



PRAEVENTIO

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Assurance
responsabilité
professionnelle

Barreau



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Equity amounted to \$98.8 million, compared with \$90.8 million in 2018.

The \$8.8 million deficiency of revenue over expenses in 2011 and \$18.8 in 2012 are nevertheless a reminder that the Insurance Fund's performance essentially depends on the claims faced by its insureds.

Prevention

In the interests of our members and the public, better control of the risks associated with the practice of law continues to be crucial. In 2019, the Insurance Fund once again presented a number of prevention activities and provided practical advice to lawyers aimed at reducing the risk of malpractice proceedings.

These prevention activities were presented in a classroom setting throughout Québec and online through Web-Pro.

It does not matter how slowly you go as long as you do not stop.

Confucius

2019 MANAGEMENT REPORT

The Year 2019 in Review

As at December 31, 2019, the Barreau du Québec insured the professional liability of 16,239 members (15,862 in 2018) through its Professional Liability Insurance Fund. Some lawyers (11,641 in 2019 and 11,485 in 2018) had sought and obtained an exemption from the insurance requirement on the ground that they worked exclusively for the public service or did not perform any of the acts reserved exclusively for lawyers in Québec.

On April 1, 2019, the insurance premium was reduced to \$850 per insured (\$950 in 2018). The premium shortfall recorded as a liability was therefore \$482,000 (\$220,000 in 2018).

Notwithstanding the reduced premium, the Insurance Fund's solvency improved. This improvement is the fruit of the Insurance Fund's sound and prudent management practices in both its handling of claims and its investments. The Insurance Fund is therefore in a position to satisfy the coverage needs of the profession's members.

Investment income was \$4.9 million (\$5.5 million in 2018). The Insurance Fund managed to maintain a favourable rate of return notwithstanding the drop in bond rates over the past few years, in particular, by adding exchange-traded equity index funds, preferred shares and private debt funds to its portfolio.

The Insurance Fund ended its thirty-first fiscal year as at December 31, 2019 with an annual surplus of \$5.4 million (\$10.5 million in 2018).

The classroom activities were attended by 1,451 lawyers, and a further 208 participated in the online training activities, for a total of 1,659 lawyers (1,627 in 2018). The Insurance Fund continues its efforts to increase the participation of Barreau members in its activities.

The *Praeventio* bulletin is always highly valued by our insureds.

New prevention tools were added to the Insurance Fund's new website. They include articles and capsules published monthly under the *Mâitres@droits* heading.

Claims

The number of files opened (including claim notices and preventive notices) increased by 5%, rising from 643 in 2018 to 674 in 2019. At the end of the year, the Insurance Fund still had 672 active cases (659 in 2018), representing a total of 20,991 notices since it began its operations.

Third parties who had well-founded claims against our insureds were indemnified at the fair value of their claims by way of amicable settlements. From among the cases closed in 2019, the Insurance Fund entered into 88 transactions (116 in 2018), of which 75 involved a payment (88 in 2018).

Moreover, the Insurance Fund fully satisfied its obligation to defend unfounded claims. It obtained 36 discontinuances (73 in 2018) and entered into 13 out-of-court settlements which involved no payment (28 in 2018).

Of the 31 cases pleaded and closed in 2019, the lawyers retained by the Insurance Fund to defend its insureds were successful in having 29 of them dismissed (42 out of 44 in 2018). Only one final judgment was unfavourable to the insured, with another judgment having been rendered for an amount lower than the Insurance Fund's last settlement offer.

The Insurance Fund continues its efforts to implement the best strategies to decide whether or not to proceed to trial.

Claim Liabilities

The Insurance Fund's actuary evaluated the claim liabilities (actuarial provisions for unsettled claims) at \$54.1 million on a gross basis, down from \$59.8 million in 2018.

Given the general coverage of \$10 million per occurrence available to insureds, the Insurance Fund continues to manage its financial risk through reinsurance coverage of \$8 million for claims exceeding \$2 million. The

reinsurers' share of actuarial provisions for unsettled claims decreased from \$6.5 million in 2018 to \$4.2 million in 2019.

Claim and Settlement Expenses

Claim and settlement expenses amounted to \$10.4 million (\$7 million in 2018), after deducting the portion assumed by the reinsurers.

Defence costs continued to increase (from \$3.9 million in 2016 to \$4 million in 2017, \$5 million in 2018 and \$6.2 million in 2019). This increase is due, in part, to more frequent attendance in court for case management purposes as well as the growing scope of court cases.

We continue to hope that the Insurance Fund's strategies will allow us to better control these costs.

In 2019, the Insurance Fund had to call on its reinsurers on two occasions, given that the indemnities paid to third parties in two different matters exceed the Insurance Fund's \$2 million retention limit.

Operations

Operating risks, including continuity of business, fraud and reputation, continue to be managed in accordance with strict internal control policies that comply with the requirements of the *Autorité des marchés financiers*.

General overhead expenses amounted to \$2.1 million (as in 2018).

Information Technology

The Insurance Fund promotes sound and prudent management of information security risks, while fostering the achievement of its objectives.

In 2019, the Insurance Fund had the security of the information it holds audited and carried out a detailed analysis of its information risks, with a view to continuing its progress in terms of security practices.

Satisfied Insureds

Our insureds once again expressed their satisfaction with the Fund. Our surveys of members after the processing of claims covered by the insurance policy revealed that our insureds expressed full satisfaction with the services rendered by the Insurance Fund.

Board of Directors

During the 2019 fiscal year, there were 5 statutory meetings of the Board of Directors of the Insurance Fund and 15 committee meetings.

In addition to its regular activities, the Board discussed the premium for the insurance period beginning April 1, 2020. The Barreau once again accepted the recommendations of the Insurance Fund in this regard.

New Act

The Board of Directors continued to consider the impact of the *Act mainly to improve the regulation of*

the financial sector, the protection of deposits of money and the operation of financial institutions, S.Q. 2008, c. 23. The coming into force of the provisions relating to insurance funds was postponed to April 1, 2020 at the request of the professional orders.

The new provisions provide for the following:

- the elimination of a fund's board of directors that is independent from the order's board of directors;
- the creation of a committee referred to as the "Professional Liability Insurance Decision-Making Committee" which reports to the board;
- the transmission by the Decision-Making Committee of certain information to the order's other units (Board of Directors of the Barreau, Syndic of the Barreau or Professional Inspection Committee), for the purpose of ensuring the protection of the public.

Guidance is expected from the Minister of Finance and the Office des professions du Québec with respect to the implementation of these changes. A draft regulation on professional liability insurance is under review.

Conclusion

We conclude this thirty-first year by thanking our directors, each of whom participated in the guidance, sound governance and longevity of the Insurance Fund.

We would also like to thank all of the lawyers employed by the Insurance Fund and all administrative staff for their dedication and meticulousness in dealing with each stage of a claim file. It is through them that the Insurance Fund has earned the ongoing trust of its insureds.

Montreal, February 18, 2020 ☂

Madeleine Lemieux, Ad. E., ASC



Chair of the Board



Maria De Michele, Lawyer, ASC



Executive Director

APPOINTMENTS TO THE INSURANCE FUND

M^e Maria De Michele, Director of Insurance Affairs, is pleased to announce the most recent appointments to the Professional Liability Insurance Fund of the Barreau du Québec.



In February 2020, M^e **Fanny Bayle** joined the team at the Insurance Fund as a Lawyer Analyst in the Claims Department. M^e Bayle was called to the Barreau du Québec in 2015. She holds a Bachelor of Law and a Licentiate in Laws, and is currently completing a Masters in Management at the HEC Montréal. Before joining the Insurance Fund, she worked in private practice, primarily in the areas of civil litigation, insurance and civil and professional liability. Lastly, M^e Bayle also worked for a non-profit organization at the forefront of improving access to justice.



M^e **Pat Pelonis** joined the team at the Insurance Fund in March 2020 as a Lawyer Analyst in the Claims Department. She is a graduate of the Université de Montréal and was called to the Barreau du Québec in 2011. She also holds the title of Chartered Insurance Professional (CIP) granted by the Insurance Institute of Canada. Before joining the Insurance Fund, she worked in private practice, primarily in the areas of civil litigation, insurance and civil liability, as well as for another professional liability insurance fund.



Lastly, M^e **Judith Guérin** was called to the Barreau du Québec in 2011. Before joining the team at the Insurance Fund, M^e Guérin worked in private practice, primarily in the areas of civil litigation, insurance and civil and professional liability. In 2017, she joined the Insurance Fund, first as a Lawyer Analyst in the Claims Department and

then as a Lawyer Analyst in the Claims Department and Lawyer in the Risk Prevention Department. Since January 2020, she has devoted all her time to the Risk Prevention Department.

The respective experience of these three lawyers will undoubtedly contribute to maintaining the quality of the services provided by the Insurance Fund to its insureds. ☂



Service de prévention

NOTICE

M^e **Guylaine LeBrun**
Claims Prevention Coordinator
and Counsel

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Claims Prevention Lawyer

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This publication is an information tool which has been compiled for the purpose of minimizing the risks of legal claims for professional fault. Its content shall not be considered to be an exhaustive study of the topics covered, legal advice, nor as suggesting minimum standards of professional conduct. Where the context permits, the masculine gender includes women as well as men.

This Loss Prevention Bulletin is published by the Professional Liability Insurance Fund of the Barreau du Québec.