

Legal Malpractice: Key Statistics You Should Know

As an attorney, you are probably well aware that mistakes can and do happen, especially in a high-risk field like the legal profession. Unfortunately, even an innocent error or omission could potentially expose you to costly litigation for legal malpractice.

It Can Only Take One Simple Mistake

Even the best attorneys are not infallible, and mistakes have consequences.



Over **50%** of claims involve substantive errors ²

Substantive errors allege that an attorney failed to know or apply the law or carry out adequate investigation/discovery.



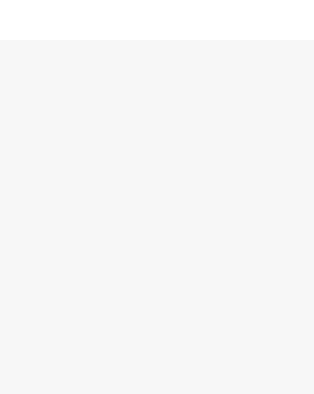
20% of claims involve administrative errors ²

Administrative errors may include procrastination, failing to calendar, or clerical errors.



Conflicts of interest are the most commonly cited error¹

Not having an effective system in place for screening and preventing potential conflicts of interest could result in a malpractice claim.



26% of law firms report suffering a privacy data breach⁴

Failing to protect data or inform clients of a data breach may constitute an ethical violation. ³

Errors Can Occur During Any Activity

This includes: →

- 01** Preparation, filing, and transmitting of documents: **35%**
- 02** Commencement action or proceedings: **16%**
- 03** Advice: **14%**
- 04** Settlement or negotiation: **9%**
- 05** Pre-trials or pre-hearings: **7%**



Over a **third** of all claims allege document errors – a figure that grows each year.²

Legal Malpractice Affects All Practice Areas

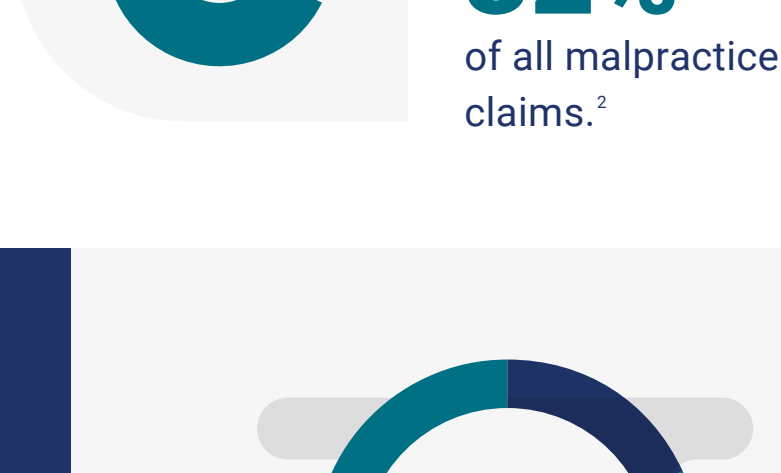
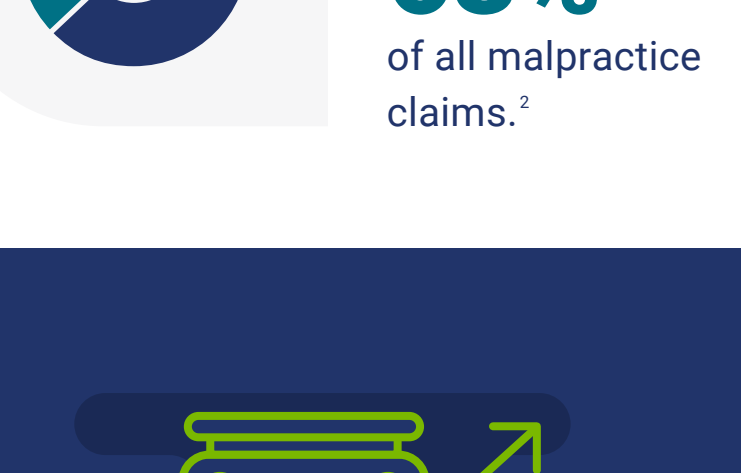
No areas of practice are insulated against malpractice claims, but some experience them more often than others.

Top 10 Areas of Practice for Malpractice per Claims Frequency 2016–2019²

- 01** Personal injury (plaintiff): **16.30%**
- 02** Family law: **12.81%**
- 03** Real estate: **12.37%**
- 04** Estate, trust, and probate: **11.98%**
- 05** Collection and bankruptcy: **8.21%**
- 06** Commercial law: **7.03%**
- 07** Criminal: **5.95%**
- 08** Corporate organization: **5.22%**
- 09** Patent, trademark, and copyright: **3.05%**
- 10** Personal injury (defense): **3.01%**

Small Practices and Solo Attorneys May Be More Vulnerable

Small firms and solo practitioners without malpractice insurance could face multimillion-dollar payouts, legal fees, lost earnings, and more just because of one attorney's error. Some small businesses may not be able to handle such losses and stay afloat.



Malpractice Claims Are on the Rise

According to data released by the American Bar Association (ABA), the frequency of malpractice claims is not decreasing – on the contrary, it may be on the rise.



In 2020, most insurers had made a payout of more than **\$150 million** in the preceding two years.¹



At least two malpractice settlements exceeded **\$250 million.**¹

The Payouts Can Be Substantial

Payouts for legal malpractice claims are on the rise, too, with many insurers having made at least one payout exceeding \$150m by 2020.¹

Malpractice Claims May Be More Common During Economic Crises

According to historical data, legal malpractice claims often increase during economic downturns.²



Professional Liability Insurance Can Help Protect You and Your Practice

Do not leave your business to chance. Consider getting malpractice insurance to safeguard yourself and your firm against financial loss and legal action.

¹<https://www.insurancebusinessmag.com/us/news/professional-liability/legal-malpractice-claims-on-the-rise-study-222992.aspx>

²<https://www.americanbar.org/products/inv/book/405555870/>

³https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/aba_formal_op_483.pdf

⁴https://www.americanbar.org/groups/law_practice/publications/techreport/abatechreport2019/cybersecurity2019/