

Lawyers' Fund for Client Protection

2018 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
Marci A. Alexander, Esq., Treasurer
Sarah McPartland-Good, Esq., Secretary

COURT LIAISON

Honorable Joseph M. Jabar
Honorable Jeffrey L. Hjelm

TRUSTEES

Martha Gaythwaite, Esq.
Suzanne L. Johnson, Esq.
Gary M. Koocher
Timothy J. Winkeler

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.

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.

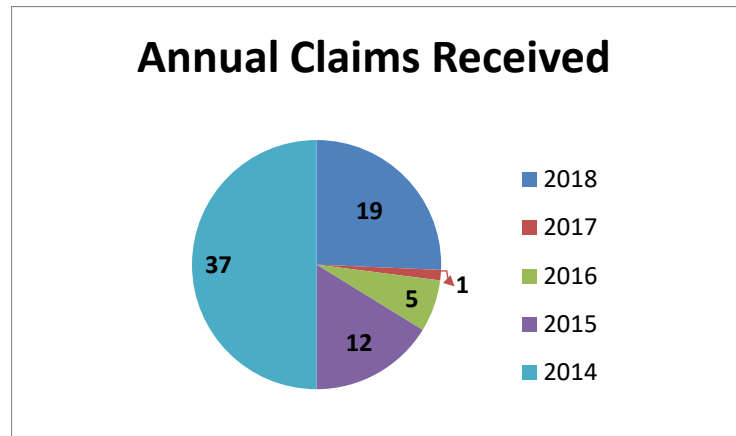
CLAIMS RECEIVED AND PROCESSED

Nineteen claims for reimbursement were received by the Fund in 2018. Comparably, one claim was received in 2017.

CLAIMS REVIEWED BY TRUSTEES

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

The Trustees considered four claims for reimbursement. Of those, two claims were approved for reimbursement and two claims were dismissed. At the close of calendar year 2018 there were fifteen pending cases.



2018 CLAIM ACTIVITY

CLAIM NUMBER	RESPONDENT ATTORNEY	APPROVED PAYMENT	AREA OF LAW
LFCP-18-038	Deceased Robert Napolitano – Portland	\$7,000	Criminal
LFCP-18-045	Paul Letourneau – South Portland	\$0	Criminal
LFCP-18-087	Paul Letourneau – South Portland	\$5,000	Criminal
LFCP-18-104	William B. Cote – Lewiston	\$0 *	Criminal
LFCP-18-276	James M. Whittemore – Brunswick	\$0 **	Torts
LFCP-18-301	James M. Whittemore – Brunswick	\$0 **	Real Estate
LFCP-18-312	James M. Whittemore – Brunswick	\$0 **	Family
LFCP-18-330	James M. Whittemore – Brunswick	\$0 **	Commercial
LFCP-18-333	James M. Whittemore – Brunswick	\$0 **	Wills/Estates/Probate
LFCP-18-356	James M. Whittemore – Brunswick	\$0 **	Real Estate
LFCP-18-371	James M. Whittemore – Brunswick	\$0 **	Real Estate
LFCP-18-395	James M. Whittemore – Brunswick	\$0 **	Wills/Estates/Probate
LFCP-18-398	James M. Whittemore – Brunswick	\$0 **	Real Estate
LFCP-18-405	James M. Whittemore – Brunswick	\$0 **	Wills/Estates/Probate
LFCP-18-412	James M. Whittemore – Brunswick	\$0 **	Litigation
LFCP-18-415	James M. Whittemore – Brunswick	\$0 **	Bankruptcy
LFCP-18-422	James M. Whittemore – Brunswick	\$0 **	Wills/Estates/Probate

LFCP-18-451	James M. Whittemore – Brunswick	\$0 **	Wills/Estates/Probate
LFCP-18-491	James M. Whittemore – Brunswick	\$0 **	Wills/Estates/Probate

Total: \$12,000

**Claim was reimbursed by respondent attorney.*

***Claim pending at year end.*

Since its inception in 1997, the Fund has approved claims totaling \$1,123,162. 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 \$564,138 to 122 claimants involving 20 attorneys.

RESTITUTION/SUBROGATION

Attorney Jack Manheimer from Pierce Atwood LLP has graciously agreed to represent the Fund with respect to obtaining reimbursement from former attorney Dale Thistle of Skowhegan. In 2015 and 2016 the Fund paid out \$100,000 (the Fund’s per attorney cap) in approved claims to Mr. Thistle’s former clients. Collection efforts are ongoing.

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, payment plan, agreed to pay to the fund \$18,000 in full satisfaction of the amount he owes the Fund. In 2018 the Fund received \$225 from Mr. Giese in restitution to the Fund. Sadly, Mr. Giese passed away on December 5, 2018, at the age of fifty-one.

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 in reimbursement. In calendar year 2018 the Fund received \$128 in Court Ordered Restitution from Mr. Dawson.

FINANCES

The Fund is supported by an annual assessment against all Maine judges and attorneys. Its fiscal year runs from July 1st through June 30th. In FY-2018, the Fund collected \$10,542 in attorney assessments, \$2,732 from restitution, and generated \$17,304 from investments.

The Fund’s accounts were audited by Perry, Fitts, Boulette & Fitton of Oakland, Maine. The fund balance on June 30, 2018 stood at \$1,468,827.

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