



Legal Risks

*why is the Canadian P&C industry
not talking about them enough?*

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Setting the stage

We surveyed nearly 1,000 small business owners across Canada this August in order to understand the scope and impact legal disputes have on them and their business.

The owners we surveyed reflect the small business landscape within our country whereby:

- 41% were self employed professionals and business owners with no employees
- 69% owned businesses with 1 up to 50 employees

For detailed insights as to the types of legal disputes and the impact they had on small business owners, we invite you to read *Risk on the Rise: How Legal Liability May Be Jeopardizing Small Businesses Across Canada*.

The objective of this paper is to focus on a very revealing insight that has implications for the Canadian P&C insurance community. **Small business owners made it clear that as an industry, we are not doing enough to highlight and help address the common legal risks they face every day.**

Number of Businesses in Canada as of December 2021:

+1,240,700 small businesses with 1 to 49 employees¹

+2,850,000 small businesses without employees²

¹ Statistics Canada – Canadian Business Counts with employees – Table 33-10-0493-01

² Statistics Canada – Canadian Business Counts without employees – Table 33-10-0494-01

LEGAL RISKS ARE EVER PRESENT, WITH OR WITHOUT A GLOBAL CRISIS

7 out of 10 small business owners told us that they dealt with some kind of legal dispute within the last 3 years, of which 62% were not related to the closures and disruptions of the COVID-19 pandemic.

If you are a broker, insurer or mutual, the above stat alone makes it clear:

- Your customers are exposed to and are dealing with a wide range of legal risk events that are much more frequent in nature than the typical fire, property damage, slip and fall or cyber risk event that is commonly insured.
- Common contract, employment, business licence or tax related legal disputes may not get the “breaking news” headlines like a major cyber or cat insurable event. However, the above common legal risk exposures are an ever-present and frequent part of owning and managing a small business.

There may be a perception that many of the legal risks that business owners face are already covered by a typical commercial insurance portfolio. **52% of small business owners in our survey responded that they believe their current commercial insurance policies provide adequate legal expense coverage.**

However, that is an incorrect assumption to make. Many common and day-to-day legal risks are not covered by traditional commercial policies, which also highlights a false sense of security. For example, contract disputes, business licence suspension, tax audits and highway traffic tickets are common legal risks that are not covered. There is an important role that brokers, insurers and mutuals need to play as risk mitigation advisors.

If you disagree, then we invite you to review ARAG Business Legal Solutions Filling the Gaps. It's a quick 1-page summary that shows how legal expense insurance (LEI) fills the common legal risk gaps within a typical commercial portfolio.

Business Owner Perceptions of Current Legal Expense Coverage

52% believe their current business insurance policies provide adequate legal expense coverage.

31% said they do not know if they even have coverage for legal expenses.

17% said they don't believe they are covered at all.

Data from 2022 ARAG Small Business Owner Research.



Small business owners worry about legal risk

We asked small business owners what risks they worry about when it comes to managing and successfully growing their business. Their top risks and worries were:

- 1. General Economic Uncertainty**
- 2. Data Security & Cyber Risks**
- 3. Increasing Legal Liability & Legal Costs**
- 4. Tax Changes**
- 5. Business Licence Changes**
- 6. Hiring & Retention of Employees**

selected by 42% of respondents

selected by 28% of respondents

selected by 25% of respondents

selected by 25% of respondents

selected by 22% of respondents

selected by 22% of respondents

#1 was not surprising as inflation, recession and energy price worries are very common news media topics today. What was surprising is that:

- Legal liability and legal costs came in the #3 spot and was neck and neck with data security and cyber risks, considering cyber insurance has been a high-profile topic within general media as well as the P&C industry the last few years.
- Small business owner worries #4 to #6 above are also areas where a legal expense insurance policy can help address and mitigate any potential legal risks that may result from such changes.

However, our research has shown that as an industry..

LEGAL RISKS AND THE IMPACT THEY HAVE ON CUSTOMERS ARE NOT BEING DISCUSSED ENOUGH

3 out of 10 business owners surveyed personally know another business owner who was significantly impacted by or lost their business following a legal dispute.

Applying that insight to the over 4 million small businesses in Canada, with the frequency of legal disputes handled by business owners, it would appear obvious that legal risks would be a top-of-mind risk management topic for brokers, insurers and mutuals to discuss with their customers.

However, our survey revealed a very surprising insight whereby:

- **6 out of 10** business owners said their broker or insurer has never spoken to them about the financial impact of a legal dispute.
- **7 out of 10** business owners said their broker or insurer has never spoken to them about the mental impact of a legal dispute.

As an industry, we may be making assumptions that legal risks are well understood, but in fact we're not talking about legal risk exposures as much as we think when engaging our small business customers.

Clearly, there is a disconnect, especially when also considering the impact that legal disputes had on business owners surveyed were not trivial:

- **53%** stated the legal dispute had a large or moderate financial impact on their business
- **73%** stated the dispute gave them a lot of or moderate amount of additional stress
- **70%** stated the dispute required them to spend a lot of or a moderate amount of time to deal with



Are legal disputes and legal expense insurance too complex for customers?

There is a perception among some in our industry that legal risks and legal expense insurance (LEI) is too complex. It takes too much time and effort to explain to customers that LEI is a priority risk mitigation solution to have within any small business's commercial insurance portfolio. That may be a reason why business owners stated their brokers or insurers have never spoken to them about the impact of legal disputes.

We wanted to put that theory to the test by asking business owners their likelihood to purchase a legal expense insurance policy based on the question below...

If you could have an insurance policy that covers all legal expenses related to settling an employment or contract dispute, collecting debts owed to your business, appealing a business license decision, defending against a tax audit and offering general legal assistance on any legal matter as well as free legal document review, how likely would you be to purchase such a policy if it costed your business approximately \$2,000 per year?

Based on the above description that required a little over 30 seconds to read:

- 56% of all business owners surveyed were very likely or somewhat likely to purchase a legal expense insurance policy
- That intent to purchase a legal expense insurance policy jumps to 71% for business owners with 1 to 50 employees

Only 14% of business owners with 1 to 50 employees and 32% of self-employed business owners stated they did not have enough information to make a purchase decision at that time.

Based on a brief LEI description and a \$2,000 annual premium...

56% of all business owners surveyed were very likely or somewhat likely to purchase
71% of business owners with 1 to 50 employees were very likely or somewhat likely to purchase

Data from 2022 ARAG Small Business Owner Research.

Some of you may have noticed something odd about the question we asked business owners

If you consider 75% of our survey respondents stated they had annual revenues of up to \$2 million per year, that would mean that the average annual premium of \$2,000 stated in the question is way too high. Instead...

\$275 is the average annual premium many of these small business owners would pay, which is 7 times less than initially proposed for a comprehensive legal risk mitigation solution. Therefore, we believe it is safe to assume that based on a brief description, and a premium 7x lower than stated would significantly increase a business owner's intent to purchase a LEI policy!

The above assumption is purely based on price alone as a deciding factor, without any additional insights given to business owners that demonstrate the value of legal expense insurance such as:

- A single and simple claim example whether it be a contract dispute, being sued by an ex-employee for wrongful dismissal or disputing a speeding ticket
- Mentioning that access to the Legal Helpline, HR Assistance and Emotional Support services are unlimited!
- The financial, mental and time impact a legal dispute will have on them and their business

The actual premium for those surveyed would be about 7x lower at \$275 per year. The intent to purchase is very high! So why did 6 out of 10 business owners state their broker, insurer or mutual never discussed the impacts of a legal dispute with them?

Business owners clearly stated their broker, insurer or mutual provider did not discuss the impact a legal dispute would have on them and their business. That is a core risk mitigation and E&O responsibility we collectively cannot assume is already well understood by customers.

The frequency and impact of legal risks and disputes as raised here and in greater detail within Risk on the Rise: How Legal Liability May be Jeopardizing Small Businesses across Canada are highly relevant and very real. A high intent to purchase LEI as a solution to help mitigate and manage legal risks for small business owners only required a 30 second description.

Our core P&C industry promise is to help customers when they need it most. Therefore, as an industry we need to proactively take a simple step: Have the legal risks discussion and present a well-established solution to help ensure those legal risks are well managed.

How ARAG supports those discussions with your customers

We strongly believe it is critical to drive the awareness of legal risks, the impact they have, and that legal expense insurance is a key risk mitigation solution whenever we launch a new program with a brokerage, insurer, or mutual partner.

We also strongly believe that awareness activities must continue beyond an initial launch campaign.

The legal assistance services and legal insurance coverage provided are needed by your customers on a frequent basis as much as many traditional P&C commercial policies. The value legal expense insurance provides must therefore be consistently made top of mind, to ensure your brand and all your customers realize its benefits.

That is why our Business Development and Marketing teams work closely with our business partners to develop comprehensive launch and ongoing awareness campaigns that align to your unique brand and internal staff and customer-facing communications channels.

If it is a new program launch, re-launch or it's simply been a while since your customers were made aware they have LEI coverage - Let us do some of the heavy lifting in supporting your team!

Contact your ARAG Business Development Specialist or Account Manager to start the discussion.

QUICK RESEARCH FINDINGS SUMMARY

Nearly 1,000 Canadian small business owners were surveyed in August 2022. Here is what they told us and here are important insights to consider for the P&C industry.

- 7 out of 10 business owners dealt with a legal dispute(s) during the last 3 years, of which 62% were not in any way related to the disruptions and closures from the COVID-19 pandemic.
- The impact that those legal disputes had on these business owners surveyed were not trivial:
 - * 53% stated that legal disputes had a large or moderate financial impact.
 - * 73% stated the dispute gave them a lot of or moderate amount of additional stress.
 - * 70% stated the dispute required them to spend a lot of or a moderate amount of time to deal with.
- Legal liability and legal costs were the #3 top risk and worry identified by business owners.
- However, business owners advised that legal risks and their impact are not being raised as:
 - * 6 out of 10 business owners said their broker or insurer has never spoken to them about the financial impact of a legal dispute.
 - * 7 out of 10 business owners said their broker or insurer has never spoken to them about the mental impact of a legal dispute.
- Only 52% believe they currently have adequate legal expense coverage within their commercial insurance portfolio. That is not considering most commercial insurance portfolios have legal risk gaps and do not cover day-to-day operational legal risks such as contract disputes, tax audits, business licence suspension or auto legal defence.

Key conclusions our research revealed:

- As an industry, we may be making assumptions that legal risks are well understood by customers. However, it's clear we're not talking about legal risk exposures as much as we think we are when engaging small business customers, considering the frequency and significant impact they have.
- Not discussing the frequency and impact of legal disputes is a core risk mitigation and E&O responsibility we collectively cannot assume is already well understood by customers.
- Discussing LEI as a risk mitigation solution is not too complex or time-consuming as a 30 second description with a \$2,000 annual premium resulted in:
 - * 71% of business owners with 1 to 50 employees stating they were very likely or somewhat likely to purchase a legal expense insurance policy.
 - * 73% stated the dispute gave them a lot of or moderate amount of additional stress.
 - * That intent to purchase is also without knowing that the actual annual premium they would pay is 7x lower at \$275 per year.

The solution:

Let's work together to develop the internal training and customer awareness materials that aligns with your organization's brand and communication channels to ensure your customer's legal risks are well managed.