

Office of Lawyers Professional Responsibility

Complaints and Investigations



Office of Lawyers Professional Responsibility

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TTY users call MN Relay Service
Toll Free 1-800-627-3529

What should you do if you believe a lawyer has acted unprofessionally? This pamphlet offers guidance in answering questions like:

- How should I handle a fee dispute?
- How can problems be prevented?
- What is the lawyers professional responsibility system?
- How do I file a professional responsibility complaint against a lawyer?
- What will happen if I file a complaint?
- Are there other ways of resolving problems with lawyers?

PREVENTING PROBLEMS WITH YOUR LAWYER

Many problems can be prevented if you know what to expect from lawyers and how to deal with lawyers. Suggestions for avoiding problems include:

- **Have Realistic Expectations**

Some people are dissatisfied with lawyers because they have unrealistic expectations. Ask your lawyer what to expect: How long will the matter take? About how much will it cost? What are the potential outcomes, both good and bad? How likely is each outcome?

- **Fee Agreements**

Many disputes come from lawyers and clients with different understandings about fees. Get a written fee agreement and ask for prompt billings.

- **Cooperation**

Furnish documents and information to your lawyer promptly. In return, expect the lawyer to keep you informed and to give you copies of important documents.

- **Keep Current**

If your address or phone number changes, let the lawyer know. If you change your mind about the legal matter, keep the lawyer informed of your goals and objectives.

- **Communication**

Expect the lawyer to keep you informed of all important developments. If you are dissatisfied, let the lawyer know why. Write to confirm all important understandings. Keep track of your telephone calls to the lawyer.

PROFESSIONAL RESPONSIBILITY PROBLEMS

Lawyers are expected to meet high standards. The ethical standards for lawyers are set by the Minnesota Supreme Court in the Rules of Professional Conduct. These Rules can be found on our website at: www.olrp.mncourt.gov. If a lawyer violates these rules, the lawyer may be disciplined.

Some problems with lawyers are handled through the Office of Lawyers Professional Responsibility. Others are not. Here are a few examples of complaints handled by this Office:

- **Neglect and Delay**

Lawyers are required to be reasonably prompt and to keep clients reasonably informed. Do you think your lawyer has been taking far too long with your legal matter? Write to the lawyer and ask for a written explanation. If you do not get a satisfactory reply, file a complaint.

- **Getting Your File Back**

A client may switch lawyers for any reason. Changing lawyers may increase expense or delay, but it is your choice to make. If you want your file from your lawyer, call and ask for it. If you don't receive it, send a certified letter repeating the request. If you still don't receive your file, or the lawyer insists that you pay copying or other costs before you get it, file a complaint.

- **Money and Accounting**

Sometimes lawyers handle money for clients or third parties. Sometimes lawyers receive settlements or awards for their clients. When a lawyer handles client or third party money, the lawyer must promptly and completely account for it. If there is any significant delay in receiving money from a lawyer or in getting a complete accounting, file a complaint.

- **Conflicts of Interest**

Sometimes lawyers represent more than one client in a matter. In other situations a lawyer may represent a client and at a later time be opposed to the former client. Sometimes the client may agree to the lawyer's work even though there is a conflict. If you believe that your lawyer is acting improperly in representing conflicting interests, file a complaint.

- **Dishonesty**

Lawyers are forbidden to make intentionally false statements, however, lawyers may represent their clients' interests aggressively. This may involve relying on the client's version of the facts. In lawsuits, most disputes about the facts are resolved by courts.

OTHER PROBLEMS

- **Fees**

Most routine fee disputes are best resolved outside the Office of Lawyers Professional Responsibility. The lawyer and client may be able to reach an understanding. Fee arbitration is a relatively fast and simple way of resolving fee disputes. You may call the Minnesota State Bar Association (612) 333-1183, for the address and phone number of your local fee arbitration committee. In a few instances, if a lawyer charges a clearly illegal or grossly excessive fee, discipline may result.

- **Malpractice**

Lawyers, like other professionals, sometimes make mistakes. A lawyer might handle a matter in a way that is inadequate but not unethical. If a client was damaged by a lawyer's negligence, a malpractice suit may be brought. Most malpractice and inadequate performance matters are **not** handled by the Office of Lawyers Professional Responsibility.

- **Personal Behavior**

Most complaints that involve behavior of an attorney outside the practice of law, such as use of profanity, landlord-tenant disputes and debtor-creditor matters, are **not** handled by the Office of Lawyers Professional Responsibility. Serious matters, such as fraud and serious criminal offenses, are handled by the Office.

- **The Opponent's Lawyer**

Can you complain against the other person's lawyer? Yes, but such complaints often fail to understand the adversary system of justice we have. Lawyers must represent their own clients zealously. Such a system often produces different versions of the facts in lawsuits and a certain amount of hard feeling. Only flagrant abuses will be disciplined, and usually after a court has ruled on the matter.

- **Complaints by Creditors**

The Office of Lawyers Professional Responsibility is not a collection agency. Most complaints about lawyers not paying bills are best resolved in civil courts. In extreme cases disciplinary action may be taken - for example, a pattern of willfully unsatisfied and practice-related judgments, issuing checks on a closed account, fraud, etc.

- **Complaints by Criminal Defendants**

The Minnesota Supreme Court has directed that complaints by criminal defendants that their attorneys did not provide adequate representation should be handled within the criminal justice system. If a court finds that an attorney acted improperly, the Office may consider the matter. Similarly, complaints against court-appointed counsel for inadequate representation should be raised with the court handling the matter and will not be investigated.

- **Complaints against Judges**

Complaints against judges are handled by a separate agency called the Board on Judicial Standards. They can be reached at (651) 296-3999, or www.bjs.state.mn.us.

HOW COMPLAINTS ARE HANDLED

- **Filing a Complaint**

You can file a complaint online, by mail or by fax. Visit www.olpr.mncourts.gov. Complaints can also be sent to the Office of Lawyers Professional Responsibility, Minnesota Judicial Center, Suite 105, 25 Rev. Dr. Martin Luther King Jr. Blvd., St. Paul, MN 55155. Fax (651) 297-5801.

The complaint should include the writer's and lawyer's names and addresses, and a statement of the alleged unethical conduct. Copies of important documents should be included.

- **Office of Lawyers Professional Responsibility**

The Office is established by the Minnesota Supreme Court to investigate ethics complaints against lawyers. The Office works with the Lawyers Professional Responsibility Board, which has nine non-lawyer and fourteen lawyer members. Volunteer district ethics committees made up of lawyers and non-lawyers around the state help investigate complaints.

- **Reviewing Complaints**

About two to three weeks after receiving a complaint, the Office will respond in writing. The response will state whether the complaint will be investigated or be dismissed without investigation. Examples of complaints that are often dismissed without investigation include: routine fee disputes; complaints about minor personal misconduct by a lawyer outside the practice of law; most matters pending in court, unless the misconduct is clear and serious; most complaints against court-appointed counsel; and other matters that are not best handled as ethics or discipline matters.

- **Investigation**

Most complaints are investigated by local district ethics committees in the first instance. These committees typically contact the complainant and the lawyer, and review important documents. The committees then recommend to the Office of Lawyers Professional Responsibility whether discipline is warranted.

- **Decision**

The Office of Lawyers Professional Responsibility decides whether the attorney violated a rule of professional conduct. If so, some discipline is appropriate. There are a variety of disciplines available. The most common is an "admonition." Admonitions are issued when the lawyer's misconduct was isolated but relatively non-serious -- for example, the neglect of a single file. Any private discipline decision may be appealed by the complainant to a member of the Lawyers Board. About 100 lawyers are privately disciplined each year.

- **Supreme Court Discipline**

Serious violations of the rules can result in discipline by the Minnesota Supreme Court. Offenses such as taking money, crimes, intentional false statements to a court or client and abandonment of several clients can result in the loss of an attorney's license to practice law. All discipline proceedings before the Supreme Court are open to the public. The Court publicly disciplines about 30-40 lawyers each year.

- **Information**

If you file a complaint, the Office of Lawyers Professional Responsibility will keep you informed about the status of the investigation and any proceedings. If you complain against your own lawyer, and there is an investigation, you will receive a copy of your lawyer's reply. The

final decision is always made available to you in writing with an explanation. Reviewing and investigating complaints can take time.

- **What the Office of Lawyers Professional Responsibility Cannot Do**

The Office of Lawyers Professional Responsibility **cannot**:

- represent people in any legal matter or give legal advice;
- take money or property from a lawyer to return to a client or creditor or help you get money from your lawyer;
- sue a lawyer for careless work, or do work a lawyer failed to do;
- change the fee a lawyer charged or require a refund, even if the fee is clearly excessive.

The Office of Lawyers Professional Responsibility is limited to investigating complaints of unethical conduct and taking disciplinary action against lawyers when appropriate.

- **Client Security Fund**

The Minnesota Supreme Court has established a Client Security Fund to pay claims against attorneys who have **intentionally and dishonestly caused clients to lose money**. Further information can be obtained from the Office of Lawyers Professional Responsibility, or you can visit the Fund's website at www.csb.mncourts.gov.

- **Answers to Frequently Asked Questions**

Q. Is there a charge for investigation of a complaint?

A. There is never a charge for filing a complaint or for investigation.

The Office of Lawyers Professional Responsibility is funded by attorney registration fees. No tax dollars are used to fund this work.

Q. Can I get into trouble for complaining against a lawyer?

A. Rule 21 of the Rules on Lawyers Professional Responsibility states that a statement or complaint against a lawyer to this Office or its investigators, "is absolutely privileged and may not serve as a basis for liability in any civil lawsuit brought against the person who made the complaint, charge or statement."

Q. Are complaints against lawyers public?

A. The general rule is that complaints against lawyers are not public. The investigation files are not available to anyone except the lawyer. Parts of the file may be disclosed when necessary for investigation. One exception to this rule is Supreme Court filings, trials and hearings, on serious matters, which are open to the public. The

lawyer will also receive notice of the complaint, including who filed the complaint and what was said.

- **Conclusion**

The Office of Lawyers Professional Responsibility provides a service to the public and the legal profession by investigating complaints that lawyers have acted unethically and prosecuting misconduct when found. The system is meant to be fair to complainants and lawyers so that claims are promptly and reasonably considered. Due to the volume of complaints we receive, we may not be able to be as prompt as we would like to be but we take all complaints filed seriously.

To ask further questions about filing a complaint or to obtain these materials in an alternative media call (651) 296-3952 (Outstate: 1-800-657-3601). TTY users call MN Relay Service toll free at 1-800-627-3529. More information can be found at www.olpr.mncourts.gov.