

# Update from

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# LAWPRO

Dan Pinnington, CEO  
FOIA, November 2019

- Why LAWPRO is different
- LAWPRO 101
- 2020 Program changes
- LAWPRO myths and fake news
- Claims trends
- How you can help
- Questions

# Agenda

- Has to insure everyone
- Actively works to prevent claims
- Does not look for ways to avoid coverage
- Appoints repair counsel to fix mistakes and reduce damages
- Takes a principled approach to settling claims
- Vigorously defend claims where no negligence or damages
- Works collaboratively with defence counsel and insured to defend a claim

Why LAWPRO is different from other insurance companies

- Public protection: clients should be compensated if their lawyer makes an error
- *Law Society Act* gives LSO statutory right to have mandatory, universal insurance program
- All Canadian jurisdictions have similar programs
  - Allows for mobility

## Why LAWPRO?

- FSRA regulated insurance company
- Wholly owned by LSO
- Licensed to provide professional liability insurance in Ontario
- Launched in 1995 in response to the insurance crisis

## What is LAWPRO?

- Independent with own Board of Directors
- Operate in commercially reasonable manner
- Premiums should reflect the risk of claims
- Resolve claims fairly and expeditiously
  - Strive to find coverage whenever possible
  - Not “no fault”
  - Deny/limit coverage in appropriate circumstances

LAWPRO's mandate from Insurance Task Force

- Lawyers and paralegal partners
- Covers “Professional Services”
- Individual lawyer is named insured
- \$1 million per claim / \$2 million aggregate
- “Base” premium \$2,950
- Default deductible \$5,000

Visit [lawpro.ca](http://lawpro.ca) for policy and more details

## Mandatory “Primary” program

To be fair, premiums should reflect risks

- Premium reductions
- Transaction levies
- Different deductibles
- Claims surcharge levies
- Real Estate Practice Coverage Option (REPCO)
- Optional coverages

How “risk rating” is accomplished

### Part-time discount

- 50% (<750 billable hours and <\$90,000 gross billings)

### Restricted area of practice discount

- 50% if solely criminal or immigration

### New call discount

- 50%, 40%, 30%, 20% first 4 years

### Designated government agencies (and CSO's)

- 75%
- Pro bono work
  - No premium required in some situations

## Base premium reductions

- A greater volume of work means greater claims risk
- \$100 per litigation matter commenced
  - Not family law matters
- \$65 per real estate transaction
- Collect \$30 million per year

Transaction levies risk rate for practice volumes

- \$5,000 default
  - Also \$0, \$10,000 and \$25,000
- Double deductible for conflicts of interest claims
- \$10,000 deductible for certain administrative dismissal claims

## Different deductibles

In addition to base premium, over 5 years after a claim is paid:

- 1 claim paid: \$2,500
- 2 claims paid: \$5,000
- 3 claims paid: \$10,000
- 4 claims paid: \$15,000
- 5 claims paid: \$25,000
- 6 claims paid: \$35,000
- plus \$10,000 per claim paid in excess of 6

## Claims surcharge levies

- Premium \$2950
  - \$1,835 in 1995 dollars
  - Was \$5,600 in 1994
- Clarifying the circumstances in which notice of a claim must be provided
- Refinement of definitions for clarity

2020 Insurance program

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**LAWPRO E&O Policy**  
**myths and fake news**

**Only bad lawyers have claims against them?**



**Only bad lawyers have claims against them?**

- **Even the best lawyers make mistakes**
  - **42% have had a claim**

**Lawyers only need to report to LAWPRO when they are served with a statement of claim?**



**Lawyers only need to report to LAWPRO when they are served with a statement of claim?**

**Report when:**

- **You discover a mistake**
- **A client says you made a mistake**
- **When asked to produce file**
- **Court order**

**When in doubt – report**

**If a lawyer can fix their mistake, then they should try that before contacting LAWPRO?**



**If a lawyer can fix their mistake, then they should try that before contacting LAWPRO?**

**Never try to fix a mistake**

**Don't admit to client you made a mistake**

**Contact LAWPRO immediately**

**Could result in denial of coverage**

**Don't just let the firm handle the claim**



**Don't just let the firm handle the claim**

**Individual is named insured on policy**

**We look to find responsible lawyer**

**Also look to them to pay deductible**

**(then to partners/shareholders at date of claim)**

**No notes means there is no evidence  
I made a mistake?**



**No notes means there is no evidence  
I made a mistake?**

**No notes makes it harder to defend  
Clients will remember everything  
You won't  
Notes can be a lifesaver!**

**As soon as I report a claim, I need to pay a deductible?**



**As soon as I report a claim, I need to pay a deductible?**

**NO!!**

**Only pay a deductible when there is a payment further to judgement, settlement and/or repair  
Or 1/2 with defence filing and 1/2 when discoveries, examinations or pre-trial**

**No deductible if “loss prevention”**

**Allegation of error**

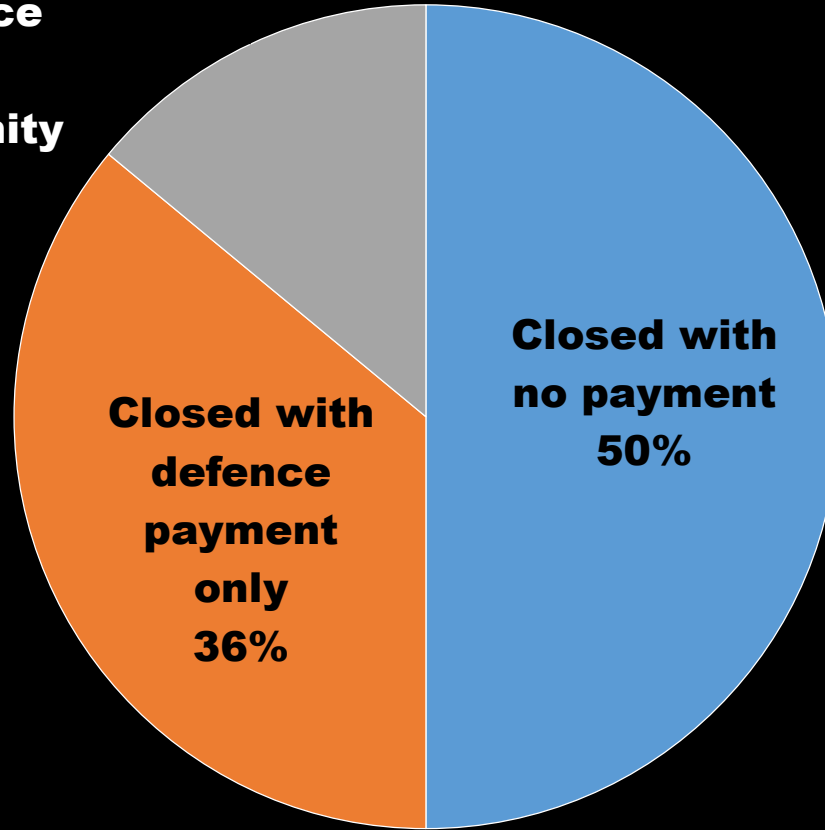
**We don't agree**

**Uphold insured's position**

**e.g. summary judgement**

**(vs “repair” e.g., fixing admin dismissal)**

**Closed with  
defence  
and  
indemnity  
14%**



**Closed with  
defence  
payment  
only  
36%**

**Closed with  
no payment  
50%**

**The mandatory policy is enough coverage?**



**The primary policy is enough coverage**

**It depends**

**The nature of your practice**

**\$1 million per claim/\$2 million in the aggregate**

**In a typical year:**

**275 or so claims exceed \$100,000**

**Less than 10 claims hit \$1 million limit**



- Designed for firms under 50 lawyers
  - 3,817 lawyers at 1,512 firms
- Limits as high as \$9 million per claim/in the aggregate
- Firms are named insured
- No broker's commission!
- Retention rate of 98%

## LAWPRO Excess Program info

**Excess self-assessment**

**[Lawpro.ca/excess](http://Lawpro.ca/excess)**

**I'm retiring so I won't be insured if mistakes are found later?**



**I'm retiring so I won't be insured if mistakes are found later?**

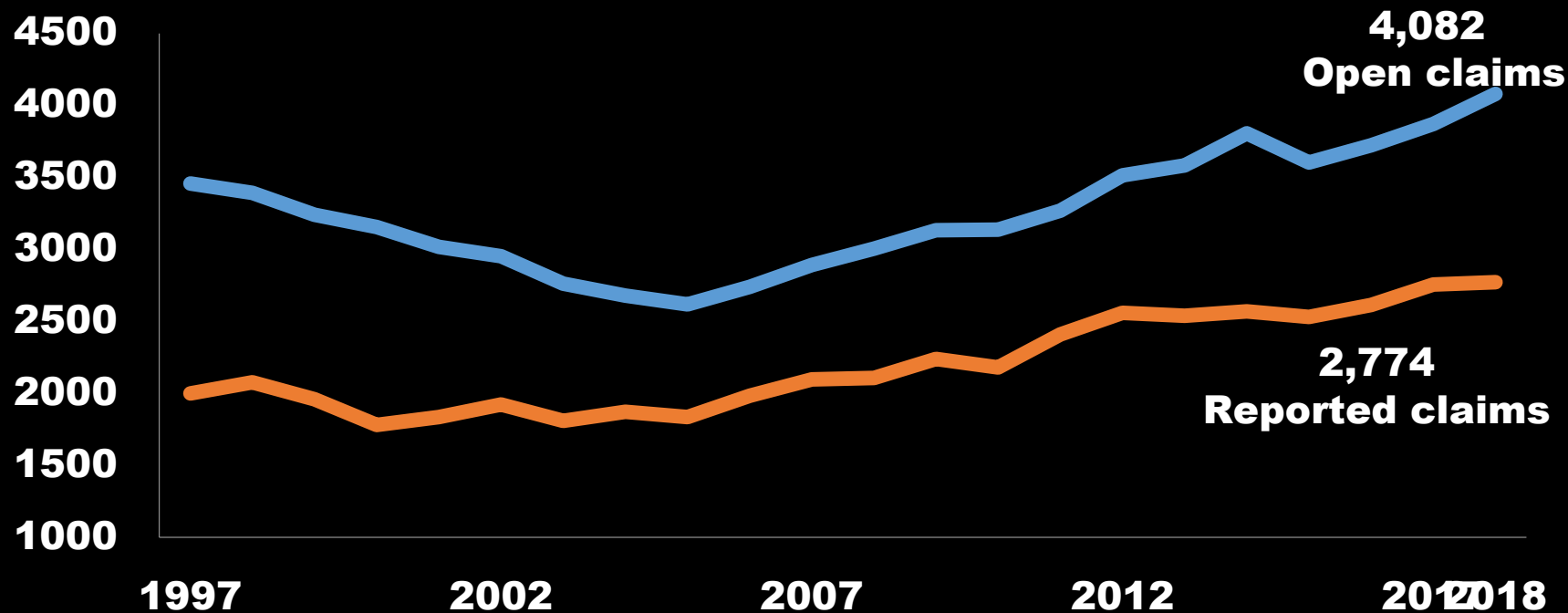
**Free Run-Off insurance  
For work done while in practice!  
\$250K lifetime limit**

**Buy more if you think you need it  
Run-off Buy-up  
\$500,000 or \$1 million**

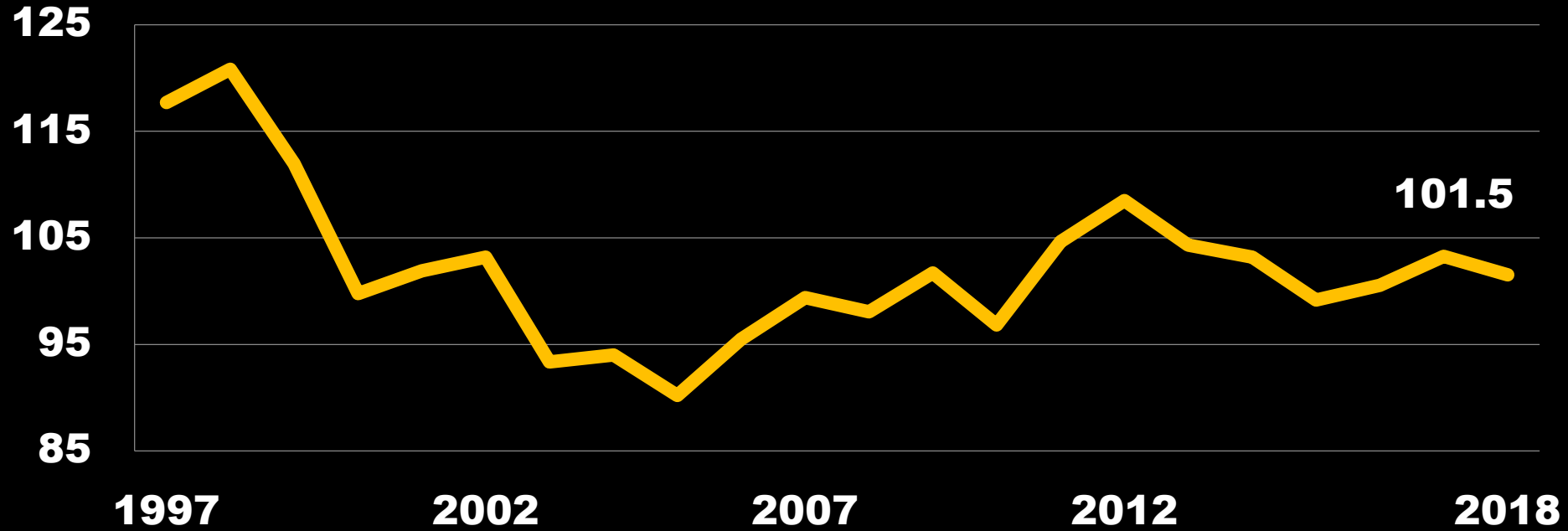
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## **Claims trends and emerging risks**

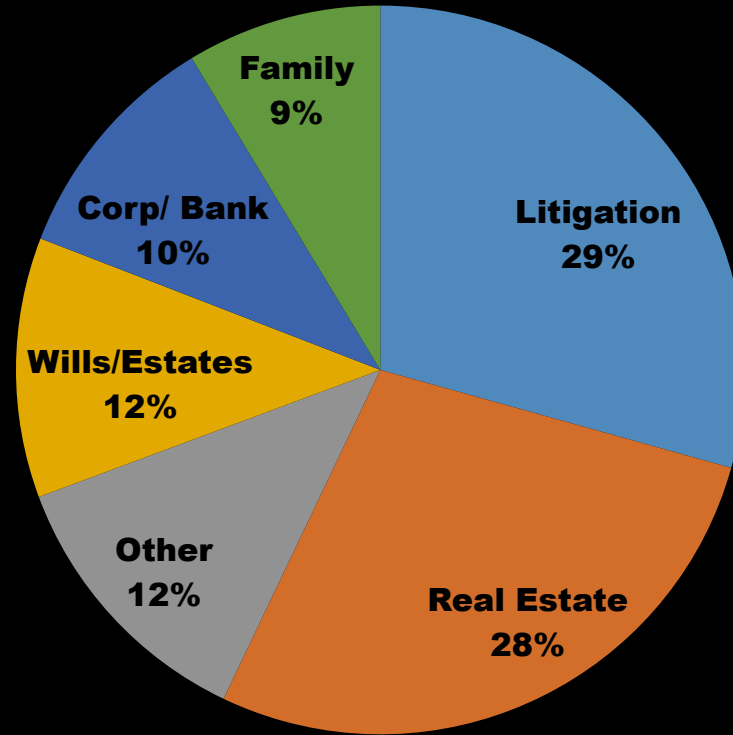
## 2019 Open claims and number reported



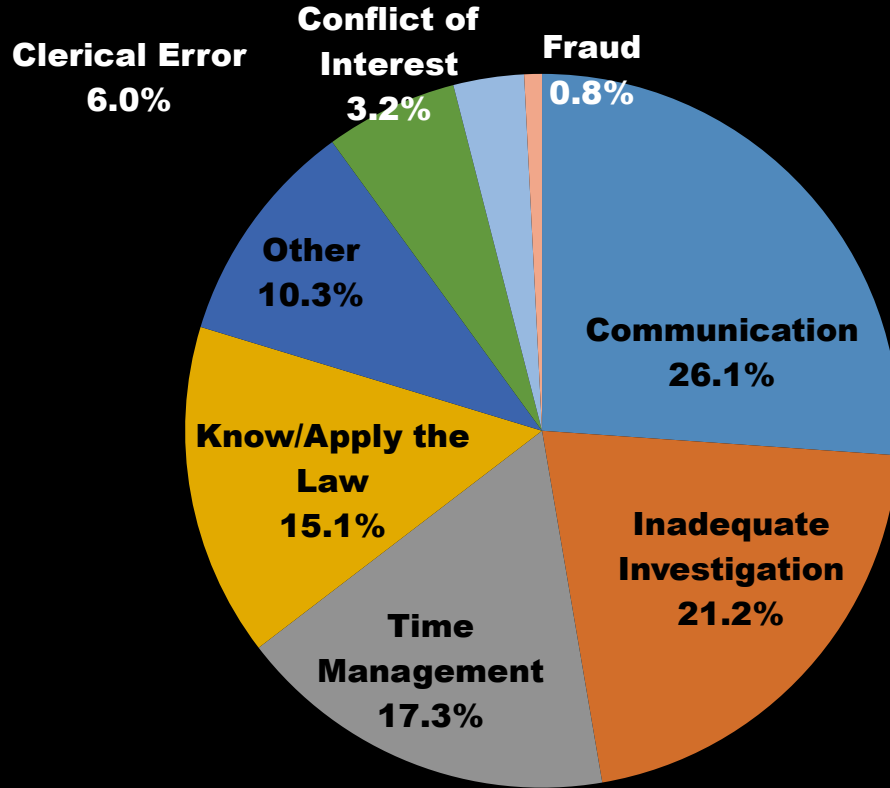
## Claims per 1000 lawyers



**Areas of loss  
by cost**



## Causes of loss by cost



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## Helping you grow into a healthier life

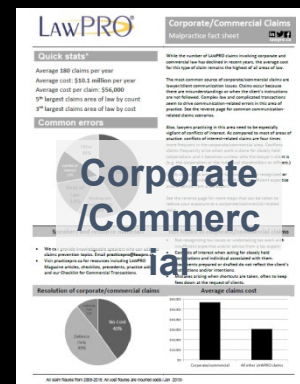
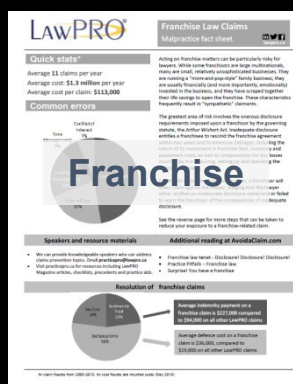
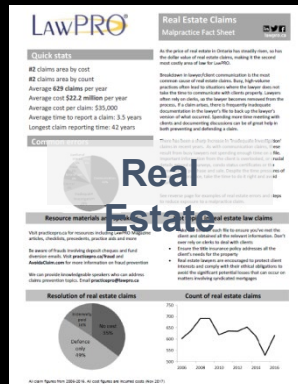
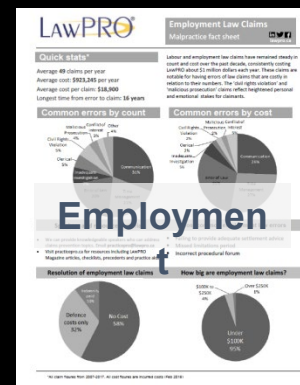
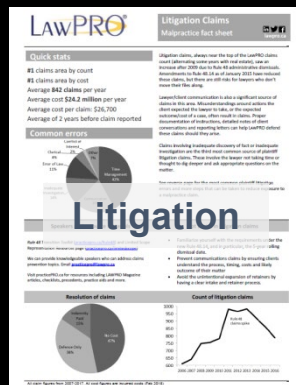
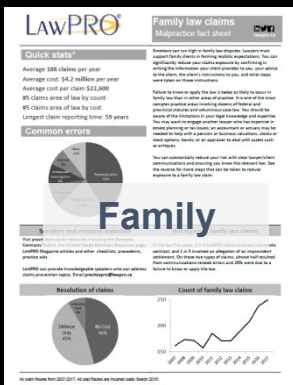
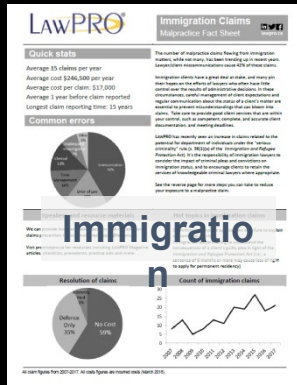
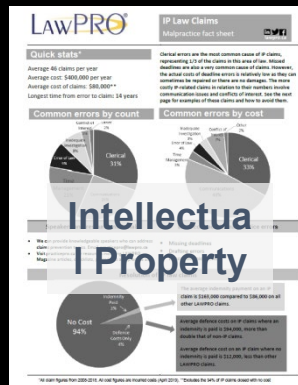
When you or someone you care about needs help, Homewood is here for you. Whether you need advice, counselling or treatment—we are here to lend you a hand and support your recovery. We've been improving lives since 1883. How can we help you?

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### Homeweb Member Services

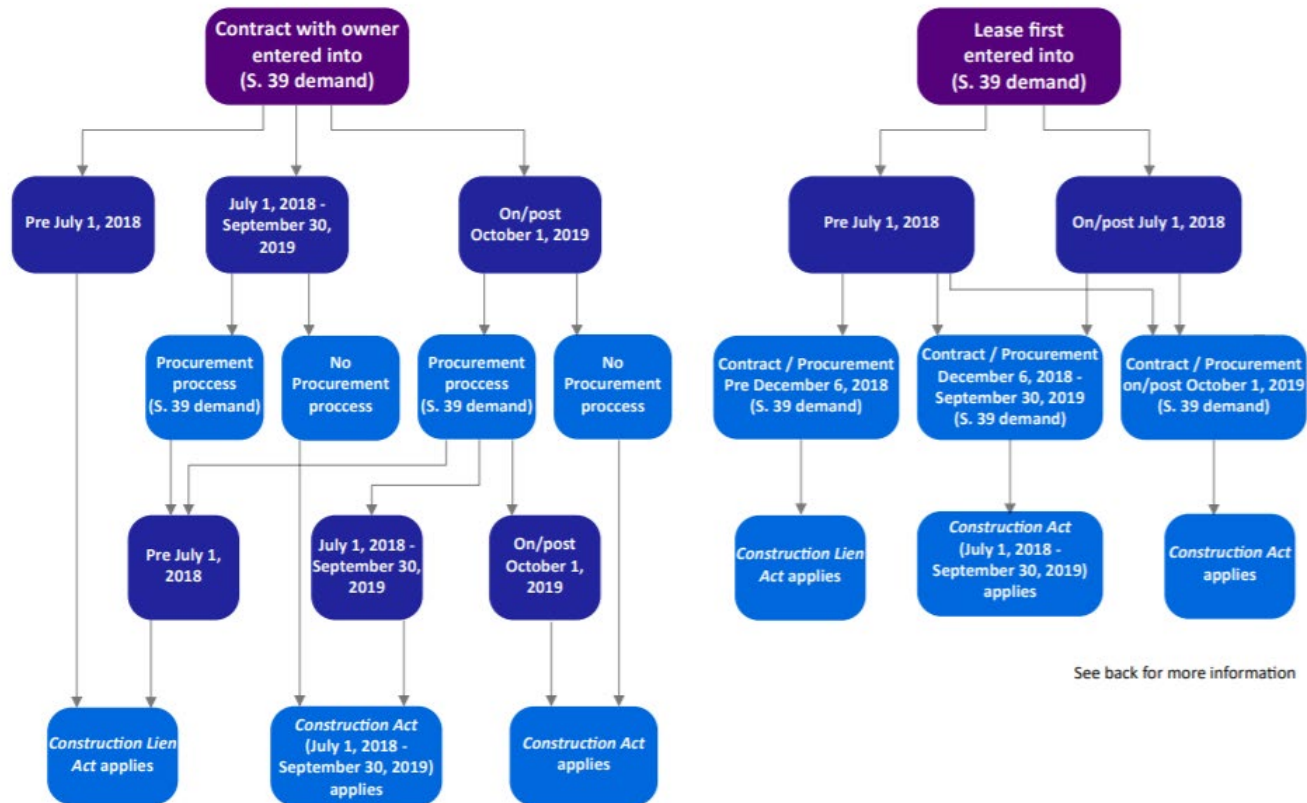
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Personal challenges lead to claims so  
LAWPRO contributes to funding of MAP



See our Claims Fact Sheets for information about individual areas of practice

# Liening a Project: Which Act Applies?



See back for more information

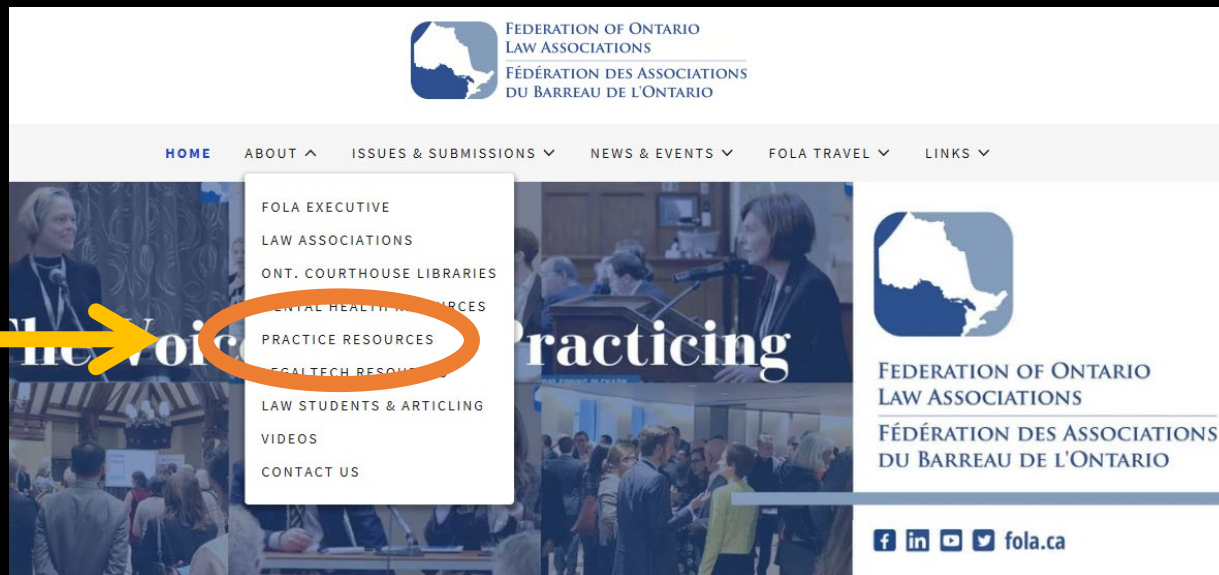
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**practicePRO resources**  
**now available on FOLA website**  
**[fola.ca/practice-resources](https://fola.ca/practice-resources)**



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**How can **LAWPRO** help?**



Questions please!

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Contact me if questions