensure that its claims management practices help make the process as “stress-free” as possible.

Feedback provided via surveys is used to help ALIA continually improve its claims management procedures. Survey results in 2020 saw a claims satisfaction rating of 98%.



PROGRAM LOSS PREVENTION INITIATIVES

ALIA delivers a variety of risk management services to prevent losses wherever possible and diminish the frequency and severity of losses that occur. In addition to the loss prevention that ALIA delivers, ALIA also purchases loss prevention services from the Law Society and works collaboratively with the Law Society on loss prevention initiatives.

The following is an overview of ALIA delivered loss prevention initiatives:

ALIAAlerts

ALIA has instituted notices, emailed to its Subscribers, called ALIAAlerts.

ALIA uses its ALIAAlert urgent notices to share tips and information to help Subscribers identify, avoid and report schemes and scams targeting Subscribers. ALIA delivers these to its Subscribers by email throughout the year and posts them on its website. In 2020, ALIA brought awareness to a number of fraud-related schemes, some examples of which are as follows:

January 8, 2020	<u>Foreign Bad Cheque Scams Ring in the New Year</u>
February 5, 2020	<u>Sharp Increase Seen in Forged Trust Cheques</u>
April 3, 2020	<u>COVID-19 Pandemic Increase Cybersecurity and Fraud Risk</u>
May 13, 2020	<u>Court Runner Allegedly Falsifies Filing of Statements of Claim and Pockets Filing Fees</u>
July 3, 2020	<u>Alberta Firm Attacked by Matrix</u>



ALIAdvisory Communications

An ALIAdvisory is a nonurgent communication, generally educational in nature. ALIA posts these on its website and delivers them to its Subscribers by email throughout the year. The following are examples of communications sent out this year:

May 1, 2020	<u>ALIA 2020-2021 Levy Reduced by 23% to a 10-Year Low</u>
June 30, 2020	<u>Upcoming Policy Changes, Your Claims Prevention Resource</u>
November 2, 2020	<u>Reported Pandemic-Related Litigation Delays and Confusion, When to Report a Claim or Potential Claim, What is Covered under Group Policy</u>
December 11, 2020	<u>Civil Litigation Filing Levy Pilot</u>

ALIA Outreach Sessions

ALIA delivers educational programs to Subscribers and firms at their request. In 2020 ALIA Claims Counsel presented on claim prevention topics such as:

- Real Estate;
- Wills & Estates; and
- ALIA 101.

ALIA Loss Prevention Committee

Established in 2020, the ALIA Loss Prevention Committee is an internal working group comprised of members of ALIA and the Law Society who report to the President and CEO of ALIA. The purpose of the ALIA Loss Prevention Committee is to identify loss prevention and claim reduction initiatives, and assist in implementing approved initiatives.

4.31 and 4.33 Working Group

ALIA has formed a 4.31 and 4.33 Working Group to consider how to lessen Rule 4.31 and 4.33 losses to the Program.

Surcharge Program

Under this program, Subscribers who have had multiple paid claims pay a higher levy (the difference between that and the base levy being a “surcharge”). The surcharge continues to apply for five practice years. ALIA enhanced the Surcharge Protocol in 2019 to shift more of the costs of multiple paid claims onto the relatively few Subscribers who incur them.

Upcoming 2021 Initiatives and Projects

- Alignment of Fiscal and Policy Year Ends;
- Creating ALIA’s first In-house Defence Counsel team to work collaboratively with ALIA’s external defence counsel;
- Survey of the Profession;
- Implementation of the Civil Litigation Filing Levy (“CLFL”); and
- Implementation of the Protecting Confidentiality/Information Sharing Protocol Project respecting the sharing of information with the Law Society.

REPORT A CLAIM

You can find instruction on how to report a claim on the [ALIA website](#).

For information on when to report a claim, please [click here](#).

Cover photograph by Daniel Wiener



ALBERTA LAWYERS INDEMNITY ASSOCIATION

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