

2021 ANNUAL REPORT



**ALBERTA LAWYERS
INDEMNITY ASSOCIATION**





ABOUT ALIA

Established in 1988, Alberta Lawyers Indemnity Association (“ALIA”) is the member-funded, non-profit corporation that manages Alberta’s indemnity 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. The program covers professional errors, lawyer misappropriation, and cybercrime.

ALIA operates as a separate financial entity from The Law Society of Alberta (“Law Society”), ALIA’s shareholder. The Law Society regulates Alberta lawyers in the public interest and is committed to promoting a high standard of legal services and professional conduct. ALIA is overseen by a board of directors selected for their skills and experience.

MISSION

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

CONTENTS

3	About ALIA
3	Mission
4	Core Purpose, Core Values, Goals
6	Message from the Chair and the President and CEO
8	Financials
9	Claims Overview
10	Part A Professional Liability Historical
15	Part B Misappropriation Claims
15	Satisfaction Rating From Subscribers
16	Program Loss Prevention Initiatives and Projects
16	ALIA Communications
17	2021 ALIA Board of Directors
17	ALIA Management
17	Professional Advisors

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.

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.

GOALS

Quality - Stakeholders are satisfied with, and have confidence in, ALIA's delivery of a high-quality indemnity program.

Collaboration - ALIA has positive relationships with each of the third parties and whom it works to achieve its mission.

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.

Efficiency and Effectiveness - ALIA's high-performance, inclusive team and ALIA's practices and processes support increased efficiency in the provision of its services.



MESSAGE FROM THE CHAIR AND THE PRESIDENT AND CEO

Again, we must address the challenges that COVID-19 brought to ALIA and the rest of the world. This year, however, the message is a more optimistic one.

For the entire ALIA team, like many Canadians working in offices, virtual work arrangements became the “new normal.” Subscriber satisfaction rates, based on closed-file surveys, continued to be high between 94% and 98%, and claim files continued to be taken care of as quickly as they were pre-pandemic.

ALIA’s concerns respecting the significant loss of work and cash flow issues for Subscribers proved unfounded, based on information from our Subscribers, but we were pleased that we were able to offer payment arrangements and additional subsidies in any event. Although negligence claims against Subscribers by their clients continued to increase, ALIA was able to again lower the base levy paid by all Subscribers.

We take this opportunity to highlight some of the year’s key initiatives implemented by ALIA for its Subscribers.

Year End Alignment – To provide more meaningful and timely information to its stakeholders, ALIA changed its year-end in 2021 to align its fiscal year with its policy year (namely July 1 to the following June 30).

Filing Levy – Modelled on the successful programs in Ontario and elsewhere, ALIA’s Civil Litigation Filing Levy (“**CLFL**”) was instituted effective July 1, 2021. ALIA provided robust communications and other resources to Subscribers and their administration personnel respecting the CLFL. The pilot project continues, and ALIA will look to see what tweaks may be required if it is implemented permanently.



Steve Raby, K.C.
Chair

The projected amounts ALIA expects to receive had a material effect on the actuarial calculations and the Board’s decision in respect of the levy for the 2021-2022 policy year.

Investments – In conjunction with the Law Society of Alberta, ALIA undertook a review of its investment manager, policies, and guidelines. Although the independent review of ALIA’s investment manager and their compliance with the policies and guidelines was all positive, a concern was identified respecting a projected material drop in bond returns.

As ALIA uses its investment returns to keep the base levy low, it undertook due diligence and ultimately determined that the investment policies and guidelines should be amended to permit additional diversity in its investments, including infrastructure and real estate, both of which historically show reasonable long-term returns. ALIA is undertaking a robust competitive process, aided by external experts, to select additional investment advisors for the infrastructure and real estate investments.

Rule 4.31 Amendment – The unfortunate decision of the Alberta Court of Appeal in *Humphreys v. Trebilcock* caused Subscribers confusion, consternation, and claims. Among the presumably unintended consequences were scenarios where defendants could create inordinate delay, and then attempt to benefit from it. To bring clarity and fairness back to the process, and as a loss prevention initiative, ALIA formed a working group comprised of members of the ALIA team, ALIA defence counsel, and the Alberta Civil Trial Lawyers Association that drafted and submitted to Alberta’s Rules of Court Committee a request to change Rule 4.31 of the Alberta Rules of Court (Application to deal with delay). ALIA’s submission is designed to codify the principles outlined by the Court of Appeal in *Transamerica*, to require courts to consider the role of defendants in contributing to the delay while allowing courts to retain discretion to determine whether an action should be dismissed. If the rule change is accepted, ALIA expects it will assist with reducing Rule 4.31 claims to the program.

Subscriber Survey – ALIA rolled out its first comprehensive Subscriber survey, giving Subscribers an opportunity to express their views on the indemnity program’s current and future potential offerings, along with their experiences with ALIA and what ALIA can do to improve its service to Subscribers. The results are expected in early 2022, and the insights and information that Subscribers provide will help ALIA shape future initiatives.

In-house Defence Counsel team – ALIA is building a small in-house counsel team to supplement its excellent external defence counsel roster. The new team will be comprised of three lawyers with the goals of reducing legal expenses and providing enhanced and expedited resolution of claims in litigation.



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

2021-2022 Levy – The 2021-2022 levy was reduced again to an 11-year low. This is the lowest the Part A levy has been since the 2009-2010 policy year, and the Part B levy has never been lower. This marks the fourth year in a row that ALIA has reduced the amount of the annual base levy payable by Subscribers. ALIA achieved this reduction in the base levy by applying capital from the returns on ALIA’s investments and the credit for the CLFL. Accordingly, the base levy was reduced despite no material improvement in Subscribers’ claims

experience in the past year; without the application of capital and the CLFL credit, the 2021-2022 levy would have been higher than last year’s. We cannot continue to rely upon returns on our investments, especially during this time of challenging markets, to reduce the theoretical levy. Subscribers must practice cautiously and reduce claims or face escalating levies in the years to come.

We believe that this can be achieved if we all work together.

Steve and David

FINANCIALS

Preparation and fair presentation of annual financial statements on behalf of the mandatory indemnity program for Alberta lawyers (the “Program”) are in accordance with Canadian Accounting Standards for Not-For-Profit Organizations. The financial statements are then approved by ALIA’s Board of Directors (the “Board”).

The Board 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. ALIA’s Financial Reports can be found on the Law Society of Alberta’s [website](#).

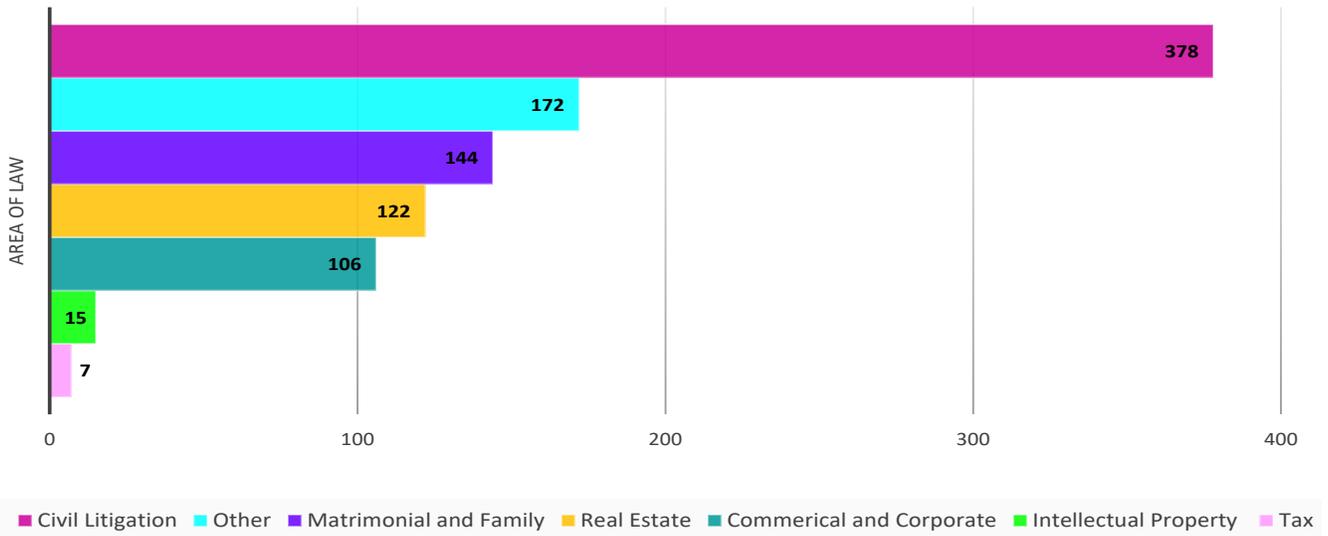
	June 30, 2021	Dec 31, 2020
	\$	\$
Assets		
Cash and cash equivalents (note 2)	23,192,964	17,065,656
Investment (note 3, 8)	198,531,106	193,634,432
Accounts receivable (note 4)	5,238,844	1,307,684
Prepaid expenses	10,625	915,430
Due from related parties (note 7)	55	290,348
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Total Assets	226,973,594	213,213,550
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Liabilities and Net Assets		
Accounts payable and accrued liabilities	461,071	395,959
Prepaid premiums	18,569,427	-
Unearned premiums	-	10,509,611
Premium deficiency (note 13)	-	5,625,000
Pension plan (surplus) payable (note 11)	(1229)	132,491
Provision for claims and related costs - Professional liability (note 6)	137,146,000	129,813,000
Provision for claims and related costs - Misappropriation indemnity (note 6)	3,249,000	3,344,000
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Total liabilities	159,424,269	149,820,061
	<hr/>	<hr/>
Net Assets		
Unrestricted	67,549,305	63,393,069
Share capital	20	20
	<hr/>	<hr/>
Total Net Assets	67,549,325	63,393,089
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Total Liabilities and Net Assets	226,973,594	213,213,150
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Approved by the Board of the Association

CLAIMS OVERVIEW

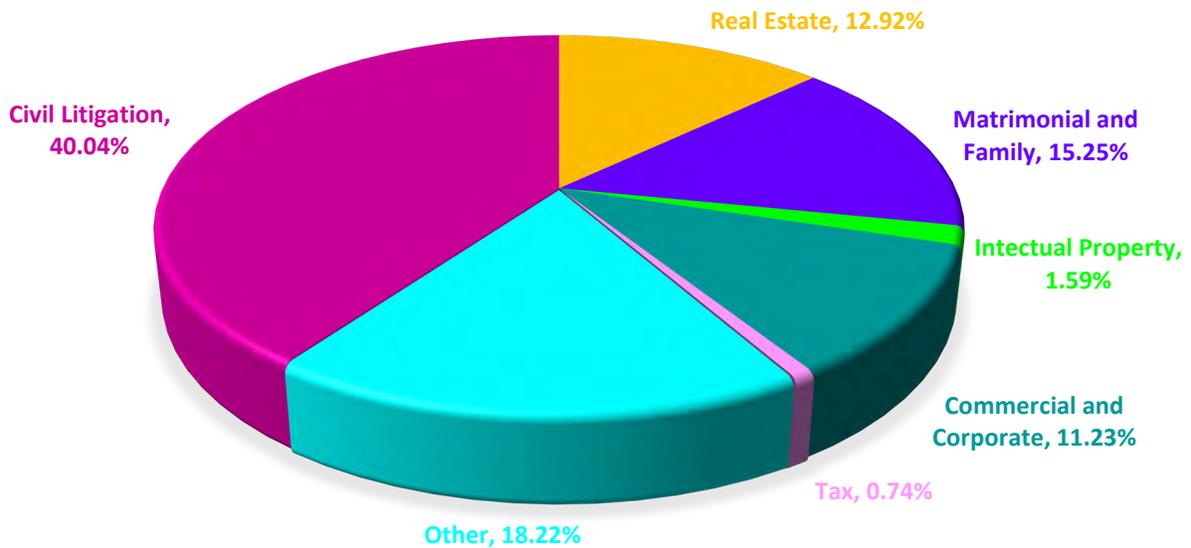
Part A Professional Liability 2020-2021

Number of Claims Reported by Area of Law



- Civil Litigation claims are responsible for more than 40% of total claims reported in 2020-2021.

Percentage of Claims Reported by Area of Law



- The Civil Litigation sector continues to generate the majority of claims in 2021, followed by Matrimonial and Family, and Real Estate.
- Intellectual Property and Tax remain towards the lower end of the spectrum with 2.3% of reported claims.
- The total paid out by the Program in 2020-2021 for Part A professional liability claims was \$20,947,313, a 23% increase from the \$17,027,894 paid out in 2019-2020.

PART A PROFESSIONAL LIABILITY

Historical Trends Overview



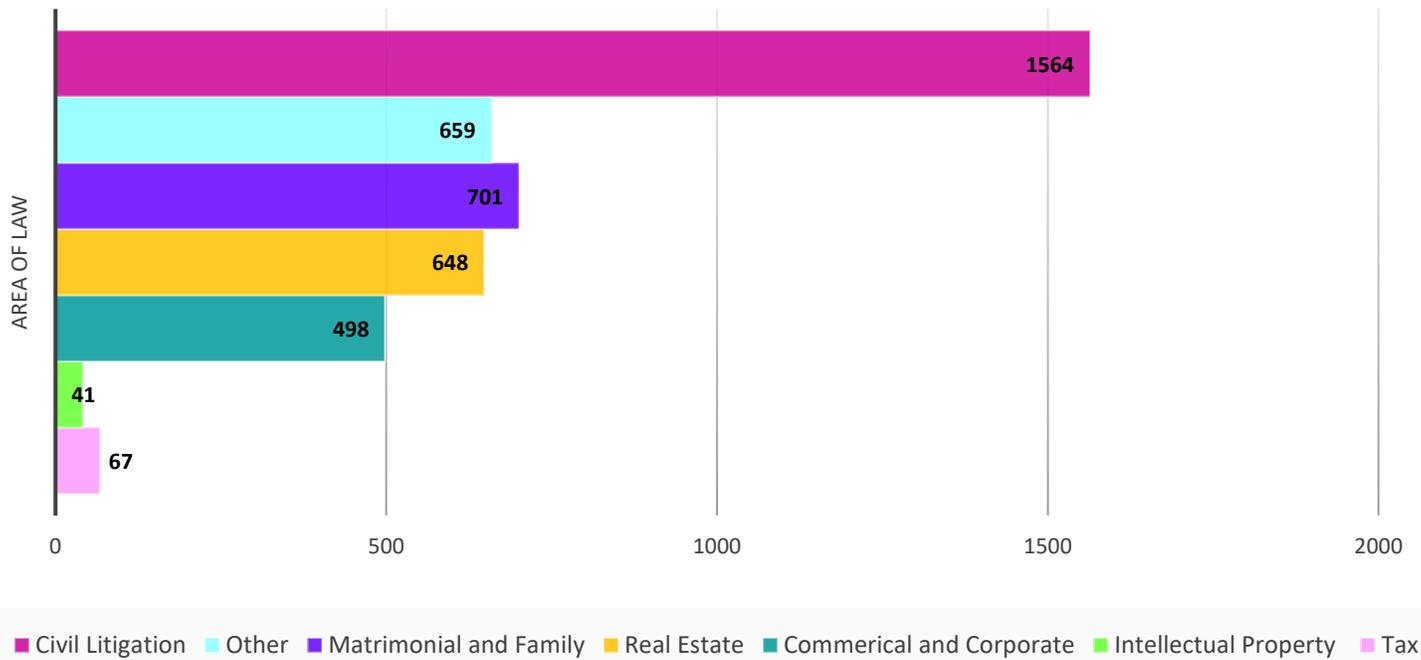
Historical Number of Claims Reported by Area of Law

Policy Year	Civil Litigation	Commercial and Corporate	Intellectual Property	Matrimonial and Family	Real Estate	Tax	Other
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	259	59	7	88	152	12	84
2015-2016	282	86	10	96	143	9	99
2016-2017	269	80	5	118	134	15	111
2017-2018	286	89	9	146	135	13	105
2018-2019	337	112	5	167	121	17	130
2019-2020	294	111	7	126	136	15	141
2020-2021	378	106	15	144	122	7	172

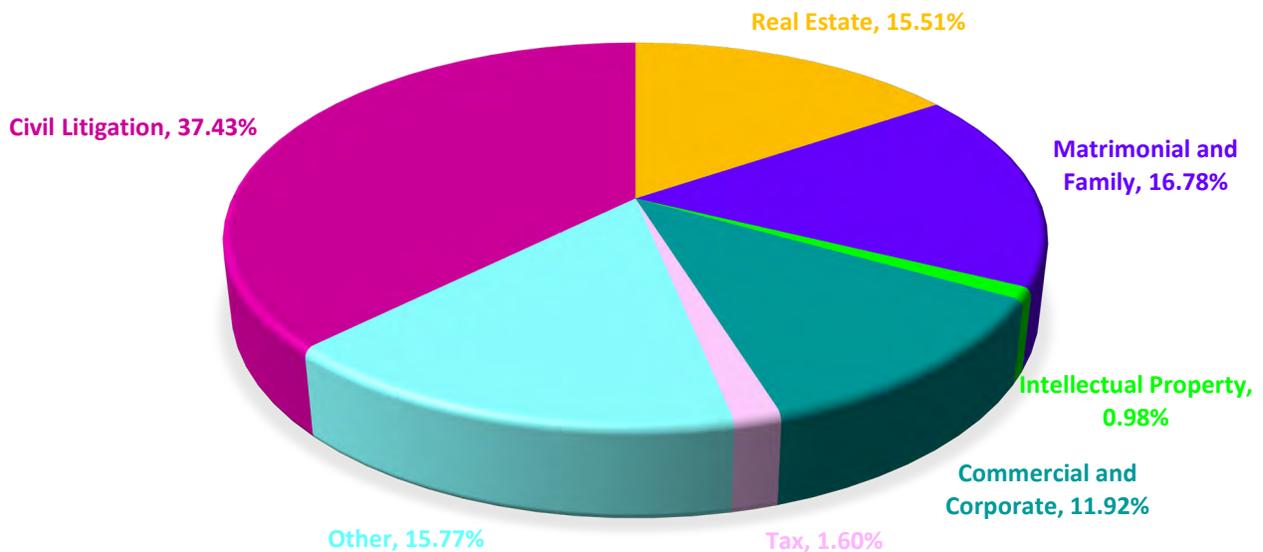
PART A PROFESSIONAL LIABILITY

Distribution of Professional Liability Claims 2016-2017 to 2020-2021

Number of Claims Reported by Area of Law



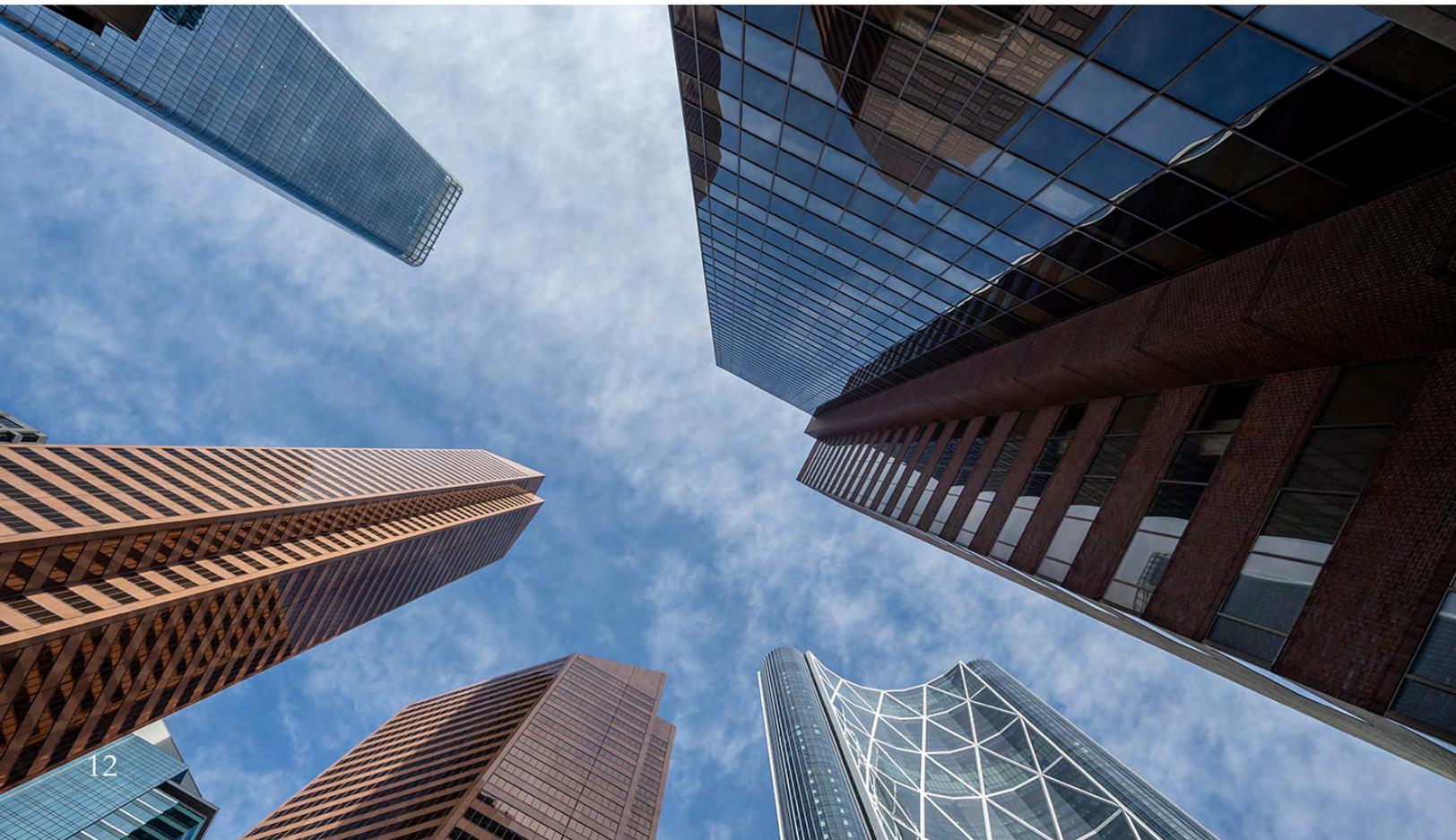
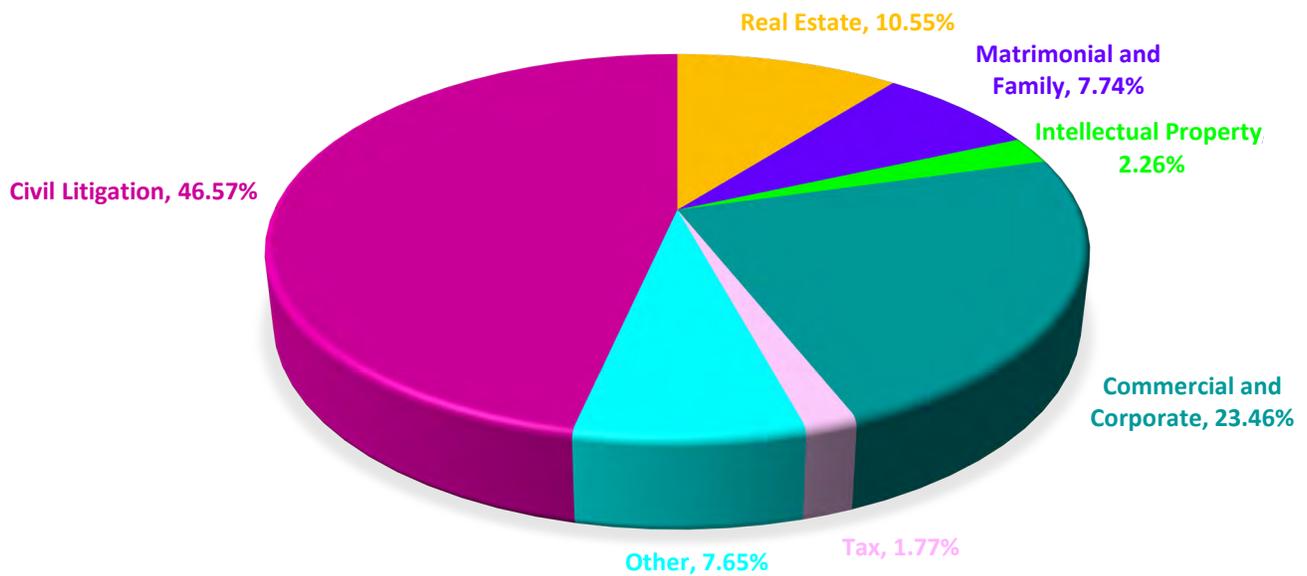
Percentage of Claims Reported by Area of Law



PART A PROFESSIONAL LIABILITY

Incurred Damages and Defence Costs by Area of Law 2016-2017 to 2020-2021

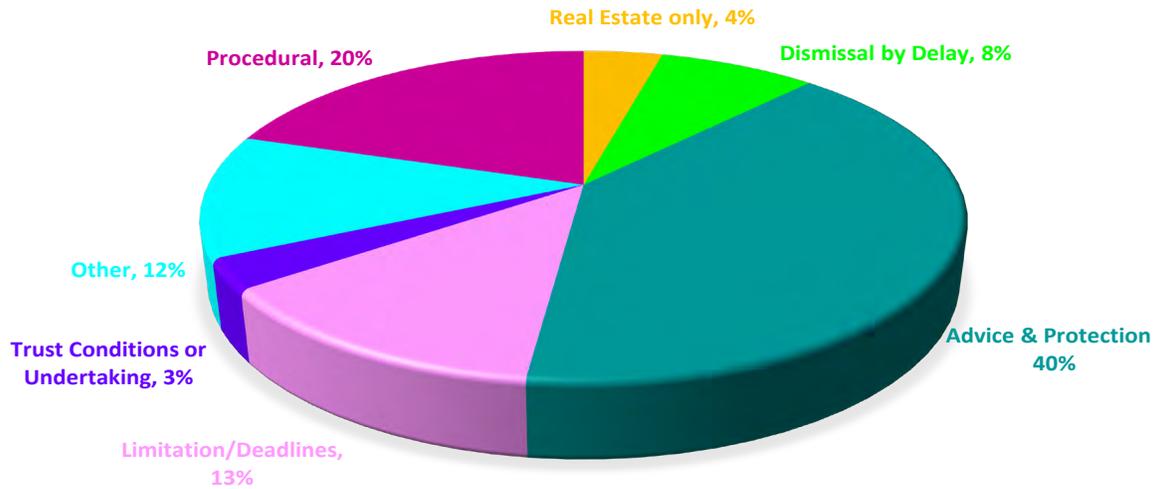
Percentage of Costs by Area of Law



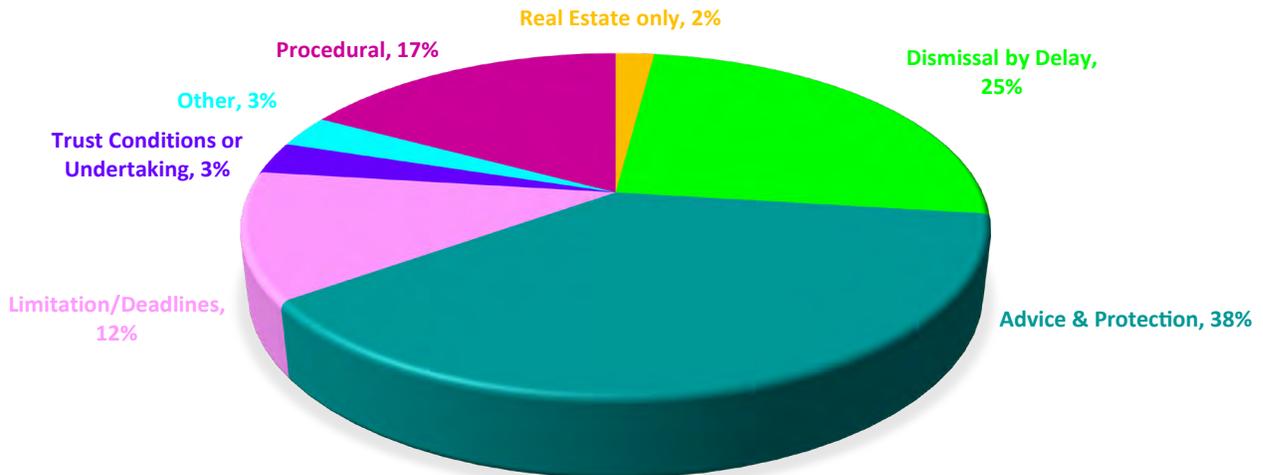
PART A PROFESSIONAL LIABILITY

Type of Error - Part A Claims 2016-2017 to 2020-2021

Percentage of Claims Reported by Error



Percentage of Incurred Damages and Defence Costs by Error

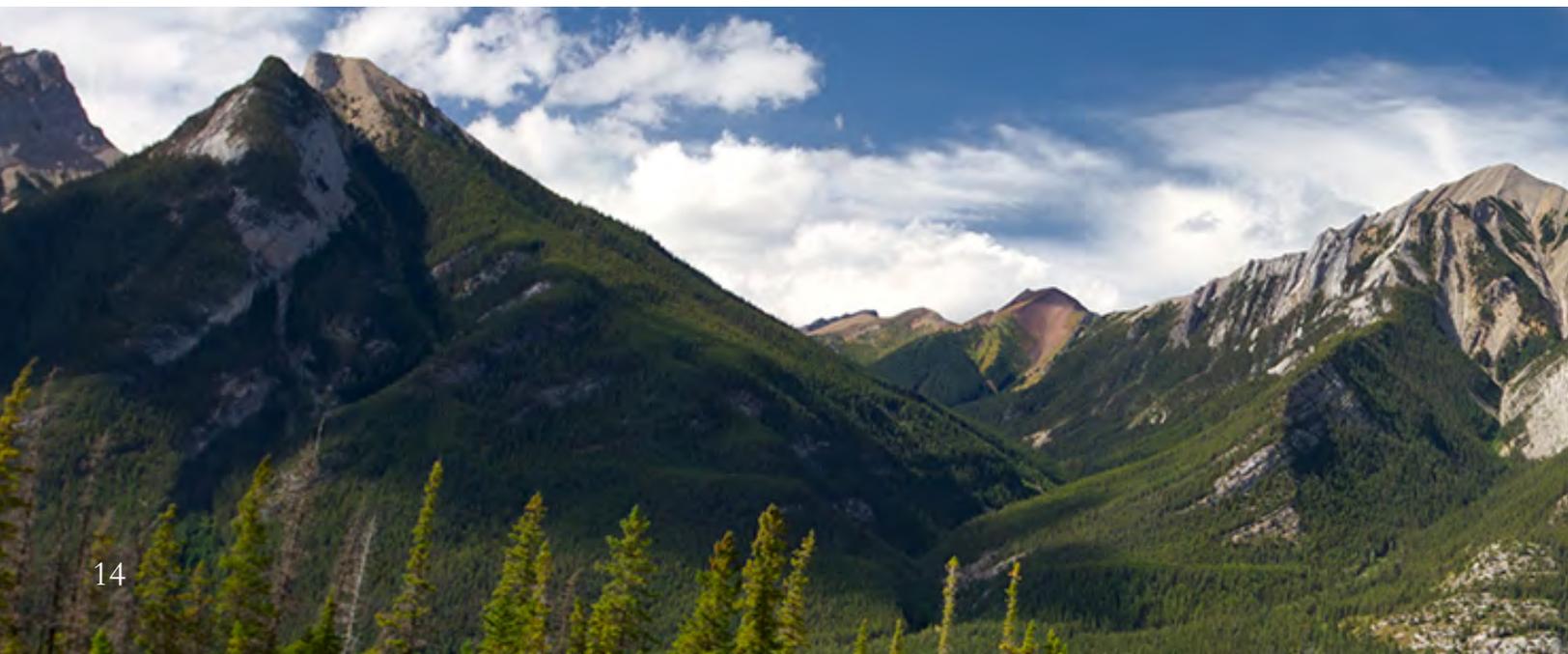
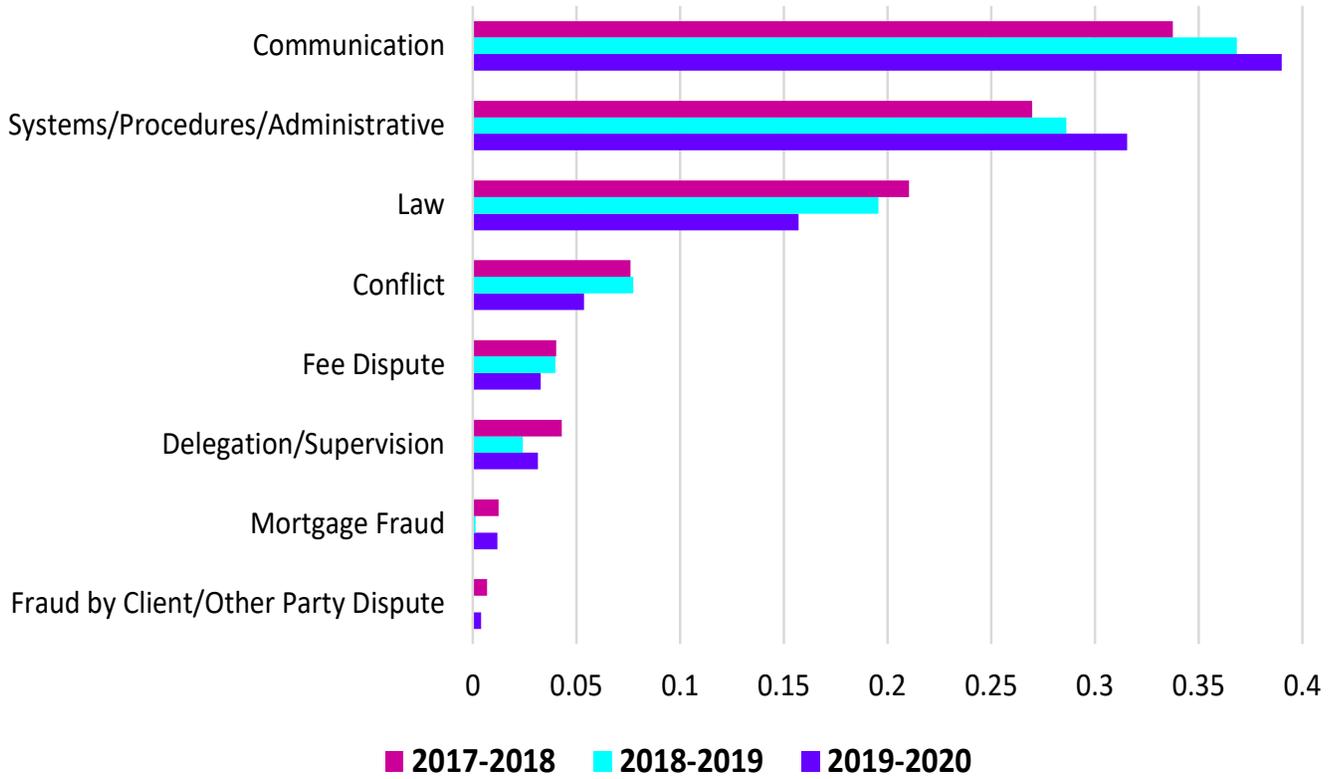


- Limitation and Deadline claims along with Dismissal for Delay claims (Rule 4.31 and Rule 4.33) have generated significant losses. Over the past five years they generated 37% of the losses.
- Rule 4.31 losses were exacerbated by the Court of Appeal decision in *Humphreys v. Trebilcock*, 2017 ABCA 116. Subscribers can take steps to avoid claims by prosecuting their claim in a timely manner. Proper diary systems can also assist with avoiding both 4.31, 4.33 and limitation claims.
- Advice and Protection claims account for 38% of losses. These include failure to refer a client for independent advice and inadequate or incorrect advice. Many of these claims arise from communication errors and lack of file documentation.

PART A PROFESSIONAL LIABILITY

Reason/Cause of Loss - Part A Claims, Policy Years 2018-2019 to 2020-2021

Trends - Reason/Cause of Loss



PART B MISAPPROPRIATION CLAIMS

In 2021, the program saw a substantial decrease in the number of misappropriation claims reported, while experiencing a significant increase in the total dollar amount paid out.

REPORTED CLAIMS	TOTAL RETURNED TO CLIENTS	SUBSCRIBERS WITH CLAIMS	TOTAL RETURNED TO CLIENTS
2021	2021	2021	SINCE INCEPTION (2014)
3	\$1,482,036	2	\$2,250,960
↓ -90%	↑ 373%		126 VICTIMS

SATISFACTION RATING FROM SUBSCRIBERS: 96%

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 2021 saw a claims satisfaction rating of 96%.



PROGRAM LOSS PREVENTION INITIATIVES AND PROJECTS

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.

Communications

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 2021, ALIA brought awareness to a number of fraud-related schemes, some examples of which are linked below:

January 12, 2021
[Social Engineering Scam Dupes Lawyer](#)

March 15, 2021
[Cyber Threat Warning Updated](#)

July 23, 2021
[Lawyer's Digging Unearths Construction Equipment Scam](#)

December 21, 2021
[Holiday Scam Targets Alberta Firms](#)

ALIAdvisories

An ALIAdvisory is a non-urgent 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 7, 2021
[Changes in Foreign Law Coverage, Retirement Coverage, Group Policy FAQs](#)

May 17, 2021
[Levy Reduced Again to an 11- Year Low](#)

November 19, 2021
[Don't miss your opportunity to shape ALIA's future](#)



2021 ALIA BOARD OF DIRECTORS

Steve Raby, Q.C., Chair

Dr. Larry Ohlhauser, MD, Vice-Chair

Diane Brickner, Director

Sheri Epp, Director

Zoe Harrison, Director

Elizabeth Osler, Q.C., Director

Dale Spackman, Q.C., Secretary

Michael Thompson, Director

Linda Vennard, Director

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

PROFESSIONAL ADVISORS

Program Investment Manager - Mawer Investment Management Ltd.

Program Actuary - Nicolas Beaudoin, Willis Towers Watson

Auditor - PricewaterhouseCoopers LLP