

Claims Down, Costs Up: What WILMIC's 2024 Data Means for Lawyers

The frequency of claims remains low but the cost to defend and resolve them rose significantly. These contrasting trends underscore the evolving nature of legal malpractice risks. Here's a look at what the data portends for lawyers.

BY MATTHEW M. BEIER

As the year ended, Wisconsin Lawyers Mutual Insurance Co. (WILMIC) staff reflected on the trends in legal malpractice claims observed in recent years and throughout 2024. This annual review provides valuable insights for policyholders, helping them mitigate risk and better understand the challenges they may face in their legal practices.

The year brought a mix of encouraging and concerning trends. On the positive side, the overall frequency of claims remained at historically low levels. However, severity – measured by the cost to defend and resolve claims – rose significantly. These contrasting trends underscore the evolving nature of legal malpractice risks.

Claims Frequency: A Continuing Decline

One of the most encouraging developments in recent years has been the continued decline in the frequency of claims reported to WILMIC. “The decrease in frequency, which began in 2019, continued this year, with claims at half the levels seen in 2016,” said Brian Anderson, WILMIC director of claims. Three of the past five years set record lows for claims frequency, and 2024 followed suit.

Despite this decline, WILMIC handled over 300 claim matters in 2024, a figure consistent with 2023. “Claim matters” or incidents include circumstances that could give rise to claims, potential claims, and Office of Lawyer Regulation grievance issues as reported by policyholders. The steady reporting volume indicates an active and transparent relationship between policyholders and WILMIC's claims department, with an average of 25 new claim matters reported monthly. The benefits of early reporting are

many, and include securing coverage, being able to mitigate, repair, and defend, and establishing trust between the insurer and the insured.

Severity: Rising Costs Amid Low Frequency

While frequency declined, the severity of claims surged in 2024. The cost to defend and resolve claims increased, driven by several factors, including inflation, higher defense counsel rates, and the complexity of cases. Anderson noted, “We're seeing more complex claims, often involving multiple claims against one insured, which adds to the challenge.”



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Claims arising from estate, trust, and probate law, along with real estate law, were the most significant contributors to severity. Together, these two practice areas accounted for 43% of all new claims but a staggering 78% of total severity costs.

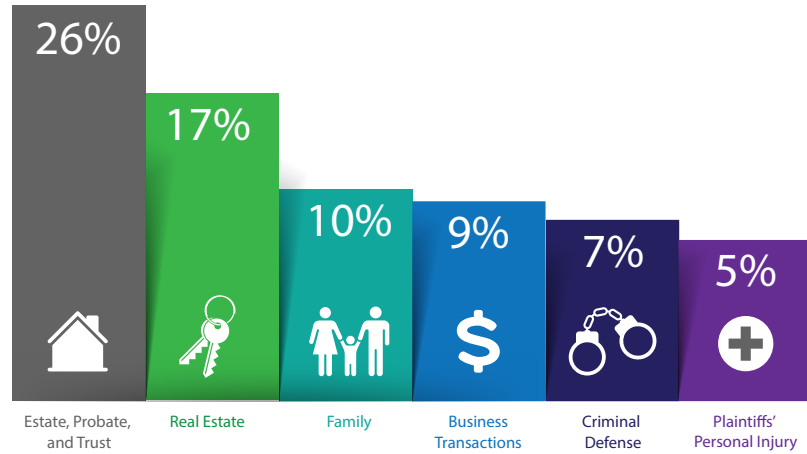
“The appreciation of estate values and real estate prices is driving litigation and increasing claims costs,” explained Anderson. In these cases, plaintiff attorneys often pursue aggressive litigation strategies, including first-notice lawsuits and policy-limits demands. These tactics, coupled with the increasing market values of estates and properties, amplify the financial stakes involved.

Top Practice Areas for Claims

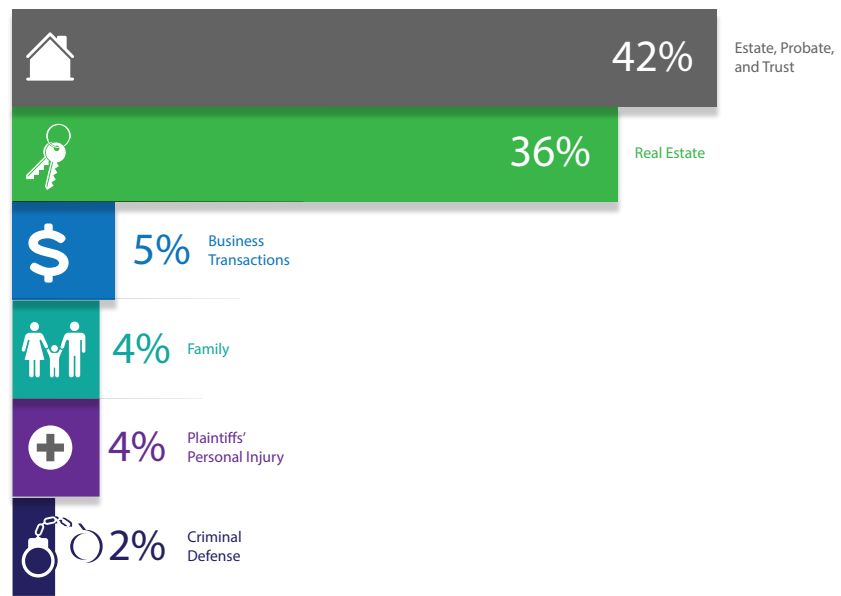
The distribution of claims across practice areas in 2024 revealed some notable patterns (please see graphic). Claims in estate, probate, and trust

WILMIC’s 2024 Claims Statistics by Practice Area

Frequency



Severity (cost to defend or settle)



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law remained the most frequent and severe, perhaps reflecting the heightened emotions during estate disputes. Grieving families often face complex relationships, financial pressures, and unmet expectations. Miscommunication or perceived errors can escalate tensions, leading to claims. These emotionally charged situations amplify scrutiny on attorneys’ actions, driving litigation in sensitive cases. Real estate law also stood out, as escalating property values fueled high demands.

Common Errors Leading to Claims

Analyzing the types of errors that resulted in claims revealed recurring issues. The top three errors – failure to know or properly apply the law, failure to follow client instructions, and calendaring mistakes – accounted for nearly 60% of all claims reported to WILMIC.

Anderson emphasized the importance of addressing these issues: “Understanding the root causes of claims helps us guide policyholders toward better risk management practices.”

Improved training, diligent documentation, and robust calendaring systems can help reduce these common mistakes.

Inflation and Defense Costs

The rising cost of defending claims was another significant trend in 2024. Defense counsel rates have increased due to inflationary pressures, contributing to higher overall severity costs. Additionally, the proportion of claims in litigation has risen, with 20% of open claims now involving active lawsuits.

“Litigation adds a layer of complexity and expense,” Anderson noted. This is particularly true in cases in which disputes arise over whether an error constitutes a single claim or multiple claims under the same policy. Resolving these disputes often requires extensive legal analysis and court involvement, further driving up costs.

Claims Closed Without Costs: A Decline

In another shift, only 23% of claims closed in 2024 were resolved without costs, a significant drop from the historical average of 60%. This trend suggests that more claims have merit, requiring both defense and indemnity payments.

Although the overall frequency of claims remains low, the claims being reported tend to present genuine exposures for both policyholders and WILMIC. “The claims we’re seeing now are more substantive, with higher stakes for all parties involved,” Anderson said.

Trial Activity: A Growing Trend

While trials remain rare, WILMIC has observed an increase in trial activity in recent years. In 2024, the company secured a defense verdict in a jury trial in Milwaukee County. The case involved a legal malpractice claim related to a real estate mediation, with the plaintiff seeking \$700,000 in damages. Ultimately, the jury found no cause or damages attributable to WILMIC’s insured attorney.

This trial outcome underscores the importance of a robust defense strategy. Anderson reflected, “Defending claims at trial, while resource intensive, is sometimes necessary to protect our policyholders and achieve fair outcomes.”

WILMIC anticipates trying additional

communication. Reporting potential claims early, investing in professional development, and maintaining meticulous records can all help reduce the likelihood and effect of claims.

Anderson offered a hopeful note for the future: “While the challenges are

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cases in 2025 as part of its ongoing commitment to defending its policyholders when warranted.

Looking Ahead to 2025

As WILMIC staff prepare for the year ahead, they expect the trends observed in 2024 to persist. Low claim frequency paired with rising severity will likely continue to define the legal malpractice landscape.

To navigate these challenges, WILMIC encourages policyholders to prioritize risk management and proactive

real, the dedication of our policyholders to their clients and their craft gives us confidence. Together, we can continue to address these trends and protect the integrity of the legal profession.”

As 2024 concludes and 2025 begins, WILMIC wishes its policyholders a claim-free holiday season and a prosperous 2025. By reflecting on lessons learned and preparing for future challenges, the legal community can continue to serve clients effectively and ethically. **WL**

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