



ALABAMA STATE BAR

RULE 29
APPOINTED
TRUSTEE PACKET

**PRACTICAL POINTERS OF
BEING A TRUSTEE**

PRACTICAL POINTERS OF BEING A TRUSTEE ON BEHALF OF THE DISAPPEARED, DISABLED, DISBARRED, AND DECEASED

I. OVERVIEW OF BEING A TRUSTEE

Rule 29 of the Alabama Rules of Disciplinary Procedure allows for the appointment of a trustee when "...no partner, executor, or other responsible party capable of conducting the lawyer's affairs is known to exist..." The broad language of Rule 29 does not give the trustee much direction as to how to undertake the appointment. The trustee's duties are simply to "...inventory files...and to take such action as may be necessary and appropriate to protect the interests of the lawyer and the lawyer's clients."

What follows are some pointers and suggestions to assist the trustee in achieving the ends of noticing clients of the loss of their attorney and properly inventorying and returning their files.

II. APPOINTMENT

1. Obtain the Order
2. Identify the Attorney and Gather the Attorney's Information
 - Full Name
 - Date of Birth
 - Home Address
 - Work Address
 - Alabama State Bar Number
 - Alabama Attorney Code (eg. WEI025)
 - Home Number
 - Work Number
 - Mobile Number
 - Email Address
 - Firm Bank Account Information, including IOLTA account

III. ACCESS THE FILES

- Access client files
- See the landlord (eviction proceedings may have begun).
- Redirect mail with the Post Office.

IV. INVENTORYING AND ORGANIZING THE FILES

Go through each file individually looking for the pertinent information for notification letters.

1. Inventory all files
 - Pending vs. closed

- Litigation/court/administrative proceedings vs. non-litigation/court/administrative proceedings
 - Try to identify the date of the Statute of Limitations for each case.
 - Take immediate action as many be necessary to protect the lawyer's and the lawyer's clients' interests
 - File notice with the court
 - File emergency motions and pleadings
 - Identify any cases out on referral to other attorneys
 - Attempt to identify any contracts and place in the front of the file. (The Client Security Fund will want to see this information for any CSF claims filed.)
 - Review the mail for court notices
 - Call the Administrative Office of Courts and have them perform a search based on the attorney's name and/or attorney code.
 - Meet in person and talk with the Circuit/District/Municipal/Probate Court Clerks to have them do a printout of all cases where the attorney is listed as counsel. Note that it is wise to go to each separate office instead of just the one circuit clerk, i.e. go to divorce, circuit civil, circuit criminal, probate, etc., as bookkeeping methods often vary from office to office.
2. Audit all trust and/or fiduciary accounts
- Trust/fiduciary accounts vs. non-trust/fiduciary accounts
 - Seize and freeze accounts
 - Orders from the Disciplinary Commission or Disciplinary Board may contain a restraining order to be served on the financial institution.
3. Prior to incurring any large expense, seek permission from the Client Security Fund for approval of the expense

V. NOTICE LETTERS

- Although Rule 26 of the Rules of Disciplinary Procedure calls for the disbarred or suspended attorney to properly notify their clients by "both regular and certified

mail", this, as can be expected, is rarely done, leaving to the trustee the most time consuming and important duty.

- Notifying clients of attorney's suspension/disbarment/disability/death
- Notifying courts of attorney's suspension/disbarment/disability/death
- Advise of the lawyer's status
- Advise of the lawyer's inability to act as a lawyer
- Advise of the necessity or desirability of retaining new counsel of the client's own choice and the availability of the trustee to assist with the transition
- Advise of the availability of the trustee for emergency matters only
- Advise of the appropriateness and availability of refunds of unearned retainers or return of the client's property
- Advise of the availability of the Alabama State Bar Client Security Fund and Alabama State Bar disciplinary process where appropriate
- Provide a reasonable opportunity to allow the client to retrieve the file

VI. CLIENT, ATTORNEY & TRUSTEE COMMUNICATION

- Keep good communication records
- Keep a list of the files that have been released, returned, or destroyed with the signature and dates regarding the disposition of the files

VII. CLOSING OUT THE TRUSTEESHIP

- Run an ad in the lawyer's local newspaper advertising the lawyer's death, suspension, disbarment, or disability and advise former and current clients that they may retrieve their file by a certain date and if not retrieved that such files will be destroyed
- If the lawyer is not deceased, attempt to contact lawyer to see if the lawyer will re-take possession of any file not claimed by the client
- If the lawyer is deceased or refuses to re-take possession of any unclaimed file, destroy the file

- Maintain good time records and records, receipts, etc., for trustee-related expenses incurred
- Maintain list of inventoried files and their disposition
- Seek order from the Disciplinary Commission terminating the trusteeship
- File for fee and/or reimbursement of reasonable costs with Client Security Fund

**CHECKLIST FOR RULE 29
APPOINTED TRUSTEES**

CHECKLIST FOR RULE 29 APPOINTED TRUSTEES

1. Check the calendar and active files to determine which items are urgent and/or scheduled for hearings, trials, depositions, court appearances, and so on. Tip: In addition to checking the Closed Lawyer's personal calendar, consider searching Alacourt.com.
2. Contact clients in matters that are urgent or immediately scheduled for hearing, court appearances, or discovery. Obtain permission for reset. (If making these arrangements poses a conflict of interest for you and your clients, retain another lawyer to take responsibility for obtaining extensions of time and other immediate needs.)
3. Contact courts and opposing counsel immediately for files that require discovery or court appearances. Obtain resets of hearings or extensions when necessary. Confirm extensions and resets in writing.
4. Open and review all unopened mail. Review all mail that is not filed and match it to the appropriate files.
5. Look for an office procedure manual. Determine whether anyone has access to a list of clients with active files.
6. Send clients who have active files a letter explaining that the law office is being closed and instructing them to retain a new lawyer and how pick up a copy of the open file. Provide clients with a date by which they should pick up copies of their files. Inform clients that new counsel should be chosen immediately.
7. Select an appropriate date to check whether all cases have either a motion and order allowing withdrawal of the Closed Lawyer or a Substitution of Lawyer filed with the court.
8. All clients should either pick up their files (and sign a receipt acknowledging that they received it) or sign an authorization for you to release the file to a new lawyer. If the client is picking up the file and the file contains original documents that the client needs (such as a title to property), return the original documents to the client.
9. Run an ad in the lawyer's local newspaper advising his former and current clients of the lawyer's death, suspension, disbarment or transfer to disability inactive status. Advise clients they have until a certain date to pick up their file or such file will be destroyed. If the lawyer is not deceased, attempt contact with the lawyer to see if the will take possession of any unclaimed file.
10. If the Closed Lawyer was a sole practitioner, try to arrange for his or her phone number to have a forwarding number. This eliminates the problem created when clients call the Closed Lawyer's phone number, get a recording stating that the number is disconnected, and do not know where to turn for information.
11. Contact the Closed Lawyer's professional liability insurance carrier, if applicable, about extended reporting coverage.
12. If you have authorization to handle the Closed Lawyer's financial matters, look around the office for checks or funds that have not been deposited. Determine whether funds should be deposited or returned to clients. (Some of the funds may be for services already rendered.) Get instructions from clients concerning any funds in their trust accounts. These funds should be either returned to the clients or forwarded to their new lawyers. Prepare a final billing statement showing any

outstanding fees due and/or any money in trust. (To withdraw money from the Closed Lawyer's accounts, you will probably need: (1) to be an Authorized Signer on the accounts; or (2) to have a limited power of lawyer.

13. Destroy all files not claimed by the client or returned to the lawyer. Keep an inventory detailing the disposition of all files.

CLIENT NOTIFICATION LETTER

DATE

Personal & Confidential

Name

Address

City, State ZIP

Dear Name:

I understand that [Deceased Lawyer] has represented you in a legal matter. I am sorry to notify you that [DECEASED LAWYER] has died. I am assisting the Alabama State Bar with the return of files to clients.

Since [DECEASED LAWYER] can no longer assist you, it is important that you immediately hire another lawyer to handle your case. You can select any lawyer you wish. If you do not have another lawyer to contact, the Alabama State Bar Lawyer Referral Service is also available, should you wish to obtain a referral name. You can reach them at 800-392-5660.

You will need your client file for your new lawyer. I have enclosed a Request for File for you to sign and send to us to indicate where you would like us to send your file. We have enclosed a postage paid return envelope for your convenience.

It is important that you act to retain a new lawyer immediately. Failure to act may result in the loss of your legal rights.

Should you have any questions or concerns, please give me a call at xxx-xxx-xxxx..

Sincerely,

[Title]

Encl. Request for File
Return Envelope

CLIENT FILE RECEIPT

(Law Firm Name)
File Receipt

Client Name: _____
File Number: _____

I acknowledge that I have received the entire file, in the matter referenced above, from **[lawyer or law firm name]** on this the _____ day of _____.

Signature

Print or Type Client's Name

AUTHORIZATION FOR TRANSFER OF CLIENT FILE

AUTHORIZATION FOR TRANSFER OF CLIENT FILE

I hereby authorize [Closing Lawyer Name], acting as agent to close the practice of [Deceased Lawyer Name] to deliver a copy of my file to

Me; or

My new lawyer

at the following address:

[Client]

[Date]

**RULE 29 TRUSTEE
FILE TRACKING CHART**

SAMPLE MOTION TO DISCHARGE TRUSTEE

BEFORE THE DISCIPLINARY COMMISSION OF THE ALABAMA STATE BAR

IN THE MATTER OF

)
)
)

CASE NO. CSAT 2015-_____

MOTION TO DISCHARGE TRUSTEE PURSUANT TO RULE 29
ALABAMA RULES OF DISCIPLINARY PROCEDURE

COMES NOW * and hereby requests the Disciplinary Commission to discharge * from the duties of Trustee for * and his clients and in support thereof states as follows:

1. That on * , * was appointed by Disciplinary Commission as Trustee or Supervising Lawyer to protect the interests of * and his clients.

2. That the above named Trustee has secured the files of * , reviewed and inventoried the files of * , has taken the appropriate steps for all clients with pending actions to obtain alternate counsel, and has returned appropriate materials to previous clients of * .

3. In addition, the above named trustee will continue to be available for any proceedings of this Court or any other Court, and any Disciplinary Board or Disciplinary Commission, in regard to any matters regarding * and/or his clients.

WHEREFORE, above premises considered, * respectfully requests the Disciplinary Commission to discharge his duties as Trustee for * .

Respectfully submitted this _____ day of _____ 20__.

Lawyer Name
Address

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon the following, via United States mail, postage prepaid and properly addressed on this the _____ day of _____, 20__.

Laurie Blazer
Coordinator, Client Security Fund Committee
Alabama State Bar
P.O. Box 671
Montgomery, AL 36101

Lawyer Name

SAMPLE ORDER TO DISCHARGE TRUSTEE

BEFORE THE DISCIPLINARY COMMISSION OF THE ALABAMA STATE BAR

IN THE MATTER OF

)
)
)

CASE NO. CSAT 2015-_____

**ORDER ON MOTION TO DISCHARGE TRUSTEE PURUANT TO RULE 29 ALABAMA
RULES DISCIPLINARY PROCEDURE**

This matter is before the Disciplinary Commission on motion of _____, Trustee for _____ and after due consideration thereof, there being no objection thereto, does hereby order and decree as follows:

1. The above named trustee will continue to be available for any proceedings of the Court or any Disciplinary Board or Commission in regard to any matters regarding _____ and/or his clients.
2. The above named trustee, absent the above stated exceptions, is discharged from the duties of Trustee for _____.

Ordered this the _____ day of _____, _____.

Disciplinary Commission
Alabama State Bar
P.O. Box 671
Montgomery, AL 36101

**CLIENT SECURITY FUND
APPLICATION**

IMPORTANT

Please read this information carefully so that you may understand the process of filing an application for reimbursement with the Client Security Fund of the Alabama State Bar.

CLIENT SECURITY FUND of the Alabama State Bar

WHAT IS THE CLIENT SECURITY FUND?

The Client Security Fund was established to provide a remedy for clients who have lost money or other property as a result of the dishonest conduct of a lawyer. The Alabama State Bar recognizes that the legal profession depends upon the trust of clients and although very few lawyers breach that trust, it is important that the profession's reputation for honesty and integrity be maintained and protected. The Client Security Fund serves this function by providing some reimbursement to those whose money or property has been wrongfully taken by lawyers licensed to practice law in Alabama.

The Fund is a remedy of last resort for clients who cannot obtain reimbursement from other sources.

WHAT LOSSES ARE COVERED?

The Fund does not cover losses due to malpractice. Losses caused by the dishonest conduct of lawyers licensed to practice law in Alabama may be reimbursed at the discretion of the Client Security Fund Committee.

"Dishonest conduct" means the wrongful taking of a client's money or other property and does not encompass the dissatisfaction of the client with services or results obtained by the lawyer or because the lawyer acted incompetently. The Client Security Fund does not cover a loss where the lawyer becomes a client's debtor.

Unearned fees may be reimbursed only in limited situations. Fees are not reimbursable simply because you are not satisfied with the services and/or results, or because the work was not completed.

You must be able to prove that the money or property was received by the lawyer. The Fund does not pay interest nor does it pay for any damage incurred as a result of losing your money. Generally, you have three years from the date of discovery of the loss to file an application; however, applications arising prior to the creation of the Fund in May of 1987 are not eligible for payment.

It is imperative that an applicant report dishonest conduct to the Disciplinary Commission of the Alabama State Bar and cooperate with any resulting investigation. Claims generally will not be settled until the completion of disciplinary or legal action against the lawyer. Please complete and sign the enclosed grievance form.

In order for your application to be considered, you must fill out and sign the enclosed affidavit of a grievance against the lawyer.

WHAT ELSE CAN I DO?

Depending on the circumstances, you may have other remedies available to you through the civil or criminal court system. Because the Alabama State Bar cannot give you legal advice, you may want to consult a lawyer. If you need assistance in finding a lawyer, you may contact the Alabama State Bar's Lawyer Referral Service at 1-800-392-5660 (in AL) or (334) 269-1515.

WHO CAN APPLY?

If you are the spouse or close relative, partner, employer, or employee of the lawyer in question you are not eligible for reimbursement from the Client Security Fund. Other than these qualifications almost anyone who has lost money due to a lawyer's dishonesty in his or her practice can apply for reimbursement.

MY APPLICATION

All Client Security Fund Applications and decisions are confidential with the exception of those claims that are reimbursed. You will need the case numbers of any other grievances or suits filed in connection with your application, receipts or other documentation of the funds that were transmitted to the lawyer, and copies of documents in support of your application, to fill out the application. **To be valid, the completed application form must be signed and notarized.**

WHAT HAPPENS AFTER I APPLY?

Each application will be reviewed to determine eligibility. Ineligible applications will be dismissed. Eligible applications will be investigated and presented to the Client Security Fund Committee. The Client Security Fund Committee members are appointed and serve strictly as a public service, without compensation. The Client Security Fund Committee will determine all the eligibility for applications for reimbursement and will also determine the

amount, time, and manner of reimbursement. Factors that will be considered by the Committee include the amount of money available in the Fund, the number of applicants seeking reimbursement, and the degree of hardship suffered by each applicant.

You will be advised, in writing, of the final determination of your application once it has been reviewed by the Client Security Fund Committee. You will not be notified by telephone due to the confidentiality of claims.

If your application is paid, you must assign any rights of recovery you have against the dishonest lawyer to the Fund by a subrogation agreement that will be provided to you before reimbursement is made.

Decisions of the Client Security Fund Committee are discretionary. There is no appeal and all decisions are final.

WHERE DOES THE MONEY COME FROM?

No tax dollars are used. The Client Security Fund is financed by assessments of all lawyers licensed to practice law in Alabama.

“In establishing the Client Security Fund, the Alabama State Bar did not create, nor acknowledge, any legal responsibility for the acts of individual lawyers in their practice of law. All reimbursements of losses by the Client Security Fund shall be a matter of grace in the sole discretion of the committee administering the fund, and not as a matter of right. No client or member of the public shall have any right in the Client Security Fund as a third party beneficiary or otherwise.”

For further information please contact:

**Laurie Blazer
Administrator
Client Security Fund
334-269-1515 or 1-800-354-6154**

Alabama State Bar
CLIENT SECURITY FUND

CONFIDENTIAL APPLICATION FOR REIMBURSEMENT

INSTRUCTIONS: Answer ALL questions in this application or it will be returned to you. If space is inadequate, **attach additional pages**. Please **print** or **type** this application and keep a copy for your records. The application must be legible. You must provide **copies** of documents as proof of your loss. Please do not send originals. Examples of such documents are written fee agreements, cancelled checks (front and back), receipts, letters or other papers showing that the attorney received the money or property. When you have completed the application, have it notarized and return it to:

The Alabama State Bar
Client Security Fund
P.O. Box 671
Montgomery, AL 36101

NOTICE TO APPLICANT

"IN ESTABLISHING THE CLIENT SECURITY FUND, THE ALABAMA STATE BAR DID NOT CREATE, NOR ACKNOWLEDGE, ANY LEGAL RESPONSIBILITY FOR THE ACTS OF INDIVIDUAL LAWYERS IN THEIR PRACTICE OF LAW. ALL REIMBURSEMENTS OF LOSSES BY THE CLIENT SECURITY FUND SHALL BE A MATTER OF GRACE IN THE SOLE DISCRETION OF THE COMMITTEE ADMINISTERING THE FUND AND NOT A MATTER OF RIGHT. NO CLIENT OR MEMBER OF THE PUBLIC SHALL HAVE ANY RIGHT IN THE CLIENT SECURITY FUND AS A THIRD PARTY BENEFICIARY OR OTHERWISE."

NAME OF APPLICANT _____

(Please print or type)

(Street Address or P.O. Box)

(City State, Zip)

TELEPHONE NO. _____ CELL /ALTERNATE NO. _____

EMAIL ADDRESS: _____

ALTERNATE CONTACT:

(Name) (Address) (Telephone No.) (Relationship)

The amount of loss suffered was \$ _____ (You must submit copies of receipt(s) or other proof of payment.)

What is the name, address and telephone number of the attorney whose conduct caused your loss?

(Attorney's Name)

(Street Address or P.O. Box)

(City)

(State)

(Zip Code)

TELEPHONE NO. _____

My attorney has (check all that apply):

- Died
- Filed bankruptcy
- Cannot be found
- Been convicted of a crime
- Is declared disabled or incompetent
- Is disbarred or suspended from the practice of law
- Has a civil judgment placed against him by me

Was the attorney hired to represent you? Yes _____ No
(Date Hired)

a. If no, then describe your relationship to the attorney: _____

b. Describe the fee arrangement you had with the attorney? _____

c. How much have you paid the attorney to date? _____

d. Did you have a written agreement with the attorney? Yes No

If yes, attach a copy of the agreement.

What did you hire the attorney to do?

How would you describe your loss?

- | | |
|---|---|
| Probate <input type="checkbox"/> | Settlement Funds <input type="checkbox"/> |
| Traffic/DUI <input type="checkbox"/> | Proceeds from probate <input type="checkbox"/> |
| Bankruptcy <input type="checkbox"/> | Trust account funds <input type="checkbox"/> |
| Worker's Compensation <input type="checkbox"/> | Advance Fees and costs <input type="checkbox"/> |
| Criminal Matter <input type="checkbox"/> | Investment/Loan <input type="checkbox"/> |
| Business/Real Estate <input type="checkbox"/> | |
| Divorce/Custody/Post Divorce, etc. <input type="checkbox"/> | |
| Personal Injury/Property Damage <input type="checkbox"/> | |

Other: _____

Date of loss or when loss discovered: _____
(Month) (Day) (Year)

Describe briefly, in your own words, your claim and why you believe you should be reimbursed (attach additional sheets if needed):

Have you received any reimbursement from the attorney or from any other source for your loss?

Yes No

If yes, from whom? _____

Date reimbursed _____

Amount reimbursed \$ _____

Have you filed a complaint against the attorney with the Center for Professional Responsibility of the Alabama State Bar? Yes No

If yes, when? _____
(Approximate Month) (Year)

If no, please contact the Center for Professional Responsibility of the Alabama State Bar for a complaint form at (334-269-1515) or log on to our website at www.alabar.org for additional information.

Have you filed any of the following against the attorney?

a. A civil lawsuit Yes No

b. A criminal complaint Yes No

If you said yes to a or b, please provide the present status of the proceeding and complete the following:

If you filed a civil suit against the attorney please complete the following:

Name of Court: _____

Name of Case: _____

Date suit filed: _____ Case No.: _____

Name(s) & Address of all attorneys involved:

Results:

If you filed a criminal complaint against the attorney with the appropriate district attorney's office, please complete the following:

County: _____

Name of District Attorney: _____

Complaint No.: _____ Date of Complaint: _____

Are you related to the attorney as husband, wife, child, parent, grandparent, grandchild, brother or sister or are you were you a partner, associate or employee of the lawyer?

Yes No If yes, what was the relationship? _____

Please list witnesses to your loss or the attorney's dishonest conduct (give names, complete addresses and phone numbers).

Did you hire another attorney to represent you? Yes No If yes, please provide the name and address of the attorney _____

Did you pay the attorney additional fees? Yes No If yes, provide the amount paid to the attorney, \$ _____.

I have read the Client Security Fund Rules of the Alabama State Bar. I understand and agree to be bound by these rules in making this application. I agree to maintain the confidentiality of this application as provided in the Client Security Fund Rules.

Signature of Applicant

Attorney for Applicant
Applicant's lawyer, if, any, shall sign the above space which certifies that he will accept no fee or services in connection with this application.

SWORN TO AND SUBSCRIBED before me on this, the _____ day of _____, 20____.

Notary Public

My Commission expires: _____

GRIEVANCE FORM

Complaints Against Alabama Lawyers



Published by

ALABAMA
STATE BAR

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**Who Will Know About Your Complaint
and the Information Provided to the
Bar**

In most instances, the lawyer will be sent a copy of your complaint and copies of the information you provide. The rules of the Supreme Court of Alabama require that the Alabama State Bar treat all inquiries and complaints filed with the Office of General Counsel as confidential, unless discipline has been imposed. However, during the course of the investigation, the investigator may need to contact witnesses for additional information.

You, as the complainant, have absolute immunity from suit for filing your complaint. Witnesses who may be required to testify at a hearing also have immunity from suit resulting from their participation in the grievance process.

Your complaint will receive the Alabama State Bar's prompt attention and every attempt will be made to resolve your complaint in a manner which is fair to both you and the lawyer.

Alabama State Bar
Center for Professional Responsibility
415 Dexter Avenue
Montgomery, AL 36104
334-269-1515
www.alabar.org

Single copies of this brochure and others are free upon request by contacting the Alabama State Bar at the above listed number or Web site.

November 2011

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be published in both the local newspaper where the lawyer practices and The Alabama Lawyer (a publication that is distributed to all members of the Alabama State Bar). The other type of public reprimand is published only in The Alabama Lawyer. These reprimands are also placed in the lawyer's permanent file.

Suspension - The lawyer is suspended from practicing law for a specific amount of time, ranging from 45 days to five years. Depending on the length of suspension, lawyers may be reinstated to practice law without a hearing. In some cases a lawyer may not resume the practice of law until reinstated after public notice and a hearing.

Disbarment - The lawyer is disbarred. A disbarment is for a period of five years. The lawyer must petition the Bar for reinstatement in order to be allowed to resume the practice of law.

Fee Disputes

Fee disputes are not handled by the Alabama State Bar's grievance system because fee disputes generally do not involve questions of ethics or professional conduct.

Client Security Funds

The Client Security Fund was established by the Alabama State Bar to provide reimbursement to individuals who have lost money or property due to the dishonesty of an Alabama lawyer. All claims are investigated by the Client Security Fund Committee. Reimbursement is made at the discretion of the Client Security Fund Committee in appropriate cases. There is no right to reimbursement and reimbursement is limited. The Fund is a remedy of last resort for those who cannot obtain reimbursement from other sources. If you wish to make application to this fund please contact the Alabama State Bar for additional information.

This brochure is for anyone who is considering filing a complaint against a lawyer with the Alabama State Bar. It explains how and where to file a complaint against an Alabama lawyer. The Supreme Court of Alabama, through the Alabama State Bar, regulates lawyer conduct in this state. Filing a complaint is a very serious matter.

Filing a Complaint

All lawyers who practice law in Alabama must be members of the Alabama State Bar. The Alabama State Bar's grievance system was established by the Supreme Court of Alabama to enforce uniform standards of professional conduct for lawyers. Filing a complaint should not take the place of communicating with your lawyer in an attempt to resolve differences. If your problem is the result of a misunderstanding or a breakdown in communication, the problem may be solved by a candid talk with your lawyer. If you have made a sincere effort to resolve your problem and still believe that the lawyer may have violated an ethics rule, file your complaint. A complaint should not be made lightly or used to try to gain an advantage in your transactions with a lawyer. A lawyer who is accused of misconduct suffers whether or not he is found to be at fault. More than a claim of misconduct is needed to justify discipline. It takes evidence—proof.

How To File a Complaint

After you have completed reading this brochure, you must submit your complaint by using the enclosed Complaint Form. Additional pages may be attached. Attach copies of any documents that support your allegations. Please do not send original documents. The Bar will not copy your documents and return them to you. The complaint should be signed, in the presence of, and notarized by a notary public. The Alabama

State Bar does not charge you fees or costs for filing your complaint against an Alabama lawyer.

What Happens After You File a Complaint

All complaints filed with the Alabama State Bar are reviewed by Bar counsel to determine if the complaint has sufficient merit to warrant a full investigation. In most cases, a copy of your complaint is sent to the lawyer for a response. Once the lawyer's response is received, your complaint and his response will be reviewed again by Bar counsel to determine what further action, if any, should be taken. You will be sent written notification of the decision. If it is determined that there is insufficient evidence to merit a formal investigation, then you will be notified. However, if there is sufficient information to establish that an ethics violation possibly occurred, a formal investigation will be opened. Some investigations will be sent to local Bar grievance committees, and others will be investigated by the Bar.

The processing of most formal investigations at this stage can take anywhere from six to eighteen months, depending on the complexity of the situation. You will be notified in writing about the outcome of your complaint. You may be contacted during the investigation. If a hearing is held before the Disciplinary Board, you may be required to attend and testify.

What the Complaint Process Cannot Do

- Recover money damages;
- Set aside a criminal conviction;
- Make the lawyer take action you wish him or her to take;
- Offer assistance with your pending legal matter or provide legal advice;
- Substitute for other civil or criminal remedies;

• Resolve disputed lawyer's fees (see "Fee Disputes");

- Punish the rude behavior of a lawyer;
- Assist with complaints against sitting judges;

• Address allegations that lawyers acting as guardians ad litem have taken positions with which you disagree; or

• Resolve disputes over debts of a lawyer, such as a lawyer's failure to pay a bill to you.

Not all allegations of misconduct amount to a violation of an ethics rule. An honest disagreement between a lawyer and client about the handling of a case is not misconduct. A mistake or error of judgment is not a cause for discipline.

What Happens If It Is Determined That a Lawyer Violated an Ethics Rule

If the Disciplinary Commission determines that the lawyer has violated an ethics rule, they may impose discipline. The lawyer is notified of the Commission's decision. The lawyer is normally given 14 days to: (1) accept the proposed discipline; (2) request reconsideration upon submitting additional evidence; or (3) demand formal charges and a hearing.

How a Lawyer May Be Disciplined

Probation - The lawyer will be monitored, may be required to report to a disciplinary authority, and his practice may be restricted during a specific period of time.

Private reprimand - A written reprimand, signed by the President of the Alabama State Bar is sent to the lawyer and placed in the lawyer's permanent file.

Public reprimand - There are two types. In both, the lawyer must appear before a public meeting of the Board of Bar Commissioners, where the reprimand will be read to him by the President of the Alabama State Bar. However, one type of public reprimand will

COMPLAINT AGAINST A LAWYER

Return your completed form to:

Alabama State Bar
Disciplinary Commission
P. O. Box 671
Montgomery, AL 36101-0671

NAME AND ADDRESS OF COMPLAINANT

Last Name, First Name

Address

E-mail Address

City, State, ZIP Code

Telephone Number(s)

Name & Relationship of Person Who Can Always Contact You

Telephone Number(s)

On what date did the alleged ethics violation occur? _____

What was your fee arrangement with the attorney? _____

NAME AND ADDRESS OF ATTORNEY AGAINST WHOM YOUR COMPLAINT IS MADE

Last Name, First Name

Name of Law Firm Where Attorney is Employed

Address

City, State, ZIP Code

Telephone Number(s)

COMPLAINT INSTRUCTIONS:

1. If you have a complaint against more than one attorney, use a SEPARATE complaint form for each attorney, with the details and relevant exhibits attached to each separate complaint. If you are filing more than one complaint, do not combine your complaint details or your exhibits into one document, or make a specific comment about a complaint filed against another attorney, or it will be returned to you. We will not accept complaints against law firms.
2. Send your complaint with an original notarized signature. We will not accept a copy of your signature.
3. State specifically, on each individual complaint, what the attorney did or failed to do which you believe constitutes unethical conduct, and when it occurred.
4. Attach **COPIES** of any receipts, contracts, or other documents which are important to the complaint, to the back of each individual complaint. Keep your own original documents.
5. Please, do not bind your complaint. Type or write your complaint legibly in ink so it can be copied.
6. You may add more pages to this form if necessary.
7. If you believe that drugs, alcohol or mental disability affected the lawyer's representation, please state what facts support your belief.
8. This matter is confidential at this stage of the proceedings, until the Disciplinary Commission or Board has acted.

9. The Alabama Bar Association does not represent you in this matter but acts to investigate complaints on behalf of the Supreme Court of Alabama.

If there is a court case related to your complaint, please provide the case name and file number, and the lawyer representing you?

DETAILS OF YOUR COMPLAINT

Explain your complaint in your own words. Include the following: all important dates, times, places, and court file numbers. Please be advised we cannot return documents submitted to this office. You should retain a copy of all materials you submit. Do not send cassette tapes unless requested by the Bar to do so. The Alabama State Bar cannot be held responsible for lost, misdirected or damaged documents.

The attorney you are filing the complaint against will receive a copy of your complaint, and may be asked to respond to your allegations.

I hereby certify that the information I am providing is true and accurate to the best of my knowledge and that I will voluntarily appear and testify to the facts in the complaint if called upon by the Alabama State Bar.

Name (signature)

Date: _____

Sworn to and subscribed before me this _____ day of _____, _____.

[SEAL]

NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

