



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

Highlights from the 2008 Annual Report of the Board of Trustees

This Report of the Board of Trustees of the Lawyers' Fund for Client Protection focuses on the 2008 calendar year. This is the 26th year of operations of the Lawyers' Fund.

The Lawyers' Fund was established in order to maintain the integrity and protect the good name of New York's legal profession by reimbursing law client losses caused by the dishonest conduct of attorneys in our State. The legal profession is the only profession to provide such protection to its clients.

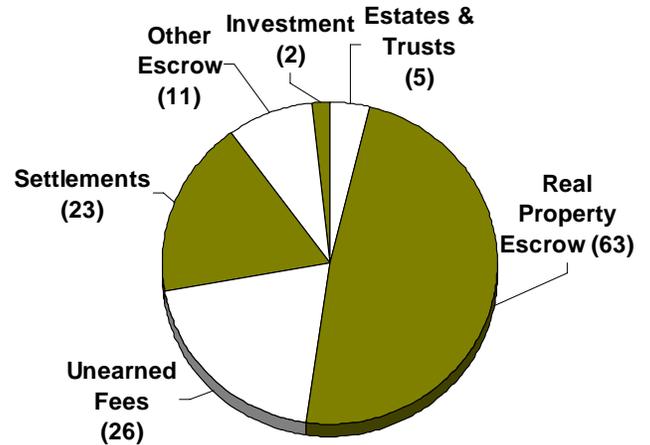
The Trustees' 26-year experience clearly demonstrates that the overwhelming majority of New York's lawyers are honest and caring and deserving of their clients' trust. The dishonest conduct and resulting client losses reimbursed by the Fund are attributable to substantially less than one-third of one percent of New York's current 244,000 registered lawyers.

These few dishonest lawyers can cause substantial harm. Since 1982, the Lawyers' Fund has awarded \$137.3 million to 6,478 eligible law clients. In 2008, there were 130 awards granted totaling \$6.8 million. The losses in 2008 were caused by 48 now suspended, disbarred or deceased lawyers, 23 of whom appear for the first time in 2008 in the Fund's awards.

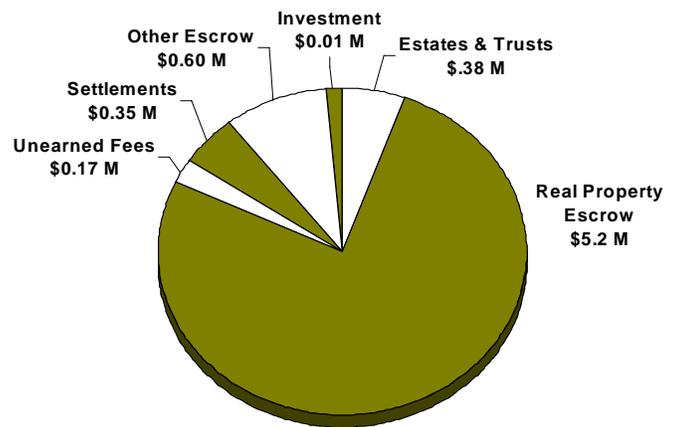
The Fund ended 2008 with 565 pending claims, down from 566 claims at the end of 2007. Of these 565 pending claims, 375, nearly 66 percent, involve one law firm whose attorneys are the subject of ongoing criminal proceedings. The Fund's exposure on the 565 pending claims was \$21.7 million. At the close of 2008, the Fund had \$5.0 million in revenue in the state treasury.

Since 1982, 91 cents out of every \$1 in revenue received by the Fund has been directly applied towards the payment of awards of reimbursement.

**Number of Awards Approved in 2008
by Category of Loss : 130 Awards**

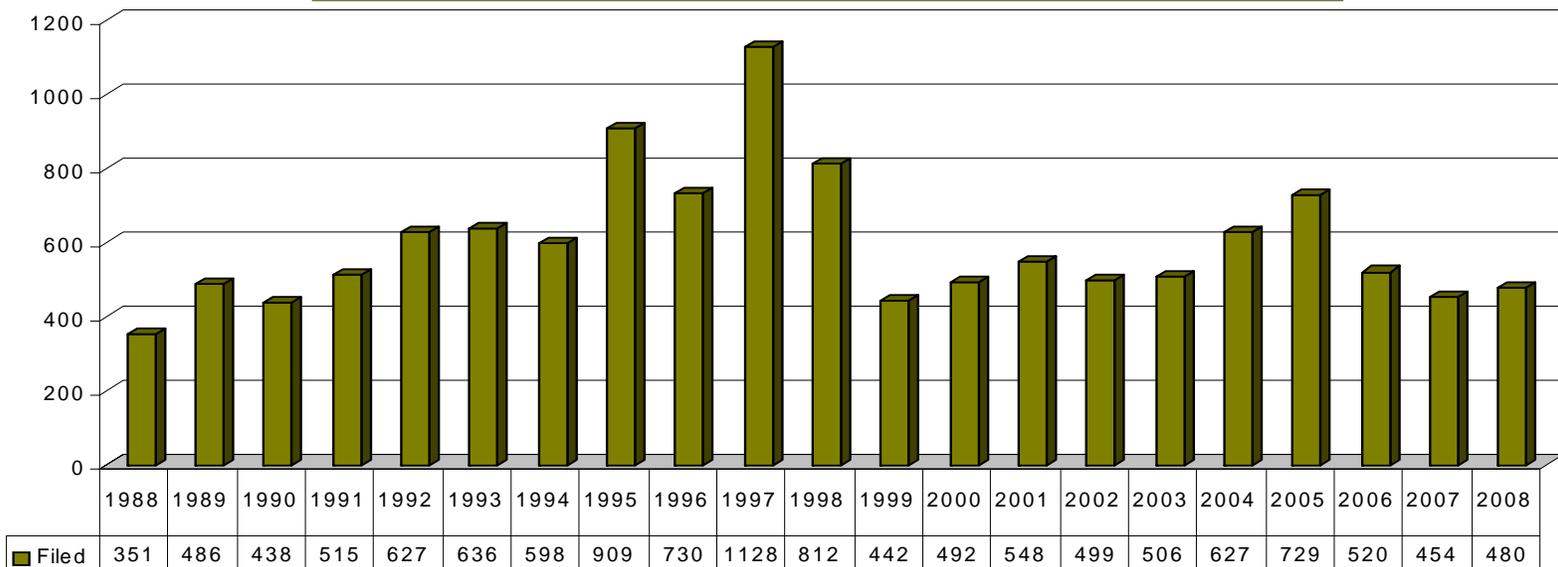


**Amount of 2008 Awards
By Misconduct : \$6.8 Million**



"Much appreciation and thanks for the timely and professional expertise shown in my claim.", Message from a Claimant, 2008

**Filed Claims Experience From 1988-2008
(Total Claims Filed Since 1982: 14,650)**



The Fund's Statutory Authority and the Trustees' Regulations

Section 97-t of the State Finance Law provides for the establishment of the Fund and for the management of its assets as a special revenue fund by the State Comptroller.

Section 468-b of the Judiciary Law governs the administration of the Fund. This statute 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 Trustees' 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. Losses reimbursed by the Fund include the theft of estate and trust assets, escrow deposits in real property transactions, 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.

Court Programs & Public Information

The Dishonored Check Notice Rule is a client protection device instituted at the request of the Fund's Trustees. Under the court rules for this program, the Lawyers' Fund acts as a statewide clearing house for reports of bounced checks on attorney trust, special and escrow accounts. The majority of bounced check notices result from innocent mistakes in law office banking practices. These reports though have identified upwards of 153 lawyers who had misused escrow funds.

Court rules designate the Lawyers' Fund as a depository for money owed to missing law clients and escrow beneficiaries. 22 NYCRR Part 1200 (Rule 1.15 (f)). Deposits of \$1,000 or less will be accepted without court order in order to prevent the depletion of nominal deposits. The Fund's staff attempts to locate these clients to return these monies. As of December 31, 2008, a total of 1,421 deposits totaling \$2.9 million were received by the Fund. Staff successfully located 149 missing clients and restored \$309,082.

The Fund's internet site at www.nylawfund.org is a source of detailed information about the Fund and helpful advice for consumers and the legal community. The site contains frequently asked questions on the Fund and its procedures; the Trustees' Regulations; reimbursement claim forms; recent Annual Reports; consumer publications; and press releases.

Claims Received and Processed

In 2008, 480 claims were filed with the Fund, an increase of 6 percent from 2007. The largest number (170) of claims sought reimbursement of legal fees followed by claims alleging losses in real estate transactions (126). The largest reported losses (\$14.8 million) involved alleged losses in real estate transactions. The second largest reported losses (\$10.7 million) involved investment transactions.

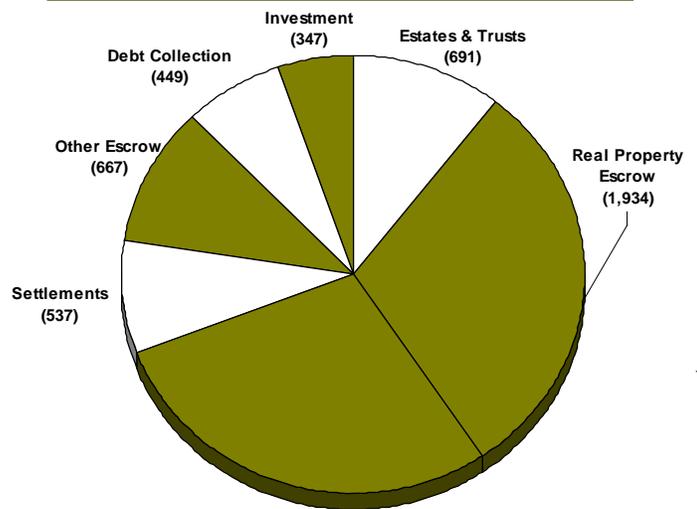
In 2008, 100 percent reimbursement was provided by the Fund to every eligible claimant.

The Trustees approved 130 awards in 2008, with documented losses of \$6.8 million. Awards totaled \$6.8 million, and ranged between \$95 and \$300,000. The median loss and award was \$15,000. All awards since 1982 involve actual client and escrow losses of \$174.5 million.

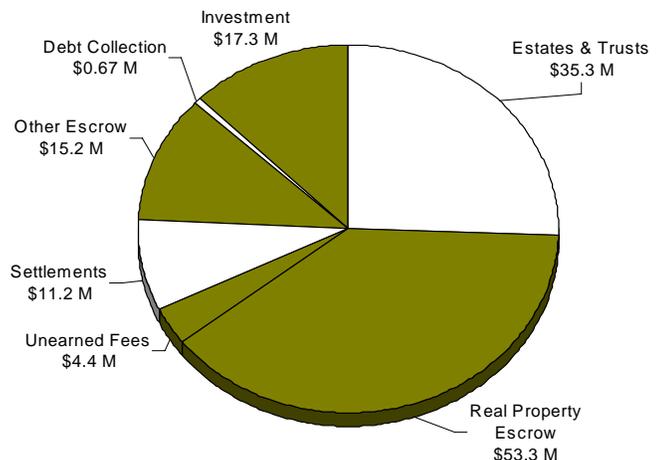
Of the 130 awards in 2008, losses in real estate transactions was the largest category of awards in both number (62) and dollar amount (\$4.8 million). In 2008, 40 percent of the awards approved, and 47 percent of the amount of reimbursement provided, involved thefts of real property escrows.

Since 1982, final determinations have been reached in 13,664 claims: 6,348 (46%) were found to qualify for reimbursement and 7,316 (54%) were determined to be ineligible.

Number of Awards Approved Since 1982 by Category of Loss : 6,478 Awards



Amount of Awards Since 1982 By Misconduct : \$137.3 Million



“It was a...frustrating experience...Having said that it doesn't keep me from being truly grateful to the dedicated individuals who waded in to try to 'make things right'. It is a pity, but a fact, it takes a lot of good people to (make up for) one bad apple in any profession.”

Message from a Claimant, 2008

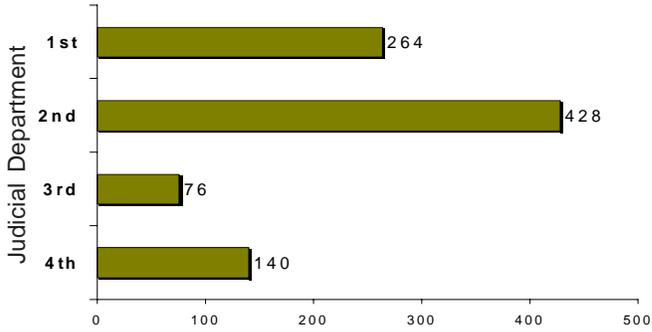
Lawyers Involved in Awards, 1982 to 2008

In 26 years, only 908 former members of the bar have been responsible for the 6,478 awards granted by the Fund. **A complete list of these former lawyers is available on the Fund's website www.nylawfund.org** The Trustees' awards in 2008 were attributable to dishonest conduct by 48 now suspended, disbarred or deceased lawyers. Of these 48 former lawyers, 25 were respondents in awards from prior years and the names of 23 dishonest lawyers appear for the first time in 2008 awards. There are now 244,000 registered lawyers in New York State.

Most thefts involve sole practitioners, the majority of which are male and middle-aged. The apparent causes of misconduct by these lawyers are often traced to alcohol or drug abuse. Other causes are economic pressures, mental illness, marital, professional and medical problems, and gambling activity.

The geographic distribution of these 908 former lawyers, and the Fund's 6,478 awards, among the state's judicial departments is represented in the bar graphs to the right:

Lawyers Involved in All Awards Since 1982



First Judicial Department

New York and Bronx County

Second Judicial Department

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

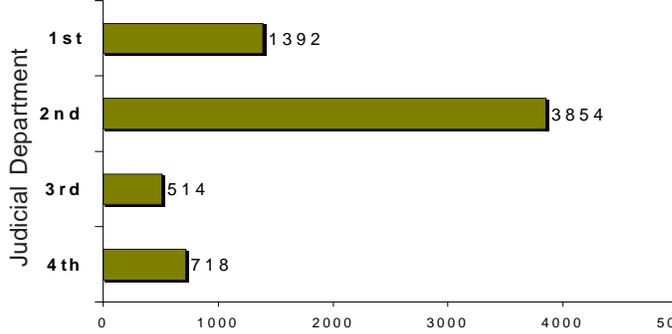
Third Judicial Department

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

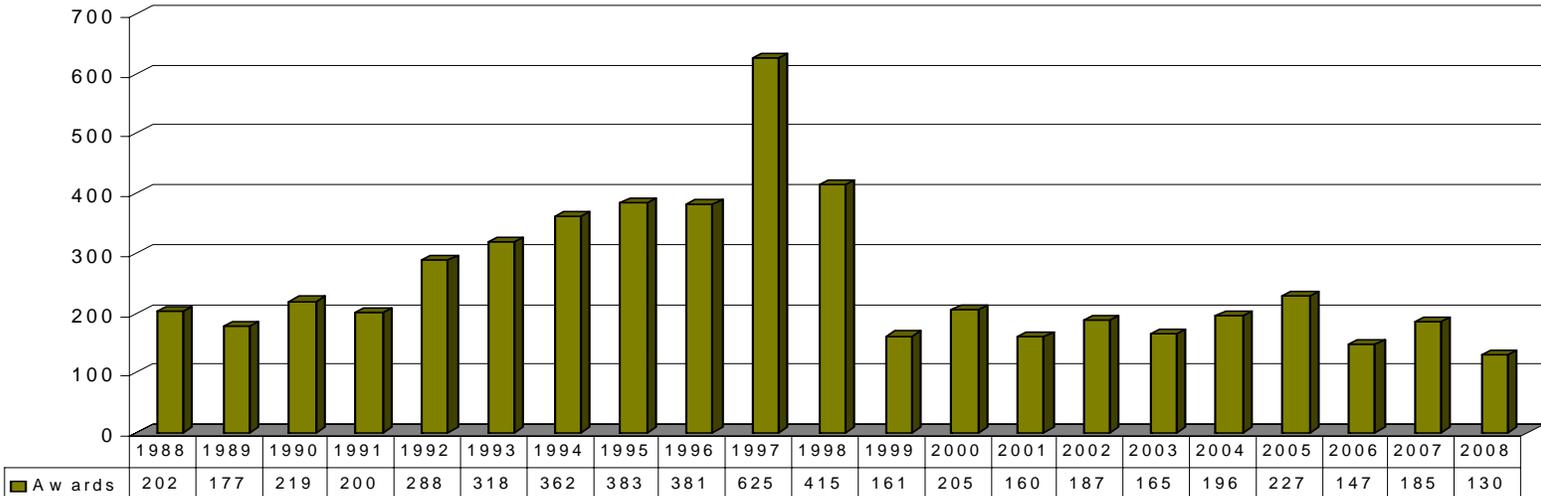
Fourth Judicial Department

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

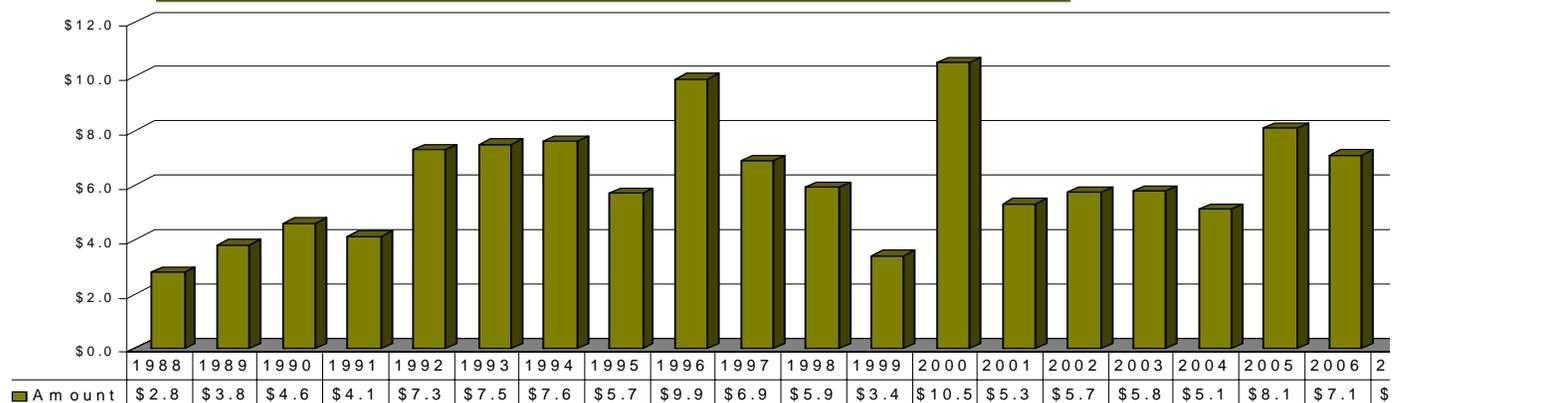
Distribution of Awards Since 1982



Number of Reimbursement Awards Approved, 1988-2008 (Total Number of Awards Approved Since 1982: 6,478)



Amount of Awards Approved, 1988-2008 (In Millions \$) (Total Awards Approved Since 1982: \$137.3 Million)



The Board of Trustees



Eleanor Breitel Alter of Manhattan has served as Chairman of the Board of Trustees since 1985. She is a partner in the Manhattan law firm of Kasowitz, Benson, Torres & Friedman.



Eric A. Seiff of the Bronx is Vice-Chairman of the Board. Mr. Seiff is a partner in the Manhattan law firm of Seiff, Kretz & Abercrombie.



Nancy Burner of Suffolk County, is the founding partner of Burner, Smith & Assoc., LLP, an estate planning, trusts and estates, and elder law firm in Setauket and Westhampton Beach.



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.



Charles Joseph Hynes of Brooklyn is the District Attorney of Kings County. Mr. Hynes has served as a Trustee since 1982.



Theresa B. Mazzullo of Rochester, Monroe County, is the CEO of Excell Partners, a state supported seed venture capital company.



Patricia L. Gatling, of Manhattan, is the Commissioner and Chair of the New York City Commission on Human Rights. Ms. Gatling was appointed to the Board in November 2008.

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); and Bernard F. Ashe of Albany (1981-2008).

The Lawyers' Fund is administered by a Board of Trustees who are appointed by the Court of Appeals. Since 1981, the Board has been composed of five members of the bar and two business and community leaders.

The Trustees serve renewable three-year terms. They receive no compensation for their services.

The Fund's office is located in Albany. The Trustees are assisted by a five-member staff composed of Timothy J. O'Sullivan, Executive Director and Counsel; Michael J. Knight, Deputy Counsel; Jahnell Hall-Worthen, Administrative Secretary; Ray Wood, Investigator, and Harriett Tremblay, Secretary.

As one of the smallest of state agencies, the Fund relies greatly upon the support and kindness of colleagues in public service. The Trustees acknowledge our special appreciation to the Court of Appeals; the staffs of the Attorney Grievance Committees and District Attorneys' Offices; the Office of Court Administration; the Attorney General's Office and the Office of the State Comptroller.

Revenue of the Lawyers' Fund

The biennial attorney registration fee required of every practicing attorney is the Fund's principal source of revenue. Section 468-a of the Judiciary Law allots \$60 of each \$350 registration fee to the Lawyers' Fund. Since April 1, 1993, additional revenue from the biennial registration fee has been made available to the Fund.

The Lawyers' Fund does not receive any revenue from the Interest on Lawyer Account (IOLA) program. The Fund also does not receive any tax dollars.

Other sources of revenue for the Fund include restitution, interest, sanctions and contributions. Since 1982, the Fund has received \$132 million from attorney registration fees; \$11.9 million in restitution; \$5.2 million in interest income; \$2.8 million in judicial sanction revenue; and \$280,000 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 component of the Judiciary Budget.

Recommended Changes in Legal Practice and Policy

Each year, the Trustees recommend changes in legal practice and policy in fulfillment of their statutory responsibility to maintain the integrity of the legal profession and promote public confidence in the administration of justice. The full text of these recommendations can be found in our complete annual report posted at <http://www.nylawfund.org>.



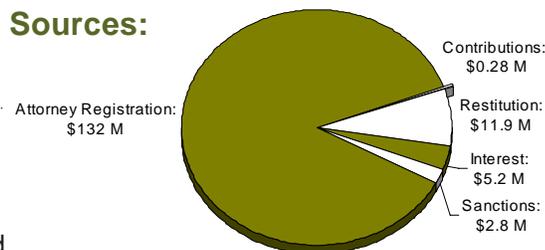
Dedication: Hon. Judith S. Kaye and Hon. Bernard F. Ashe

The Trustees dedicate this Annual Report to Judith S. Kaye, Chief Judge of the Court of Appeals from 1993 to 2008, and Bernard F. Ashe, Trustee for the Lawyers' Fund from 1982 to 2008. Judge Kaye and Mr. Ashe began as charter members of the Board of Trustees when the Fund was first established in 1981. In the years since, their tireless efforts and dedication to public service have strengthened our justice system and made the New York Lawyers' Fund a model for the nation's client protection programs.



The Fund's Finances Since 1982

Revenue Sources:



Claims and Operations:

