



By Ira R. Zarov  
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The 2014 assessment for the PLF Primary Claims Made Plan remained unchanged at \$3,500 for the fourth consecutive year. And while legal malpractice claims are inherently volatile, 2013 marked the Fund's second consecutive year with a strong financial performance. The PLF posted a gain of \$5.2 million in claim year 2013, which is primarily the result of a decrease in the number of claims predicted and better-than-expected returns on PLF investments. The gain of \$5.2 million brings the PLF closer to its goal of reaching a reserve that would allow the PLF Board of Directors to stabilize the assessment in the event of unexpected poor claim results. Total Fund equity is now approximately \$9 million.

In 2013, the PLF had 882 new claims – the second year in a row in which the claim count has fallen and the second consecutive year in which the claim count fell below 900. The projected claim count for 2014 is currently 856. The PLF has two actuarial reports prepared each year. Those reports are used to set the average cost of claims received in the applicable year. For claims filed in the first half of 2014, the actuaries increased the projected claim cost from \$20,500 per claim to \$21,000. Driven entirely by defense costs, the \$500 cost-per-claim increase is not a major surprise as the last year has seen signs of rising defense costs. In summary, 2013 saw

results that were better than expected primarily because of fewer claims filed and strong investment returns.

## THE 2014 PRIMARY PROGRAM ASSESSMENT

As in other years, four major objectives were considered in the process of setting the assessment. Those objectives are (1) to provide sufficient income to meet the costs of 2015 claims; (2) to provide sufficient income to fully fund the cost of older pending claims; (3) to provide stability to the assessment as long as possible;

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### PLF Statistics

1999 – 2014

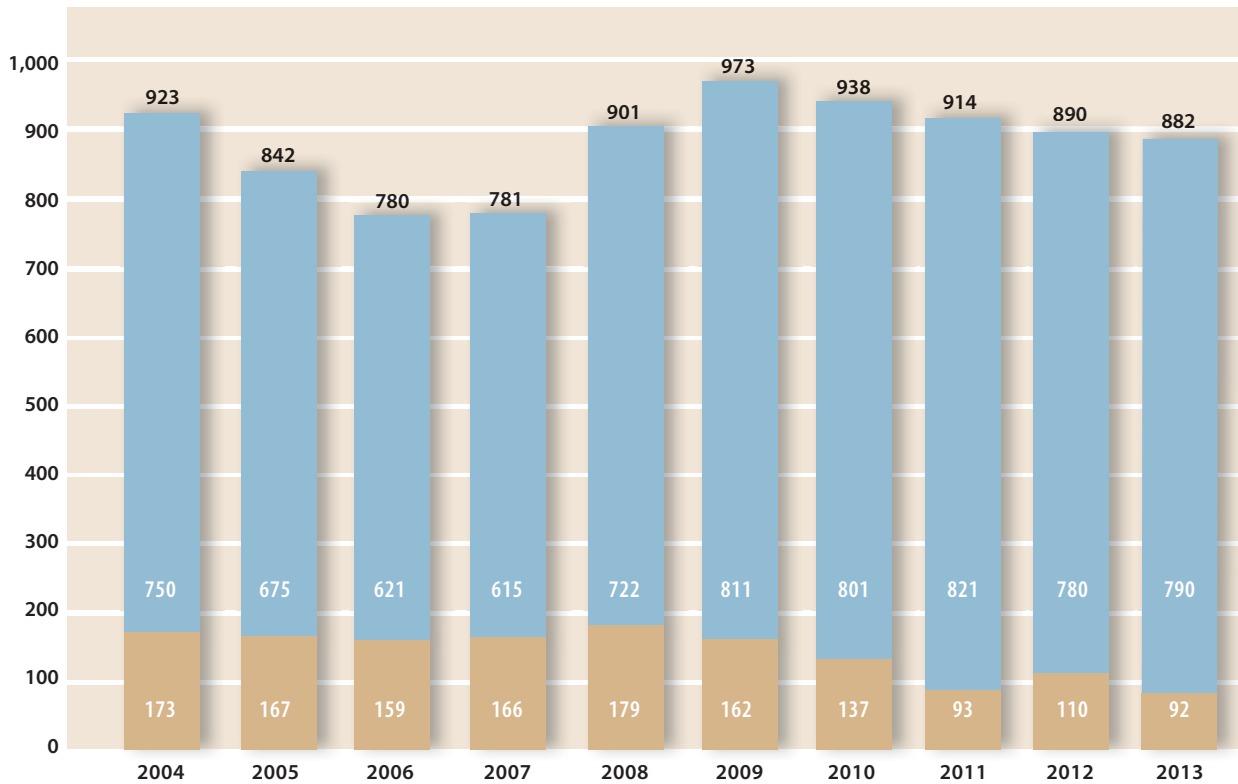
	Assessments	Claims
1999	\$1,900	830
2000	\$1,800	798
2001	\$1,800	775
2002	\$2,200	816
2003	\$2,600	815
2004	\$2,600	923
2005	\$3,000	842
2006	\$3,000	780
2007	\$3,200	781
2008	\$3,200	901
2009	\$3,200	973
2010	\$3,200	938
2011	\$3,500	914
2012	\$3,500	890
2013	\$3,500	882
2014	\$3,500	856*

\* Extrapolated

## Number of Claims

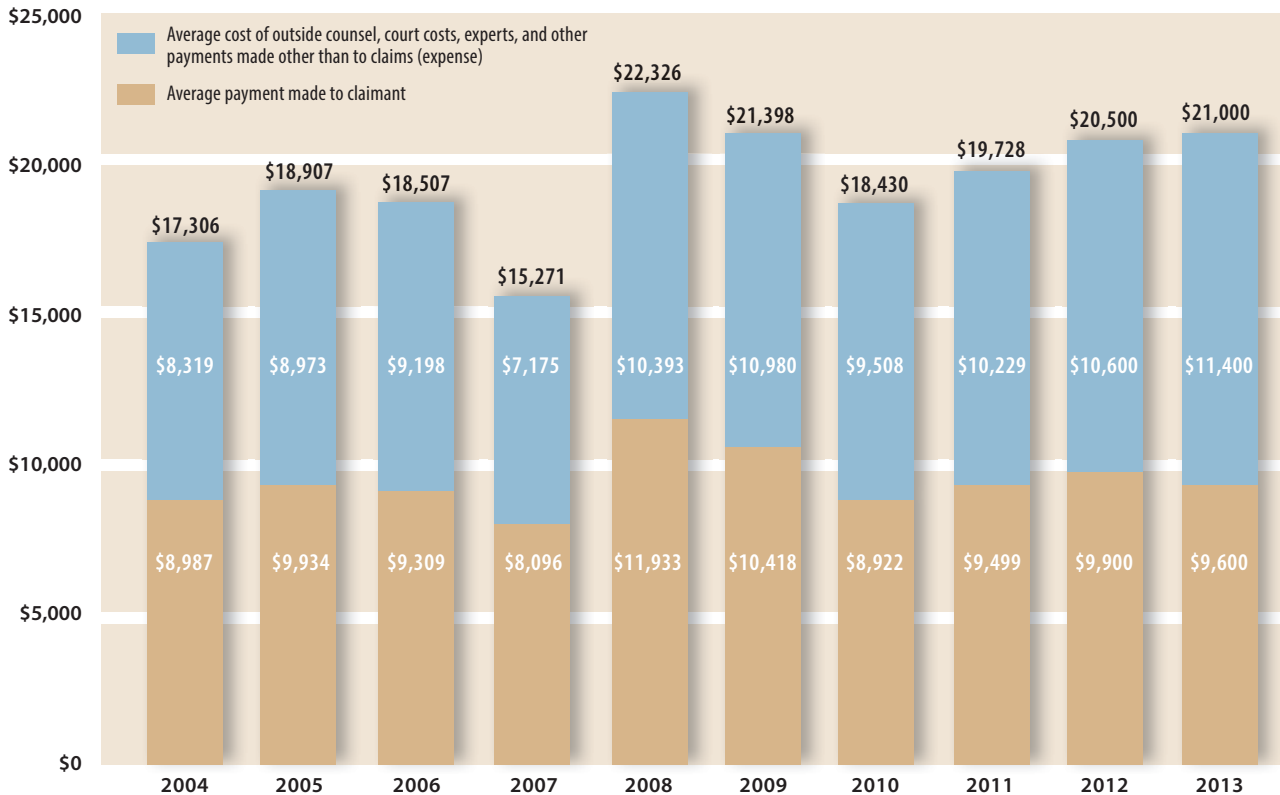
By Calendar Year 2004 – 2013

Non-Litigated  
Litigated



## Average Cost per Claim

By Year of Reporting



## SUMMARY FINANCIAL STATEMENTS (Unaudited)

(Primary and Excess Programs Combined)

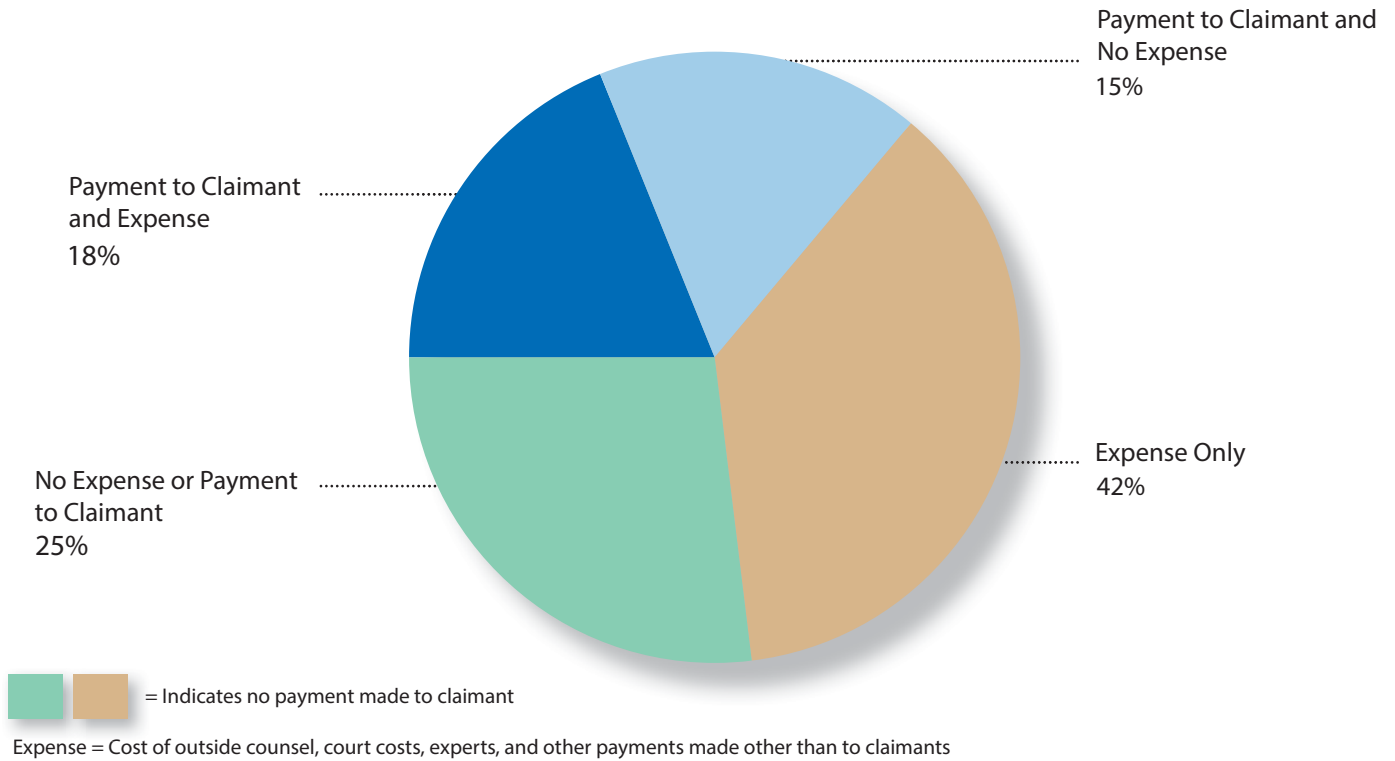
	<u>12/31/2013</u>	<u>12/31/2012</u>
<b>ASSETS</b>		
Cash and Investments at Market	\$38,235,990	\$35,198,686
Other Assets	<u>2,879,323</u>	<u>2,705,411</u>
<b>TOTAL ASSETS</b>	<b><u>\$41,115,313</u></b>	<b><u>\$37,904,097</u></b>
<b>LIABILITIES AND FUND EQUITY</b>		
Estimated Liabilities for Claim		
Settlements and Defense Costs	\$31,300,000	\$33,200,000
Other Liabilities	545,026	656,841
Fund Equity	<u>9,270,287</u>	<u>4,047,256</u>
<b>TOTAL LIABILITIES AND FUND EQUITY</b>	<b><u>\$41,115,313</u></b>	<b><u>\$37,904,097</u></b>
<b>For the Year Ending December 31</b>		
	<u>2013</u>	<u>2012</u>
<b>REVENUE</b>		
Assessments	\$25,042,533	\$24,803,326
Investments and Other Income	<u>5,883,776</u>	<u>5,993,767</u>
<b>TOTAL REVENUE</b>	<b><u>\$30,926,309</u></b>	<b><u>\$30,797,093</u></b>
<b>EXPENSE</b>		
Administrative	\$7,613,241	\$7,495,588
Provision for Settlements	8,492,852	8,346,373
Provision for Defense Costs	<u>9,599,195</u>	<u>10,126,708</u>
<b>TOTAL EXPENSE</b>	<b><u>\$25,705,288</u></b>	<b><u>\$25,968,669</u></b>
<b>NET INCOME</b>	<b><u>\$5,221,021</u></b>	<b><u>\$4,828,424</u></b>

These statements have been adjusted to remove prepaid assessments (e.g., payments of the 2014 assessment received in December of 2013). A complete copy of the December 31, 2012, audit report is available upon request.

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## Closed Claims

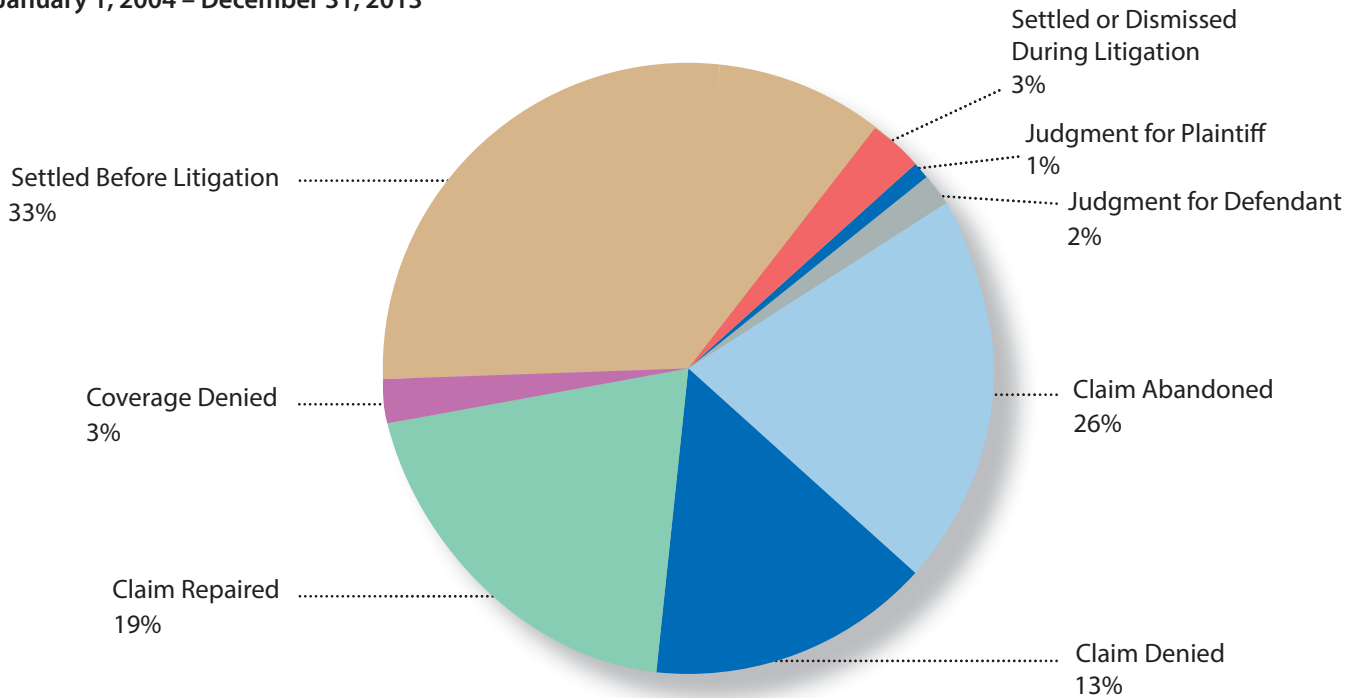
January 1, 2004 – December 31, 2013



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## Disposition of Closed Claims

January 1, 2004 – December 31, 2013



## Cost of Claims by Area of Law

January 1, 2004, through December 31, 2013

AREA OF LAW	PERCENT INDEMNITY PAID	INDEMNITY PAID	PERCENT EXPENSES PAID	EXPENSES PAID	TOTAL PAID
Personal Injury	19%	\$13,880,380	13%	\$8,006,400	\$21,886,780
Business Transactions / Commercial Law	12%	8,388,031	17%	10,423,993	18,812,024
Real Estate	15%	11,068,054	13%	8,414,782	19,482,836
Estate Planning & Estate Tax	12%	8,539,283	10%	6,130,264	14,669,547
Bankruptcy & Debtor-Creditor	10%	6,789,331	10%	6,563,874	13,353,205
Domestic Relations / Family Law	9%	6,425,636	9%	5,754,478	12,180,114
Workers' Compensation / Admiralty	4%	2,703,333	1%	826,147	3,529,480
Securities	2%	1,311,008	4%	2,164,708	3,475,716
Criminal	2%	1,508,697	3%	1,867,171	3,375,868
Tax	1%	676,899	2%	1,513,006	2,189,905
Other	14%	10,015,102	18%	11,106,728	21,121,830
	<b>100%</b>	<b>\$71,305,754</b>	<b>100%</b>	<b>\$62,771,551</b>	<b>\$134,077,305</b>

## Frequency of Claims by Area of Law

January 1, 2004, through December 31, 2013

AREA OF LAW	PERCENT OF CLAIMS	NUMBER OF CLAIMS
Personal Injury	16%	1,323
Domestic Relations / Family Law	16%	1,315
Bankruptcy & Debtor-Creditor	13%	1,059
Real Estate	11%	889
Estate Planning & Estate Tax	10%	872
Business Transactions / Commercial Law	7%	631
Criminal	7%	565
Workers' Compensation / Admiralty	2%	182
Tax	1%	67
Securities	1%	45
Other	16%	1,324
	<b>100%</b>	<b>8,272</b>

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and (4) to move the PLF toward the goal of providing a reserve to stabilize future assessments.

As the process of determining the 2015 assessment proceeds, the PLF Board's analysis will benefit from the 2012 and 2013 financial results and a projected claim count that is lower than predicted. These developments are positive, and the PLF is optimistic that, barring unforeseen developments, the assessment will not be increased. The 2015 assessment will be determined mid-year 2014.

## HOW IS THE PLF DOING WITH CLAIMS HANDLING?

As in the past, covered parties who returned the PLF claims-handling evaluation form have been overwhelmingly satisfied with the performance of the PLF claims department. The claims-handling evaluation form asks whether covered parties were "very satisfied," "satisfied," or "not satisfied." In 2013, the PLF received 417 responses (38%). The responses gave high ratings to both claims attorneys and defense counsel.

The performance of claims attorneys was particularly noteworthy, with 91.6% of respondents stating that they were "very satisfied" with how their claim was handled, 8.2% stating that they were "satisfied," and just 0.2% "not satisfied" – remarkable numbers. In total, 99.8% of the respondents were "very satisfied" or "satisfied" with the PLF claims attorney's handling of the claim.

Covered parties' satisfaction with defense counsel was also very high. Among the 250 covered parties who responded to the questionnaire about defense counsel, 90% were "very satisfied," 9% were "satisfied," and 1% were "not satisfied." (The fewer responses regarding defense counsel reflect the fact that many cases are handled by the PLF claims attorneys without being assigned to defense counsel.)

The combined responses for claims attorneys and defense counsel totaled 91% "very satisfied" and 9% "satisfied" – thus 100% either "very satisfied" or "satisfied."

## WHAT IS THE PLF DOING IN THE AREAS OF PERSONAL AND PRACTICE MANAGEMENT ASSISTANCE?

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

Personal and practice management assistance seminars in 2013 included programs on hints to effectively run a law office, malpractice traps for lawyers handling personal injury cases, document assembly software, how to prevent financial scams and fraud, avoiding legal malpractice traps, malpractice traps in debtor/creditor issues, health insurance, retirement, and career satisfaction. In addition, the PLF continues to offer free audio and video programs (currently 80 programs available), publications (*In Brief* and *In Sight*), over 377 practice aids, and the following handbooks: *Planning Ahead: A Guide to Protecting Your Clients' Interests in the Event of Your Disability or Death* (2014); *A Guide to Setting Up and Running Your Law Office* (2009); *A Guide to Setting Up and Using Your Lawyer Trust Account* (2014); and *Oregon Statutory Time Limitations* (2010). Our practice aids and handbooks are all available free of charge. You can download them at [www.osbplf.org](http://www.osbplf.org), or call the Professional Liability Fund at 503-639-6911 or 800-452-1639.

During 2013, the PLF presented video replays of the following programs: Building and Maintaining a Profitable and Efficient Law Practice; Leveraging Technology to Effectively Manage Your Law Practice; Using TheFormTool in Your Law Practice; Malpractice Traps for Lawyers Handling Personal Injury Cases; Protecting Your Firm and Your Clients From Scams, Fraud, and Financial Loss; and Helpful Hints for the Law Office. These video replays were presented in Astoria, Bend, Coos Bay, Eugene, Grants Pass, Klamath Falls, Medford, Newport, Roseburg, Salem, and Vale, Oregon.

continued on page 7

**Practice Management Advisor Program.** Our practice management advisors (PMAs), Dee Crocker, Beverly Michaelis, and Sheila Blackford, answer practice management questions and provide information about effective systems for conflicts of interest, mail handling, billing, trust accounting, general accounting, time management, client relations, file management, and software. In a recent survey about our PMAs, 100% of those who responded said they would recommend the PLF’s PMA services to others. In addition, 100% of the people who returned surveys were either “very satisfied” or “satisfied,” and the PMAs received improved “very satisfied” ratings in all categories. The survey categories are (1) reaching a PMA by telephone; (2) receiving a prompt callback; (3) amount of time between the request for an appointment and when

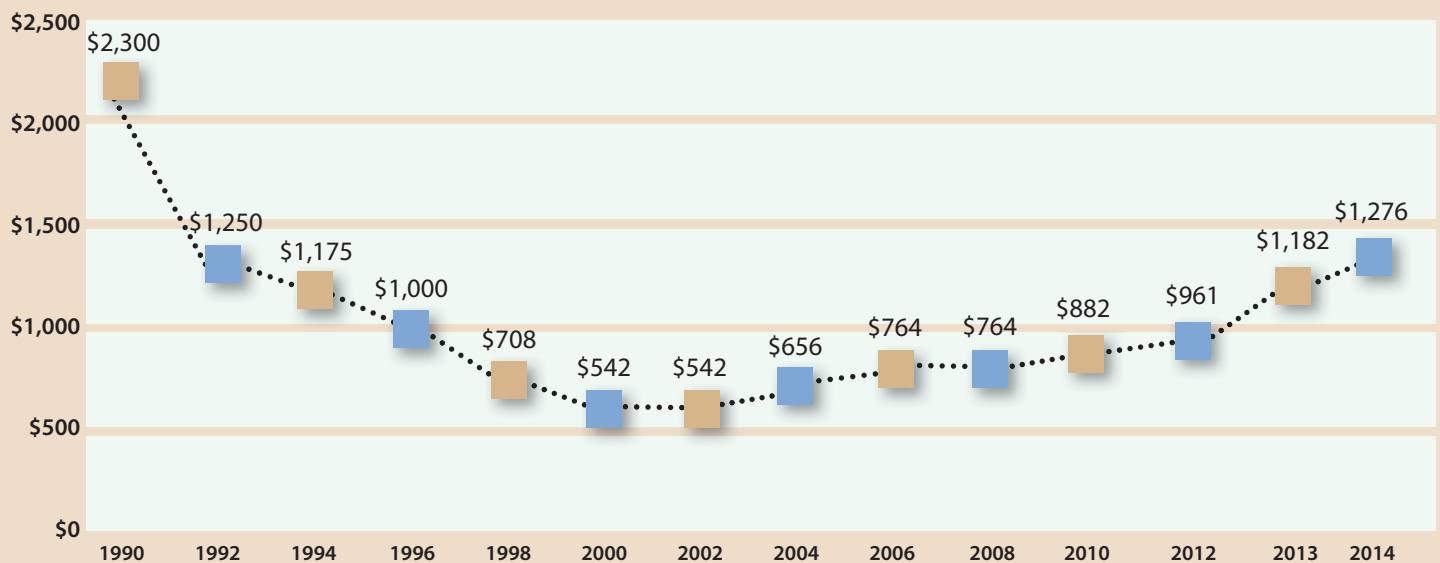
the appointment took place; (4) PMA’s ability to explain information clearly; (5) how the lawyer was treated by the PMA (patience, courtesy, etc.); (6) helpfulness of the information; (7) follow-up; and (8) overall level of satisfaction with service. In 2013, the PMAs presented seminars all over the state on practice management. In addition to these presentations, the PMAs also provide in-house CLEs for law firms.

**Oregon Attorney Assistance Program.** The Oregon Attorney Assistance Program (OAAP) attorney counselors, Shari R. Gregory, Mike Long, Douglas Querin, and Kyra Hazilla, provide assistance with alcohol and chemical dependency; burnout; career change and satisfaction; depression, anxiety, and other mental health issues;

*continued on page 8*

### Cost of Excess Coverage – Standard Rates

By Calendar Year 1990 – 2014



Figures are the cost per attorney of \$700,000 PLF excess coverage above the primary limits. Figures for 1995 to 2014 do not include the continuity credit granted to firms for each year of continuous excess coverage with the PLF.

Figures are not adjusted for inflation.



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stress management; and time management. In 2013, the OAAP sponsored addiction support groups, lawyers-in-transition meetings, career workshops, a depression support group, a support group for lawyers going through divorce, an Inner Peace workshop, a women's support group, a support group for lawyers with ADD, a women's wellness retreat, and a group for overcoming procrastination. In addition, the OAAP attorney counselors assisted over 590 lawyers with personal issues in 2013, including alcoholism, drug addiction, career satisfaction, retirement, and mental health issues.

## CHANGES TO THE COVERAGE PLAN

In 2013, the PLF Board and the Oregon State Bar (OSB) Board of Governors approved one change to the 2014 Coverage Plan. The change related to the PLF Board's decision to remove the Special Underwriting Assessment (SUA) from the PLF Bylaws & Policies. Corresponding changes were made in the 2014 Coverage Plan to Section V and the Plan Appendices, as detailed below.

Section V.19 was removed and is now reserved for a future exclusion (additions in italics and bold; deletions noted by strikethrough):

[SUA Exclusion]

~~19. This Plan does not apply to any CLAIM for damages consisting of a special underwriting assessment imposed by the PLF. Reserved.~~

Language from former PLF Policy 3.500 – Plan for Special Underwriting Assessment was removed from the 2014 Coverage Plan Appendices since the policy is no longer in effect.

## CHANGES IN PLF BYLAWS AND POLICIES

### Article 10 – PLF Bylaws

Articles 10.4 and 10.5 of PLF Bylaws were amended. Article 10 sets forth the circumstances in which PLF directors and employees must be defended and indemnified for actions taken in the performance of their duties. The changes clarify that a defense will be pro-

vided to directors and employees and indemnification provided to the fullest extent permitted by law.

The duty to defend does not apply to gross negligence or willful or wanton neglect of duty. The changes are intended as clarifications of the PLF's current obligations.

### PLF Policy 3.300(A)

Policy 3.300 relates to the installment privileges. Covered parties who elect to pay the assessment in installments had been charged a fee of \$25. That fee has been reduced to \$10 because of the savings in administrative costs achieved from the use of electronic notices and payment procedures. The finance charge of 7% has not changed. (The 7% offsets the loss of investment income that the PLF incurs because the full assessment is not paid at the start of the year for investment. The change from \$25 to \$10, however, does reduce the total annual percentage rate charged as part of the installment plan.)

### PLF Policy 3.500

PLF Policy 3.500 et seq. stated the policies and procedures to implement the Special Underwriting Assessment (SUA). SUA was a charge of 1% for each of the following five years of the amount above \$75,000 that the PLF paid in expenses and indemnity on a single claim. SUA was discontinued as of 2014. As part of the policy change, SUAs that were still owed as of January 1, 2014, were extinguished.

There were many policy reasons for the change. In reaching the decision to terminate the SUA requirement, the Board weighed the difficulty in fairly assessing a SUA, the administrative cost of the SUA, and claims-handling complications that the SUA program imposed on claim management. The Board found that there were many instances when the SUA was assessed despite the lack of fault on the part of the covered party, that the income from SUA was marginal compared with the administrative costs, and that SUA created potential conflicts between the PLF and covered parties.

In addition to the deletion of PLF Policy 3.500, all other references to SUA have been removed from PLF Policies.



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## EXCESS PROGRAM

Participation in the PLF Excess Program remains stable. For the 2013 plan year, 713 firms with a total of 2,194 attorneys purchased excess coverage from the PLF. Only one change was made to the 2014 PLF Excess Claims Made Plan. That change follows the removal of Section V.19 – SUA Exclusion from the 2014 Primary Claims Made Plan.

The PLF Excess Program continues to be entirely reinsured and financially independent from the mandatory PLF Primary Coverage Program. The Excess Program continues to offer accumulating continuity credit discounts of 2% per year (up to 20%), and the program provides all covered firms with an endorsement for Cyber Liability and Data Breach coverage.

## FORECAST FOR THE FUTURE

As discussed earlier, many factors underlie the process of setting the annual PLF assessment – projections of income, operational costs, projections of the number of claims, defense expenses related to claims, and indemnity

paid on claims. Of these, only operational costs – a small percentage of the total budget – can be predicted with certainty. At the current time, claim frequency is lower than predicted, and it is too early to predict other trends. The final decision on the 2015 assessment will be made in August 2014, after additional information about claim performance is available.

Over the past several years, a number of experienced PLF staff have retired, and additional retirements are expected in the next several years. In response, the PLF has devoted significant energy and thought to succession issues. That work will ensure that the highest standards of claim representation, practice management assistance, and OAAP assistance will be maintained.

If you have questions or suggestions about the PLF, please contact me.

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