



*** SUMMARY OF CLAIMS COMMITTEE*
ANNUAL MEETING—OPEN SESSION**

**June 11, 2021
Tigard, Oregon**

Pursuant to PLF Policy 4.200(C)(2), the PLF Board of Directors Claims Committee and PLF Claims Attorneys commenced their regularly scheduled annual meeting via Zoom videoconference on Friday, June 11, 2021, at 8:00 a.m.

This meeting was noticed and conducted in compliance with the Oregon Public Meetings Law, ORS 192.610 *et seq.*

Present at the meeting were Directors Holly Mitchell, Gina Anne Johnnie, Harshi Waters, Megan Livermore, Oren Haker, and Chris Karlin. Also present were PLF Claims Attorneys Heather Bowman, Maureen DeFrank, Holli Houston, Amy Hoven, Pam Stendahl, Brad Tompkins, and Sarah Troutt, PLF Director of Claims Matthew Borrillo, PLF General Counsel Madeleine Campbell, PLF Interim CEO Carol Bernick, and Claims Administrative Supervisor Marci Sasik.

The meeting commenced at 8:03 a.m., and followed the agenda proposed in Matt Borrillo's June 1, 2021, memorandum to the Committee, OSB Board of Governors Liaisons, and PLF Claims Attorneys. Mr. Borrillo first explained the purpose of the annual meeting as prescribed in the PLF policies. He stated his belief the Claims Attorneys and the Department were doing an excellent job in handling claims and meeting and exceeding the goals set forth in the PLF policies, in spite of the challenges of the past year. Overall, even with challenges, we did not have any disruption in administration of claims.

1. Status of Claims Department During COVID-19 – The PLF saw a drop of participating lawyers, as well as a drop in overall claims made. This did not, however, translate to less work for the Claims Department because the department has had to work on other tasks not related to administering claims, i.e., keeping abreast of legislative changes and court orders related to COVID-19 and HB 4212, communicating with covered parties about the changes, etc. They also researched issues related to when HB 4212 became effective (there was a problem created by a Magistrate order saying HB 4212 was not retroactive); the Oregon Legislature ultimately passed legislation to make it clear that tolling period in HB 4212 was effective from the date the Governor's emergency order was signed.

The Claims Department has also seen hidden challenges during the pandemic. The department has seen an increase in office closures, though it is unclear whether the increase is a result of pandemic or coincidental. The department is also seeing courts stacking their dockets in an attempt to move through a backload of cases to get the

cases back on track, which is creating potential problems for attorneys by developing conflicts with court dates in different counties.

Another future challenge may be created by the rush to file unfiled cases after the emergency order is lifted. Amy Hoven looked into the total number of filings for the three preceding years and found the following: 1) the average number of filings per year is 752,000; and 2) in 2020, total filings were about 456,000. What has happened to the cases that were not filed? It is unlikely those cases went away, though some were likely resolved during the pendency of the Governor's emergency order. It is possible that when the HB 4212 tolling expires (90 days after the expiration of the emergency order), courts will be very busy because many of the unfiled cases will need to be filed within a 90 day period, leading to the possible claims relating to filing, service, etc. The department has also seen challenges with landlord/tenant cases because of the constantly changing landscape, rent moratoriums, and their effect on matters in bankruptcy.

2. Repairs – Repairs continue to play an important roll in the prevention of larger malpractice claims. One of the most challenging aspects of repairs is that many people do not realize they are discretionary and the PLF uses a triad of factors in deciding whether to engage in a repair: 1) likelihood of success, 2) cost vs. benefit of the repair, and 3) whether involvement in a case can be limited. The department needs to consider how to educate the public about the repair process and to get across that while repairs are beneficial, they are discretionary.
3. Trusts and Estates – The department continues to see an increased number of claims related to trust and estates matters, a trend which began in 2017. Not only are we seeing an increased number of claims in this area of law, the claims are often complicating by overlapping factors, such as tax filings, variety of trust/estate assets, and familial relationships.
4. Depth of Defense Panel (item not on agenda) – The department needs to get more attorneys experienced in landlord/tenant law on the Defense Panel. The same need exists with criminal law, worker's compensation, and family law as David Hull retired. There may also be additional gaps in the depth of the Defense Panel may in the area of bankruptcy, particularly when Johnston Mitchell and Christine Coers-Mitchell decide to retire or wind down their practice. Geographically, shallow in Eugene and Eastern Oregon. The Claims Department will need to plan for filling these gaps in the Defense Panel so we can continue to effective carry out our mission.

The meeting concluded at 8:56 a.m.