

# Lawyers' Fund for Client Protection

## *2017 Annual Report*

The Maine Lawyers' Fund for Client Protection (Fund) was created by an Order of the Maine Supreme Judicial Court, dated July 1, 1997. The purpose of the Fund is to promote public confidence in the administration of justice and the integrity of the legal profession, by reimbursing clients who suffer losses caused by an attorney's dishonest conduct. The Fund was not designed to address losses caused by professional malpractice and no amounts are payable to clients for such activity.

### **TRUSTEES**

The Fund is administered by a Board of seven trustees, appointed by the Maine Supreme Judicial Court. The trustees determine the eligibility of claims filed with the Fund and manage the Fund's assets. Trustees are appointed to three-year terms and may serve no more than two consecutive terms. Trustees are volunteers and serve without compensation but are reimbursed for their actual and necessary expenses incurred in the discharge of their duties.

### **OFFICERS**

Stephen J. Schwartz, Esq., Chair  
Jared S. des Rosiers, Esq., Treasurer  
Marci A. Alexander, Esq., Secretary

### **COURT LIAISON**

Honorable Joseph M. Jabar

### **STAFF**

The Fund retains the Board of Overseers of the Bar for its administrative, financial, and case investigation functions.

### **CLAIM INTAKE AND EVALUATION**

A claimant seeking reimbursement from the Fund must complete a claim form. Upon receipt, the office of Bar Counsel of the Board of Overseers of the Bar investigates the alleged loss, prepares a record, and submits a report with recommendation to the trustees. The claimant has the duty to supply relevant evidence to support the claim.

### **TRUSTEES**

Suzanne L. Johnson, Esq.  
Gary M. Koocher  
Sarah McPartland-Good, Esq.  
Timothy J. Winkeler

**TRUSTEE REVIEW**

When the report and recommendations are complete, the trustees act on the claim. The approval or denial of a claim requires the affirmative votes of at least four trustees. Notice of the decision is given to the claimant and the lawyer. Reimbursement from the Fund is a matter of grace. No person has the right to reimbursement from the Fund whether as claimant, third-party beneficiary or otherwise. The decisions and actions of the Fund trustees are not reviewable on any ground in any court or other tribunal.

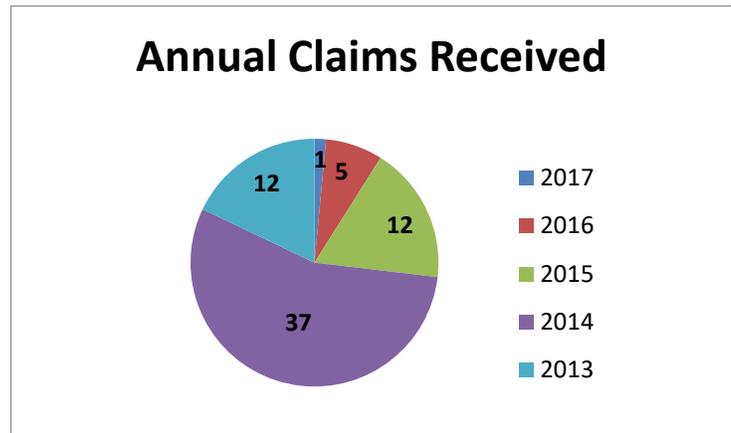
**CLAIMS RECEIVED AND PROCESSED**

One claim for reimbursement was received by the Fund in 2017. Comparably, five claims were received in 2016.

**CLAIMS REVIEWED BY TRUSTEES**

The trustees held three meetings to conduct duties and responsibilities defined in the rules for Lawyers’ Fund for Client Protection.

The Trustees considered one claim for reimbursement. Upon review, the Trustees voted to dismiss the claim with prejudice noting that the claimant has been reimbursed in full by the estate of Attorney Whalen. There were no pending cases at the close of the calendar year 2017.



**2017 CLAIM ACTIVITY**

CLAIM NUMBER	RESPONDENT ATTORNEY	APPROVED PAYMENT	AREA OF LAW
LFCP-17-382	Deceased John M. Whalen – Lewiston	\$0*	Torts
<b>Total:</b>		<b>\$0</b>	

*\*Claim was reimbursed by deceased attorney’s estate.*

Since its inception in 1997, the Fund has approved claims totaling \$583,015.64. Pursuant to Rule 13 of the Rules for Lawyers’ Fund for Client Protection, the maximum amount of reimbursement to a claimant is capped from both an individual claimant and attorney perspective. As a result, the Fund has paid \$552,138.49 to 120 claimants involving 39 attorneys.

## **RESTITUTION/SUBROGATION**

In calendar years 2014, 2015, and 2016, the Fund paid out \$19,987.98 in approved claims to former clients of Scott David Giese of Old Orchard Beach, Maine. In May of 2017, the Fund, through its counsel, entered into a binding Stipulation and Settlement Agreement with Mr. Giese by which Mr. Giese, under a formal, documented payment plan, agreed to pay to the fund \$18,000 in full satisfaction of the amount he owes the Fund.

In calendar year 2016 the Fund approved two claims from former clients of William L. Dawson, Jr., of Belfast, Maine, and paid out \$100,000 (the Fund's per attorney cap). In calendar year 2017 the Fund received \$2,050.38 in Court Ordered Restitution.

Additionally, in January of 2017 the Fund received the final payment from Carol J. Webb of New Sharon, Maine in her negotiated payment plan. The Fund paid out \$300 to a former client of Ms. Webb, and Ms. Webb subsequently paid \$300 in full restitution to the Fund.

## **FINANCES**

The Fund is supported by an annual assessment against all Maine judges and attorneys. Its fiscal year runs from July 1st through June 30<sup>th</sup>. In FY-2017, the Fund collected \$1,04,571 in attorney assessments, \$4,531 from restitution, and generated \$14,264 from investments.

The Fund's accounts were audited by accounting firm Perry, Fitts, Boulette, and Fitton, CPAs of Oakland, Maine. The fund balance on June 30, 2017 stood at \$1,409,399.

## **CONCLUSION**

This report confirms the fact that the overwhelming majority of Maine attorneys observe the high standards of integrity when entrusted with client monies or property. However, the dishonest acts of a few can affect the public's image and confidence in the legal profession as a whole. The Lawyer's Fund for Client Protection endeavors to restore public confidence in the legal profession by reimbursing clients for losses sustained as a result of the dishonest conduct of their attorneys.

Respectfully submitted,

Stephen J. Schwartz, Esq.  
Fund Chair