



# The Lawyers' Fund for Client Protection

of the State of New York

## Highlights from the 2019 Annual Report of the Board of Trustees

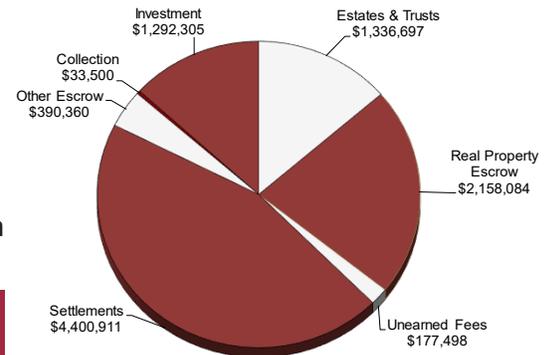
This Annual Report of the Lawyers' Fund for Client Protection focuses on the Fund's activities in calendar year 2019, the 37th year of the operations of the Lawyers' Fund. The Lawyers' Fund is an independent public trust, financed by New York's legal profession, that reimburses law clients for financial losses caused by dishonest conduct in the practice of law. No other profession provides such protection to its clients. The Lawyers' 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 Trustees' experience over 37 years has proven that the overwhelming majority of lawyers in New York State are honest and caring and deserving of their clients' trust. Since the Fund's inception in 1982, a small number of former lawyers each year have been responsible for the dishonest conduct resulting in the Fund's awards. In 2019, 43 now suspended, disbarred or deceased lawyers were responsible for the client losses reimbursed by the Fund. There are over 332,000 registered lawyers in New York State. In 2019, the Trustees approved 125 awards providing \$9.8 million in total reimbursement to eligible law clients for losses caused by the dishonest conduct of former New York State lawyers. The Lawyers' Fund is able to reimburse up to \$400,000 per law client loss.

### Purpose of Law Client Protection and Trustees' Recommendations

The mission of the Lawyers' Fund is to protect law clients from dishonest conduct in the practice of law, maintain the integrity and protect the good name of the legal profession, and promote public confidence in the administration of justice in New York State. The Fund's primary focus is the reimbursement of client losses caused by dishonest conduct in the practice of law. The Trustees also fulfill the Fund's mission by recommending changes in legal practice and policy. The full text of the Trustees' Recommendations is published in the complete 2019 Annual Report, which is available on our website at [www.nylawfund.org](http://www.nylawfund.org).

### Amount of 2019 Awards By Type of Theft: \$9.8 Million



### 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. However, these reports have identified upwards of 320 lawyers who had misused escrow funds.

Court rules designate the Lawyers' Fund the 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 identify these clients to enable the return of their money to them. As of December 31, 2019, staff successfully located 664 missing clients and restored \$1.9 million to them. This court rule and sample pleadings pursuant to this rule can be found on the Fund's website at [www.nylawfund.org](http://www.nylawfund.org) in the escrow and ethics material section.

The Fund's internet site 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.

### 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 \$375 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 IOLA (Interest on Lawyer Account) program. Also, the Fund does not receive any tax dollars.**

The Fund's other sources of revenue include restitution, interest, sanctions and contributions. Since 1982, the Fund has received \$213.6 million from attorney registration fees; \$21.4 million in restitution; \$5.7 million in interest income; \$3.7 million in judicial sanction revenue; and \$313,000 in contributions from lawyers and the public. Revenues also include unclaimed missing client and deceased attorney escrow deposits held by the Fund for over five years pursuant to court rules. The Fund's revenues are annually appropriated to the Board of Trustees by the State Legislature as one portion of the Judiciary Budget.

## Claims Received and Processed

In 2019, 301 claims were filed with the Lawyers' Fund, a 28 percent decrease from 2018. These filed claims included 220 (52.8%) claims seeking reimbursement of unearned legal fees and 79 claims (18.9%) alleging losses in personal injury settlements. The largest alleged losses (\$9.9 million) involved personal injury settlements. The second largest alleged losses involved real property transactions (\$3.7 million).

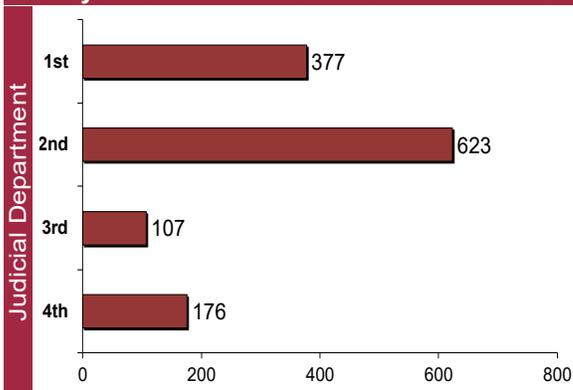
The Trustees approved 125 awards in 2019. The dollar amount reimbursed totaled \$9.8 million. The median loss and award was \$21,500. Because the Fund is able to return up to \$400,000 on a single loss, in 2019, all but seven eligible claimants received full reimbursement of their loss. By category, awards in 2019 reimbursing unearned retainer fees comprised the largest number of awards (49 awards or 39.2%). The second largest category of awards by number was personal injury settlements (33 awards, or 26.4%). By dollar amount, personal injury settlements were the the largest category of awards (\$4.4 million or 45%) of the Fund's total payout. Real property escrow thefts were second with \$1.3 million in awards (13.7%). Since 1982, the Fund has rendered 20,220 determinations in claims. Of these, 11,255, or 56 percent, were deemed ineligible for reimbursement.

## Lawyers Involved in Awards, 1982 to 2019

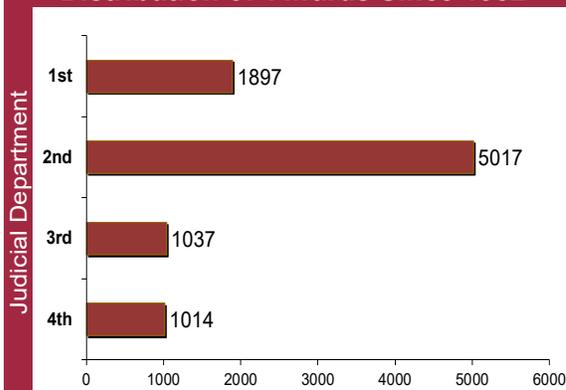
In 37 years, 1,283 former members of the bar have been responsible for the 8,965 awards granted by the Fund. A complete list of these former lawyers is available on the Fund's website [www.nylawfund.org](http://www.nylawfund.org). There are over 332,000 registered lawyers in New York State. The Trustees' awards in 2019 were attributable to dishonest conduct by 43 now suspended, disbarred or deceased lawyers.

The geographic distribution of these 1,283 former lawyers, and the Fund's 8,965 awards, among the state's judicial departments is represented in the bar graphs below:

Lawyers Involved in All Awards Since 1982



Distribution of Awards Since 1982



### First Judicial Department

New York and Bronx Counties

### 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

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

## The Board of Trustees

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 Michael J. Knight, Executive Director and Counsel; Gabriel Huertas, Assistant Counsel; Keri Cleveland, Investigator, Jahnel Kaczor, Administrative Secretary and Harriett Tremblay, Secretary.



**Eric A. Seiff** of the Bronx is Chairman of the Board. Mr. Seiff is of counsel to the Manhattan law firm of Amini L.L.C.



**Patricia L. Gatling**, of Manhattan, is the Vice-Chairman of the Fund and an attorney with the Manhattan law firm of Windels Marx Lane & Mittendorf, LLP. She also served 13 years as the Commissioner and Chair of the New York City Commission on Human Rights.



**Peter A. Bellacosa** of Manhattan is the Fund's Treasurer and a partner with the law firm of Phillips Lytle, LLP.



**Anthony J. Baynes**, of Erie County, is the founder and current Chairman of the AJ Baynes Group, a Buffalo based development and logistics company.



**Stuart M. Cohen** of Rensselaer is a former Clerk of the Court of Appeals and is currently a sole practitioner in Rensselaer concentrating on appellate matters.



**Lisa L. Hutchinson**, of Nassau County, is a partner in the Farmingdale law firm of Guerccio & Guerccio, LLP.



**Dr. Gary S. Greenberg**, of Liverpool, Onondaga County, is a dentist specializing in Dental Sleep Medicine.

