

Attorney Malpractice & Attorney Discipline

Contributed by Philip issa

The four general areas of attorney malpractice are negligent errors, negligence in the professional relationship, fee disputes, and claims filed by an adversary or nonclient against an attorney. Attorneys must conform to standards of conduct recognized by the profession. E.g. Rules of Professional Conduct established by respective state bar associations and the American Bar Association.

An attorney has the duty, in all dealings and relations with a client, to act with honesty, in good faith, fairness, and integrity. An attorney must possess the legal skill and knowledge that is ordinarily possessed by members of the profession.

Attorney malpractice can result in civil or criminal suits and disciplinary actions by the governing attorney state bar association.

Below is a list of the most common forms of attorney malpractice that usually result in lawsuits against attorneys and orders of discipline imposed on the attorney by the governing attorney grievance commission:

- Neglect of a legal matter (this is the No. 1 area of attorney malpractice and discipline); E.g. failing to act with reasonable diligence and promptness while representing a client; failure to keep the client reasonably informed about the status of a case; failure to provide notice of a fee agreement to interested persons; failure to file an appellate brief; failure to make reasonable efforts to expedite litigation consistent with client's interests; failure to timely respond to a formal complaint; failure to file answers to a complaint; failure to appear at a hearing on behalf of a client; and failure to surrender papers to the client so that the client could obtain replacement counsel.
- Committing a felony. E.g. Misappropriating client trust funds (embezzlement); committing an assault or battery on a person; being convicted of drunk driving, uttering and publishing false checks, theft, deceit, evading taxes; and indecent exposure, etc.
- Failure to refund any advance payment that had not been earned.
- Misappropriating/Commingling Client Trust Funds. Attorneys must hold property of client's or third persons in connection with a representation separate from the attorney's own property. Commingling client funds with an attorney's non-trust funds is prohibited unless an engagement letter states that the funds are not refundable.
- Misrepresentations & Defamation. Making deliberate misrepresentations to a court, or deliberately and without legitimate tactical purpose use a variety of demeaning terms to describe opposing counsel.
- Incompetence. Undertaking a legal matter which the attorney is not competent to handle.
- Unauthorized Practice of Law. Practicing law in a state in which the attorney is not licensed to practice.
- Failure to pay costs as ordered by the Attorney Grievance Administrator.

Continue a discussion on Legalnut's Attorney Forums - Ethics