

The logo for the New York City Bar Association, featuring the text "NEW YORK CITY BAR" in a serif font, centered between two horizontal blue bars. The top bar is slightly wider than the bottom bar.

**NEW YORK
CITY BAR**

**How to Complain About Lawyers
and Judges
in New York City**

COMMITTEE ON PROFESSIONAL DISCIPLINE

JUNE 2012

NEW YORK CITY BAR ASSOCIATION
42 WEST 44TH STREET, NEW YORK, NY 10036

INTRODUCTION

The New York City Bar Association, which was founded in 1870, has more than 23,000 members. One of the City Bar's functions is to act as a resource for information about legal and judicial ethics. This pamphlet explains how the disciplinary system for lawyers and judges operates. You should review this if you are considering whether to complain about a lawyer, judge or court employee.

Complaints Against Lawyers

Lawyers have ethical responsibilities to their clients, the courts and others that are identified in the New York Rules of Professional Conduct. A copy of the Rules may be found at http://courts.state.ny.us/rules/jointappellate/NY%20Rules%20of%20Prof%20Conduct_09.pdf. If a lawyer meaningfully violates a Rule of Professional Conduct, he or she is subject to discipline administered by a governmental agency affiliated with the court system.

The following are examples of conduct by lawyers that may result in discipline.

1. **Neglect.** Lawyers are generally prohibited from neglecting their clients' cases. Neglect does not occur merely because a lawyer fails to return a telephone call as quickly as the client wishes, or because a case is not proceeding through the court system as fast as the client might want. Rather, neglect occurs when a lawyer repeatedly and consistently fails to communicate with his or her client, or where a failure by the lawyer to take action means that the client has lost a valuable right, such as right to bring a claim, assert a defense, appeal a decision or make a motion.
2. **Mishandling Money.** Lawyers often hold money for clients or other people. Under the Rules, such money must be held in a special escrow account separate from other funds belonging to the lawyer or the lawyer's business. A lawyer engages in misconduct if he or she mixes ("commingles") client or third party monies with his or her own, or if the lawyer uses ("converts") such money for his or her own purposes without permission. Misconduct occurs even if the lawyer has repaid the escrowed money.
3. **Misrepresentation.** The Rules generally require lawyers to be truthful in their dealings with clients, courts and third parties. This means a lawyer cannot tell a client that he/she has taken action – for example, starting a lawsuit – when such statement is false.
4. **Conflicts of Interest.** Once hired by a client, a lawyer is obligated by a duty of confidentiality and loyalty to avoid representing another client that has different interests unless the lawyer has his or her client's consent for such other, "conflicting" representation. Even after a case is over, a lawyer continues to have an obligation not to take a new case for a client in a matter that is the same or substantially related to the former client's finished case.

Filing a Complaint

Frequently, a client's concerns about his or her lawyer can be satisfactorily resolved by discussing the problem. However, when that is not possible or the misconduct is very serious, the client may file a disciplinary complaint, even if he or she has not discharged the lawyer. Third parties may also file complaints about someone else's lawyer.

Note, however, that filing a disciplinary complaint will not affect the client's underlying case or allow the client to undo the lawyer's problematic actions or inactions (such as a failure by the lawyer to file a pleading or other legal document on time). In addition, the disciplinary system does not act as a criminal prosecutor. Allegations that a lawyer has committed a crime (for example, a theft of money) may be made directly to a district attorney.

Disciplinary and Grievance Committees in New York City

In New York City, the agencies that investigate complaints against lawyers are the Departmental Disciplinary Committee for the First Department (regarding lawyers whose offices are in Manhattan or the Bronx) or the Grievance Committees for the Second, Eleventh, and Thirteenth Judicial Districts (regarding lawyers whose offices are in Brooklyn, Queens or Staten Island). The Committees are composed of prominent lawyers and non-lawyer members of the public who act as volunteers, and are assisted by professional staff attorneys who investigate and, if necessary, prosecute any charges arising from a complaint. The Committees are supervised by the Appellate Division of the Supreme Court of the State of New York, and are not affiliated with the City Bar or any other bar association.

Complaints

If you believe a lawyer may have violated the Rules of Professional Conduct, you can write a letter to the appropriate Committee or fill out and submit a form available from their websites.

The form or letter should be as clear, specific and detailed as possible when explaining your complaint. The materials in your complaint should include the names, phone numbers and addresses of you and your attorney as well as copies of any pertinent documents, papers, and other information connected to the complaint. After a complaint is filed, it may be updated with new evidence. If new evidence becomes available after a complaint is dismissed, the complainant may ask that the complaint be re-evaluated.

If the lawyer's office is located in **Manhattan** or **The Bronx**, a complainant should contact:

Departmental Disciplinary Committee
Supreme Court, Appellate Division
First Judicial Department
61 Broadway, 2nd Floor
New York, New York 10006
(212) 401-0800, fax: (212) 401-0810

The Disciplinary Committee's complaint form can be found at:

<http://www.nycourts.gov/courts/ad1/committees&programs/DDC/Complaint%20Form.pdf>

If your lawyer's office is located in **Brooklyn, Queens** or **Staten Island**, the appropriate committee is:

Grievance Committee for the
Second, Eleventh, and Thirteenth Judicial Districts (Kings, Queens, and Richmond Counties)
Renaissance Plaza
335 Adams Street Suite 2400
Brooklyn, New York 11201
(718) 923-6300

The Grievance Committee's complaint form can be found at:

<http://www.nycourts.gov/courts/ad2/forms/Grievance%20Committee%20Complaint%20Form.pdf>

For more information about the attorney disciplinary process or how the Committees work, go to their websites. The First Department Disciplinary Committee's website is:

<http://www.nycourts.gov/courts/ad1/Committees&Programs/DDC/index.shtml>

The Second Department Grievance Committee's website is:

http://www.nycourts.gov/courts/ad2/attorney_matters_ComplaintAboutALawyer.shtml

The Complaint Process

Initial Review

Every complaint is reviewed. If the relevant Disciplinary or Grievance Committee determines that a complaint does not describe a possible violation of the Rules of Professional Conduct, it will advise the complainant that an investigation is not warranted and close its file.

Investigation

If the Committee determines that a complaint describes a meaningful violation of the Rules of Professional Conduct, it will begin an investigation supervised by one of its staff lawyers. Typically, the Committee will first obtain an answer to the complaint from the lawyer and then give the complainant a chance to reply to the lawyer's answer. The Committee may also ask for additional documents or information, question witnesses, or take other investigative steps. This investigation process may take several months. In the meantime, the complainant may directly contact the appropriate Committee staff person to ask the status of the matter.

Committee Action: After an investigation, which can include a hearing or other proceeding, the Committee may do one of the following:

- **Dismiss** the complaint if it finds that the lawyer's conduct was not a violation of the Rules of Professional Conduct;

- Issue a *confidential letter of caution* or *admonition* saying that the lawyer acted improperly or engaged in questionable conduct; or
- Determine that there were ethical violations and recommend discipline, which could include *censure* (a public finding of misconduct), *suspension* (suspending the lawyer's license to practice law for a minimum period of time) or *disbarment* (taking away the lawyer's license entirely). A final decision to impose one of these forms of discipline is made by the appellate division.

Recovering Funds Wrongfully Taken by Lawyers

If a lawyer wrongfully takes money or property, the victim may apply for reimbursement to the *Lawyers' Fund for Client Protection of the State of New York*. The Fund is financed by contributions from all licensed lawyers in New York State, and may grant up to \$300,000 per eligible claim. A victim may be reimbursed by the Fund even if his or her lawyer was disbarred or suspended when the money or property was wrongly taken.

To be eligible for reimbursement, the victim should file a disciplinary complaint against the lawyer who took the money or property and file a claim with the Fund within two years of discovering his or her loss. The Fund's contact information is:

Lawyers' Fund for Client Protection
 119 Washington Avenue
 Albany, NY 12210
 (518) 434-1935 or 1-800-442-FUND
www.nylawfund.org

Complaints About the Unauthorized Practice of Law

Practicing law without a license is a crime. The Office of Court Administration (tel: (212) 428-2800, <http://iapps.courts.state.ny.us/attorney/AttorneySearch>) can answer any questions about a person's current ability to practice law. Concerns that someone is practicing without a license, or while suspended or disbarred, may be reported to a Disciplinary or Grievance Committee, the New York Attorney General's Office, or a local district attorney.

Fee Disputes

A fee dispute exists when a client believes that his or her lawyer has not given sufficient value for the money the client has paid or may owe the lawyer. A fee dispute is usually not subject to disciplinary review. However, where the fees in dispute in a civil (not criminal) case are between \$1000 and \$50,000, a client may arbitrate his or her dispute under a state sponsored

program. Arbitration is designed to be a fast, informal and inexpensive way to resolve disputes. Most clients handle fee arbitrations without hiring a new lawyer to help them.

When a client disputes a lawyer's fee, the lawyer must send the client a notice advising that he/she has 30 days to commence an arbitration, and must also send the client relevant instructions and any necessary forms. A client may also start an arbitration on his or her own. Normally, a client can challenge the result of the arbitration in court within 30 days after the arbitration decision is mailed.

Arbitration programs in New York City are as follows:

For Manhattan and the Bronx:

Joint Committee on Fee Disputes and Conciliation

New York County Lawyers' Association
14 Vesey Street
New York, New York 10007
(212) 267-6646 x217

For Brooklyn:

Brooklyn Bar Association

123 Remsen Street
Brooklyn, New York 11201
(718) 624-0675

For Staten Island:

Richmond County Bar Association

152 Stuyvesant Place
Staten Island, New York 10301
(718) 442-4500

For Queens:

District Administrative Judge's Office

Eleventh Judicial District
88-11 Sutphin Boulevard, Room 511
Jamaica, New York 11435
(718) 298-1100

For more information, you can also contact the general office of the Fee Dispute Resolution Program at:

Attorney-Client Fee Dispute Resolution Program

Office of Court Administration
25 Beaver Street, Room 855
New York, New York 10004
1-877-FEES-137

www.nycourts.gov/admin/feedispute

Note that Disciplinary Committees generally do not pursue complaints alleging that a lawyer has not paid a debt. If a lawyer owes money, the complainant may bring an action in court to collect the debt.

Complaints Against Judges

Although disagreement with a judge's decision or ruling is almost never a ground for disciplining the judge, a judge is required to abide by the Rules Governing Judicial Conduct (<http://www.nysba.org/Content/NavigationMenu16/CodeofJudicialConduct/CJC.pdf>). Examples of judicial misconduct under the Rules are: *impression of bias* (because the judge knows or formerly worked with a party or lawyer); *conflict of interest* (because the judge is related to someone in the case or has a personal interest in the outcome); or *ex parte communications* (because a judge is only supposed to talk about the substance of a case with both parties together).

The Complaint Process

The New York State Commission on Judicial Conduct, composed of appointed judges, lawyers and non-lawyer members of the public, is responsible for investigating and prosecuting complaints against New York state judges, except for Housing Court judges (see below). A complaint may be submitted on a form obtained from the Commission's website (<http://www.scjc.state.ny.us/General.Information/complaintform.htm>), or by sending a letter explaining the alleged misconduct to:

New York State Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, NY 10006
Phone: (646) 386-4800
Fax: (646) 458-0037
<http://scjc.state.ny.us/General.Information/complaintform.htm>

The Commission will review each complaint and decide whether to investigate. If a judge is found to have violated the applicable standards, he or she may be disciplined. However, a disciplinary finding will not change the outcome of a complainant's case, and the Commission lacks any authority to transfer cases between judges.

Complaints against state Housing Court judges must be submitted to the supervising judge of the relevant Housing Court, as follows:

For New York County (Manhattan):
Supervising Judge
New York County Housing Court
111 Centre Street
New York, New York 10013
646-386-5590

For Bronx County:

Supervising Judge

The Bronx County Housing Court
1118 Grand Concourse
Bronx, New York 10456
718-466-3117

For Kings County (Brooklyn):

Supervising Judge

Kings County Housing Court
141 Livingston Street
Brooklyn, New York 11201
347-404-9060

For Queens County:

Supervising Judge

Queens County Courthouse
89-17 Sutphin Boulevard
Jamaica, New York 11435
718-262-7300

For Richmond County (Staten Island):

Supervising Judge

Richmond County Courthouse
927 Castleton Avenue
Staten Island, New York 10310
718-390-5426

Complaints Involving Federal Judges

The conduct of federal judges is evaluated under the federal Code of Judicial Conduct, which is similar to the New York Rules Governing Judicial Conduct and may be found here [link](#).

Complaints against federal judges in New York City alleging violations of the Code should be directed to:

Clerk of the United States Court of Appeals for the Second Circuit
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007
(212) 857-8533

More information may be found at the Court of Appeals website (<http://www.ca2.uscourts.gov/judmisconduct.htm>) or by contacting the Clerk's office directly.

Complaints Against Court Personnel

Like judges, court employees in New York State courts, such as court clerks, court officers, court aides and assistants, are held to high ethical standards. If a court employee has acted in a way that is corrupt, abusive, criminal or seriously incompetent, a complaint may be made to the Office of Court Administration by filling out a form that may be obtained from the New York courts' website (<http://www.nycourts.gov/admin/ig/index.shtml>), or by calling or writing to:

Inspector General

Office of Court Administration
25 Beaver Street
New York, New York 10004
(646) 386-3500
nycourts.gov/admin/ig/contactus.shtml

Discrimination Claims

If the employee has discriminated against a member of the public on the basis of race, creed, sex or sexual orientation, there is a special complaint form (nycourts.gov/admin/ig/pdfs/ClaimDiscrimTreatment.pdf) which may be submitted to:

Office of the Inspector General

ATTN: Managing Inspector General for Bias Matters
Office of Court Administration
25 Beaver Street
New York, New York 10004
(646) 386-3507

Federal Court Personnel

A complaint against federal court employee in a federal court should be made in a letter to the Chief Judge of the court where the employee works.

Statement of Client's Rights

There is a court rule requiring all lawyers to post a Statement of Client's Rights in their offices. This statement is intended to educate clients concerning what they may reasonably expect from their attorney-client relationship. The rights included in the statement, as adopted by the Administrative Board of the Courts in New York State, are as follows:

1. You are entitled to be treated with courtesy and consideration at all times by your lawyer and the other lawyers and personnel in your lawyer's office.

2. You are entitled to an attorney capable of handling your legal matter competently and diligently, in accordance with the highest standards of the profession. If you are not satisfied with how your matter is being handled, you have the right to withdraw from the attorney-client relationship at anytime (court-approval may be required in some matters, and your attorney may have a claim against you for the value of services rendered to you up to the point of discharge).
3. You are entitled to your lawyer's independent professional judgment and undivided loyalty uncompromised by conflicts of interest.
4. You are entitled to be charged a reasonable fee and to have your lawyer explain at the outset how the fee will be computed and the manner and frequency of billing. You are entitled to request and receive a written itemized bill from your attorney at reasonable intervals. You may refuse to enter into any fee arrangement that you find unsatisfactory. In the event of a fee dispute, you may have the right to seek arbitration; your attorney will provide you with the necessary information regarding arbitration in the event of a fee dispute, or upon your request.
5. You are entitled to have your questions and concerns addressed in a prompt manner and to have your telephone calls returned promptly.
6. You are entitled to be kept informed as to the status of your matter and to request and receive copies of papers. You are entitled to sufficient information to allow you to participate meaningfully in the development of your matter.
7. You are entitled to have your legitimate objectives respected by your attorney, including whether or not to settle your matter (court approval of a settlement is required in some matters).
8. You have the right to privacy in dealings with your lawyer and to have your secrets and confidences preserved to the extent permitted by law.
9. You are entitled to have your attorney conduct himself or herself ethically in accordance with the Rules of Professional Conduct.
10. You may not be refused representation on the basis of race, creed, color, religion, sex, sexual orientation, age, national origin or disability.

(nycourts.gov/litigants/clientsrights.shtml)

Available in Spanish:

<http://www.nysba.org/Content/NavigationMenu/PublicResources/ClientRightsandResponsibilitiesDeclaracinDeLosDerechosDeLosClientesyResponsabilidades/RightsSpanish.pdf>

Statement of Client's Responsibilities

The following was prepared by the New York State Bar Association, and adopted by the Administrative Board of the Courts:

Reciprocal trust, courtesy and respect are the hallmarks of the attorney-client relationship. Within that relationship, the client looks to the attorney for expertise, education, sound judgment, protection, advocacy and representation. These expectations can be achieved only if the client fulfills the following responsibilities:

1. The client is expected to treat the lawyer and the lawyer's staff with courtesy and consideration.
2. The client's relationship with the lawyer must be one of complete candor and the lawyer must be apprised of all facts or circumstances of the matter being handled by the lawyer even if the client believes that those facts may be detrimental to the client's cause or unflattering to the client.
3. The client must honor the fee arrangement as agreed to with the lawyer, in accordance with law.
4. All bills for services rendered which are tendered to the client pursuant to the agreed upon fee arrangement should be paid promptly.
5. The client may withdraw from the attorney-client relationship, subject to financial commitments under the agreed to fee arrangement, and, in certain circumstances, subject to court approval.
6. Although the client should expect that his or her correspondence, telephone calls and other communications will be answered within a reasonable time frame, the client should recognize that the lawyer has other clients equally demanding of the lawyer's time and attention.
7. The client should maintain contact with the lawyer, promptly notify the lawyer of any change in telephone number or address and respond promptly to a request by the lawyer for information and cooperation.
8. The client must realize that the lawyer need respect only legitimate objectives of the client and that the lawyer will not advocate or propose positions which are unprofessional or contrary to law or the Lawyer's Rules of Professional Conduct.
9. The lawyer may be unable to accept a case if the lawyer has previous professional commitments which will result in inadequate time being available for the proper representation of a new client.

10. A lawyer is under no obligation to accept a client if the lawyer determines that the cause of the client is without merit, a conflict of interest would exist or that a suitable working relationship with the client is not likely.

In Spanish:

<http://www.nysba.org/Content/NavigationMenu/PublicResources/ClientRightsandResponsibilitiesDeclaracinDeLosDerechosDeLosClientesyResponsabilidades/ResponsibilitiesSpanish.pdf>