

# DEFENDING PROFESSIONAL STANDARDS DECISIONS IN COURT

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NARdotRealtor



[nar.realtor](http://nar.realtor)



NATIONAL  
ASSOCIATION OF  
REALTORS®



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# TODAY'S TOPICS

- Coverage & claims trends
- Top issues and questions
- Practical legal issues
- Q & A

# ARE WE COVERED?

## NAR Institutes, Societies & Councils

- State and Local Chapters
- Subsidiaries

## State and Local REALTOR® Associations

- Charitable Foundations
- Political Committees
- Educational Endeavors

MLSs wholly-owned and operated by two or more Associations

# ARE WE COVERED?

**Directors & Officers**

**Committee Members**

**Employees**

*While acting within  
the scope of their  
duties on behalf of  
the insured entity.*

# ARE WE COVERED?

## Wrongful Acts covered:

*“... any negligent act, error, omission, misstatement, misleading statement or breach of fiduciary duty by the Association or Insured Persons in the discharge of their duties, including, but not limited to, the services by an Insured on or in connection with any Professional Standards Committee, Arbitration Panel or Grievance Committee or other committee ...”*

Claim limit is \$1,000,000 per claim

# ARE WE COVERED?

## Notable exclusion:

*“... any fraudulent, criminal, dishonest, malicious, or intentional act, error or omission, or any intentional or knowing violation of the law ...”*

*See the policy for a complete list of exclusions.*

# WHY ARE WE HERE?



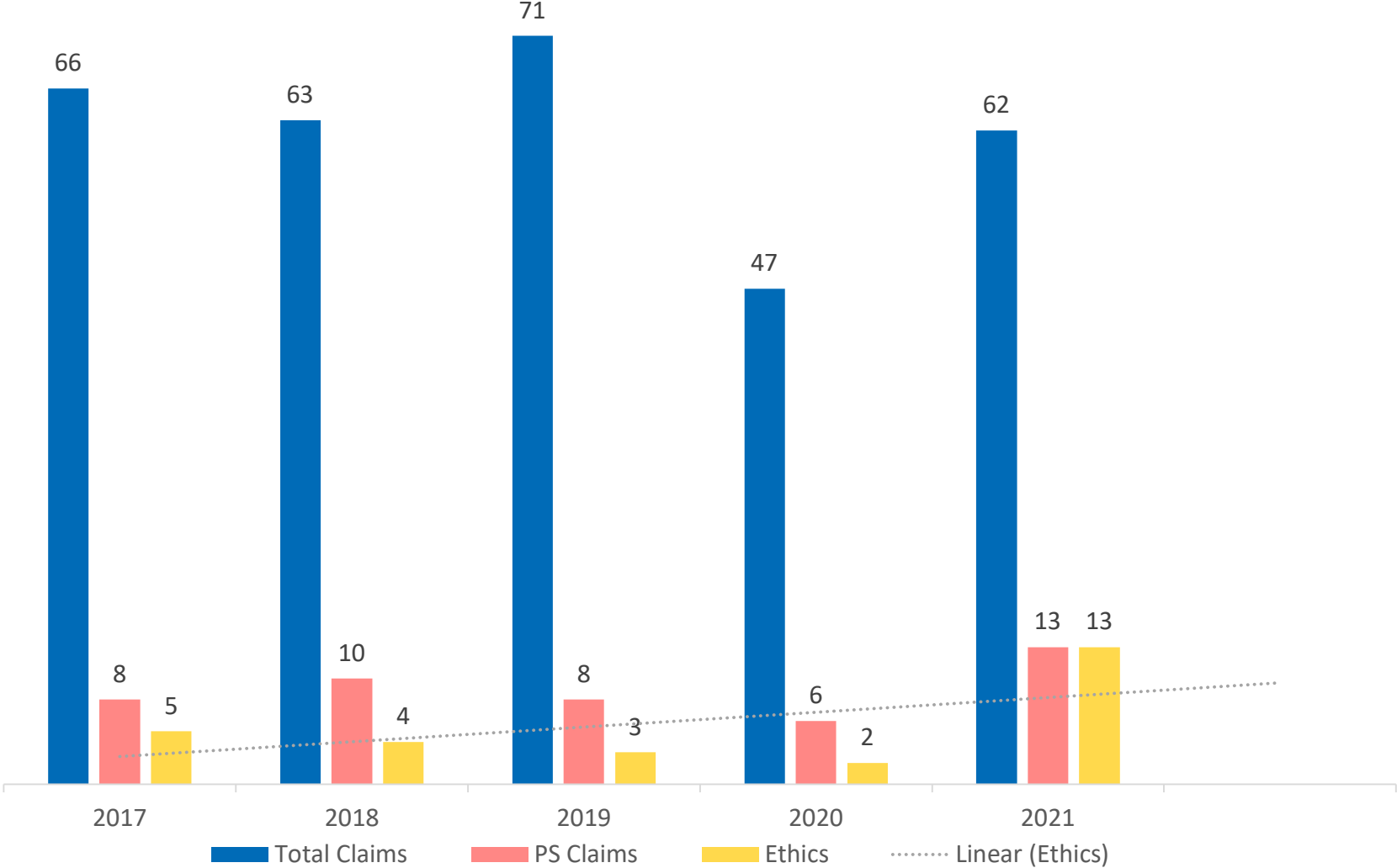
**Pro Standards claims  
ranked #2 in claims  
filed for 2021**

**8** Potential claims

**5** Suited claims

**0** re: arbitration

# WHY ARE WE HERE?





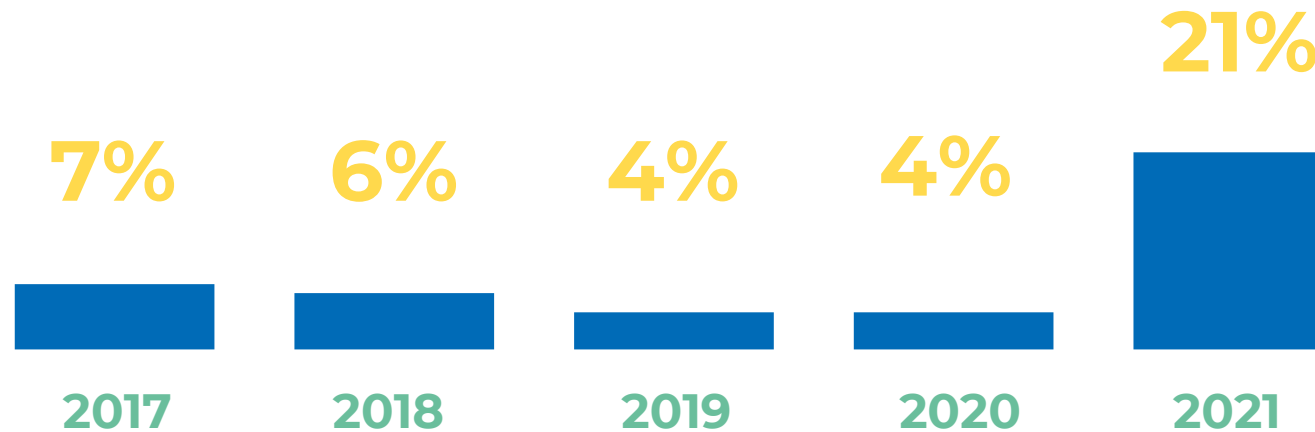
# WHY ARE WE HERE?



**Percentage of claims arising from  
ethics proceedings  
increased 3x since 2017**

# WHY ARE WE HERE?

## Percentage of All Claims Arising from Ethics Proceedings





# DIANE MOSLEY

*NAR Director of Training and  
Policy Resources*

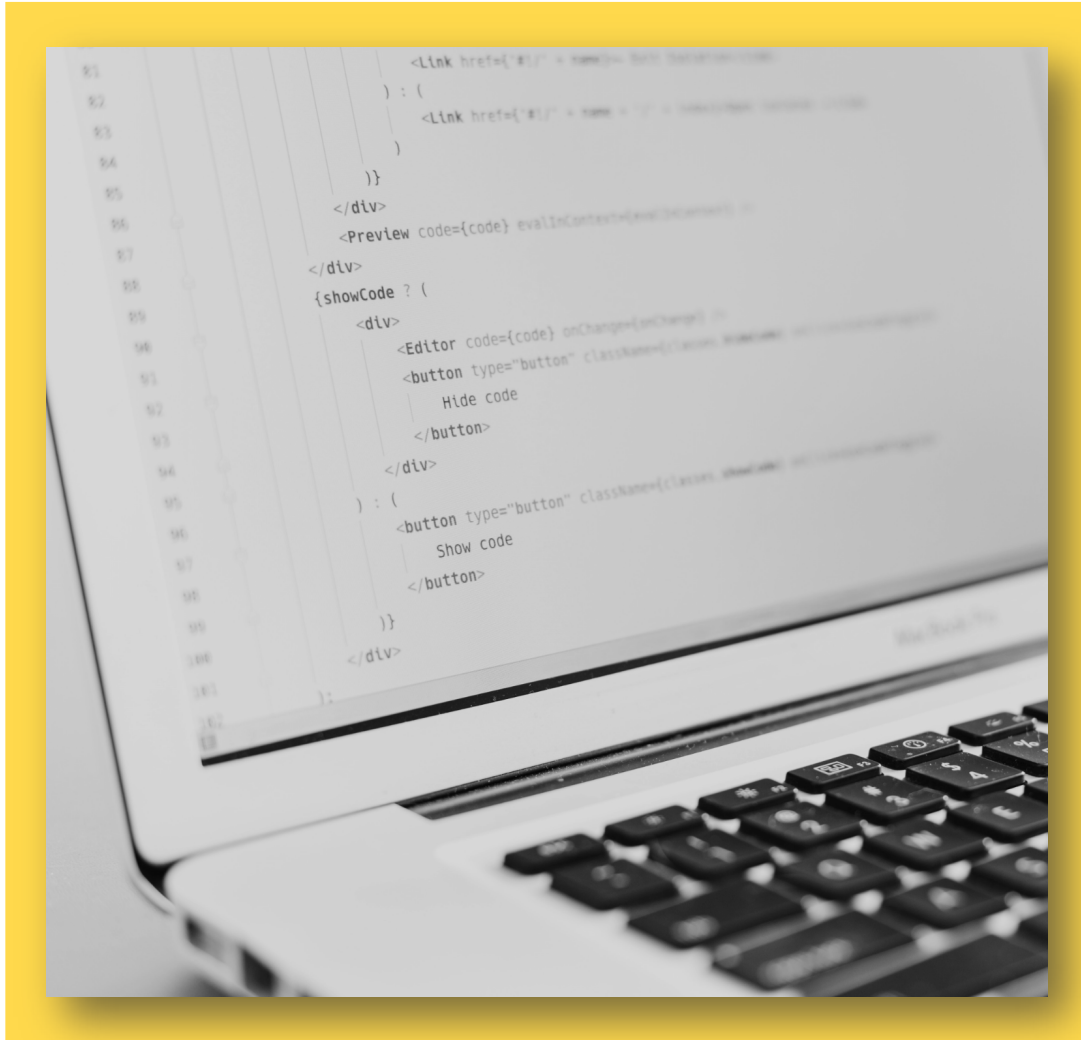


# STEVE SIMMONS

*Mombach, Boyle, Hardin & Simmons  
Fort Lauderdale, FL*



## NEXT WEBINAR



# ADA WEBSITE ACCESSIBILITY Coming in June!

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# QUARTERLY TREND REPORT

Available on  
[nar.realtor/nar-insurance-program](https://nar.realtor/nar-insurance-program)

**NAR Insurance Program**  
**QUARTERLY TREND REPORT**  
Q4 2021

**SUMMARY:** Association claims activity increased 32 percent in 2021 compared to 2020, with association governance, professional standards and employment making up nearly two-thirds of all claims. Nationwide, ransomware events continued to drive an increase in frequency and severity of claims on cyber policies.

The NAR Insurance Program provides professional liability and limited patent coverage to eligible REALTOR® associations, NAR institutes, societies and councils, and association-owned MLSs.

### YEAR IN REVIEW

62 claims were filed as part of the NAR Insurance Program in 2021, with 63 percent of claims falling into just three categories:

Association Governance	15 claims
Professional Standards	13 claims
Employment	11 claims

### CONSIDER THESE BEST PRACTICES TO PREVENT FUTURE CLAIMS:

#### ASSOCIATION GOVERNANCE

- Provide an [annual orientation](#) for board members, which covers matters such as a director's role in overseeing the association's operations, and their fiduciary duties to the organization.
- Adhere to all association bylaws and policies generally, including when conducting board meetings.
- Engage a parliamentarian to ensure association board meetings are conducted properly and efficiently, especially where significant business will be decided.
- Consult local counsel for guidance on how state law may impact association governance.

#### PROFESSIONAL STANDARDS

- Provide [annual training](#) for Grievance Committee and Professional Standards Committee members, with particular attention to due process and changes to the Code of Ethics and Standards of Practice.
- Ensure all [professional standards matters](#) are handled judiciously and in accordance with the Code of Ethics and Arbitration Manual.
- Use the sample forms and hearing scripts available in the [Code of Ethics and Arbitration Manual](#).
- Request local counsel attend professional standards hearings and review proposed actions before finalized.

#### EMPLOYMENT

- Periodically review the association's [employment manual](#) to ensure compliance with all applicable local, state and federal laws.
- Consult with HR professionals, such as NAR's [Strategic Association Management](#) team, for assistance with new or difficult issues.
- Provide annual [anti-harassment](#) training for all staff and board members, and timely conduct [internal investigations](#) into allegations of harassment.
- Consistently follow and apply all procedures in the association's employment manual, and be sure that the association's employment policies are consistent with NAR's [Employer/Employee Guidelines](#), which are a prerequisite for Employment Practices Liability claims coverage.
- Engage employment counsel as needed, such as key staff terminations, and take advantage of the employment law resources and hotline made available through the [NAR Insurance Program](#).

### RISK MANAGEMENT WEBINAR

**Defending Ethics Proceedings in Court**  
March 24 // 2:00 pm CT  
[REGISTER NOW!](#)

### INSURANCE TIP

Excess coverage raises the claim limit on certain coverage types in the NAR Insurance Program. Go to [nar.com](#) to purchase excess coverage by the **April 1, 2022 deadline**.

### Q4 CLAIMS REPORTED: 14

(10 active demands/lawsuits and 4 potential claims)

- 4 Employment
- 4 Professional Standards
- 3 Membership Issues
- 1 Association Governance
- 1 Copyright
- 1 Other

**NATIONAL ASSOCIATION OF REALTORS®**



**EXCESS COVERAGE  
MUST BE PURCHASED  
BY APRIL 1, 2022**

[nar.aon.com](https://nar.aon.com)

## **MORE INFORMATION**

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NAR INSURANCE PROGRAM

**[nar.realtor/nar-insurance-program](https://nar.realtor/nar-insurance-program)**

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# THANK YOU.

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**THAT'S WHO WE** 

 NATIONAL  
ASSOCIATION OF  
REALTORS®