



# Minutes

## Benchers

Date: Friday, February 28, 2014

Present:

|   |                      |
|---|----------------------|
| Jan Lindsay, QC, President                        | Jamie Maclaren       |
| Ken Walker, QC, 1 <sup>st</sup> Vice-President    | Sharon Matthews, QC  |
| David Crossin, QC, 2 <sup>nd</sup> Vice-President | Ben Meisner          |
| Haydn Acheson                                     | Nancy Merrill        |
| Joseph Arvay, QC                                  | Maria Morellato, QC  |
| Satwinder Bains                                   | David Mossop, QC     |
| Pinder Cheema, QC                                 | Claude Richmond      |
| David Corey                                       | Phil Riddell         |
| Jeevyn Dhaliwal                                   | Elizabeth Rowbotham  |
| Lynal Doerksen                                    | Herman Van Ommen, QC |
| Thomas Fellhauer                                  | Cameron Ward         |
| Craig Ferris                                      | Tony Wilson          |
| Martin Finch, QC                                  | Barry Zacharias      |
| Miriam Kresivo, QC                                |                      |
| Dean Lawton                                       |                      |
| Peter Lloyd, FCA                                  |                      |

Excused: Lee Ongman  
Greg Petrisor

Counsel Present: Geoffrey Gomery, QC  
(TWU matter only)

Staff Present:

|                     |                 |
|---------------------|-----------------|
| Tim McGee, QC       | Bill McIntosh   |
| Deborah Armour      | Jeanette McPhee |
| Su Forbes, QC       | Doug Munro      |
| Andrea Hilland      | Lesley Small    |
| Jeffrey Hoskins, QC | Alan Treleaven  |
| Ryan Lee            | Adam Whitcombe  |
| Michael Lucas       |                 |

|         |                     |  |
|---------|---------------------|--|
| Guests: | Dom Bautista        | Executive Director, Law Courts Center  |
|         | Kari Boyle          | Executive Director, Mediate BC Society   |
|         | Maureen Cameron     | Director of Membership, Volunteers & Public Affairs ,<br>Canadian Bar Association, BC Branch |
|         | Jay Chalke, QC      | Assistant Deputy Minister, Ministry of Justice, representing<br>the Attorney General         |
|         | Ron Friesen         | CEO, Continuing Legal Education Society of BC  |
|         | Jeremy Hainsworth   | Freelance Reporter   |
|         | Gavin Hume, QC      | Law Society Member of the Council of the Federation of<br>Law Societies of Canada            |
|         | Drew Jackson        | Director of Client Services, Courthouse Libraries BC   |
|         | Anne Pappas, J.D.   | Interim Dean of Law, Thompson Rivers University  |
|         | Richard Parsons     | President, Trial Lawyers Association of BC   |
|         | Alex Shorten        | Vice President, Canadian Bar Association, BC Branch  |
|         | Prof. Jeremy Webber | Dean of Law, University of Victoria  |

## CONSENT AGENDA

### 1. Minutes

#### a. Minutes

The minutes of the meeting held on January 24, 2014 were approved as circulated.

The *in camera* minutes of the meeting held on January 24, 2014 were approved as circulated.

#### b. Resolutions

The following resolution was passed unanimously and by consent.

- Approval of Territorial Mobility Agreement 2013

*BE IT RESOLVED to approve amendments to the Territorial Mobility Agreement 2013 (TMA 2013), and to authorize the President or her designate to execute the TMA 2013 on behalf of the Law Society of British Columbia, as recommended by the Credentials Committee (clean draft of the TMA 2013 is attached as Appendix 1 to these minutes)*

## REPORTS

### 2. Lawyers Insurance Fund: Program Report for 2013

Ms. Forbes presented a review of the Law Society's insurance program (the Lawyers Insurance Fund) for 2013. Ms. Forbes referred to PowerPoint slides throughout her presentation (Appendix 2 to these minutes), addressing the following topics:

- Drivers: Who we are and what we do
  - Who We Are
  - What We Do
- Places of Interest: Part A
  - BC Lawyers
  - Number and Frequency of Reports
  - Claim Payments

- Frequency by Area of Practice
- Severity by Area of Practice
- Closed Reports with No Payment
- Results of Reports
- Insurance Fee History
- Insurance Fee Comparison
  
- Milestones: Part B
  - LSBC Launches Novel ‘Trust Protection’ Insurance Scheme
  - Part B Claims: 2004 – 2013
  - Lawyers with Paid Claims
  - Paid Claims by Source of Trust Funds
  - Payment Time Lines / Comparison with Special Compensation Fund
  
- Signposts: Who we serve and what they think
  - Service Evaluation Forms: Part B
  - Part B: Feedback from Claimants
  - Service Evaluation Forms: Part A
  - Service Evaluation Form Results: Part A

A Question and Answer session followed Ms. Forbes’s presentation.

### **3. Briefing by the Law Society’s Federation Council Member**

Gavin Hume, QC briefed the Benchers as the Law Society’s member of the FLSC Council. He reported on the following matters:

**a. National Admission Standards Meeting (February 20, 2014 at the Law Society Building)**

Don Thompson, QC (Executive Director of the Law Society of Alberta and Chair of the Federation’s National Admissions Standards project) and several Federation staff members met with the Law Society’s Lawyer Education Advisory Committee met on February 20, 2014. A number of other Benchers participated by telephone.

**b. April 3-5 Federation Council Meeting and Conference (April 3-5 in Regina, Saskatchewan)**

The Conference theme will be “pro-active discipline”: addressing issues of risk identification and management. Mr. McGee will chair a half-day session on consistency and fairness in law societies’ discipline processes; Ms. Armour will speak on National Discipline Guidelines and Ms. Lindsay will join Law Society of Upper Canada Treasurer Tom Conway in providing closing remarks.

**c. CBA Code of Professional Conduct – to be phased out**

The Canadian Bar Association has announced their decision to phase out the CBA’s *Code of Professional Conduct*. Mr. Hume sees that decision as a significant reflection of the progress made by the Federation and its member societies in implementation of the Federation’s *Model Code of Professional Conduct*.

**4. President’s Report**

Ms. Lindsay briefed the Benchers on various Law Society matters to which she has attended since the last meeting, including:

**a) American Society of Association Executives (ASAE) Symposium (February 10-11, Phoenix, Arizona)**

Ms. Lindsay and Mr. McGee attended this conference for board chairs and chief executives of not-for-profit organizations. The ASAE represents more than 10,000 organizations, and its annual symposium is the lead educational conference on best practices for ensuring a strong and productive working relationship between chief elected and chief staff officers. Ms. Lindsay noted that the topics on board communication and consultation on difficult issues were particularly relevant to the Law Society.

**b) 2014 Committees and Task Forces Update**

Adjustments have been made to the membership of several 2014 Committees, to address meeting schedule conflicts and Bencher work load issues.

**c) Mandates & Composition for New Task Forces**

Work is progressing on development of draft mandates for two new task forces arising from the recommendations of the Legal Service Providers Task Force that were adopted by the Benchers in December 2013.

#### **d) The Law Society's Bullying and Harassment Policy**

The Law Society has implemented a bullying and harassment policy, responding to workplace bullying and harassment policies issued by WorkSafeBC in November 2013 under the *Workers Compensation Act*. The Act requires BC organizations to have in place a workplace bullying and harassment policy and provide appropriate training. The Law Society's new workplace bullying and harassment policy<sup>1</sup> applies to all those working for the Law Society in any capacity, including management, professional staff, administrative staff, articling students, summer students, and contract personnel. It also applies to Benchers, committee members and volunteers.

Training sessions for Law Society staff, Benchers and volunteers are underway.

### **5. CEO's Report**

Mr. McGee provided highlights of his monthly written report to the Benchers (attached as Appendix 3 to these minutes) including the following matters:

- Introduction
- Report on 2013 Key Performance Measures
- Federation of Law Societies of Canada 2014 Spring Semi-Annual Conference in Regina
- ASAE Symposium for Chief Staff and Elected Officers
- Bencher Retreat Planning
- Financial Statements for Fiscal Year 2013

### **6. Report on 2013 Key Performance Measures**

Mr. McGee reported on the Law Society's key performance measures (KPMs) program and process. 2013 was the seventh successive year that the organization has reported on KPMs,

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<sup>1</sup> The Law Society's new workplace bullying and harassment policy has been posted to the BENCHER RESOURCES and COMMITTEE, TASK FORCE AND WORKING GROUP RESOURCES sections of the Law Society website.

which are intended to provide the Benchers and the public with evidence of the effectiveness of the Law Society's effectiveness in fulfilling its mandate to protect the public interest in the administration of justice.

Mr. McGee provided highlights of the 2013 KPM results, referring the Benchers to page 126 of the meeting materials for the detailed written report. He noted that while the Professional Conduct and Discipline departments use many other metrics to track performance, all but one of the departments' KPMs are based on complainants' surveys regarding satisfaction with the Law Society's handling of their complaints, on the following themes:

- **Timeliness**
  - Target: At least 75% of Complainants express satisfaction with timeliness
    - ✓ **2013 Result – 74%**
- **Fairness**
  - Target: At least 65% of Complainants express satisfaction with fairness
    - ✓ **2013 Result – 64%**
- **Courtesy**
  - Target: At least 90% of Complainants express satisfaction with courtesy
    - ✓ **2013 Result – 91%**
- **Thoroughness**
  - Target: At least 65% of Complainants express satisfaction with thoroughness
    - ✓ **2013 Result – 59%**
- **Would Recommend**
  - Target: At least 60% of Complainants would recommend the complaint process
    - ✓ **2013 Result – 61%**

Mr. McGee pointed out that there are inherent limitations regarding interpretation and reliability of complainants' survey responses: particularly the tension between perceptions of "timeliness" and "thoroughness" and the impact of dissatisfaction with results on complainants' perceptions.

He explained that there can be a perception that on the part of a complainant that if the Law Society closed their file quickly, it could not have been investigated thoroughly.

Ms. Armour noted that there is a close connection between results of an investigation and complainant satisfaction. 87 per cent of complaints files handled in 2013 were closed at the staff level. Most complainants are not happy that their files have been closed, sometimes because the Law Society does not have jurisdiction. In cases where Law Society staff were able to resolve the issue between a client and their lawyer, client survey results were generally very positive. Timeliness of the Law Society's handling of complaint files has improved significantly in recent years. 98 per cent of complaint files closed in 2012 were closed within one year: our highest 'timeliness' rate ever and significantly better than the National Discipline Standard of 80 per cent. Ms. Armour also noted follow-up telephone surveys are being considered to address the current lack of evidence regarding complainants' rationale for their survey responses.

Mr. McGee commented that currently no other Canadian law societies operate a performance assessment program comparable to the Law Society's Key Performance Measures program.

## **7. Reports on Outstanding Hearing Decisions and Conduct Review Reports**

Written reports on outstanding hearing decisions and conduct review reports were received and reviewed by the Benchers.

## **DISCUSSION/ DECISION**

### **8. Governance Committee: 2013 Bencher and Committee/Task Force Evaluations**

Ms. Kresivo briefed the Benchers as chair of the 2014 Governance Committee regarding evaluations completed by the 2013 Benchers and other members of the Law Society's 2013 committees and task forces. She referred to the Committee's report at page 189 of the meeting materials for background on the evaluation process and analysis of the results. Ms. Kresivo reported that in mid-December 2013, all of the Benchers and all the members of the 2013 committees and task forces were provided with links to online evaluation forms and asked to complete the forms by year-end. By December 31, 2013, 25 of 31 Benchers (81%) and 104 of 131 members of committees and task forces (79%) had completed their evaluation forms.

Ms. Kresivo confirmed that the evaluations indicated generally high levels of satisfaction with relationships with Law Society management and the Benchers' own working processes. She highlighted three issues regarding which the evaluations indicated Bencher interest in more information:

- CEO succession-planning



- Enterprise risk assessment and management
- Bencher involvement in LS budget process

Ms. Kresivo referred to paragraphs 26 – 29 of the Governance Committee’s report for (page 198) for the Committee’s recommendations to the Benchers:

...

26. The Benchers should encourage the Executive Committee to follow up on Mr. McGee’s memorandum and bring the matter of succession planning forward to the Benchers so that the Benchers can meet their obligation to ensure there is an adequate CEO succession plan in place.
27. The Benchers should consider more frequent reporting on the enterprise risk management plan, perhaps as a stand-alone item on the Bencher agenda.
28. The Benchers should be encouraged to attend separate budget sessions and the Chair of the Finance & Audit Committee should continue to present the budget and fees to the Benchers.
29. The Chairs of the 2014 committees and task forces should review the 2013 evaluation responses for their respective committee or task force to consider whether the responses might signal opportunities for improvement.

Ms. Lindsay requested that the Benchers express any concerns they might have with those recommendations. None were expressed.

Ms. Kresivo acknowledged Adam Whitcombe, Chief Information and Planning Officer, for his able assistance in preparing the Governance Committee’s report.

Mr. Walker encouraged interested Benchers to attend upcoming meetings of the Finance and Audit Committee (April 10 and April 24).

## **9. Proposed Trinity Western University (TWU) Faculty of Law**

- **Process Update for April 11 Bencher Meeting**

Ms. Lindsay reviewed the contents of her memorandum to the Benchers (page 255 of the meeting materials). She stressed the importance of ensuring procedural fairness and maintaining an open, transparent process throughout the Benchers’ consideration of this matter. Ms. Lindsay also addressed the Benchers on issues relating to their avoidance of apprehension of bias and conflict of interest.

Mr. McGee provided an update regarding the Law Society's receipt of online submissions on the TWU matter. He confirmed that about 170 such submissions have been received to date. The submissions being reviewed and collated by Law Society staff prior to circulation to Benchers and TWU, in an orderly manner and well in advance of the April 11 Bencher meeting.

Mr. McGee outlined recent developments in other jurisdictions.

Mr. Walker briefed the Benchers on his attendance at the recent Canadian Bar Association National Council meeting, particularly regarding the debate and passage of a resolution urging Canada's law societies and their national coordinating body to require all legal education programs to offer equal opportunity to all, without discrimination.

Ms. Lindsay outlined the process being planned for the April 11 Bencher meeting and invited questions and discussion of related issues, particularly noting the importance of the Benchers refraining from the expression of their views on the merits of TWU's application for law school accreditation until after a motion calling for adoption of an appropriate resolution has been moved and seconded.

In the ensuing discussion the following issues were raised:

- whether non-Benchers will be permitted to speak at the Bencher meeting
  - it was confirmed that the meeting will not be an open forum and will be conducted under the Rules governing Bencher meetings
    - Benchers and Life-Benchers may address the meeting orally
    - otherwise, submissions are to be made in writing and in advance
- whether Benchers' *in camera* deliberation is planned to precede their vote on the TWU matter
  - an *in camera* session is not planned
- when should Benchers share their personal views on the merits of TWU's application
  - at the April 11 meeting, after an appropriate resolution has been moved and seconded
- Mr. Mossop requested that the Law Society endeavour to obtain and provide to the Benchers the following information in advance of the April 11 meeting:

- copy of BC Human Rights Commission Annual Report that sets out complaints and statistics on areas of discrimination
- copy of the Law Society Equity Ombudsperson's 2011 report on areas of discrimination
  - background on the four discrimination complaints referred to therein
- information from the Canadian law deans regarding any trouble with they have had with Trinity Western graduates, in particular in the area of anti-gay activities
- information on the American Bar Association's anti discrimination policy, and particularly details and background regarding any exemption for religious law schools
- Law Society discipline matters regarding anti-gay activity
- information from Trinity Western University regarding
  - number of people who have been disciplined (including warnings and informal meetings) for engaging in activities prohibited by TWU's Community Covenant
  - breakdown and details of areas of discipline at TWU
- logistics and protocol for webcasting the April 11 meeting
- confirmation that members of the public may provide anonymous submissions for the Benchers' consideration
- process and protocol for the TWU deliberation being planned for the April 11 Bencher meeting

At the conclusion of the discussion a notice of motion (Appendix 4 to these minutes) was circulated, which Ms. Lindsay confirmed is expected to be moved and seconded as the basis for the Benchers' debate and deliberations of the TWU matter at the April 11 meeting.

The Benchers discussed other matters *in camera*.

WKM  
2014-03-21

*Federation of Law Societies  
of Canada*



*Fédération des ordres professionnels  
de juristes du Canada*

## **TERRITORIAL MOBILITY AGREEMENT 2013**

## Territorial Mobility Agreement 2013

# FEDERATION OF LAW SOCIETIES OF CANADA

April 2014

## Introduction

The purpose of this Agreement is to extend the scope of the National Mobility Agreement 2013 (“NMA 2013”) in facilitating permanent mobility of lawyers between Canadian jurisdictions.

While the signatories participate in this Agreement voluntarily, they intend that only lawyers who are members of signatories that have implemented reciprocal provisions in their jurisdictions will be able to take advantage of the provisions of this Agreement.

The signatories recognize that

- they have a duty to the Canadian public and to their members to regulate the inter-jurisdictional practice of law so as to ensure that their members practise law competently, ethically and with financial responsibility, including professional liability insurance and defalcation compensation coverage, in all jurisdictions of Canada,
- differences exist in the legislation, policies and programs pertaining to the signatories, including those differences between common law and civil law jurisdictions in Canada, and lawyers have a professional responsibility to ensure that they are competent with respect to any matter that they undertake, and
- it is desirable to facilitate a nationwide regulatory regime for the inter-jurisdictional practice of law to promote uniform standards and procedures, while recognizing the exclusive authority of each signatory within its own legislative jurisdiction.

## Background

In August, 2002, the Federation of Law Societies of Canada (the “Federation”) approved the report of the National Mobility Task Force (“the Task Force”) for the implementation of full mobility rights for Canadian lawyers. This led to adoption of the National Mobility Agreement (“NMA”) by all provincial law societies other than the Chambre des notaires du Québec (“Chambre”).

## Territorial Mobility Agreement 2013

The resolution adopted by the Federation in approving the report of the Task Force included an acknowledgement that “the unique circumstances of the law societies of Yukon, the Northwest Territories and Nunavut necessitate special considerations that could not be undertaken within the time frame prescribed in the Task Force’s terms of reference, but should be undertaken in the future.”

In 2006 all law societies other than the Chambre signed the Territorial Mobility Agreement (“TMA”). To recognize the unique circumstances of the territorial law societies, the agreement provided for reciprocal permanent mobility between the law societies of the provinces and the territories, without requiring the territorial law societies to participate in the temporary mobility provisions of the NMA. The original term of the TMA was five years. In 2011 the agreement was renewed without a termination date.

In March 2010, all Canadian law societies except the Chambre signed the Quebec Mobility Agreement (“QMA”), facilitating reciprocal mobility between Quebec and the common law jurisdictions. The mobility provisions set out in the QMA were extended to members of the Chambre in March 2012 with the signing by all law societies of the Addendum to the QMA.

The signatories to the NMA and the Chambre have now approved a revised agreement that extends the permanent mobility provisions of the NMA to mobility to and from the Barreau du Québec and incorporates the mobility provisions of the QMA and the Addendum to the QMA applicable to the Chambre. The “NMA 2013” was executed in October 2013.

This Agreement has been amended to ensure that references to the relevant clauses of the NMA 2013 are accurate.

The signatories to this Agreement who are not signatories to the NMA 2013 do not hereby subscribe to the provisions of the NMA 2013, except as expressly stated in this Agreement.

THE SIGNATORIES AGREE AS FOLLOWS:

### Definitions

1. In this Agreement, unless the context indicates otherwise:

**“governing body”** means the Law Society or Barristers’ Society in a Canadian common law jurisdiction, and the Barreau;

### Territorial Mobility Agreement 2013

“**home governing body**” means any or all of the governing bodies of the legal profession in Canada of which a lawyer is a member, and “**home jurisdiction**” has a corresponding meaning;

“**Inter-Jurisdictional Practice Protocol**” means the 1994 Inter-Jurisdictional Practice Protocol of the Federation of Law Societies of Canada, as amended from time to time;

“**lawyer**” means a member of a signatory governing body;

“**liability insurance**” means compulsory professional liability errors and omissions insurance required by a governing body;

“**National Mobility Agreement 2013**” or “**NMA 2013**” means the National Mobility Agreement 2013 of the Federation of Law Societies of Canada, as amended from time to time;

“**permanent mobility provisions**” means clauses 33 to 40, and 43 to 50 of the NMA 2013;

“**practice of law**” has the meaning with respect to each jurisdiction that applies in that jurisdiction;

“**Registry**” means the National Registry of Practising Lawyers established under clause 18 of the NMA 2013;

## General

2. The signatory governing bodies will
  - (a) use their best efforts to obtain from the appropriate legislative or supervisory bodies amendments to their legislation or regulations necessary or advisable in order to implement the provisions of this Agreement;
  - (b) amend their own rules, by-laws, policies and programs to the extent they consider necessary or advisable in order to implement the provisions of this Agreement;
  - (c) comply with the spirit and intent of this Agreement to facilitate mobility of Canadian lawyers in the public interest and strive to resolve any differences among them in that spirit and in favour of that intent; and
  - (d) work cooperatively to resolve all current and future differences and ambiguities in legislation, policies and programs regarding inter-jurisdictional mobility.

### Territorial Mobility Agreement 2013

3. Signatory governing bodies will subscribe to this Agreement and be bound by it by means of the signature of an authorized person affixed to any copy of this Agreement.
4. A signatory governing body will not, by reason of this Agreement alone,
  - (a) grant to a lawyer who is a member of another governing body greater rights to provide legal services than are permitted to the lawyer by his or her home governing body; or
  - (b) relieve a lawyer of restrictions or limits on the lawyer's right to practise, except under conditions that apply to all members of the signatory governing body.
5. Amendments made under clause 2(b) will take effect immediately on adoption with respect to members of signatory governing bodies that have adopted reciprocal provisions.

#### **Permanent Mobility**

6. The signatories that are signatories to the NMA 2013 agree to extend the application of the permanent mobility provisions of the NMA 2013 with respect to the territorial signatories to this Agreement.
7. The territorial signatories agree to adopt and be bound by the permanent mobility provisions of the NMA 2013.
8. A signatory that has adopted regulatory provisions giving effect to the permanent mobility requirements of the NMA 2013 is a reciprocating governing body for the purposes of permanent mobility under this Agreement, whether or not the signatory has adopted or given effect to any other provisions of the National Mobility Agreement.

#### **Transition Provisions**

9. This Agreement is a multi-lateral agreement, effective respecting the governing bodies that are signatories, and it does not require unanimous agreement of Canadian governing bodies.
10. Provisions governing permanent mobility in effect at the time that a governing body becomes a signatory to this Agreement will continue in effect until this agreement is implemented.



## **Territorial Mobility Agreement 2013**

### **Dispute Resolution**

- 11.** Signatory governing bodies adopt and agree to apply provisions in the Inter-Jurisdictional Practice Protocol in respect of arbitration of disputes, specifically Clause 14 and Appendix 5 of the Protocol.

### **Withdrawal**

- 12.** A signatory may cease to be bound by this Agreement by giving each other signatory written notice of at least one clear calendar year.
- 13.** A signatory that gives notice under clause 12 will immediately notify its members in writing of the effective date of withdrawal.

**Territorial Mobility Agreement 2013**

**SIGNED on the**     day of                     , 2014.

**Law Society of British Columbia**

**Law Society of Alberta**

Per: \_\_\_\_\_  
          Authorized Signatory

Per: \_\_\_\_\_  
          Authorized Signatory

**Law Society of Saskatchewan**

**Law Society of Manitoba**

Per: \_\_\_\_\_  
          Authorized Signatory

Per: \_\_\_\_\_  
          Authorized Signatory

**Law Society of Upper Canada**

**Barreau du Québec**

Per: \_\_\_\_\_  
          Authorized Signatory

Per: \_\_\_\_\_  
          Authorized Signatory

**Chambre des notaires du Québec**

**Law Society of New Brunswick**

Per: \_\_\_\_\_  
          Authorized Signatory

Per: \_\_\_\_\_  
          Authorized Signatory

**Territorial Mobility Agreement 2013****Nova Scotia Barristers' Society**

Per: \_\_\_\_\_  
Authorized Signatory

**Law Society of Prince Edward Island**

Per: \_\_\_\_\_  
Authorized Signatory

**Law Society of Newfoundland and Labrador**

Per: \_\_\_\_\_  
Authorized Signatory

**Law Society of Yukon**

Per: \_\_\_\_\_  
Authorized Signatory

**Law Society of the Northwest Territories**

Per: \_\_\_\_\_  
Authorized Signatory

**Law Society of Nunavut**

Per: \_\_\_\_\_  
Authorized Signatory



*Lawyers  
Insurance  
Fund*

# Lawyers Insurance Fund

## 2013 Year End Report

# Program Report Roadmap



- Drivers: Who we are and what we do
- Places of Interest: Part A
- Milestones: Part B
- Signposts: Who we serve and what they think

# Who We Are



Su Forbes QC



Margrett  
George



Murray  
Patterson



Ian  
Maclaren



Edna  
Ritchie



Megan  
Swail



Kate  
McLean



Leanne  
Wood



Surindar  
Nijjar



Marlon  
Song



Coran Cooper-  
Stephenson



Bena  
Stock



Richard  
Panton

# What We Do

## Claims Management

- investigate coverage, liability and quantum
- repair, defend and negotiate resolutions

## Coverage Inquiries

- over 400 insurance and coverage inquiries including almost 270 written “advance rulings”

## Dealing with Excess Carriers and Reinsurers

- CBELA, GAIC, CLLAS, Argo, Navigators, Pembroke, Chaucer

## Defence Counsel Management

- provide feedback and education

## Risk Management

- publications – web and print
- presentations to CBA, CLE, TLABC, firms and PLTC

## LSBC Directors & Officers Policy

- negotiate terms; manage claims

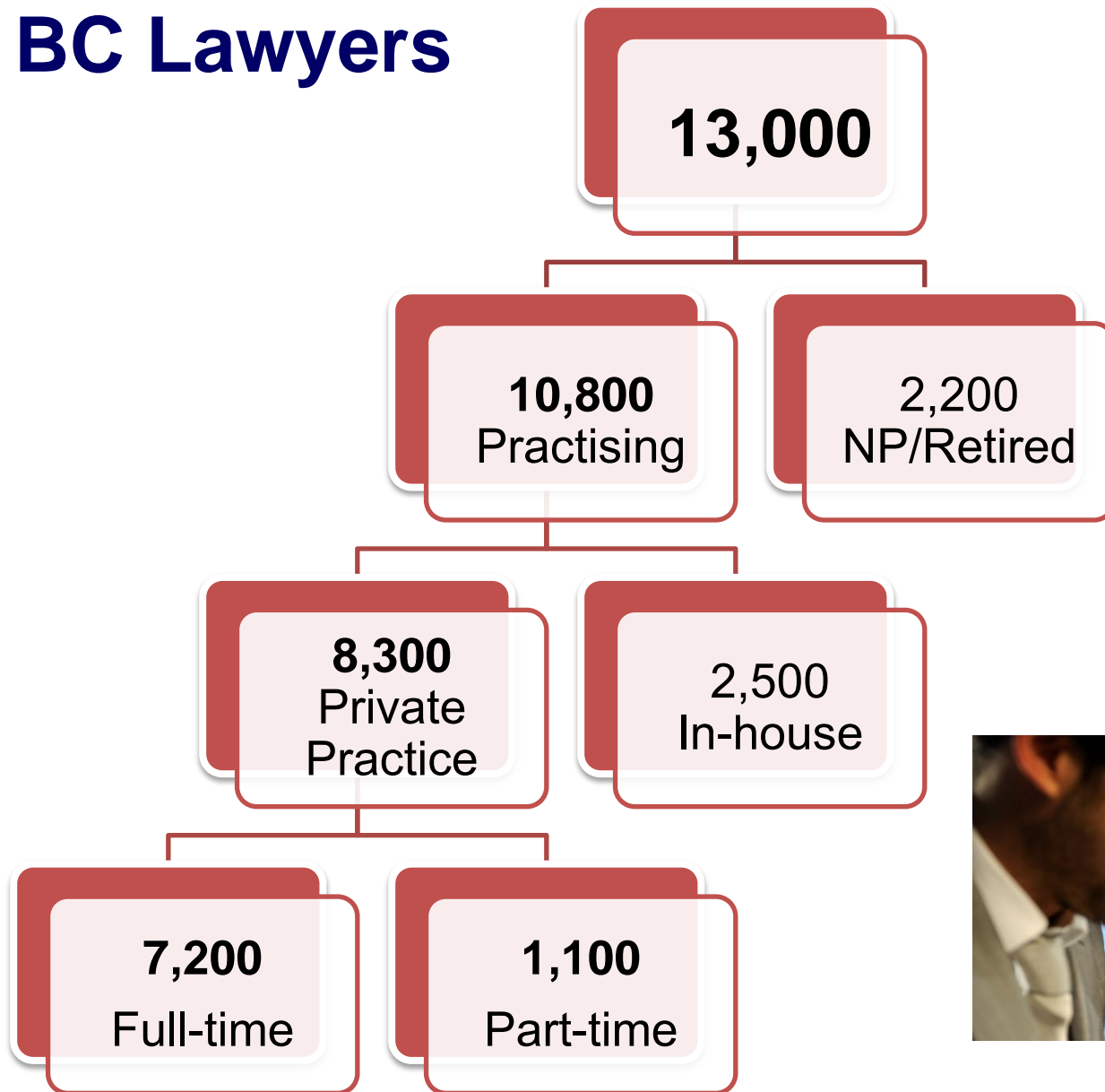


# Program Report Roadmap

- Drivers: Who we are and what we do
- **Places of Interest: Part A**
- Milestones: Part B
- Signposts: Who we serve and what they think

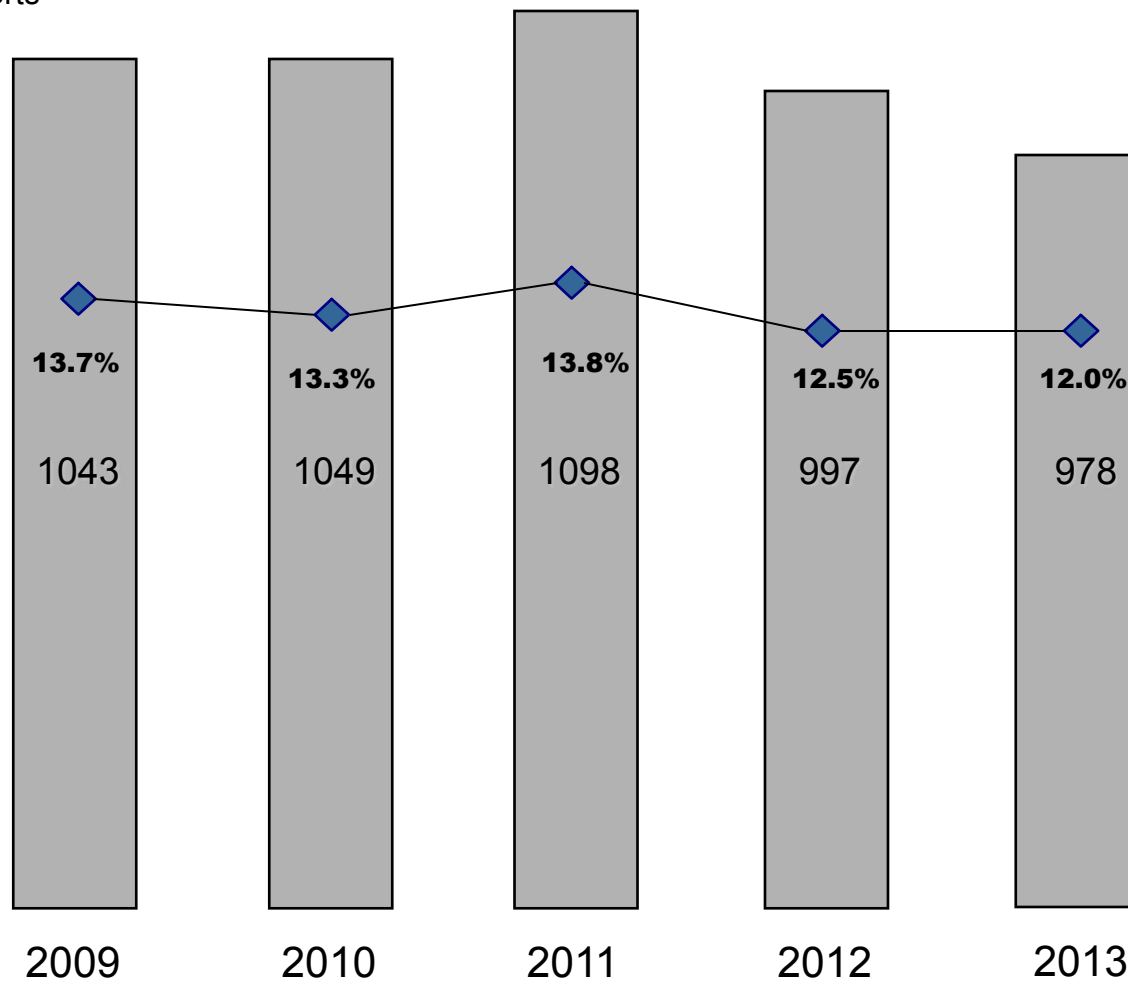


# BC Lawyers



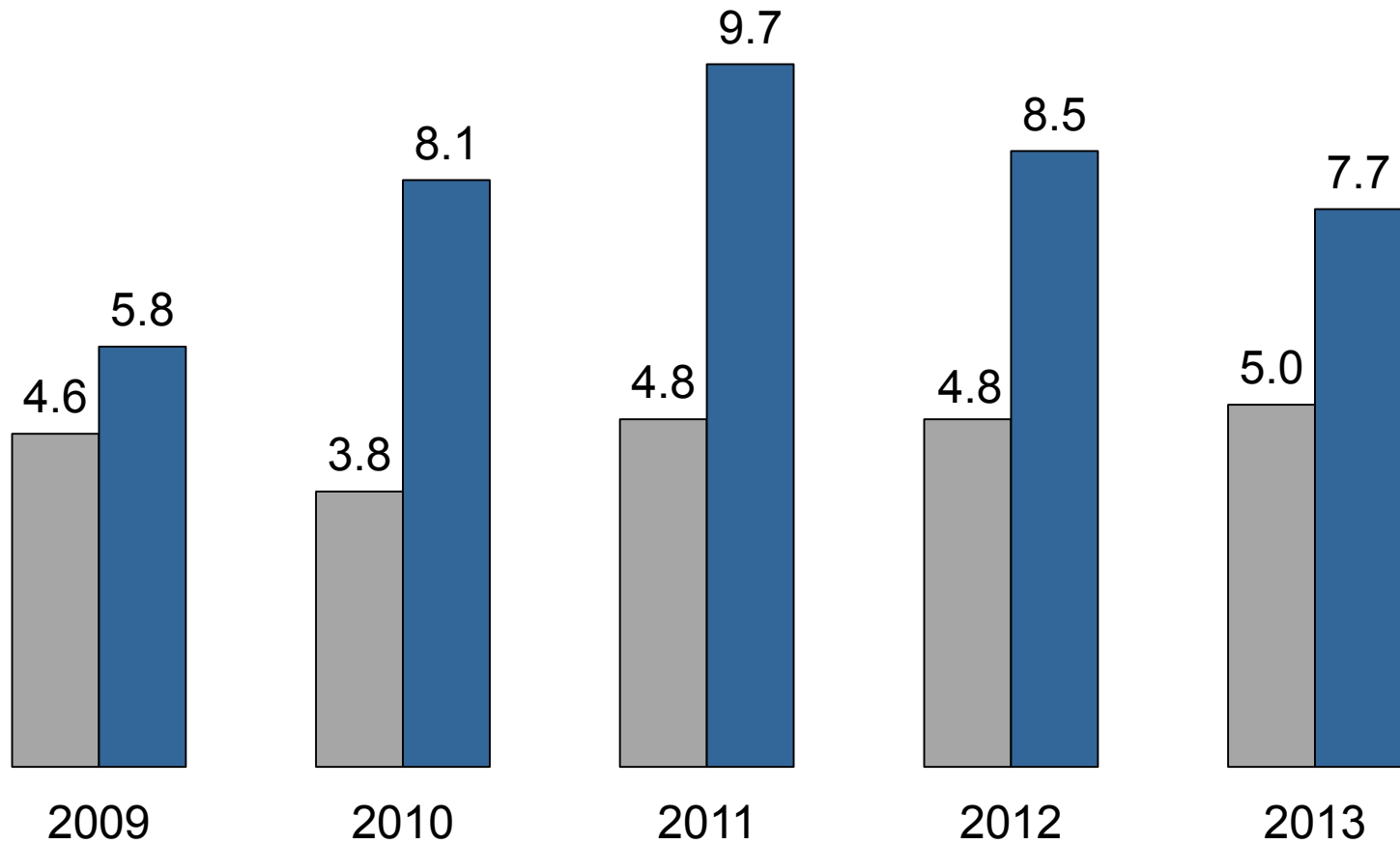
# Number and Frequency of Reports

■ Number of Reports  
◆ Frequency of Reports

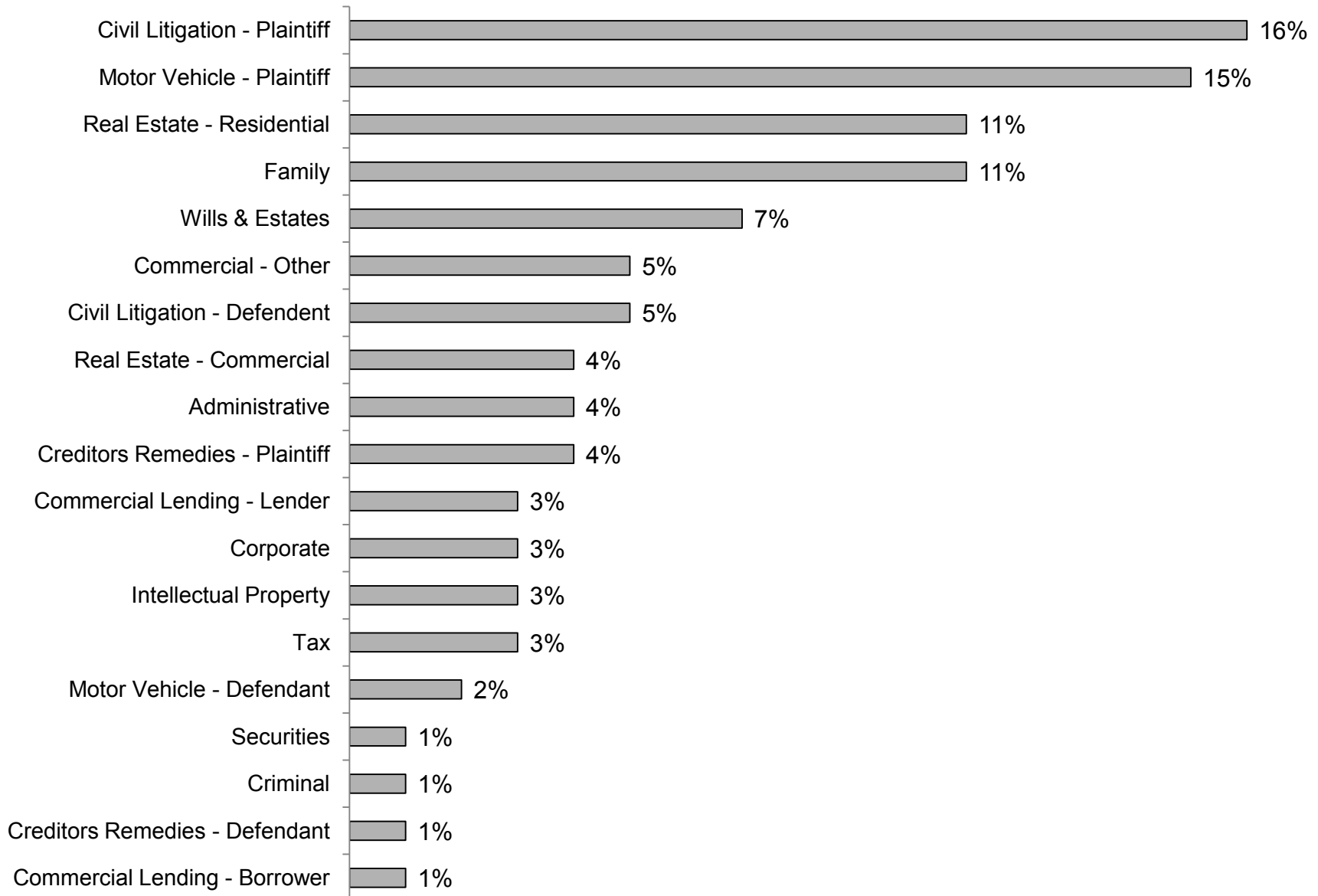


# Claim Payments

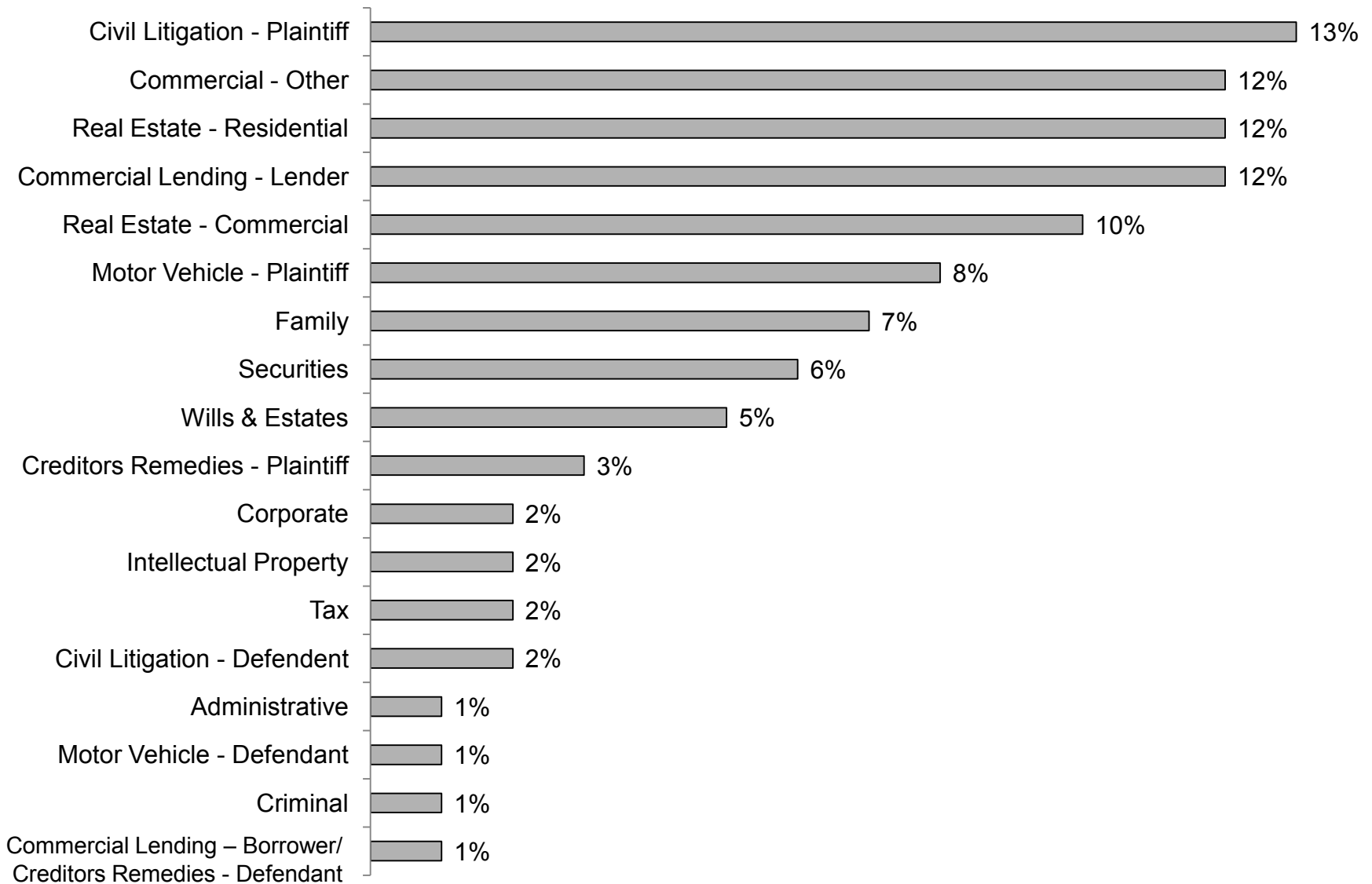
Expense  
Indemnity



# Frequency by Area of Practice

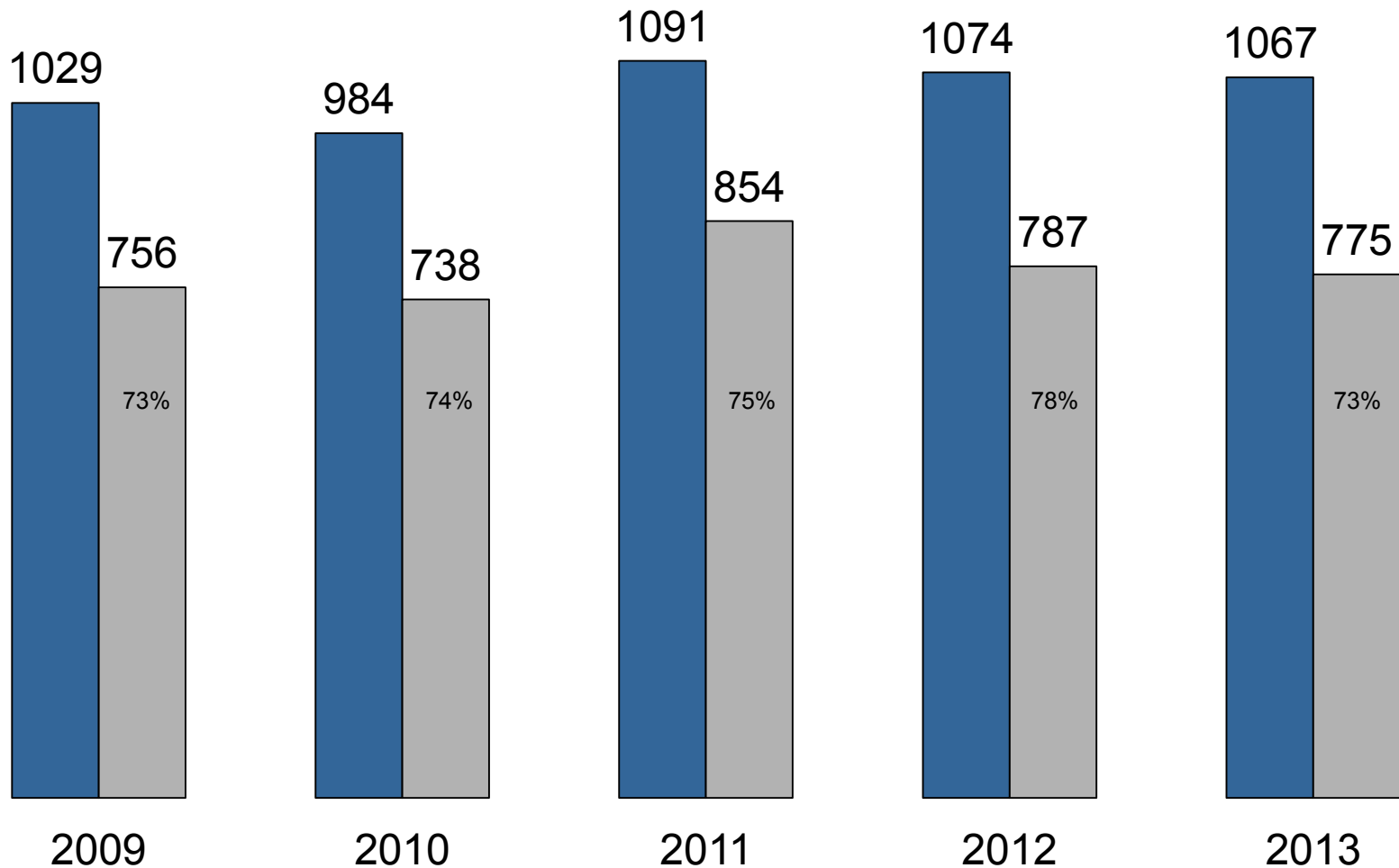


# Severity by Area of Practice

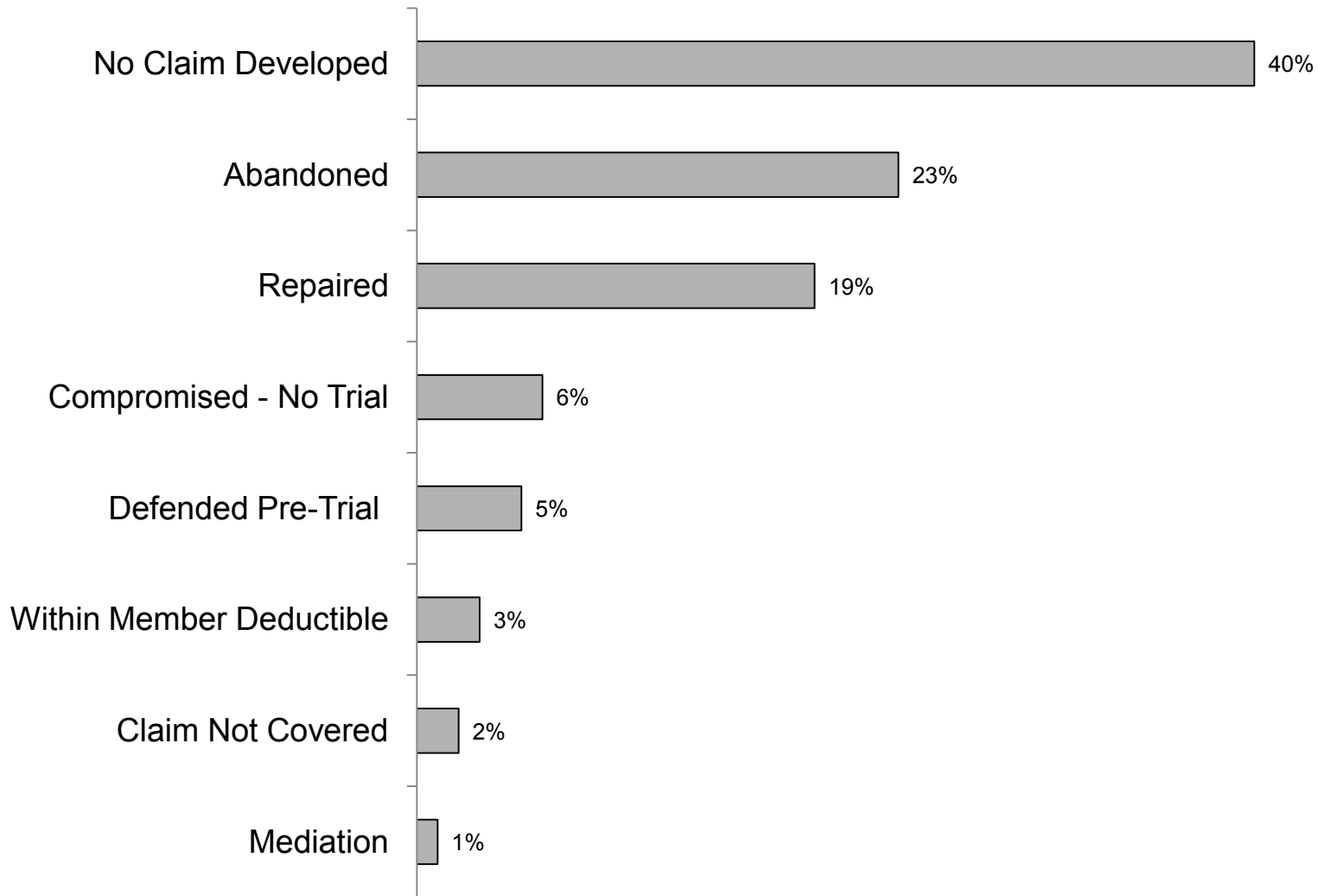


# Closed Reports with No Payment

- Total Reports Closed
- Reports Closed with No Payment

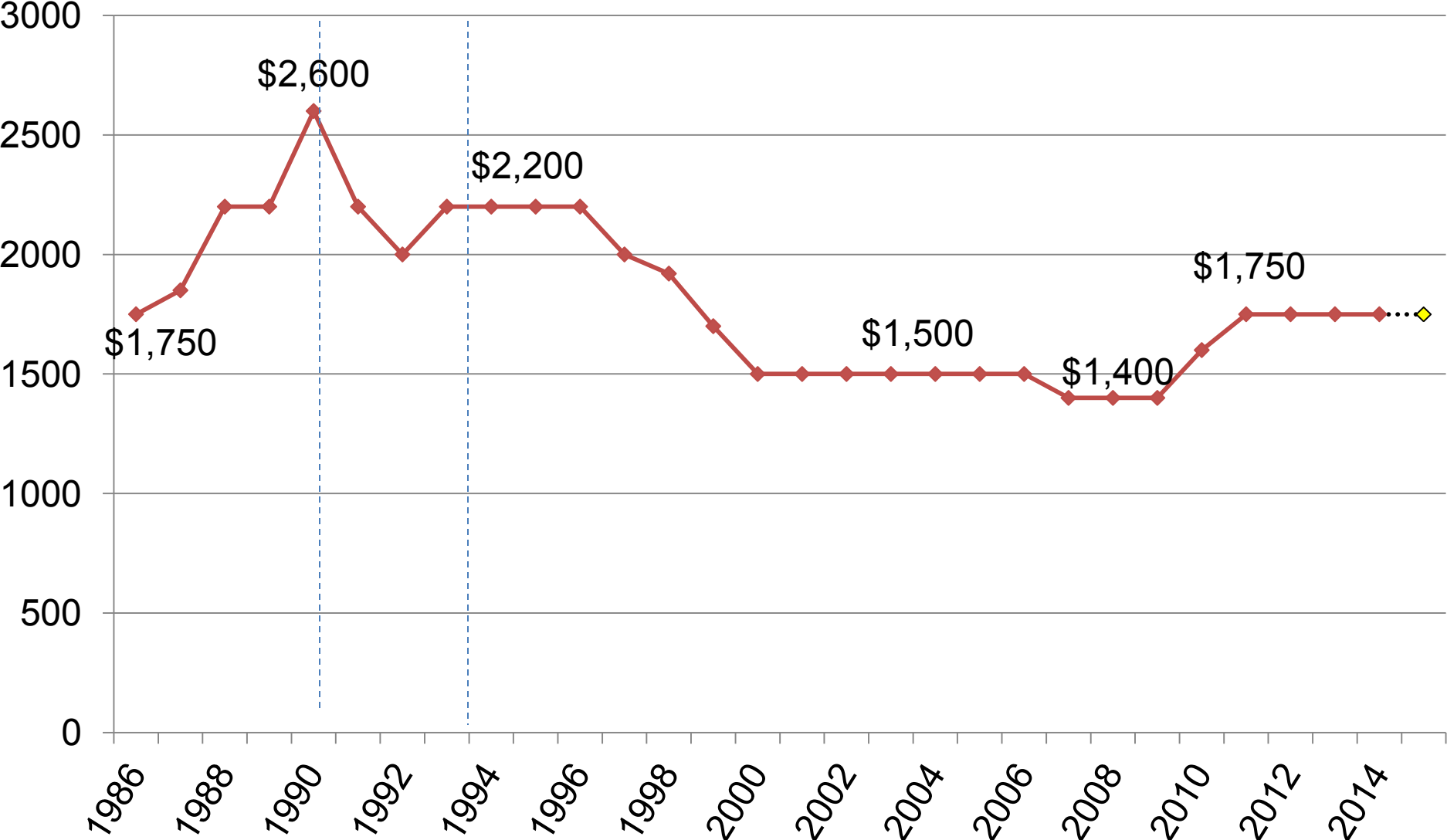


# Results of Reports



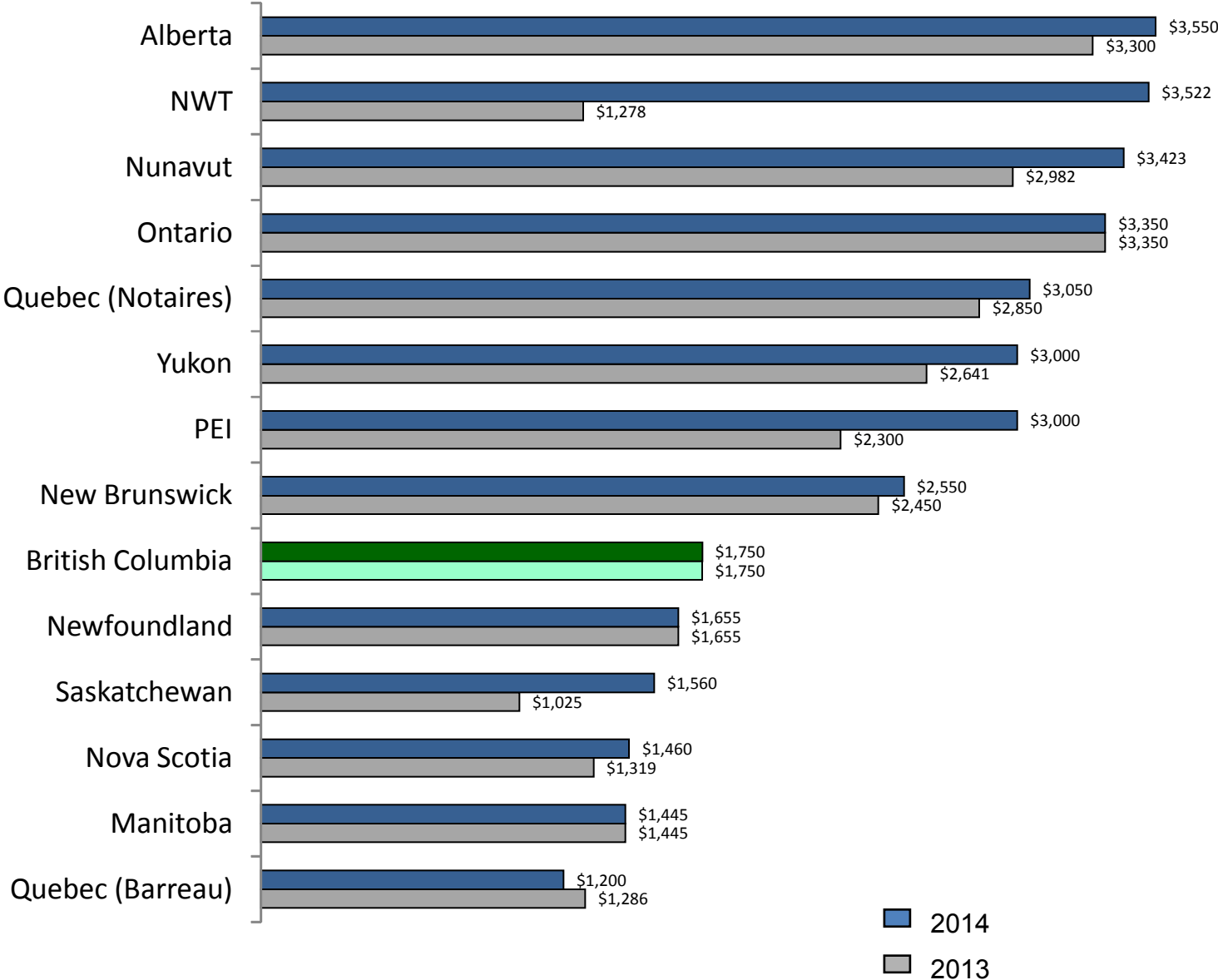
# Insurance Fee History

\$200,000    \$500,000    \$1,000,000    →





# Insurance Fee Comparison



# Program Report Roadmap



- Drivers: Who we are and what we do
- Places of Interest: Part A
- **Milestones: Part B**
- Signposts: Who we serve and what they think

# LSBC launches novel 'trust protection' insurance scheme

By Gary Oakes  
Victoria

In a world first, compulsory professional liability insurance for B.C. lawyers now includes "Part B" or "trust protection" coverage for claims arising from the theft of money or property from clients.

"This is a unique and elegant approach for protecting the public from theft by lawyers," said Su Forbes, director of insurance for the Law Society of B.C. (LSBC).

"It's the first of its kind in the world," she told *The Lawyers Weekly*.

"With the addition of Part B coverage, the Law Society has consolidated the processes for responding to claims in which a member of the public suffers a loss when dealing with a lawyer.

"Whether the claim is for negligence [Part A] or theft, the policy responds and the Lawyers Insur-

ance Fund provides the claims handling expertise."

Forbes explained that while such thefts are rare, "the legal profession believes that innocent members of the public should not suffer financial hardship because of the actions of a few dishonest lawyers.

"Lawyers value the public's trust and do not want to see the integrity and reputation of the profession stained by the dishonest actions of a few.

"It is for this reason that the Law Society provides trust protection coverage" to reimburse a claimant. All lawyers in the province, whether a sole practitioner or a partner in a large firm, enjoy the same coverage under the policy."

She said the key thing lawyers and the public will notice "is the shorter time frame for processing claims arising from lawyer misappropriation."

Under the old system, she recounted, such claims were investigated by staff and then presented to a committee of Benchers, which weighed the evidence and then issued written reasons approving or rejecting the claim. That's still the case for most compensation funds run by Canadian law societies.

Now, in B.C. at least, staff of the LSBC's Lawyers Insurance Fund "can process the claims as they do any other insurance claim," Forbes said.

She added that the new program "also offers certainty to both clients and the profession."

Under the previous system, all payments were subject to the discretion of a compensation fund

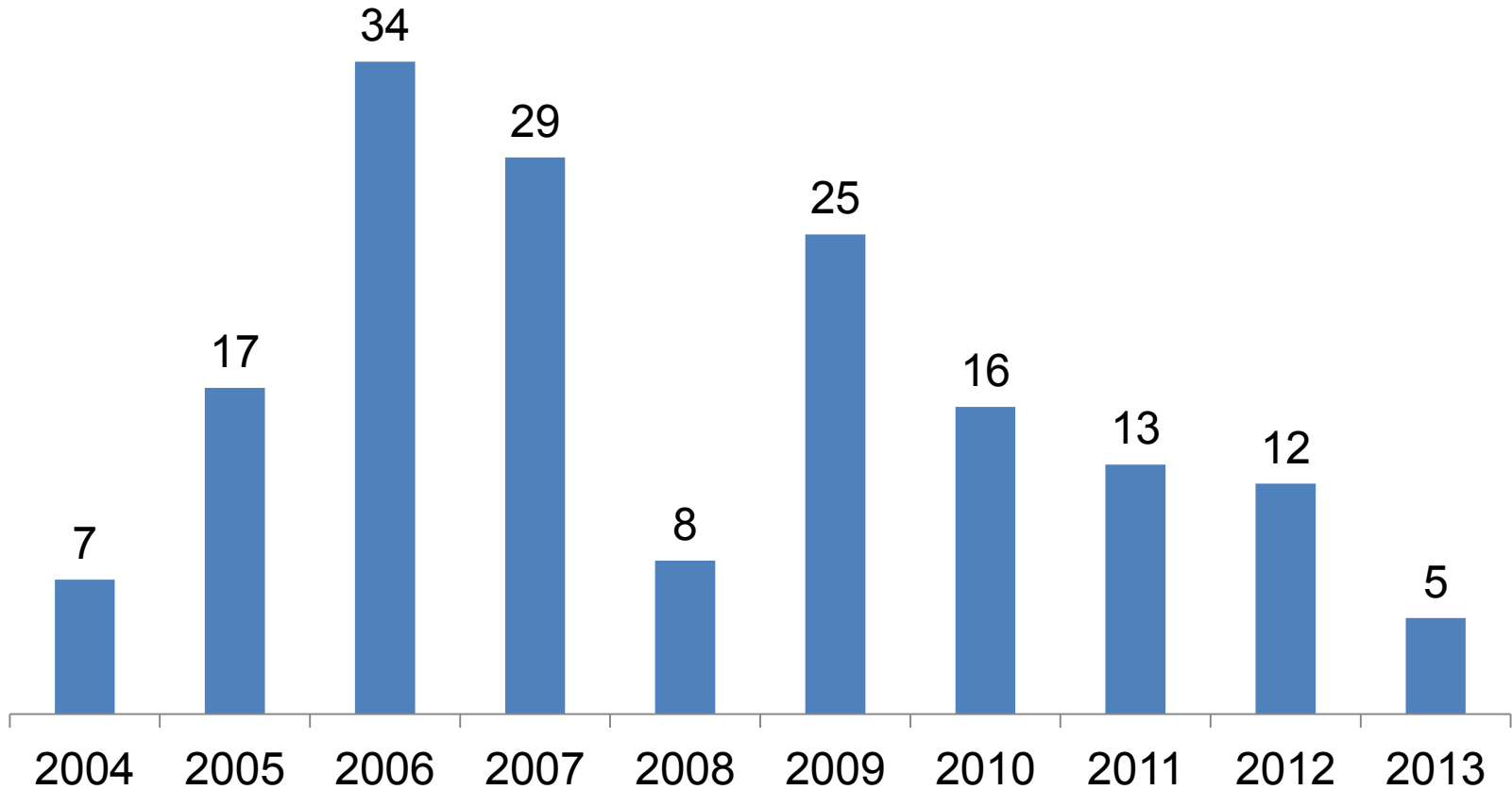
committee. But because the new program is part of an insurance contract, "the payment of meritorious claims is a contractual obligation between the Law Society's insurer and the insured lawyer, and not subject to discretion exercised by a committee."

If a dispute arises over a claim, the client can take the matter to court.

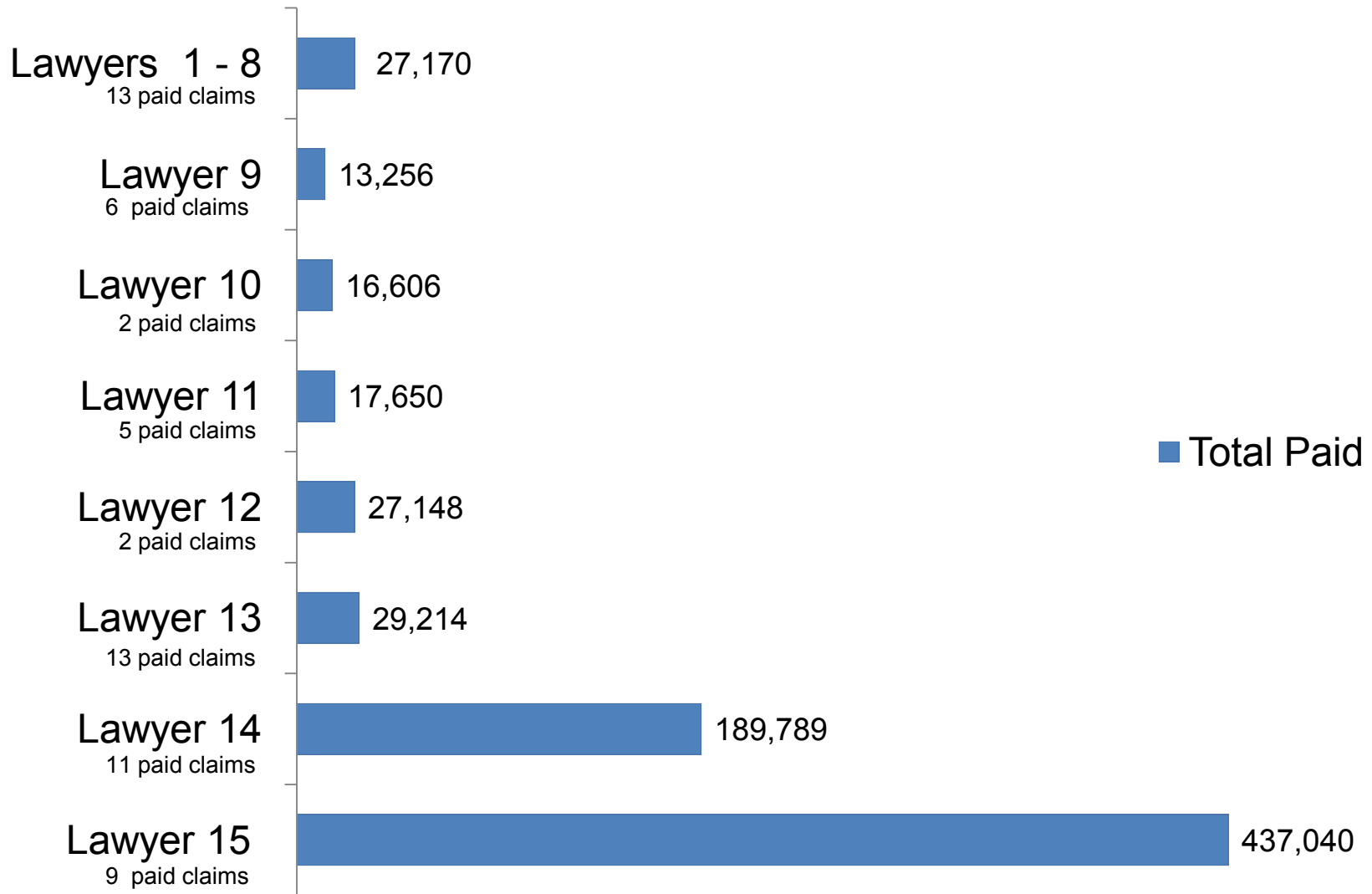
"The annual limit of \$17.5 million clarifies for the public the extent of the coverage available and will help ensure the stability and longevity of the program by limiting catastrophic losses," Forbes said.

She added that the average payments made under the program were under \$1 million a year.

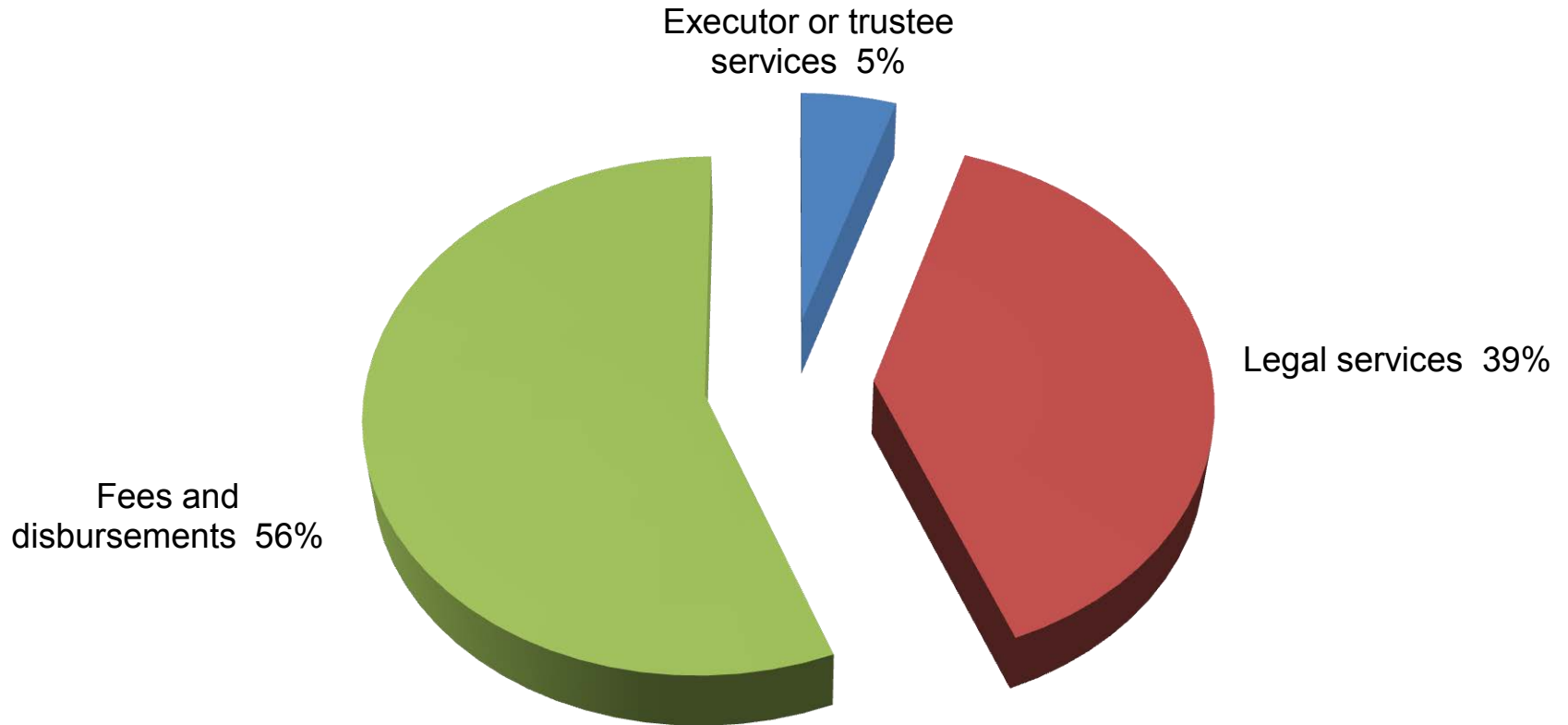
# Part B Claims: 2004 - 2013



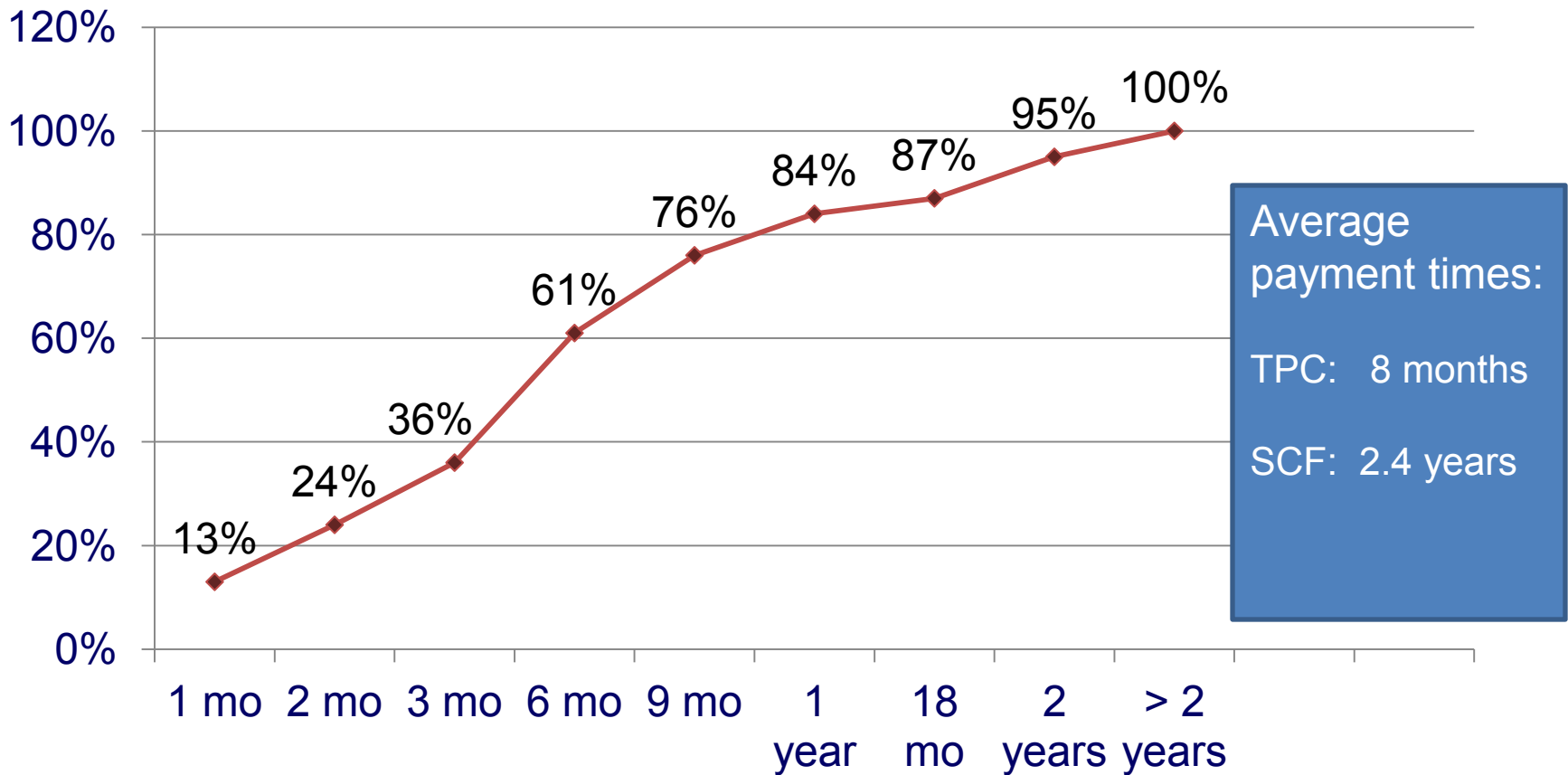
# Lawyers with Paid Claims



# Paid Claims by Source of Trust Funds



# Payment Time Lines



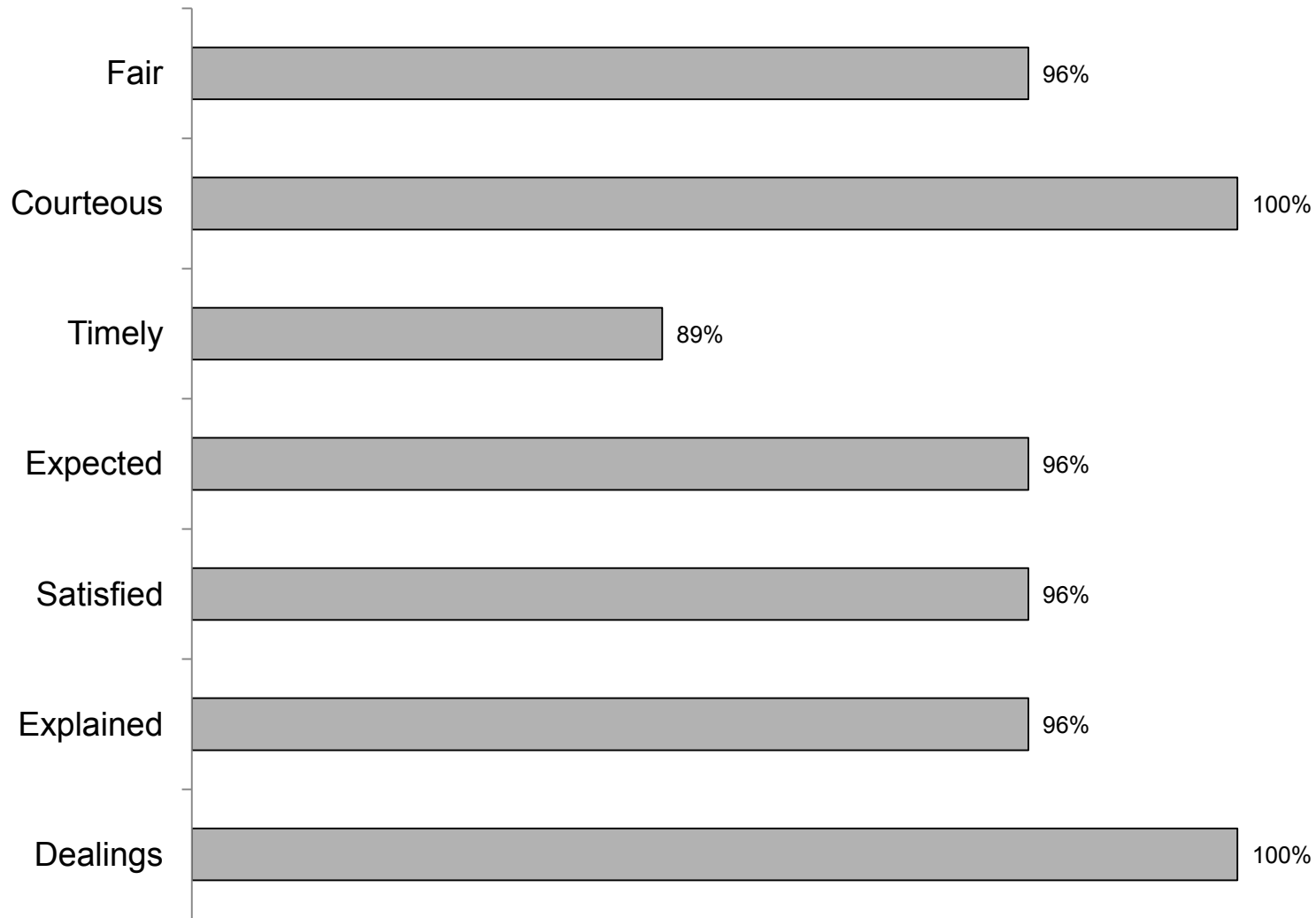
# Program Report Roadmap



- Drivers: Who we are and what we do
- Places of Interest: Part A
- Milestones: Part B
- **Signposts: Who we serve and what they think**



# Service Evaluation Forms: Part B



## Part B: Feedback from Claimants

“Your society took the initiative to inform me about the [insurance] fund.

Communication with claims counsel was quick and the process was clearly explained. Very professional and courteous service.”

## Part B: Feedback from Claimants

“Claims counsel made me feel very secure that I would be taken care of and always kept me up to date on information. He took away a lot of the stress that I felt because of my situation... you should give him a raise!”

## Part B: Feedback from Claimants

“I appreciated that you contacted us to tell us we were owed monies.”

“Once you advised us, we then had to complete a number of forms...I’m sure they were set procedure forms however they seemed a little OTT in this case.”

## Part B: Feedback from Claimants

“I really appreciated the fact that you guys dealt with this very good so I could get back what I gave. In the future I won't be so afraid to get a lawyer. Your help was very appreciated.... there wasn't anything better you guys could of done because him taking the money very much hurt. But you guys helped out.”

## Part B: Feedback from Claimants

“I most appreciated the kindness, compassion and clarity with which I was treated.”

“During the long times in between contact, a quick email to reassure me that things were still proceeding would have been nice.”

## **Part B: Feedback from Claimants**

“The manner in which the claim was handled was ethical and professional.”

## **Part B: Feedback from Claimants**

“I most appreciated that it is there to protect people when things go wrong.”

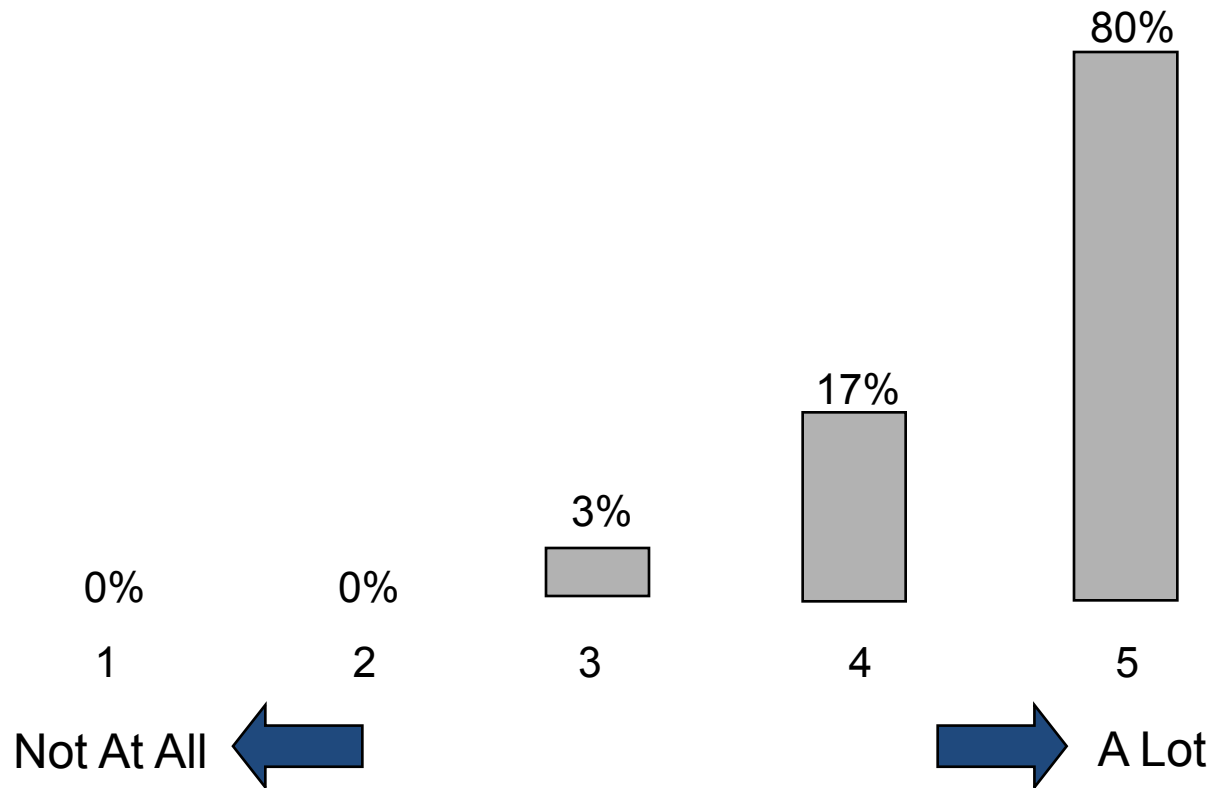


# Service Evaluation Forms: Part A

- Kudos (good) – 197
- Grumbles (bad) – 10

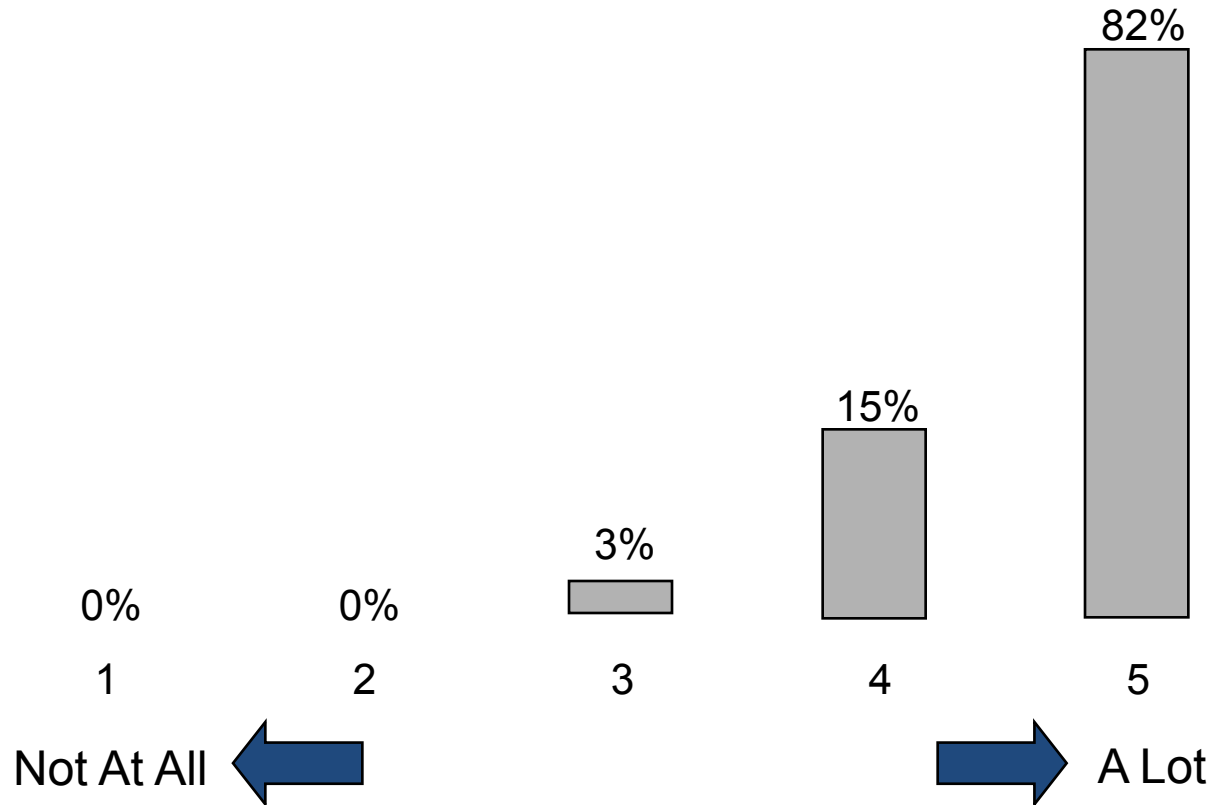
# Service Evaluation Form Results: Part A

How satisfied overall were you with the outcome of your claim?



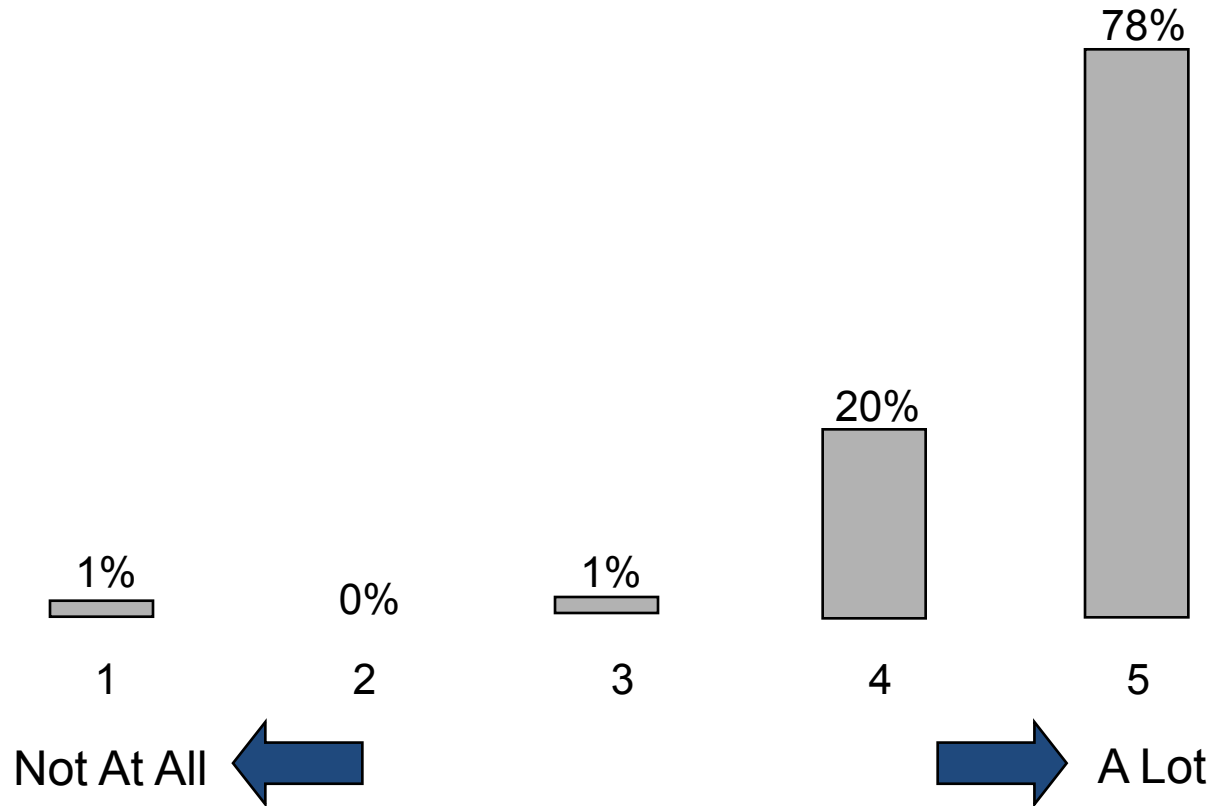
# Service Evaluation Form Results: Part A

How satisfied overall were you with the services provided by LIF claims counsel?

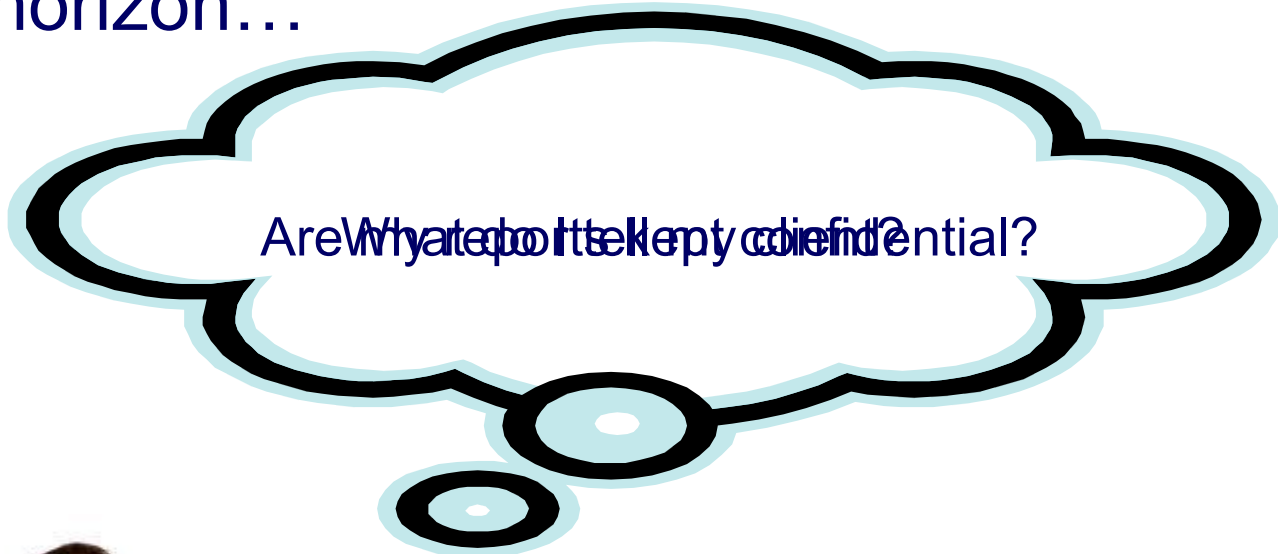


# Service Evaluation Form Results: Part A

How satisfied overall were you with the handling of your claim?



New on the horizon...



*My Claim: Questions and Answers*



*Lawyers  
Insurance  
Fund*

Thank you



## **CEO's Report to the Benchers**

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February 28, 2014

Prepared for: Benchers

Prepared by: Timothy E. McGee

## **Introduction**

The first months of 2014 have been quite different for me from those in past years due to the significant focus and commitment in working with the President and the Executive Committee in preparing for the Bencher meetings on the Trinity Western University (TWU) matter. As you know, this topic will be a priority item at the upcoming Bencher meeting and at the meeting in April. Notwithstanding this, you will be pleased to know that TWU is not the only matter which we have been working on and I have highlighted below some other items of interest. As always, I would be pleased to address any of these in further detail at the meeting.

## **Report on 2013 Key Performance Measures**

The Law Society's report on 2013 Key Performance Measures (KPMs) has been distributed to the Benchers as part of the meeting agenda package. The report and results were reviewed by the Executive Committee at its last meeting.

Since this is the first time that many of the Benchers will have received an annual report on the KPMs I will take some time at the meeting to review the origins and purpose of the KPMs to help give some background and context to the discussion. What is most important to know is that the KPMs were adopted by the Benchers to serve as a dashboard to help monitor the desired high level outcomes of our regulatory processes. The KPMs are also one of the principal tools management uses to assess the efficacy of our methods of operations. I will highlight relevant trends and provide our analysis of current results. As always, I encourage the Benchers to review the KPMs and to ask any questions of me or my management team.

## **Federation of Law Societies of Canada 2014 Spring Semi-Annual Conference in Regina**

The Federation's 2014 Spring Semi-Annual Conference is scheduled in Regina from April 2 – 5. The theme of the conference is "Proactive Regulation" and will consider topics such as why lawyers get into trouble, using regulation of firms to manage risk, as well as evaluating consistency, fairness and transparency of discipline processes through actual case studies. Our President Jan Lindsay, QC, Chief Legal Officer Deb Armour and I will be participating in different parts of the program. This is a topic which the Law Society Benchers have embraced through our Strategic Plan and we look forward to a productive conference.



## **ASAE Symposium for Chief Staff and Elected Officers**

President Lindsay and I attended the 2014 ASAE Symposium for Chief Staff and Chief Elected Officers in Arizona on February 10 and 11. The Symposium is the lead educational conference on best practices for ensuring a strong and productive working relationship between chief elected and chief staff officers from a wide variety of organizations. Of particular interest at this year's Symposium was the discussion on the importance of good strategic planning and techniques for ensuring the board is properly engaged in that process. On a personal level, Jan and I participated in a form of Myers Briggs evaluation to compare and contrast our individual leadership and working styles. We came away encouraged that we are well positioned to succeed as a team!

## **Bencher Retreat Planning**

This year's Bencher Retreat will be held at the Harrison Hot Springs Hotel in Harrison, BC from May 8 – 10, 2014. In keeping with past practice, the theme for the conference program each year is suggested by the First Vice-President and the details fleshed out with the President and a small staff working group. This year the conference will be focused on reviewing our current initiatives to enhance access to legal services and, in particular, looking at what more can be done on personal and local levels to assist. More details will be provided as the topic and program is developed and further refined in the weeks ahead.

## **Financial Statements for Fiscal Year 2013**

I would like to update the Benchers regarding the timing of the presentation of the audited 2013 Financial Statements for approval and adoption. The final audited 2013 Financial Statement will be considered by the Finance/Audit Committee in April. Under our new governance policies the formal approval and adoption of the audited financial statements rests with the Benchers (rather than the Finance/Audit Committee) and consequently this item will be on the Bencher agenda for the May 10 meeting. We have moved the item to the May meeting due to the unique nature and agenda for the April 11 Bencher meeting.

Timothy E. McGee  
Chief Executive Officer



## Proposed Trinity Western University Faculty of Law

### NOTICE OF MOTION

#### WHEREAS:

- On December 16, 2013, the Federation of Law Societies approved Trinity Western University's proposal for the establishment of a law degree program that would qualify graduates academically for admission to the legal profession;
- The Government of British Columbia has accredited the proposed law degree program pursuant to the *Degree Authorization Act*;
- By Rule 2-27, the proposed law degree program will therefore qualify graduates academically for admission to the Law Society of British Columbia, but Rule 2-27(4.1) confers on the Benchers a discretion not to accept the proposed law degree program;
- The Law Society has received submissions from lawyers and others urging it not to accept the proposed law degree program, as well as submissions urging its acceptance;
- It is in the public interest that the Benchers consider whether to exercise their discretion under Rule 2-27(4.1) thoroughly, carefully, and in a manner that is fair to Trinity Western University:

Without expressing any opinion at this time as to the merits of the motion, David Crossin, QC, and Kenneth Walker, QC, hereby give notice of their intention to move on behalf of the Executive Committee the following motion at the Benchers meeting on April 11, 2014, in order that the matter may be properly considered by the Benchers at that time:

***Pursuant to Law Society Rule 2-27(4.1), the Benchers declare that, notwithstanding the preliminary approval granted to Trinity Western University on December 16, 2013 by the Federation of Law Societies' Canadian Common Law Program Approval Committee, the proposed Faculty of Law of Trinity Western University is not an approved faculty of law.***