

The Lawyers' Fund for Client Protection  
of the State of New York

119 Washington Avenue, Albany, New York 12210  
Telephone: (518) 434-1935 or (800) 442-3863  
E-mail: [info@nylawfund.org](mailto:info@nylawfund.org)  
Web site: [www.nylawfund.org](http://www.nylawfund.org)

**BOARD OF TRUSTEES**

Eric A. Seiff, Chairman  
Eleanor Breitel Alter  
Anthony J. Baynes  
Peter A. Bellacosa  
Nancy Burner  
Patricia L. Gatling  
Charlotte G. Holstein

**ANNUAL REPORT**  
**OF THE**  
**BOARD OF TRUSTEES**  
**FOR**  
**CALENDAR YEAR 2012**



Submitted to the  
Judges of the Court of Appeals  
and the  
State Comptroller  
pursuant to the provisions of

General Order of the Court of Appeals dated November 16, 1981

# Table of Contents

Introduction.....	3	Awards of Reimbursement in 2012.....	12
History and Purpose of Law Client Protection.....	3	Awards of Reimbursement, 1982 to 2012.....	12
Revenue of the Lawyers' Fund.....	4	Awards by Category of Loss in 2012.....	12
Special Recognition .....	5	Awards by Category of Loss, 1982 to 2012.....	13
The Board of Trustees .....	6	Ineligible Claims Since 1982 .....	13
The Staff of the Lawyers' Fund.....	6	Claims Pending as of December 31, 2012.....	13
The Fund's Statutory Authority and the Trustees' Regulations.....	7	Lawyers Involved in Awards, 1982 to 2012.....	14
Revenue, Awards and Disbursements.....	7	Recommendations .....	15
Restitution Revenue and Litigation.....	7	Conclusion .....	17
Public Information and Consumer Education.....	7	Trustees' Regulations (22 NYCRR 7200, et seq.)..	18
Processing Applications for Reimbursement.....	7	Lawyers Involved In 2012 Awards.....	21
Judicial Review of Rejected Claims.....	8	Helpful Telephone Numbers.....	21
The Dishonored Check Reporting Rule.....	8	Statistical Tables.....	22
Escrow Funds of Deceased Lawyers and Missing Clients.....	8	NY Judiciary Law Sec. 468-b.....	25
Losses in Investment Transactions.....	9	NY State Finance Law Sec. 97-t.....	25
Legal Fee Claims.....	9	The Fund's Home Page: <a href="http://www.nylawfund.org">www.nylawfund.org</a> .....	26
Theft of Personal Injury Settlements and Payee Notification.....	9	Application for Reimbursement.....	27
Thefts in Real Property Transactions.....	10		
Claims Filed and Processed.....	12		
Claims Filed in 2012.....	12		
Claims Filed, 1982 to 2012.....	12		
Claims Filed by Category of Loss in 2012.....	12		
Claims Filed by Category of Loss, 1982 to 2012.....	12		



**“Thank you again for awarding me this money. You have no idea what a difference it has made in my life...I honestly don't know where I would be today if not for your kindness, and that of the Board of Trustees, as well as all the wonderful and trustworthy lawyers in the State of New York. One bad apple does not the bunch spoil.”**  
**Message from a Claimant, 2012**

## Introduction

This 30th Annual Report of the Lawyers' Fund for Client Protection focuses on the activities of the Fund in calendar year 2012.

The Lawyers' Fund is an independent public trust, financed by New York's legal profession, which reimburses law clients for financial losses caused by dishonest conduct in the practice of law. No other profession provides such protection to its clients. The Fund is administered by a Board of Trustees appointed by the Court of Appeals. The Trustees serve renewable three-year terms as a public service without compensation.

The overwhelming majority of lawyers in New York State are honest and caring and deserving of their clients' trust. This fact has been clearly established by the Trustees' experience over 30 years. In 2012, as in every year since the Fund's inception in 1982, a small number of former lawyers are responsible for the dishonest conduct resulting in the Fund's awards. In 2012, 60 now suspended, disbarred or deceased lawyers were responsible for the client losses reimbursed by the Fund. Of these 60 former lawyers, 31 appear for the first time in the Fund's awards. It is important to note that there are over 298,000 registered lawyers in New York State. In 2012, the Trustees approved 187 awards providing \$5.4 million in total reimbursement to eligible law clients for losses caused by dishonest conduct of attorneys in New York State. Every eligible law client received 100 per cent reimbursement for their losses in 2012. Since 1982, the Trustees have granted 7,255 awards totaling \$163.7 million.

The Trustees wish to express appreciation to former Trustee Theresa B. Mazzullo of Rochester who left the Fund in late 2012 due to other public service commitments. In October 2012, the Fund welcomed Anthony J. Baynes of Williamsville as its newest Trustee. The Trustees remain proud of New York's legal profession, and grateful for the financial and other support lawyers in New York State provide to the Lawyers' Fund and its client protection program. Members of the bar continue to generously donate their time and talents in assisting claimants before the Fund as a public service, without legal fee.

## History and Purpose of Law Client Protection

In the 1960's, law client reimbursement programs were first formed by bar associations in New York State. Inadequate financing caused these associations to appeal to the Court of Appeals and the New York court system which assumed the responsibility for operating a statewide client reimbursement program.

The Lawyers' Fund, originally known as The Clients' Security Fund, was created by Chapter 714 of the Laws of 1981, effective June 1, 1981. The mission of the Fund, as set forth in section 468-b of the State Judiciary Law and the Trustees' Regulations, is to maintain the integrity and protect the good name of the legal profession, protect law clients from dishonest conduct in the practice of law, and promote public confidence in the administration of justice in New York State.

### The Fund's Mission Statement:

**To protect legal consumers from dishonest conduct in the practice of law, to preserve the integrity of the bar, to safeguard the good name of lawyers for their honesty in handling client money, to promote public confidence in the administration of justice in the Empire State.**

**"I received your letter stating the Board of Trustees has approved (my) award. I just wanted to say thank you! I know (my former lawyer) does not reflect the majority of the members and I thank (lawyers in New York) for setting up the Fund to help protect those of us trusting the system".  
Message from a Claimant, 2012**

The Fund's primary focus is the reimbursement of losses caused by the dishonest conduct of attorneys who were admitted to the practice of law in New York State. Typical losses reimbursed by the Fund include the theft of escrow deposits in real property transactions, estate and trust assets, settlements in personal injury litigation, debt collection receipts, money embezzled in investment transactions within an attorney-client relationship and the practice of law, and unearned fees paid in advance to lawyers who falsely promise their legal services.

In an effort to prevent losses, the Trustees also publish materials to educate lawyers and clients; engage in programs to assist lawyers in complying with their fiduciary and escrow obligations; and recommend court rules intended to improve our legal system and protect law clients.

## Revenue of the Lawyers' Fund

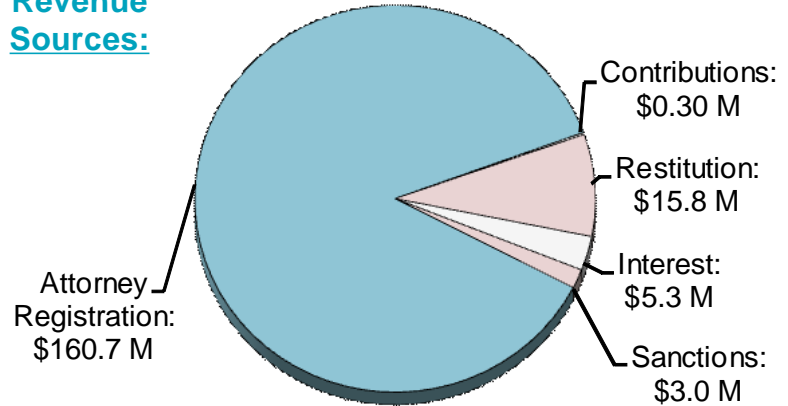
Lawyers in New York State financially support the Lawyers' Fund. The biennial attorney registration fee required of every practicing attorney in the State is the primary source of revenue for the Lawyers' Fund. Section 468-a of the Judiciary Law allots \$60 of each \$375 registration fee to the Fund. Since April 1, 1993, additional revenue from the biennial registration fee has been made available to the Fund.

**No tax dollars are used to finance the Lawyers' Fund. The Fund also does not receive any revenue from the Interest on Lawyer Account (IOLA) program.**

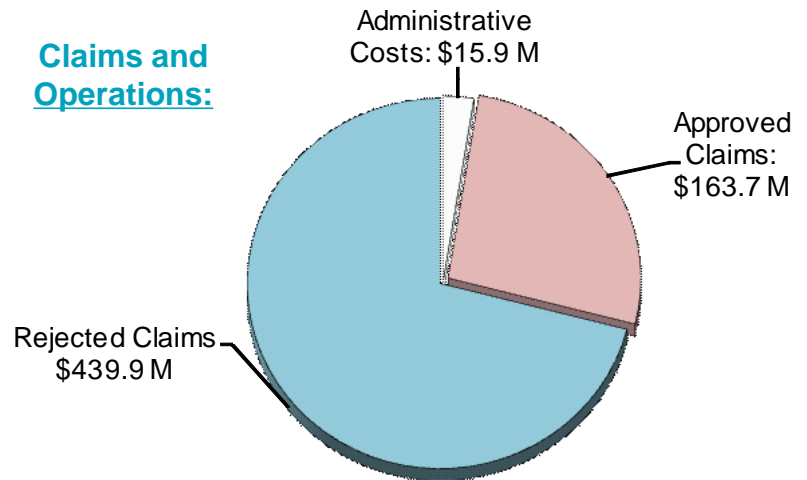
The Fund's other sources of revenue include restitution, interest, sanctions and contributions. Since 1982, the Fund has received \$160.7 million from attorney registration fees; \$15.8 million in restitution; \$5.3 million in interest income; \$3.0 million in judicial sanction revenue; and \$301,000 in contributions from lawyers and the public. The Fund's revenues are annually appropriated to the Board of Trustees by the State Legislature as one portion of the Judiciary Budget.

## The Fund's Finances Since 1982

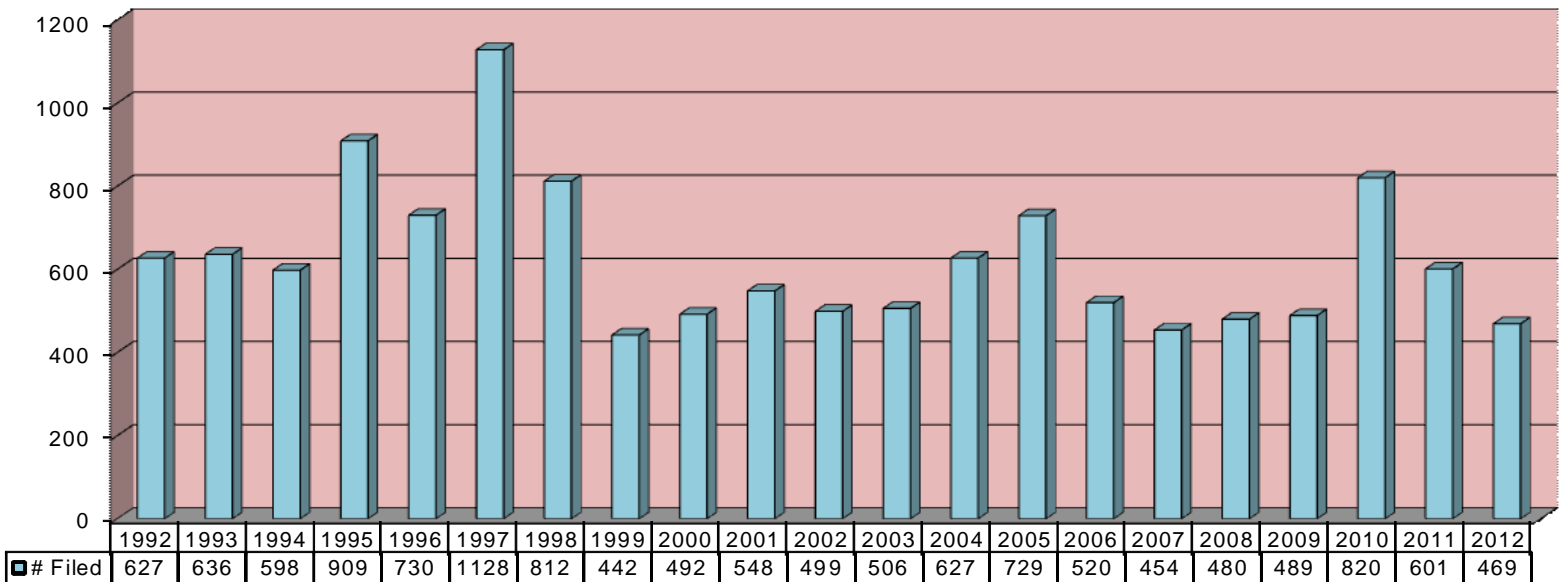
### Revenue Sources:



### Claims and Operations:



## Number of Reimbursement Claims Filed, 1992 - 2012 (Total Number of Reimbursement Claims Filed Since 1982: 17,029)



## Special Recognition

THE BOARD OF TRUSTEES OF THE LAWYERS' FUND PROUDLY RECOGNIZES THE GENEROUS ACT OF PUBLIC SERVICE DISPLAYED BY THE ATTORNEYS LISTED BELOW WHO HAVE ASSISTED CLAIMANTS IN RECEIVING AWARDS OF REIMBURSEMENT IN 2012:

### DUTCHESS COUNTY

Christopher S. Coleman, Esq.

### ERIE COUNTY

John G. Brenon, Esq.  
Donna L. Haslinger, Esq.  
Robert E. Nicely, Esq.  
Mark E. Saltarelli, Esq.  
Douglas Trumpler, Esq.

### GENESEE COUNTY

Thomas D. Williams, Esq.

### KINGS COUNTY

Michael J. Mondschein, Esq.

### MONROE COUNTY

Richard I. Reitkopf, Esq.  
Brian Shiffrin, Esq.

### ONONDAGA COUNTY

Mary Lannon Fangio, Esq.

### WARREN COUNTY

Robert P. McNally, Esq.

### NASSAU COUNTY

Stephanie M. Alberts, Esq.  
Nat Cerniglia, Esq.  
Jeffrey C. Daniels, Esq.  
Jeffrey D. Herman, Esq.  
John Jaye Markos, Esq.  
Danielle B. Notaro, Esq.  
Stephen Seltzer, Esq.  
Scott M. Zucker, Esq.

### NEW YORK COUNTY

Jeffrey Fleischmann, Esq.  
Herbert Kramer, Esq.  
Harris D. Leinwald, Esq.  
Howard B. Levi, Esq.  
William Mait, Esq.  
Christian R. Oliver, Esq.  
Lisa Breier Urban, Esq.

### QUEENS COUNTY

Luke J. Bigelow, Esq.  
David G. Cotton, Esq.  
Lisa D. Levine-Shapiro, Esq.  
Keith R. Singh, Esq.  
John O'Connell, Esq.

### SUFFOLK COUNTY

Laura Amato-Caypinar, Esq.  
Edward Calisto, Esq.  
Jerry D. Casel, Esq.  
Patrick B. Fife, Esq.  
Ronald J. LaVita, Esq.

### OUT OF STATE

Bruce E. Goldman, Esq. (NJ)  
Gail Lopez-Henriquez, Esq. (PA)

**"The conduct of attorneys is not measured by how close to the edge of thin ice they skate. The conduct is not how much clarity can be squeezed out of the strict letter of the law, but how much honor can be poured into the generous spirit of lawyer-client relationships."**  
***Matter of Cooperman, 83 N.Y.2d 465***

**(1994) (Bellacosa, J)**



Lawyers Fund for Client Protection  
of the State of New York

## CERTIFICATE OF APPRECIATION

PRESENTED TO

**New York's Legal Profession**

For public service on behalf of the administration of justice, the protection of law clients and the integrity of the legal profession in the State of New York, meriting the appreciation and respect of the Board of Trustees of the Lawyers Fund for Client Protection.

PRESENTED ON

Timothy O'Sullivan

Executive Director



Eric A. Seiff

Chairman of the Board of Trustees

## The Board of Trustees

The Board of Trustees are appointed by the Court of Appeals to administer the Lawyers' Fund. The Trustees serve renewable three-year terms as a public service without compensation. Since December 1, 1981, the Board has been composed of five members of the bar and two business and community leaders.

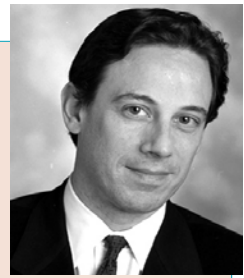
The Fund's officers, elected by the Trustees, consist of a Chairman, Vice-Chairman and a Treasurer. The Fund's Executive Director serves as the Fund's Chief Administrative Officer and the Board's Secretary and Counsel. The Trustees currently serving are listed below.



**Eric A. Seiff** of the Bronx is Chairman of the Board. He is a partner in the Manhattan law firm of Scopetta, Seiff, Kretz & Abercrombie. Mr. Seiff is a graduate of Yale University and the Columbia University Law School (1958). Mr. Seiff is a charter member of the Board. His present term expires on November 30, 2015.



**Nancy Burner** of Suffolk County, is Vice-Chairman of the Board and is the founding partner of Nancy Burner & Associates.,P.C., an estate planning and elder law firm in Setauket and Westhampton Beach. She is a graduate of the State University at Stony Brook and Hofstra University School of Law (1988). She was first appointed in 2002. Her present term expires on December 10, 2014.



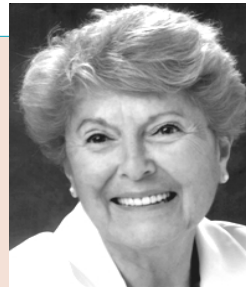
**Peter A. Bellacosa** of Manhattan is the Fund's Treasurer and a partner in the litigation group of the Kirkland & Ellis law firm. He is a graduate of Georgetown University (1985) and St. John's University School of Law (1988). He was first appointed to the Board of Trustees in 2009. His present term expires on November 30, 2015.



**Eleanor Breitel Alter** of Manhattan served as Chairman of the Board of Trustees from 1985 through 2010. She is a partner in the Manhattan law firm of Kasowitz, Benson, Torres & Friedman. Mrs. Alter is a graduate of the University of Michigan and the Columbia University Law School (1964). She was first appointed in 1983. Her present term expires on November 30, 2013.



**Anthony J. Baynes** of Williamsville, Erie County, is the founder and current Chairman of the AJ Baynes Group, a Buffalo based development and logistics company. Mr. Baynes is a graduate of Buffalo State College (1979). He was first appointed in 2012. His present term expires on October 17, 2015.



**Charlotte G. Holstein** of Syracuse is a civic leader, founder and Executive Director of F.O.C.U.S. Greater Syracuse, a community interest group. She is a graduate of Brockport State University (1946) and the 1998 recipient of an honorary degree, Doctor of Humane Letters, from LeMoyne College in Syracuse. She was first appointed in 2001. Her present term expires on November 30, 2013.



**Patricia L. Gatling**, of Manhattan, is the Commissioner and Chair of the New York City Commission on Human Rights. She is a graduate of Johns Hopkins University and the University of Maryland School of Law (1982). She was first appointed in 2008. Her current term expires on November 19, 2014.

### Former Members of the Board of Trustees

Former members of the Board of Trustees include the Hon. Judith S. Kaye, former Chief Judge of the State of New York (1981-1983); Joseph Kelner, Esq. of Manhattan (1981-1982); Anthony R. Palermo, Esq. of Rochester (1981-1990); John F. X. Mannion of Syracuse (1981-1992); Ray W. Manuszewski of Cheektowaga (1981-2002); Theodore D. Hoffmann of Hicksville (1990 to 2002); Shirley B. Waters of Rome (1992 to 2001); Bernard F. Ashe, Esq. of Delmar (1981-2008), Hon. Charles J. Hynes, Kings County District Attorney (1982-2009) and Theresa B. Mazzullo of Rochester (2002-2012).

## The Staff of the Lawyers' Fund

The Fund's staff is appointed by the Board of Trustees. In 2012, the staff consisted of Timothy J. O'Sullivan, Executive Director and Counsel; Michael J. Knight, Deputy Counsel; Ray Wood, Investigator; Jahnel Kaczor, Administrative Secretary; and Harriett Tremblay, Secretary.



*Timothy J. O'Sullivan*



*Michael J. Knight*



*Ray Wood*



*Jahnel Kaczor*



*Harriett Tremblay*

## The Fund's Statutory Authority and the Trustees' Regulations

Section 97-t of the State Finance Law established the Lawyers' Fund. This statute also provides for the management of the Fund's assets as a special revenue fund by the State Comptroller. Section 468-b of the Judiciary Law governs the administration of the Fund and provides the Trustees with full authority to administer the Fund, subject to the general supervisory authority of the Court of Appeals.

The Trustees' Regulations for administration and claims procedures are published in Title 22 of the Official Compilation of Codes, Rules and Regulations of the State of New York (22 NYCRR Part 7200, et seq.). The Appendix includes section 97-t of the State Finance Law, section 468-b of the Judiciary Law and the Trustees' Regulations.

## Revenue, Awards and Disbursements

Since 1982, the Fund has received total revenue of \$185.2 million. As of December 31, 2012, the Trustees have approved a total of \$163.7 million in reimbursement awards. The Fund's administration cost in 2012 was \$792,682. In 30 years of operations, 92 cents out of every \$1 in revenue received has been directly applied towards the payment of awards of reimbursement. At the close of 2012, the Fund held \$8.4 million in revenue in the state treasury.

## Restitution Revenue and Litigation

Since 1982, the Fund has recovered a total of \$15.8 million in restitution from dishonest attorneys, their estates, and third parties civilly liable for losses reimbursed by the Fund.

The Lawyers' Fund is represented by the New York State Attorney General's Office in restitution and other litigation. Since December 1999, the Fund has financed the payroll expense of an Assistant Attorney General assigned exclusively to the Fund's restitution litigation.

Since 2001, Assistant Attorney General Richard L. Rodgers has served as the Fund's restitution counsel. Mr. Rodgers also defends the Fund in Article 78 proceedings. The Trustees and staff are grateful to Mr. Rodgers for his dedicated and talented service to the Lawyers' Fund.

In 2012, the Lawyers' Fund was assisted in restitution and other litigation by Assistant Attorneys General John V. Cremona, Eric Bieber, Kathryn Blake, Henry Collins, Norman Fivel, Jeanna Hussey, William Maldovan, Stephen Nagle, Charles Quackenbush and Michael Russo. The Trustees are greatly indebted to these dedicated professionals for their skillful representation.

## Public Information and Consumer Education

The Trustees encourage public information about the Fund and its activities. Responsible public information efforts promote public confidence in the integrity of the legal profession and the administration of justice in New York State.

Educational publications by the Fund for legal consumers and members of the bar have included editions of *Know Your Escrow Rights*; *Know Your Escrow Rights: The Lawyers' Edition*; *Attorney Trust Accounts: The Video*; *What's A Power of Attorney? Answers for New Yorkers*; *Avoiding Grief With A Lawyer : A Practical Guide to Attorney Trust Accounts and Record Keeping*; and an *Appendix of CLE Materials*. A documentary video on the history and purpose of the Lawyers' Fund was produced in 2007 in recognition of the Fund's 25th anniversary.

The Fund's website at [www.nylawfund.org](http://www.nylawfund.org) includes frequently asked questions, Fund procedures, the Trustees' Regulations, reimbursement claim forms, recent Annual Reports, consumer publications and press releases, addresses and telephone numbers of Attorney Grievance Committees, and a roster of client protection funds nationwide. The Fund's website also includes ethics and escrow materials such as the Rules of Professional Conduct, the Dishonored Check Notice Rule, a list of approved banking institutions, court rules and sample pleadings concerning escrow funds of missing clients and deceased attorneys, and selected New York State Bar Association ethics opinions.

Another area of education for legal consumers of interest to the Trustees is requiring attorneys to disclose whether or not they maintain malpractice insurance. Twenty-six states now require some form of attorney malpractice insurance disclosure. One possible method is to require that attorneys disclose on their biennial registration statement whether they maintain professional liability coverage and the limits of their policy. Legal consumers can then access this information and make an informed choice when seeking legal representation.

## Processing Applications for Reimbursement

To be considered for reimbursement, a law client must file with the Fund a completed application form along with documentation supporting the alleged loss. The Executive Director will dismiss a claim with a written explanation if an alleged loss does not appear to be qualify for an award. The Fund's staff will conduct any necessary investigation of a claim for reimbursement.

Claimants alleging a misappropriation of money or property in the practice of law must report their losses to the appropriate Attorney Grievance Committee and District Attorney and cooperate with these agencies in their investigations. Notice of a claim, and the opportunity to respond, is provided to lawyers accused of dishonest conduct.

A claimant with the Fund does not have to be represented by counsel. Claimants may wish to consult with a lawyer concerning problems or other issues raised by their loss. As a public service, lawyers in New York State generously assist claimants with the Fund, without legal fee. Appellate Division rules and the Trustees' Regulations prohibit lawyers from charging or accepting legal fees for assisting claimants, except with the prior approval of the Board of Trustees. (See, 22 NYCRR 603.24, 691.24, 806.16, 1022.35 and 22 NYCRR 7200.14).

Section 468-b of the Judiciary Law and the Trustees' Regulations provide the Trustees with the sole discretion to determine the merits of claims, set the amount of an award of reimbursement, and the terms and conditions for awards. The Trustees do not render final determinations in claims until Appellate Division disciplinary proceedings and related criminal proceedings involving the accused attorney are completed. The Fund therefore coordinates its investigations of claims with those of the Attorney Grievance Committees in the four judicial departments and criminal prosecutors.

## Judicial Review of Rejected Claims

In 30 years, 16,255 determinations have been rendered in claims filed with the Fund. The Trustees have approved 7,255 awards of reimbursement. The remaining 9,000 claims were determined to be ineligible for failure to provide satisfactory evidence of eligible losses. Since 1982, only seventeen claimants denied reimbursement have pursued Article 78 or other proceedings against the Fund. Sixteen of these judicial challenges were dismissed after the courts held that there was a rational basis for the Trustees' denials in the claims. One proceeding remains pending.

**"I want to thank you for all your hard work in this matter and cannot say enough thanks. Really appreciate what your group of fine Trustees do..."**  
**Message from a claimant, 2012**

## The Dishonored Check Reporting Rule

An attorney's dishonored escrow account check is a clear indication of the possible misuse of client funds. To protect law clients, the Trustees recommended a version of the ABA's model overdraft reporting rule which was implemented by court rule in New York State by the Appellate Divisions effective January 1, 1993.

The "Bounced Check Rule" (22 NYCRR 1200.46(b) (1), (2); Part 1300) requires that a lawyer in possession of funds belonging to another person incident to the lawyer's practice of law must maintain such funds in a special account separate from the lawyer's business, personal or other accounts. These separate fiduciary accounts must be designated as an "Attorney Special Account", "Attorney Trust Account", or "Attorney Escrow Account". Lawyers may only deposit client funds with banks which have agreed to report dishonored checks on these accounts. A list of approved banks is available on the Fund's website at [www.nylawfund.org](http://www.nylawfund.org).

A "bounced" escrow check is mailed to the Lawyers' Fund. If not withdrawn within 10 days due to bank error, the Fund forwards the notice to the appropriate attorney disciplinary committee for investigation. The majority of bounced check notices are caused by innocent mistakes in law office banking practice. In these cases, the rule serves an educational role, alerting lawyers to the accounting, banking and recordkeeping requirements of the Rules of Professional Conduct.

The Dishonored Check Reporting Rule has proven to be an effective loss prevention and detection device. Since 1993, bounced check reports have identified and led to the discipline of approximately 260 lawyers for misusing client funds.

## Escrow Funds of Deceased Lawyers and Missing Clients

Rule 1.15 (e) of the Rules of Professional Conduct provides that only an attorney admitted to practice law in New York State shall be an authorized signatory on an attorney's trust, escrow or special account. This limitation is intended to protect law clients from the misuse of their money. Practical problems arise when a sole practitioner dies without a successor signatory.

In 1994, at the Trustees' suggestion, the Appellate Divisions amended court rules to permit a Justice of the Supreme Court to designate a successor signatory for a deceased attorney's trust, escrow or special account. Effective April 1, 2009, this Disciplinary Rule was renumbered as Rule 1.15 (g) of the new Rules of Professional Conduct. A Court may now direct that money from a deceased attorney's client funds account be disbursed to persons who are entitled thereto, or deposited with the Lawyers' Fund for safeguarding.

The Trustees also recommended court rules to prevent the escheat of law client escrow funds to the State which were unclaimed or owed to missing clients as abandoned property.

Rule 1.15 (f) of the new Rules of Professional Conduct provides that an application can be made for a court order directing that unclaimed escrow funds or funds owed to a missing client be deposited with the Lawyers' Fund for safeguarding and disbursement to persons entitled thereto. To prevent the depletion of nominal deposits, the Fund's policy is to accept deposits of \$1,000 or less without a court order.

The Fund's staff attempts to locate missing clients to return these deposits. The Fund's staff has so far successfully located 210 missing clients and returned to them \$579,536.

These court rules and sample pleadings pursuant to these rules can be found on the Fund's website at [www.nylawfund.org](http://www.nylawfund.org) in the escrow and ethics material section



## Losses in Investment Transactions

In establishing the Fund, the State Legislature made clear that reimbursement was intended for losses arising within an attorney-client relationship and the practice of law. Section 468-b of the Judiciary Law defines "dishonest conduct" as the misappropriation or wilful misapplication of **clients'** (emphasis supplied) money, securities, or other property by an attorney. Therefore, losses caused by a lawyer's breach of fiduciary obligations outside an attorney-client relationship and the practice of law are not eligible for reimbursement.

Claims involving investment and loan transactions with lawyers are carefully reviewed by the Trustees. In 1984, the Trustees adopted the following policy guidelines in order to fully explain the eligibility of claims involving these types of losses:

*"The Trustees will consider for payment only those claims arising out of an attorney-client relationship. Investment advice given by the claimant's attorney, although such advice may result in the loss of claimant's money, is not, in and of itself, a ground for seeking reimbursement from the Fund.*

*Claims arising out of investments may be considered for payment, however, when the attorney is in the possession of the claimant's money, which the attorney has obtained by virtue of an attorney-client relationship with the claimant, when the attorney advises the claimant to invest the money in a business or other venture, and the attorney then misappropriates the claimant's money.*

*Ordinarily, interest on investments will not be reimbursed. Unless a claimant establishes otherwise, all payments received on an investment will be considered to be return of principal and will be deducted from the claimant's initial investment with the attorney in order to determine, for Fund purposes, the claimant's reimbursable loss."*

The Trustees also apply a "but for" test in evaluating claims alleging investment losses. Under this test, a loss is eligible if the Board finds that the loss would not have occurred "but for" dishonest conduct within an attorney-client relationship. Since 1982, 1,648 claims have been filed with the Fund alleging \$230.4 million in losses from investment transactions with lawyers. The Trustees approved awards in only 370 of these claims providing total reimbursement of \$20.3 million.

## Legal Fee Claims

Since 1982, the largest single category of claims filed with the Fund (35%) seek reimbursement of legal fees.

The Fund has no authority to settle fee disputes, or to compensate for alleged negligence, malpractice, or dissatisfaction with legal services. To qualify for a refund of a legal fee, a claimant must provide satisfactory evidence of dishonest conduct. Section 7200.8 (e)(1) of the Trustees' Regulations provides that dishonest conduct in legal fee claims includes an attorney's misrepresentation, or false promise, to provide legal services in exchange for an advance fee.

## Theft of Personal Injury Settlements and Payee Notification

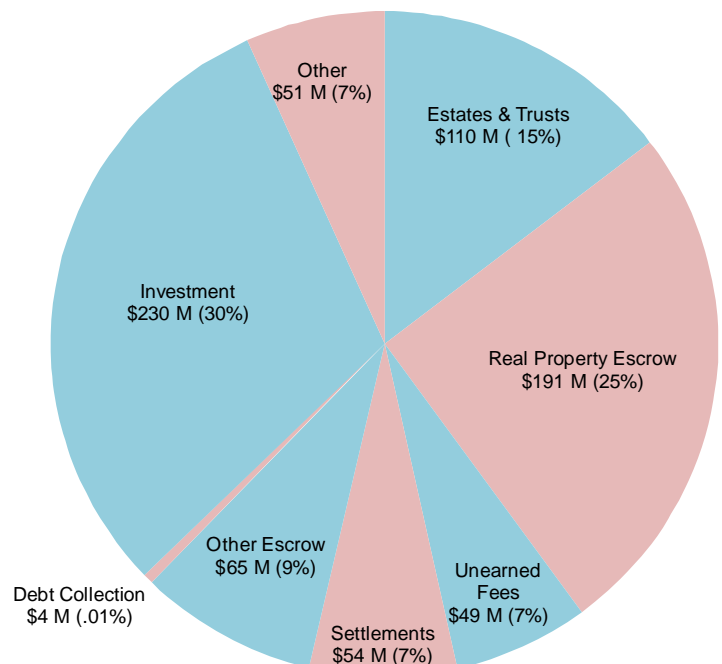
A dishonest lawyer may settle a client's action without authority by forging the client's signature on a general release and settlement draft and converting the proceeds. The settlement would be issued without notice of payment to the law client.

In 1988, to detect and prevent these losses, the Trustees recommended the adoption of a payee notification rule codified as Insurance Department "Regulation 64" notice. This requires liability insurers and their agents to provide law clients with written notice of payment whenever a third-party liability claim is settled for \$5,000 or more. (11 NYCRR 216.9). Regulation 64 detects and prevents losses involving the theft of personal injury settlements and shifts liability for forgery losses to banks that improperly honor forged indorsements on negotiable instruments.

New York's Regulation 64 has been approved as a Model Rule for attorney disciplinary systems by the American Bar Association. Variations of this payee notice rule have now been adopted in the Canadian Province of New Brunswick and in the following other fourteen states: California, Connecticut, Delaware, Georgia, Hawaii, Kansas, Maryland, Massachusetts, Nebraska, Nevada, New Jersey, Pennsylvania, Rhode Island and Texas.

**"I have not enough words how to thank you!  
Thank you from the bottom of my heart for all  
your hard work and not giving up on me. God  
bless you and give you wisdom and strength to  
be able to help people like me."  
Message from a claimant, 2012**

### Losses Alleged in Filed Claims Since 1982 By Misconduct : \$754 Million



## Thefts in Real Property Transactions

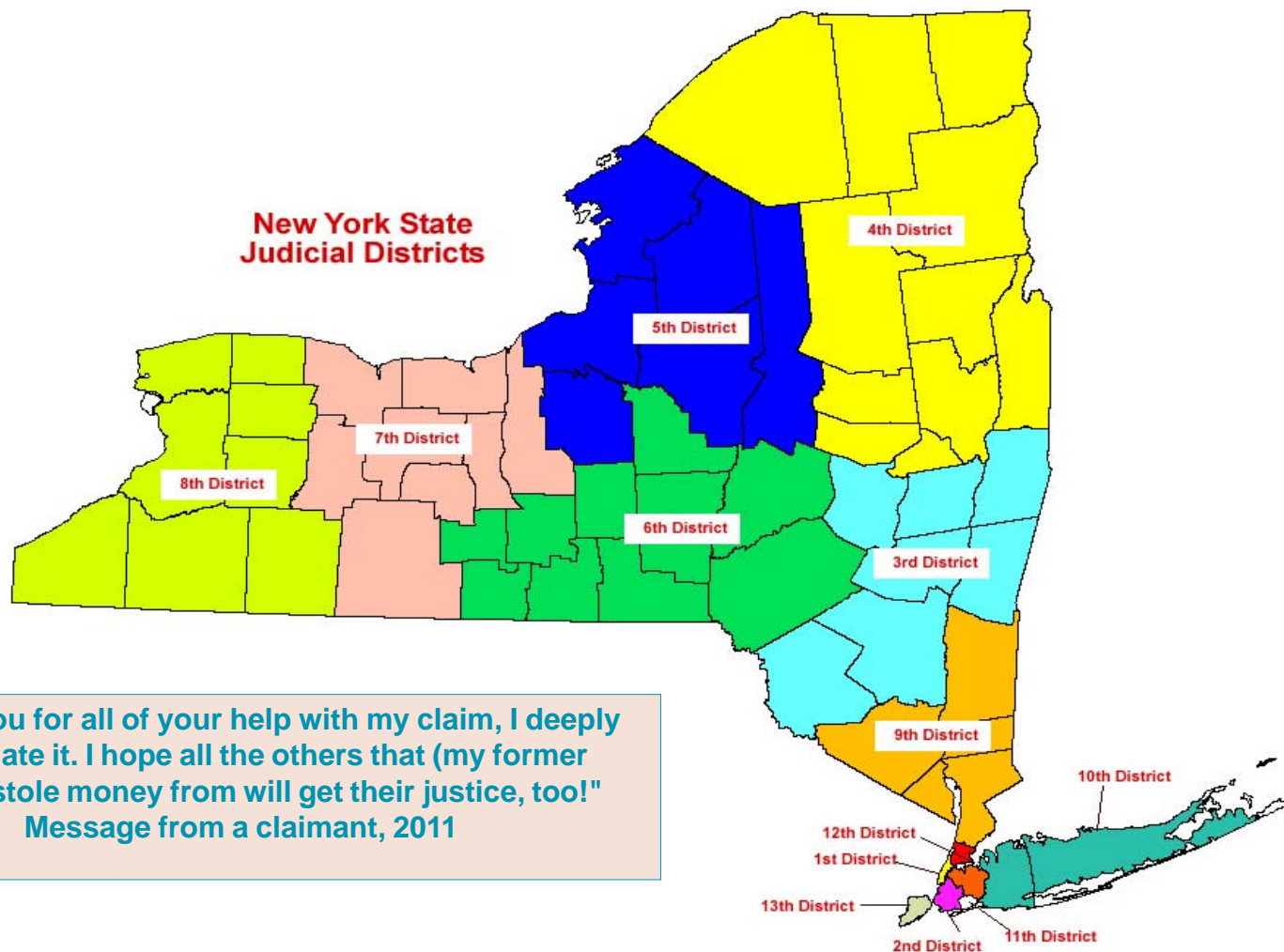
A major concern for the Trustees continues to be the problem of lawyer theft of real estate escrow funds. Since 1982, real estate escrow losses are the largest single category of awards from the Fund in both the number of awards approved and amount of reimbursement provided. In 30 years, 30 percent of the number of all awards from the Fund and 40 percent of all money paid out by the Fund have reimbursed real estate escrow losses. Since 1982, the Trustees have approved 2,231 awards totaling \$66.5 million for real property losses.

In 2012, real estate awards accounted for 60 of the Fund's 187 awards, or 32 percent of all awards. This percentage of awards is slightly lower than 2011 when real estate awards accounted for 37 percent of all awards. The 60 real estate awards in 2012 represented the second largest category of awards by number.

In 2012, real estate awards accounted for \$2.6 million of the \$5.4 million total payout by the Fund for all awards. This \$2.6 million dollar payout represents 48 percent of the total amount reimbursed in 2012. This is the largest category of awards by amount in 2012. This \$2.6 million payout is less than the payout in 2011 when realty awards comprised \$3.6 million of the total \$6.9 million reimbursed or 52 percent of the total payout for that year.

A lawyer's theft of a purchaser's down payment in the sale of residential property has historically constituted the majority of these real estate losses. In 2012, 31 (52 %) of the 60 real estate awards involved the theft of a real estate down payment. Of the \$2.6 million payout in 2012 for realty losses, \$936,740 (36 %) reimbursed losses from thefts of down payments.

A total of 27 former lawyers were responsible for the 60 real estate awards in 2012 totaling \$2.6 million. The 31 awards reimbursing thefts of down payment escrows were attributable to 12 now disbarred or deceased attorneys. There are over 298,000 registered lawyers in New York State.



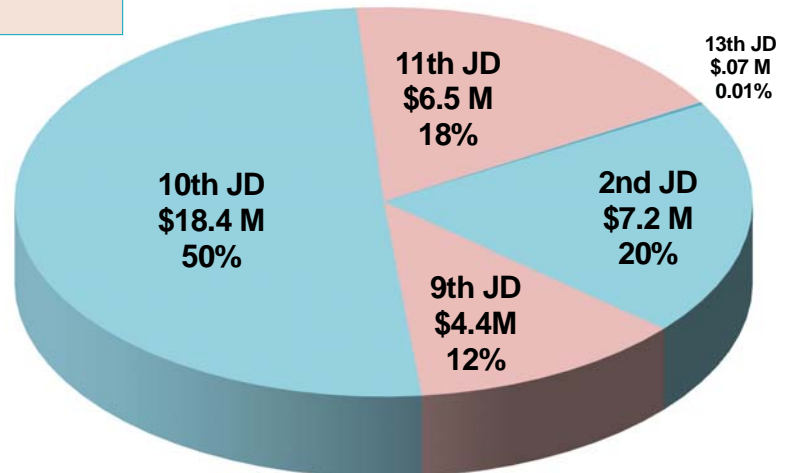
## Realty Awards, 1995-2012 - By Judicial Department

Dep't	Number of Awards	%	Amount of Awards	%
1st	235	16.5%	\$13,140,154	24.9%
2nd	1,085	76.4%	\$36,460,539	69.2%
3rd	36	2.5%	\$1,508,740	2.9%
4th	65	4.6%	\$1,578,831	3.0%
<b>Totals</b>	<b>1,421</b>	<b>100%</b>	<b>\$52,688,264</b>	<b>100%</b>

## Realty Awards, 1995-2012 - By Judicial District

District	Number of Awards	%	Amount of Awards	%
1st	210	14.8%	\$12,724,154	24.1%
12th	25	1.7%	\$416,000	0.8%
2nd	210	14.8%	\$7,153,423	13.6%
9th	85	6.0%	\$4,399,328	8.4%
10th	511	36.0%	\$18,397,465	34.9%
11th	278	19.5%	\$6,445,063	12.2%
13th	1	0.1%	\$65,260	0.1%
3rd	17	1.1%	\$175,162	0.3%
4th	18	1.3%	\$1,324,478	2.5%
6th	1	0.1%	\$9,100	0.1%
5th	7	0.5%	\$204,035	0.4%
7th	28	2.0%	\$826,686	1.6%
8th	30	2.1%	\$548,110	1.0%
<b>Totals</b>	<b>1,421</b>	<b>100%</b>	<b>\$52,688,264</b>	<b>100%</b>

**Amount of Realty Awards 1995-2012  
Within the Second Judicial Department  
\$36.4 Million**



# Claims Filed and Processed

## Claims Filed in 2012

In 2012, 469 claims were filed with the Lawyers' Fund. This represents a 22 percent decrease from 2011 when the Fund received 601 claims. The 469 filed claims in 2012 alleged \$41.8 million in losses, a 2 percent decrease in alleged losses from the previous year.

## Claims Filed, 1982 to 2012

Since 1982, 17,029 claims have been filed with the Lawyers' Fund alleging \$754 million in total losses. Annual filings have ranged from a low of 230 in 1984 to a record high of 1,128 in 1997.

## Claims Filed by Category of Loss in 2012

Claims to the Lawyers' Fund are classified into the following eight categories: (1) trusts and estates; (2) real property escrow funds; (3) debt collection proceeds; (4) settlements in litigation; (5) other escrow transactions; (6) unearned legal fees; (7) investment transactions with lawyers; and (8) a miscellaneous category of "other" for other claims.

In 2012, of the 469 filed claims, 209 (45%) claims sought reimbursement of legal fees. There were 111 claims (24%) alleging losses of real property escrows. Of the \$41.8 million in alleged losses in 2012, \$19.5 million involved investments. This represents 47 percent of all alleged losses. Filed claims in 2012 involving alleged real property losses totaled \$7.8 million in losses, or 19 percent of alleged losses.

## Claims Filed by Category of Loss, 1982 to 2012

Since 1982, by category, the largest number of filed claims have sought reimbursement of legal fees. In 30 years, 5,933 claims have been filed alleging unearned legal fees. These legal fee claims account for 35 percent of all filed claims. The second largest category of filed claims alleged losses in real property transactions. The Fund has received 3,822 real property claims comprising approximately 23 percent of all filed claims.

Since 1982, the largest alleged dollar losses in filed claims were in claims alleging losses from investment transactions with lawyers. Investment claims alleged losses of \$230.4 million or 30 percent of all alleged losses in filed claims. Real property claims were second with alleged losses of \$191 million constituting 26 percent of all alleged losses. The third largest category of alleged losses involve alleged thefts from estates and trusts. These claims have alleged \$110 million in losses or 15 percent of all alleged losses.

## Awards of Reimbursement in 2012

In 2012, the Trustees approved 187 awards. This represents a 26 percent decrease from 2011 when 253 awards were granted. The awards in 2012 reimbursed a total of \$5.4 million. This payout represents a 22 percent decrease from 2011 when \$6.9 million in reimbursement was paid out by the Fund. In 2012, all eligible claimants received 100 percent reimbursement for their eligible loss. The median client loss and award in 2012 remained at \$5,000, identical from 2011.

## Awards of Reimbursement, 1982 to 2012

Since 1982, the Trustees have approved 7,255 awards of reimbursement totaling \$163.7 million. On average, since 1982, 94 percent of all eligible claimants have received full reimbursement for their eligible loss. Since 2002, 99 percent of eligible claimants were fully reimbursed by the Lawyers' Fund.

**"I want to thank you for all your hard work in this matter and cannot say enough thanks. Really appreciate what your group of fine Trustees do..."**  
**Message from a claimant, 2011**

## Awards by Category of Loss in 2012

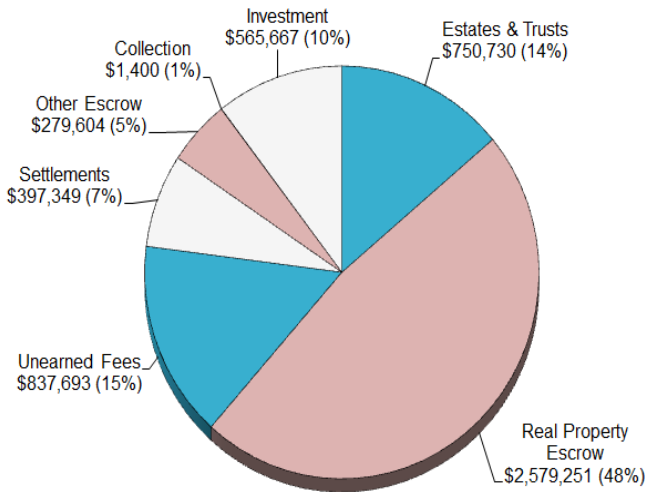
In 2012, the largest category of awards by the number of awards reimbursed unearned legal fees. Of the 187 awards in 2012, 90 (48%) reimbursed unearned legal fees. Two former lawyers were responsible for 65 (72%) of these 90 legal fee awards. The second largest category of awards by the number of awards in 2012 was real property escrows with 60 awards, or 32 percent of the 187 total awards.

By dollar amount, the largest category of awards in 2012 reimbursed real property escrow losses. Of the \$5.4 million paid out by the Trustees in 2012, \$2.6 million (48%) reimbursed real property escrow losses. The second largest category of awards in 2012 by dollar amount involved losses in unearned legal fees. These awards totaled \$837,693 which is 16 percent of the \$5.4 million reimbursed in 2012.

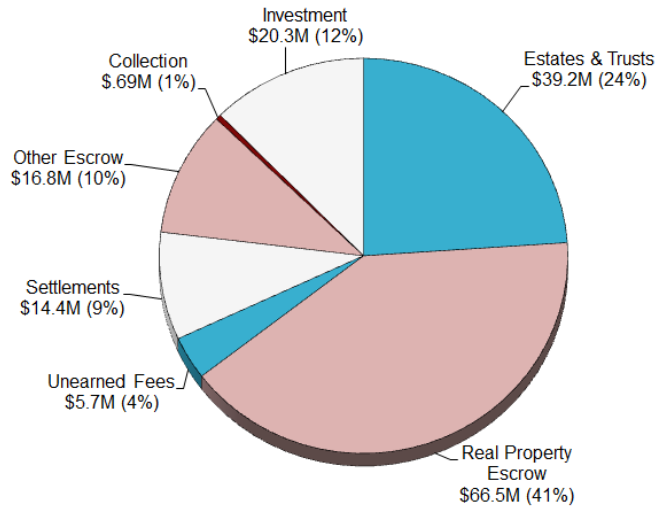
## Awards by Category of Loss, 1982 to 2012

By category since 1982, the largest number of awards approved are for real property escrows. Real property escrow awards total 2,231 or 30 percent of all awards. The second largest category of awards reimbursed unearned legal fees. Since 1982, there have been 2,143 legal fee awards comprising 29 percent of all awards. Since 1982, by dollar amount, awards reimbursing real property losses represent the largest payout by the Fund. Real property awards total \$66.5 million, or 40 percent of all reimbursement awards. The second largest dollar amount of awards involve thefts from estates and trusts. These awards total \$39.1 million or 24 percent of all awards.

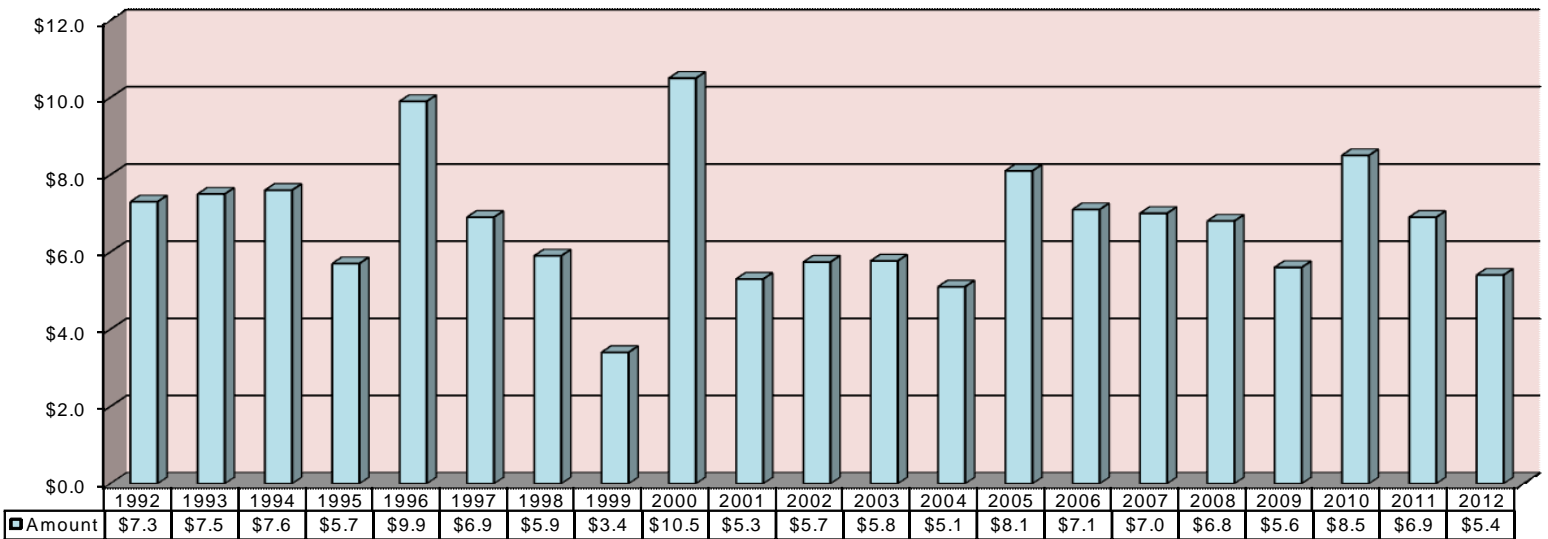
**Amount of 2012 Awards  
By Misconduct : \$5.4 Million**



**Amount of Awards Since 1982  
By Misconduct : \$163.7 Million**



**Amount of Awards Approved From 1992-2012 (In Millions \$)  
(Total Awards Approved Since 1982: \$163.7 Million)**



### Ineligible Claims Since 1982

In 30 years, the Fund has rendered 16,255 determinations in claims. Of these 16,255 claims, 9,000 or 55 percent, were found to be ineligible for reimbursement.

### Claims Pending as of December 31, 2012

There were 827 pending claims at the close of 2012. This is an decrease of 56 claims from the 883 claims which were pending at the end of the prior year. Of the 827 pending claims, 378, nearly 46 percent, involve one law firm whose attorneys are also involved in pending federal criminal proceedings.

These 827 pending claims allege total losses of \$76.4 million. The Fund's exposure on these pending claims, adjusted for the \$300,000 maximum limit on awards, is \$37 million. This represents a 9 percent decrease in the Fund's exposure on pending claims from the end of 2011. Only six lawyers account for 47 percent of the Fund's \$37 million exposure on pending claims.

## Lawyers Involved in Awards 1982 to 2012

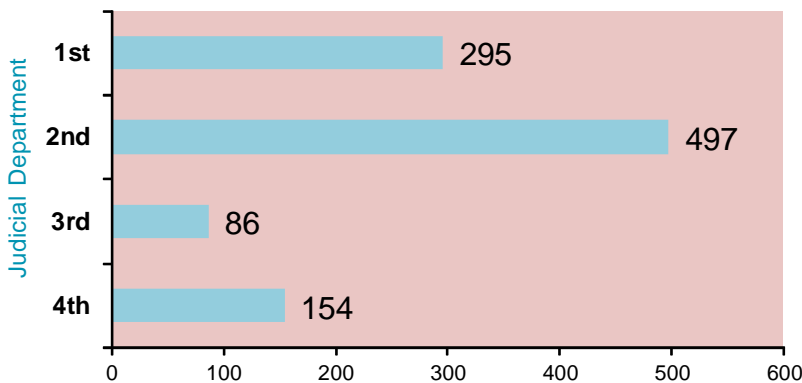
The Trustees' experience over 30 years has firmly established that the overwhelming majority of lawyers in New York State are honest and caring and deserving of their law clients' trust.

Each year, only a tiny percentage of the bar's membership is responsible for dishonest conduct resulting in awards from the Lawyers' Fund. There are now over 298,000 registered lawyers in New York State. In 30 years, 1,032 former lawyers have caused the 7,255 awards granted by the Fund. In 2012, the Trustees' 187 awards were attributable to dishonest conduct by 60 now suspended, disbarred or deceased lawyers. Of these 60 former lawyers, 29 were respondents in awards from prior years. The names of 31 dishonest lawyers appear for the first time in 2012 awards.

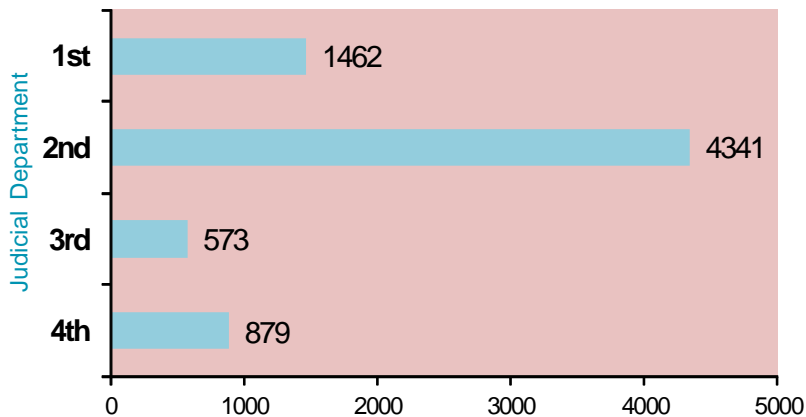
A list of lawyers involved in awards in 2012 is provided in the Appendix. The complete list of lawyers involved in all awards since 1982 is provided on the Lawyers' Fund website: [www.nylawfund.org](http://www.nylawfund.org).

Most losses involve sole practitioners, the majority of which are male and middle-aged. Apparent causes of misconduct are often traced to alcohol or drug abuse and gambling. Other causes are economic pressures, mental illness, marital, professional and medical problems. The geographic distribution of these 1,032 former lawyers, and the Fund's 7,255 awards, among the state's judicial departments is represented in the following bar graphs:

### Lawyers Involved in All Awards Since 1982



### Distribution of Awards Since 1982



### First Judicial Department Includes:

New York and Bronx County



### Second Judicial Department Includes:

Kings, Richmond, Queens, Nassau, Suffolk, Dutchess, Orange, Putnam, Rockland and Westchester Counties:



### Third Judicial Department Includes:

Albany, Broome, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Essex, Franklin, Fulton, Greene, Hamilton, Madison, Montgomery, Otsego, Rensselaer, St. Lawrence, Saratoga, Schenectady, Schoharie, Schuyler, Sullivan, Tioga, Tompkins, Ulster, Warren and Washington Counties:



### Fourth Judicial Department Includes:

Jefferson, Herkimer, Lewis, Oneida, Onondaga, Oswego, Cayuga, Livingston, Monroe, Ontario, Seneca, Steuben, Wayne, Yates, Allegany, Cattaraugus, Chatauga, Erie, Genesee, Niagara, Orleans and Wyoming Counties:



---

## Recommendations

The Fund's Trustees have a statutory responsibility to maintain the integrity of the legal profession and promote public confidence in the administration of justice. To fulfill this responsibility, the Trustees recommend the following changes in legal practice and policy.

---

### Escrow Thefts in Real Property Transactions

**The Trustees continue to encourage our bar and judicial leaders to consider and adopt measures to address the recurring problem of escrow thefts in real property transactions.**

In 2012, real estate escrow thefts were responsible for the largest dollar amount of reimbursement by the Lawyers' Fund. Of the \$5.4 million awarded in 2012, \$2.6 million (48%) reimbursed realty losses. The 187 total awards in 2012 included 60 (32%) awards for lawyers' thefts of real property escrows.

Since 1982, the Trustees have paid 2,231 awards totaling over \$66 million for real estate escrow thefts. These totals constitute 31 percent of the number of all awards and over 40 percent of the amount of all awards from the Fund in 30 years. The majority of real estate losses reimbursed by the Fund have involved a lawyer's theft of a purchaser's down payment in residential real estate transactions. In 2012, 31 (52 %) of the 60 real estate awards involved the theft of a real estate down payment. Of the \$2.6 million payout in 2012 for realty losses, \$936,740 (36%) reimbursed losses from thefts of down payments

These realty losses are caused by a tiny percentage of New York's legal profession. In 2012, 27 former lawyers were responsible for the 60 awards reimbursing real estate escrows thefts. Thirty-two of these awards (53%) were from the Tenth Judicial District. The 31 realty awards involving down payment thefts were caused by twelve former lawyers. Seven of these 12 former lawyers were from the Tenth Judicial District. These few disgraced lawyers cause substantial harm to legal consumers and to the reputation of the over 298,000 registered lawyers in New York State. The Trustees urge the New York State Bar Association, local bar associations and other interested parties to study and address this problem.

---

### Escrow Accounts of Suspended and Disbarred Lawyers

**The Trustees recommend the enactment of clear and precise court rules directing a suspended or disbarred lawyer to transfer client funds and property and prohibiting further use of attorney escrow accounts.**

Present court rules in New York make no specific provision for the transfer or protection of law client escrow funds and property in possession of members of the bar who are suspended or disbarred for professional misconduct. The Trustees are concerned that law client assets are not adequately safeguarded when it is clear that they may be in danger if left under the control of a lawyer who has lost his or her license to practice law for serious misconduct.

---

### Interim Suspensions and Restraining Escrow Funds

**The Trustees propose that court rules be augmented by granting discretion to the Appellate Divisions to restrain attorney escrow accounts of lawyers who are determined to be a public threat.**

Court rules in New York State allow for the temporary suspension of an attorney when there is a judicial finding that the attorney is guilty of professional misconduct immediately threatening the public interest. These rules should require the Appellate Divisions to restrain attorney escrow accounts of these lawyers who are found to be a public threat. This measure will protect the interests of legal consumers.

---

### Disbarment for Conversion

**The Trustees again recommend a consistent, firm statewide disciplinary policy imposing disbarment for a lawyer who injures clients by converting escrow funds.**

This clear, evenhanded penalty will deliver a strong message to victims, the public and lawyers about the administration of justice in our State. The Trustees are grateful to the Appellate Divisions and their disciplinary staff for including orders of restitution in disbarment proceedings involving clear cases of lawyer theft. This important use of the provisions of the Judiciary Law has proven to be beneficial to victims and the Lawyers' Fund.

---

## Recommendations (Cont'd)

### Confidentiality in Attorney Disciplinary Proceedings

**The Trustees recommend a uniform disciplinary policy that a Disciplinary Committee will make a prompt referral to the local District Attorney when the Committee has admitted or uncontested evidence of theft by a lawyer.**

Section 90 of the State Judiciary Law provides that lawyer disciplinary proceedings shall be "deemed private and confidential", and that all "papers, records and documents" be sealed unless the court sustains the charges of misconduct filed against the respondent lawyer. The Judiciary Law now permits the Appellate Divisions, by written order, to divulge all or any part of disciplinary papers, records and documents upon a showing of good cause.

Lawyers who steal should be criminally prosecuted. A Disciplinary Committee with admitted or uncontested evidence of larceny by a lawyer should promptly secure an Appellate Division sharing order in order to notify the District Attorney. This policy should help protect law clients and promote public confidence in our justice system.

---

### Business Transactions with Lawyers and Conflict of Interest Rules

**The Trustees recommend that court rules be amended in order to educate law clients about the conflict of interest limitations on lawyers involved in business transactions with their clients.**

The Lawyers' Fund has experienced a dramatic increase in claims for reimbursement alleging losses from the theft of monies entrusted to lawyers in investment transactions. Rule 1.8 of the Rules of Professional Conduct prohibits an attorney from entering a business transaction with a client due to a conflict of interest. Such business transactions are permitted though if specific safeguards are observed. The lawyer must provide a client with written terms of the transaction, written advice to seek independent counsel, and obtain the client's written, informed consent to the transaction which includes the lawyer's interest in the matter.

Legal consumers need to be made aware of these conflict of interest safeguards designed for their protection. This can be accomplished by amendments to court rules for the Statement of Client's Rights, the Matrimonial Rules and Written Letter of Engagement Rule which will alert law clients to these conflict of interest limitations.

---

### Bank Notices to Fiduciaries

**The laws of New York should require that the named fiduciary for an estate or trust be provided with a copy of the estate's monthly bank statement.**

The Trustees' experience in claims involving the theft of estate or trust assets has shown that these types of losses can be concealed when someone other than the fiduciary controls the bank account and receives the monthly bank statements. Absent legislative action, the Trustees propose a court rule be adopted to prohibit lawyers from depositing fiduciary monies in banking institutions that do not agree to forward copies of bank statements to legal fiduciaries of estates and trusts. This rule could be patterned after the Dishonored Check Reporting Rule. This simple step would discourage and detect thefts.

---

### Bar Examinations & Legal Education

**The Trustees continue to recommend that the New York bar examination test for knowledge and competence with respect to a lawyer's fiduciary obligations to safeguard and account for law clients' money and property and that these necessary skills be reinforced in Continuing Legal Education programs.**

The necessary knowledge and skills to properly administer client trust funds as fiduciaries or escrow agents should be taught in law school and enhanced through the bar examination and New York's Continuing Legal Education program. The Trustees firmly believe that our system of legal education should prepare students and lawyers for this vital aspect of lawyering.



---

## Recommendations (Cont'd)

---

### Thefts by Suspended, Disbarred and Bogus Lawyers

**The Trustees recommend a court rule to require every lawyer to endorse his or her Attorney Registration Number on each pleading the lawyer files with a court or a court agency.**

The Trustees applaud the recent upgrade of the unauthorized practice of law to a felony offense under New York's penal laws. In the past though, this crime was not always prosecuted. Also, attorney disciplinary committees lack the resources to monitor suspended or disbarred lawyers. These shortcomings in law enforcement encourage the illegal practice of law and exploitation of the public.

The Office of Court Administration maintains an Official Register of Attorneys, which assigns to each lawyer a unique identification number. That simple endorsement will provide a cost-free and reliable opportunity for court clerks or court officials to verify the credentials of persons who represent themselves to be licensed to practice law in New York State.

The Trustees also support legislation to authorize the state attorney general to pursue criminal prosecutions for the unauthorized practice of law. This additional enforcement of the penal laws will serve to protect the public and deter the illegal practice of law.

The Trustees also propose that the attorney disciplinary committees require that an attorney resigning from the bar due to professional misconduct must agree in their resignation affidavit to not accept any advance legal fees once they submit their resignation.

---

### Multijurisdictional Practice and Pro Hac Vice Rules

**The Trustees recommend that any changes in court rules which permit out-of-state attorneys to practice law in New York State also require payment of the attorney registration fee required of New York attorneys so that they will contribute financially to our State's disciplinary system and the Lawyers' Fund.**

Bar leaders in New York State are considering multijurisdictional practice of law and whether lawyers should be granted the privilege to practice in states where they are not admitted to the bar. The Trustees are concerned about the impact multijurisdictional practice of law will have on legal consumers, the Lawyers' Fund and our disciplinary system. It is only equitable that out-of-state attorneys authorized to practice law here share in the responsibilities all New York attorneys bear in our justice system.

---

### Conclusion

**T**he overwhelming majority of New York's lawyers are honest and caring for their law clients and maintain the highest standards of integrity when entrusted with law client money and property. The Trustees' experience has demonstrated that a small number of lawyers continue to be responsible for a persistent problem of dishonest conduct in the practice of law. These few can cause significant harm to law clients and the legal profession. It is therefore imperative that New York State have a well-financed and responsive Lawyers' Fund as part of our system of justice.

The Trustees wish to publicly recognize the invaluable support and assistance the Lawyers' Fund receives from our colleagues in public service. Our special thanks is again extended to the Court of Appeals; the Office of Court Administration; the staffs of New York's Attorney Grievance Committees; the Attorney General and his assistants; District Attorneys statewide and their prosecutors; and the Office of the State Comptroller. The New York Lawyers' Fund is one of our nation's leading client protection programs due in large part to the support and professionalism of these dedicated public servants.

**"You are doing a great job restoring monies and hope to people..."  
Message from a Claimant, 2012.**

## Trustees Regulations (22 NYCRR 7200, et seq.)

**7200.1 Purpose of fund.** The purpose of the Lawyers' Fund for Client Protection is to promote public confidence in the administration of justice and the integrity of the legal profession by reimbursing losses caused by the dishonest conduct of attorneys admitted and licensed to practice law in the courts of New York State.

**7200.2 Organization.** (a) The fund shall be administered by a board of trustees appointed by the Court of Appeals of the State of New York.

(b) The board of trustees shall consist of seven members. Of the trustees first appointed, three shall be appointed for terms of three years, two for a term of two years, and two for a term of one year. As each term expires, each new appointment shall be for a term of three years.

(c) The trustees shall serve without compensation, but shall be entitled to receive their actual and necessary expenses incurred in the discharge of their duties.

(d) The trustees shall from time to time elect from their membership a chairman, vice-chairman, treasurer and such additional officers as they deem necessary or appropriate.

(e) The trustees shall retain an executive director to serve as the chief administrative officer of the fund.

**7200.3 Meetings.** (a) The trustees shall meet at least four times each year at such locations, or in such manner, as the chairman shall designate. Special meetings may be called by the chairman, and shall be called by the chairman upon the request of at least two trustees. Special meetings may be conducted by telephone conference. The chairman shall provide reasonable notice of all meetings.

(b) Four trustees shall constitute a quorum. A majority of the trustees present at any meeting of the board may exercise any power held by the trustees, except as otherwise provided in this Part.

**7200.4 Powers of trustees.** In the exercise of the authority granted the trustees, the trustees have the power to:

(a) receive, hold, manage and distribute 50 per centum of the monies collected pursuant to the provisions of section 468-a of the Judiciary Law and such other monies as may be credited or otherwise transferred from any other fund or source, pursuant to law, including voluntary contributions together with any interest accrued thereon. All deposits of such revenues not otherwise required for the payment of claims shall be secured and invested as required by the provisions of section 97-t of the State Finance Law;

(b) adopt regulations for the administration of the fund and procedures for the presentation, determination and payment of claims, including the establishment of a maximum limitation for awards to claimants;

(c) investigate claims for reimbursement of losses as the trustees deem appropriate using staff and other available resources;

(d) coordinate and cooperate with the Appellate Divisions of the Supreme Court in the investigation of claims;

(e) examine witnesses and, in accordance with the Provisions of the Civil Practice Law and Rules and the regulations of the trustees, administer oaths or affirmations and issue subpoenas;

(f) hold such hearings, interviews or informal meetings as the trustees deem appropriate;

(g) determine, in the trustees' sole discretion, the merits of claims presented for reimbursement, the amount of reimbursement to be awarded, the terms under which reimbursement shall be made and the order of payment;

(h) prosecute claims for restitution to which the fund may be entitled;

(i) engage in studies and programs for client protection and prevention of dishonest conduct in the practice of law;

(j) employ and at pleasure remove employees, legal counsel, agents and consultants, and fix their compensation within the amounts made available therefor;

(k) furnish the Court of Appeals with such reports and audits as the court may require; and

(l) perform all other acts necessary or proper for the fulfillment of the purposes of the fund and its effective administration.

**7200.5 Duties of officers.** (a) The chairman shall preside at all meetings of the trustees, generally supervise the administration of the fund, and exercise such other functions and duties that the trustees may assign or delegate, or that are customary to the office of chairman.

(b) The vice-chairman shall assume the duties of chairman in the absence or disability of the chairman.

(c) The treasurer shall maintain the financial records of the fund and, jointly with the chairman, certify vouchers of the fund that authorize the State Comptroller to make payments to claimants.

(d) The executive director shall assist the trustees, supervise the implementation of regulations and policies of the trustees, coordinate the investigation of claims and prepare reports thereon, supervise staff, serve as secretary at meetings, and fulfill such other duties as may be assigned or delegated by the chairman or the trustees.

**7200.6 Conflict of interest.** A trustee with a past or present relationship with a claimant or the attorney whose alleged conduct is the subject of the claim shall disclose such a relationship to the trustees and, if the trustees deem appropriate, that the trustee shall not participate in any proceeding relating to such claim.

**7200.7 Reports** (a) On or before the first day of April each year, the trustees shall prepare an annual report of the activities and operations of the fund during the preceding year. The report shall be transmitted to the Court of Appeals, the Governor, the Legislature and the State Comptroller.

(b) The trustees may also issue periodic reports to the public concerning the activities and procedures of the fund.

**7200.8 Eligible claims.** (a) The trustees shall consider claims for reimbursement of losses caused by the dishonest conduct of attorneys admitted to practice in New York State, provided that:

(1) the dishonest conduct alleged in the claim constituted the wrongful taking of money, securities or other property belonging to a law client or other person who entrusted it with an attorney admitted to the practice of law in New York State;

(2) the dishonest conduct occurred in the practice of law by an attorney admitted to practice law in New York State;

## Trustees Regulations (22 NYCRR 7200, et seq.)

(3) there is, in the trustees' discretion, a sufficient nexus between the dishonest conduct alleged in the claim and the practice of law in New York State;

(4) the claim is made directly by the client or other person, or their representative;

(5) the loss occurred or was discovered on or after June 1, 1981; and

(6) unless the trustees decide otherwise, the attorney has been suspended or removed from practice, is dead, or the attorney's whereabouts cannot be determined.

(b) The claimant shall have the responsibility to provide satisfactory evidence of an eligible loss.

(c) For the purposes of this section, "dishonest conduct" shall include the misappropriation or wilful misapplication of money, securities or property in the practice of law, and unlawful acts in the nature of theft, larceny, embezzlement, fraud or conversion.

(d) Losses not eligible for reimbursement include damages resulting from an attorney's negligence, malpractice or neglect; losses incurred by government agencies; losses incurred by financial institutions; losses incurred by business organizations having twenty or more employees; and losses arising from financial transactions with attorneys that do not occur within an attorney-client relationship and the practice of law.

(e) (1) In a loss resulting from an attorney's refusal or failure to refund an unearned legal fee as required by the Lawyer's Code of Professional Responsibility, "dishonest conduct" shall include an attorney's misrepresentation, or false promise, to provide legal services to a law client in exchange for the advance payment of a legal fee.

(2) An attorney's failure to perform or complete a legal engagement shall not constitute, in itself, evidence of misrepresentation, false promise or dishonest conduct.

(3) Reimbursement of a legal fee may be allowed only if: (i) the attorney provided no legal services to the client in the engagement; or (ii) the legal services that the attorney actually provided were, in the trustees' judgment, minimal or insignificant; or (iii) the claim is supported by a determination of a court, a fee conciliation bureau, or an accounting acceptable to the trustees that establishes that the client is owed a refund of a legal fee. No award reimbursing a legal fee shall exceed the actual fee that the client paid the attorney.

(4) In the event that a client is provided equivalent legal services by another attorney without cost to the client, the legal fee paid to the predecessor attorney will not be eligible for reimbursement, except in extraordinary circumstances.

**7200.9 Filing claims.** (a) Claims for reimbursement from the fund shall be written and verified. The fund shall provide an official claim form which shall require the following information: the name and address of the claimant; the name and last-known address of the attorney who is alleged to have committed a dishonest act; the terms of the attorney's professional engagement for the claimant; the amount of the loss incurred; the date of the loss or the period of time when the loss occurred; the place and manner in which the loss occurred; the date and manner in which the claimant discovered the loss; a description of what steps the claimant has taken to recover the loss from the attorney or any other source; and whether there are other sources, such as insurance, fidelity bonds or surety agreements, to reimburse the claimant's loss. The trustees may require a claimant to submit additional information that may be necessary to

determine a claim.

(b) The fund shall promptly acknowledge receipt of the claim, which shall be assigned a claim number.

(c) A claim shall be filed with the fund within two years after the following dates, whichever is later:

(1) the date when the alleged dishonest conduct occurred; or

(2) the date when such dishonest conduct was first discovered.

(d) The trustees, in their discretion, may permit the late filing of claims upon a showing that compliance with the time limitations of this section may cause undue hardship or result in an injustice.

(e) In the discretion of the trustees, a claim shall be deemed filed when any writing specifying the claim is received by the fund, a bar association, an attorney grievance committee, or a police or other government agency.

**7200.10 Processing claims.** (a) Whenever it appears that a claim is not eligible for reimbursement pursuant to these regulations, the claimant shall be advised of the reasons why the claim is not eligible for reimbursement, and that unless additional facts to support eligibility are submitted to the fund within 30 days, the claim shall be dismissed.

(b) All claims that are eligible for reimbursement from the fund shall be investigated in such manner as the trustees deem appropriate. The trustees shall be furnished a written report of each investigation.

(c) The appropriate Appellate Division of the Supreme Court shall be requested to assist the trustees, to the extent the court deems appropriate, in the investigation of claims for reimbursement from the fund.

(d) A certified copy of an order disciplining an attorney for the same act of conduct alleged in a claim, or a final judgment imposing civil or criminal liability therefor, shall, for the purpose of these regulations, be evidence that the attorney committed such act.

(e) Upon receipt of the investigation report, the trustees shall determine whether to conduct additional investigation. If the attorney whose alleged conduct gave rise to the claim has not been previously notified of the claim, a copy shall be provided to the attorney. The attorney shall be invited to respond to the claim within 20 days.

(f) The trustees may request that testimony be presented to complete the record. Upon request, the claimant and the attorney, or their respective representatives, shall be given an opportunity to be heard.

(g) The trustees shall determine, in their sole discretion, whether a claim merits reimbursement from the fund and the amount, time, manner of its payment and the conditions upon which payment shall be made. The award of a claim shall require the affirmative vote of at least four trustees.

(h) Unless the trustees direct otherwise, no claim shall be awarded during the pendency of a disciplinary proceeding involving the same act of conduct that is alleged in the claim.

(i) In the exercise of their discretion in determining claims, the

## Trustees Regulations (22 NYCRR 7200, et seq.)

trustees shall consider, together with such other factors as they deem appropriate:

- (1) the amount of money available and likely to become available to the fund for the payment of claims, and the size and number of claims that have been or are likely to be presented;
  - (2) the amount of the claimant's loss as compared with the amount of losses sustained by other claimants who may merit reimbursement from the fund;
  - (3) the degree of hardship suffered by the claimant as a result of the loss;
  - (4) any conduct of the claimant that contributed to the loss; and
  - (5) the existence of other sources to reimburse the claimant's loss, such as insurance, fidelity bonds or surety agreements.
- (j) Written notice of the trustees' determination shall be provided the claimant and the attorney whose alleged conduct gave rise to the claim, or their representatives.

**7200.11 Reconsideration of claims.** A claimant who is denied reimbursement in whole or in part may request that the trustees reconsider the claim by filing an application with the fund no later than 30 days following receipt of the trustees' determination. If a claimant fails to request reconsideration, or the original determination of the trustees is confirmed, the trustees' determination shall be final.

**7200.12 Legal right to payment from fund.** No person or organization shall have any legal right to payment from the fund as a claimant, third-party bene-ficiary or otherwise.

**7200.13 Payment of awards.** (a) Claimants shall be reimbursed for losses in amounts to be determined by the trustees. No award shall exceed \$300,000.

(b) Awards shall not include interest. Attorneys' fees and other incidental and out-of-pocket expenses shall not be reimbursed by the fund. Additional taxes, interest, late charges and similar penalties finally incurred by a claimant as the direct result of an attorney's misappropriation may be eligible for reimbursement in the discretion of the trustees. The investigation report in a claim which involves such an element of loss shall contain an estimate of the amount of such loss and a recommendation whether the loss merits reimbursement from the fund. Unless the trustees determine otherwise, payment thereof may be processed as a supplemental award of reimbursement without further action by the trustees, provided the claimant provides proof of loss within six months following the trustees' approval of the underlying claim. The executive director shall report quarterly to the trustees on the payment of all supplemental awards during the preceding quarter.

(c) No claim for reimbursement shall be paid until the claimant transfers to the fund, in such form as the trustees shall authorize, the claimant's rights against the attorney whose dishonest conduct caused the claimant's loss and any other person or entity who may be liable for the claimant's loss.

(d) Payment of claims shall be made in such amounts and at such times as the trustees deem appropriate and may be paid in lump-sum or installment amounts.

(e) If a claimant is a minor or an incompetent, the award may be paid to a parent, guardian, committee or the attorney of the claimant, on the behalf of and for the benefit of the claimant.

(f) All payments of awards of reimbursement from the fund shall be made by the State Comptroller on vouchers certified by the chairman and the treasurer.

**7200.14 Representation by counsel.** (a) A claimant and the attorney whose alleged conduct resulted in the claim shall have the right to be represented by an attorney.

(b) In accordance with the rules of the Appellate Divisions of the Supreme Court, no attorney who assists a claimant process a claim with the fund shall charge or accept compensation for those services, without the prior written approval of the trustees. No fee applications by attorneys, including public officers and court-appointed fiduciaries, shall be approved by the trustees absent a showing of extraordinary circumstances.

**7200.15 Confidentiality.** (a) Except as otherwise provided, all claims and proceedings and the records relating thereto shall be sealed and confidential.

(b) All information provided by an Appellate Division of the Supreme Court shall remain sealed and confidential to the extent required by section 90 of the Judiciary Law.

(c) The trustees' final determination awarding reimbursement of a claim, and the facts relating to the claimant's loss, shall be a public record.

(d) An attorney whose alleged conduct gave rise to the claim may waive confidentiality.

(e) This section shall not be construed to deny access to information by the Court of Appeals, and Appellate Division of the Supreme Court, or to any court of competent jurisdiction in a judicial review proceeding.

**7200.16 Amendment of regulations.** New regulations may be adopted, and any regulation may be amended or repealed by the trustees at any regular or special meeting, provided that notice of the proposed adoption, amendment or repeal has been given to all trustees at least seven days before the meeting. New regulations, amendments and repeals shall be published in the State Register. Copies of all regulations shall be made available to the public at all offices of the fund.

**7200.17 Construction of regulations.** These regulations shall be liberally construed to accomplish the objectives of the fund and the policies of the trustees.



## Lawyers Involved In 2012 Awards

The following is a list of the 60 now suspended, disbarred or deceased lawyers responsible for the misconduct and resulting client losses reimbursed by the Fund in 2012. The number and amount of awards listed are not cumulative and may not represent awards approved from prior years. **A complete list of lawyers involved in all reimbursement awards since 1982 is available on our website: [www.nylawfund.org](http://www.nylawfund.org).**

Name	JD	#	Amount
George R. Alderdice	10	1	\$ 20,000
J. James Bambury	01	1	\$ 13,240
Richard J. Baumgarten	08	1	\$ 4,300
Samuel R. Bautista	01	1	\$ 5,770
Saul A. Berkman	01	1	\$ 3,000
Kenneth P. Bernas	08	1	\$ 376
Frederick Bittner, Jr.	09	5	\$ 391,900
Gerard E. Brogdon	11	2	\$ 27,000
Godfrey G. Brown	02	2	\$ 7,500
Lawrence Buscemi	10	5	\$ 138,637
Donna A. Campbell	09	2	\$ 36,600
Anthony C. Casamassima	10	2	\$ 32,416
Christopher J. Chadick	05	3	\$ 2,468
Devon F. Clarke	02	3	\$ 11,000
Mark T. Costantino	01	1	\$ 30,000
Norman Cousins	01	2	\$ 565,154
Samuel D. Dattilo	07	1	\$ 58,882
Yvonne DeBenedetto	10	2	\$ 191,451
Andrew H. DePodwin	09	1	\$ 3,500
Linda M. Dieterich	10	1	\$ 2,589
Jimmie L. Engram	01	2	\$ 30,000
Thomas A. Farinella	01	1	\$ 4,030
Alan E. Fielitz	08	1	\$ 1,400
Eric S. Finger	10	3	\$ 28,000
Stuart Frum	04	1	\$ 60,419
Michael R. Gidro	03	1	\$ 1,200
Richard F. Gluszak	10	2	\$ 10,000
Joel A. Grossbarth	09	2	\$ 460,600
Jarrett B. Haber	10	1	\$ 75,000
John P. Harris	01	1	\$ 33,467

Name	JD	#	Amount
Bryan J. Holzberg	10	1	\$ 5,000
Alexander M. Kaplan	02	1	\$ 25,000
Raymond E. Kerno	10	1	\$ 15,000
Jay H. Korn	10	2	\$ 269,167
Mark Kressner	12	1	\$ 88,666
Leonard Liebowitz	01	1	\$ 76,071
Brett K. Margolin	10	45	\$ 111,926
Marie A. Martial	10	4	\$ 90,667
Dennis Masino	10	15	\$ 230,950
Joseph Mezey	03	3	\$ 27,474
Peter J. Mollo	02	1	\$ 5,050
Roger J. Niemel	08	2	\$ 160,264
Robert I. Oziel	10	3	\$ 43,305
Alexander B. Perry	03	1	\$ 1,500
Joel G. Post	10	1	\$ 97,720
Frederic A. Powell	10	3	\$ 480,000
Patrick M. Reidy	04	1	\$ 63,200
Barnett R. Rogers	09	1	\$ 97,308
Gregory Ronan	10	1	\$ 5,000
Uzma Saghir	02	2	\$ 10,000
David R. Schnell	08	3	\$ 251,478
Robert H. Slocum	07	2	\$ 13,944
Jack Tamen	01	4	\$ 61,488
Charles D. Tolbert	07	1	\$ 7,400
Peter N. Weiner	01	1	\$ 91,800
Kevin P. Wheatley	04	2	\$ 1,500
Charles A. Willinger	02	1	\$ 100
Youn Tae Yoo	11	7	\$ 688,200
Thomas V. Zacharia	13	1	\$ 65,260
Marc A. Ziropiannis	10	23	\$ 66,557

## Helpful Telephone Numbers

### Attorney Grievance & Disciplinary Committees

Manhattan & Bronx - (212) 401-0800  
 Brooklyn, Staten Island, Queens - (718) 923-6300  
 Nassau & Suffolk - (631) 231-3775  
 Westchester area - (914) 824-5070  
 Albany area - (518) 285-8350  
 Syracuse area - (315) 471-1835  
 Rochester area - (585) 530-3180  
 Buffalo area - (716) 845-3630

### NYS Office of Court Administration

Lawyer Licensing Information  
 (212) 428-2800

### NYSBA Lawyer Assistance Program

(800) 255-0569

### NYS Department of Law (Attorney General) Consumer Frauds & Protection Bureau

1-800-771-7755

### Lawyer Referral Services

Contact your local county or city bar association, or call the New York State Bar Association in Albany at 1-800-342-3661.

### Attorney-Client Fee Dispute Resolution Program

(877) FEES-137  
 (877-333-7137)

## Statistical Tables

All Losses Reported Since 1982					Losses Reported in 2012 Claims				
Category of Client Loss	Number of Claims	Percent of All Claims	Amount of Loss Alleged	Percent of All Losses	Category of Client Loss	Number of Claims	Percent of All Claims	Amount of Loss Alleged	Percent of All Losses
Estates & Trusts	1,171	6.9%	\$110,459,318	14.6%	Estates & Trusts	41	8.7%	\$4,695,728	11.3%
Real Property Escrow	3,822	22.5%	\$190,989,649	25.4%	Real Property Escrow	111	23.8%	\$7,859,909	18.9%
Unearned Fees	5,993	35.2%	\$49,463,918	6.6%	Unearned Fees	209	44.6%	\$2,440,685	5.8%
Settlements	1,246	7.3%	\$53,814,014	7.1%	Settlements	38	8.1%	\$1,562,896	3.7%
Other Escrow	1,556	9.2%	\$62,265,809	8.6%	Other Escrow	18	3.8%	\$2,525,606	6.0%
Debt Collection	659	3.9%	\$3,648,634	0.5%	Debt Collection	3	0.6%	\$75,540	0.2%
Investment	1,648	9.7%	\$230,389,874	30.5%	Investment	39	8.3%	\$19,529,069	46.7%
Other	902	5.3%	\$50,823,580	6.7%	Other	10	2.1%	\$3,109,585	7.4%
<b>Totals</b>	<b>16,997</b>	<b>100%</b>	<b>\$754,854,796</b>	<b>100%</b>	<b>Totals</b>	<b>469</b>	<b>100%</b>	<b>\$41,799,018</b>	<b>100%</b>

### Client Losses in All Awards Since 1982

Category of Client Loss	Number of Awards	Percent of All Awards (#)	Amount of All Awards	Percent of All Awards (\$)	Client Losses Involved	Percent of All Losses Reimbursed
Estates & Trusts	723	10.0%	\$39,192,826	23.9%	\$60,901,263	64.4%
Real Property Escrow	2,231	30.8%	\$66,532,426	40.7%	\$73,771,642	90.2%
Unearned Fees	2,143	29.5%	\$5,793,914	3.5%	\$5,820,014	99.6%
Settlements	607	8.4%	\$14,419,965	8.8%	\$15,116,662	95.4%
Other Escrow	729	10.0%	\$16,806,718	10.3%	\$23,572,965	71.3%
Debt Collection	452	6.2%	\$691,749	0.4%	\$746,749	92.6%
Investment	370	5.1%	\$20,292,465	12.4%	\$24,129,952	84.1%
<b>Totals</b>	<b>7,255</b>	<b>100%</b>	<b>\$163,730,063</b>	<b>100%</b>	<b>\$204,059,247</b>	

### Client Losses in 2012 Awards

Category of Client Loss	Number of Awards	Percent of All Awards (#)	Amount of All Awards	Percent of All Awards (\$)	Client Losses Involved	Percent of All Losses Reimbursed
Estates & Trusts	8	4.3%	\$750,730	13.9%	\$750,730	100%
Real Property Escrow	60	32.2%	\$2,579,251	47.7%	\$2,579,251	100%
Unearned Fees	90	48.1%	\$837,693	15.5%	\$837,693	100%
Settlements	7	3.7%	\$397,349	7.3%	\$397,349	100%
Other Escrow	15	8.0%	\$279,604	5.1%	\$279,604	100%
Debt Collection	1	0.5%	\$1,400	0.0%	\$1,400	100%
Investment	6	3.2%	\$565,667	10.5%	\$565,667	100%
<b>Totals</b>	<b>187</b>	<b>100%</b>	<b>\$5,411,694</b>	<b>100%</b>	<b>\$5,411,694</b>	

**“We have just received a check from your Fund, and realized why we are so proud to be Americans. Your group does wonderful things for people, such as us. You and your group should have a feeling of accomplishment and pride in what you do. We’ll never forget this action you have taken for the rest of our lives. To take funds from a trusting person is unforgivable; to return these funds is really a miracle.”**

**Message from a Claimant, 2010**

Claims Activity Since 1982															
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996
Claims Filed	534	375	230	332	341	311	351	486	438	515	627	636	598	909	730
Losses Alleged (In Millions \$)	\$3.2	\$5.4	\$6.1	\$5.3	\$5.1	\$5.7	\$10.8	\$14.1	\$15.8	\$28.3	\$25.2	\$25.4	\$25.5	\$36.8	\$29.9
Claims Approved	1	494	130	183	178	159	202	177	219	200	288	318	362	383	381
Actual Losses (In Millions \$)	\$0.1	\$1.5	\$1.9	\$2.5	\$1.3	\$2.0	\$3.8	\$6.3	\$4.8	\$5.8	\$13.5	\$12.4	\$10.4	\$8.9	\$13.7
Awards (In Millions \$)	\$0	\$0.7	\$0.9	\$1.3	\$1.1	\$1.9	\$2.8	\$3.8	\$4.6	\$4.1	\$7.3	\$7.5	\$7.6	\$5.7	\$9.9
Lawyers Involved	1	13	26	43	26	24	36	26	38	44	38	52	45	60	38
% Losses Reimbursed	50%	46%	46%	52%	85%	95%	74%	60%	96%	71%	54%	60%	73%	64%	72%
% Client Fully Reimbursed	0	74%	65%	39%	91%	99%	99%	98%	96%	94%	95%	94%	94%	98%	94%
Claims Disallowed	33	201	105	73	164	120	119	169	186	360	253	384	247	366	439
Total Dispositions	34	695	235	256	342	279	321	346	405	560	540	702	610	749	820
Claims Pending Dec. 31	500	180	175	251	250	282	312	452	485	440	526	460	449	609	579
Losses Alleged in Pending Claims (In Millions \$)	\$2.9	\$4.6	\$7.4	\$8.5	\$9.5	\$10.2	\$15.3	\$18.0	\$23.9	\$32.0	\$30.1	\$24.2	\$27.3	\$43.5	\$46.9
Exposure on Pending Claims (In Millions \$)	\$1.7	\$1.6	\$2.3	\$2.7	\$3.5	\$5.2	\$6.3	\$9.8	\$15.1	\$14.9	\$16.0	\$13.9	\$15.2	\$24.4	\$25.1
Fund Balance (In Millions \$)	\$1.8	\$1.4	\$2.1	\$1.3	\$4.4	\$3.3	\$5.1	\$4.2	\$3.6	\$2.8	\$3.4	\$1.8	\$2.4	\$3.4	\$2.5

# Statistical Tables

Claims Activity Since 1982																	
	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	Totals
Claims Filed	1,128	812	442	492	548	499	506	627	729	520	454	480	489	820	601	469	17,029
Losses Alleged (In Millions \$)	\$40.8	\$24.3	\$15.9	\$20.5	\$22.6	\$21.8	\$17.4	\$26.7	\$28.1	\$18.6	\$31.8	\$43.7	\$40.6	\$89.4	\$51.8	\$41.8	\$754.8
Claims Approved	625	415	161	205	160	187	165	196	227	147	185	130	139	198	253	187	7,255
Actual Losses (In Millions \$)	\$9.1	\$6.8	\$3.7	\$14.2	\$5.3	\$5.9	\$5.8	\$5.1	\$8.6	\$7.3	\$7.1	\$6.8	\$5.8	\$9.3	\$9.8	\$5.4	\$204.9
Awards (In Millions \$)	\$6.9	\$5.9	\$3.4	\$10.5	\$5.3	\$5.7	\$5.8	\$5.1	\$8.1	\$7.1	\$7.0	\$6.8	\$5.6	\$8.5	\$6.9	\$5.4	\$163.7
Lawyers Involved	39	29	28	49	28	28	37	26	32	35	44	23	36	31	26	31	1,032
% Losses Reimbursed	76%	87%	92%	74%	100%	98%	99%	100%	94%	98%	98%	100%	97%	96%	69%	100%	
% Client Fully Reimbursed	98%	99%	99%	97%	100%	98%	98%	100%	98%	98%	97%	100%	99%	98%	98%	100%	
Claims Disallowed	620	522	383	329	383	281	338	323	327	284	307	351	257	428	310	338	9,000
Total Dispositions	1,245	937	544	534	543	468	503	519	554	431	492	481	396	626	563	525	16,255
Claims Pending Dec. 31	462	337	235	193	198	229	232	340	515	604	566	565	658	852	883	827	
Losses Alleged in Pending Claims (In Millions \$)	\$46.6	\$18.0	\$16.1	\$10.2	\$11.1	\$13.7	\$14.6	\$20.7	\$17.5	\$17.8	\$15.7	\$30.9	\$38.8	\$82.3	\$81.1	\$76.4	
Exposure on Pending Claims (In Millions \$)	\$17.4	\$11.3	\$11.6	\$8.3	\$9.2	\$10.2	\$10.3	\$15.1	\$13.9	\$14.8	\$14.1	\$21.7	\$27.1	\$42.7	\$40.9	\$37.0	
Fund Balance (In Millions \$)	\$2.1	\$6.6	\$6.3	\$3.4	\$4.1	\$5.4	\$5.5	\$8.1	\$5.4	\$7.0	\$3.5	\$5.0	\$4.5	\$5.7	\$3.8	\$8.4	



---

## NY Judiciary Law Sec. 468-b

### **§§ 468-b. Clients' security fund of the state of New York.**

1. The court of appeals shall appoint a board of trustees to administer the lawyers' fund for client protection of the state of New York established pursuant to section ninety-seven-t of the state finance law. Such board shall consist of seven members. Of the trustees first appointed, three shall be appointed for a term of three years; two for a term of two years; and two for a term of one year. As each such term expires, each new appointment shall be for a term of three years. The court of appeals may require such reports or audits of the board as it shall from time to time deem to be necessary or desirable.
2. The board shall have the power to receive, hold, manage and distribute the funds collected hereunder for the purpose of maintaining the integrity and protecting the good name of the legal profession by reimbursing, in the discretion of the trustees to the extent they may deem proper and reasonable, losses caused by the dishonest conduct of attorneys admitted to practice in this state. For purposes of this section, the term "dishonest conduct" shall mean misappropriation or wilful misapplication of clients' money, securities, or other property, by an attorney admitted to practice in this state.
3. The board of trustees shall adopt regulations for the administration of the lawyers' fund for client protection of the state of New York and the procedures for presentation, consideration, allowance and payment of claims, including the establishment of a maximum limitation for awards to claimants.
4. The board of trustees shall have the sole discretion to determine the merits of claims presented for reimbursement, the amount of such reimbursement and the terms under which such reimbursement shall be made. Such terms of reimbursement shall require that the claimant execute such instruments, take such action or enter into such agreements as the board of trustees shall require, including assignments, subrogation agreements and promises to cooperate with the board of trustees in making claims against the attorney whose dishonest conduct resulted in the claim.
5. The board of trustees shall serve without compensation but shall be entitled to receive their actual and necessary expenses incurred in the discharge of their duties.
6. The board of trustees may employ and at pleasure remove such personnel as it may deem necessary for the performance of its functions and fix their compensation within the amounts made available therefor.
7. The board of trustees shall be considered employees of the state for the purpose of section seventeen of the public officers law.
8. All payments from the lawyers' fund for client protection of the state of New York shall be made by the state comptroller upon certification and authorization of the board of trustees of said fund.
9. Acceptance of an award of reimbursement from the lawyers' fund for client protection shall, to the extent of such award, (a) subrogate the fund to any right or cause of action that accrued to the claimant as a consequence of the dishonest conduct that resulted in the claimant's award and (b) create a lien in favor of the fund that shall attach to any money asset that is designated to be paid to the claimant from, or on behalf of, the attorney who caused the claimant's loss. If the fund fully reimburses the claimant's loss, as determined by the board of trustees, the lien shall be in the amount of the fund's award. If the claimant's loss exceeds the fund's award, the lien shall not extend to the claimant's right to recover additional restitution from the attorney for the claimant's unreimbursed loss. In the event of a recovery by the fund, a claimant shall be entitled to any money recovered in excess of the fund's award of reimbursement to the claimant.

---

## NY State Finance Law Sec. 97-t

### **§§ 97-t. Lawyers' fund for client protection of the state of New York.**

1. There is hereby established in the custody of the state comptroller a special fund to be known as the "lawyers' fund for clients protection of the state of New York".
2. The full amount of the allocable portion of the biennial registration fee collected pursuant to the provisions of section four hundred sixty-eight-a of the judiciary law and such other monies as may be credited or otherwise transferred from any other fund or source, pursuant to law, including voluntary contributions, together with any interest accrued thereon, shall be deposited to the credit of the lawyers' fund for client protection of the state of New York. All deposits of such revenues not otherwise required for the payment of claims as hereinafter prescribed shall be secured by obligations of the United States or of the state having a market value equal at all times to the amount of such deposits and all banks and trust companies are authorized to give security for such deposits. Any such revenues in such fund, may be invested in obligations of the United States or of the state, or in obligations the principal and interest on which are guaranteed by the United States or by the state.



## The Lawyers' Fund For Client Protection

Of the State of New York

[Home](#)

[Who We Are](#)

[FAQ](#)

[Trustees' Regulations](#)

[Claim Forms](#)

[Publications](#)

[Annual Reports](#)

[Press Releases](#)

[Escrow and Ethics Materials](#)

[Attorney Grievance Committees](#)

[NYS Attorney Directory](#)

[Key Telephone Numbers](#)

[Links to Internet Resources](#)

[Nat'l Client Protection Organization](#)

[USA Client Protection Funds](#)

[Request For Information](#)

### Our Mission:

**To protect** legal consumers from dishonest conduct in the practice of law, **to preserve** the integrity of the bar, **to safeguard** the good name of lawyers for their honesty in handling client money, **to promote** public confidence in the administration of justice in the Empire State.

### Click for our 25th Anniversary Video!

You may increase the size of the screen in your browser.)  
(Presented in Windows Media Player (.wmv) format.)

[This short video, with an introduction by former Chief Judge Judith S. Kaye, provides the history and purpose of the Lawyers' Fund. The video includes interviews with Fund Trustees and law client victims.](#)

### The Lawyers' Fund for Client Protection

119 Washington Avenue

Albany, New York 12210

Phone: (800) 442-3863

(518) 434-1935

Fax: (518) 434-5641

E-mail: [info@nylawfund.org](mailto:info@nylawfund.org)

©New York State Lawyers Fund for Client Protection 1997-2012  
All Rights Reserved

In order to view or print many documents on this web site, you will need the Adobe Acrobat reader. Follow this link to download a free Adobe Reader.



---

# APPLICATION FOR REIMBURSEMENT FRONT

---

# APPLICATION FOR REIMBURSEMENT BACK