

**KENTUCKY BAR ASSOCIATION
OFFICE OF BAR COUNSEL
514 WEST MAIN STREET
FRANKFORT, KY 40601-1812
(502) 564-3795
www.kybar.org**



**INFORMATION ABOUT FILING A
BAR COMPLAINT AGAINST A LAWYER**

WHAT ARE ETHICS RULES?

The Kentucky Constitution, Section 116, states, "The Supreme Court shall, by rule, govern admission to the bar and the discipline of the members of the bar." To that end, the Kentucky Supreme Court has created ethics rules for all lawyers licensed in Kentucky to follow. These rules are called "The Kentucky Rules of Professional Conduct" and can be found on the Kentucky Bar Association (KBA) website <http://www.kybar.org>.

WHAT SHOULD I DO IF I THINK A LAWYER HAS VIOLATED THE RULES?

Lawyers who practice in Kentucky are required to abide by the ethics rules of the Supreme Court of Kentucky. If you think your lawyer or another lawyer has committed an act that is a violation of the ethics rules, you may report it by filing a bar complaint. However, even if your complaint does not result in a charge of misconduct, it is still important that the matter is reported. Without these reports, attorneys could continue to violate the ethics rules and harm future clients and possibly other members of the public without being held accountable.

The Rules require that investigations be confidential. You are required to keep the fact that you are filing a complaint confidential.

HOW DO I FILE A BAR COMPLAINT?

A complaint must be a sworn written statement and is filed with the Office of Bar Counsel (OBC). The OBC cannot accept a complaint by telephone, email, or fax. A complaint can be handwritten or typed. It must indicate the name of the attorney you are filing against, your name and address, and include your notarized signature. The OBC will not accept a copy of your signature.

WHO REVIEWS A BAR COMPLAINT?

Acting as an agency of the Supreme Court, the OBC is responsible for investigating complaints against lawyers licensed to practice in the Commonwealth of Kentucky. This office also prosecutes charges of ethical misconduct issued by the Inquiry Commission. The OBC investigates these Complaints on behalf of the Kentucky Supreme Court. Neither OBC nor Kentucky Bar Association (KBA) staff can give legal advice of any kind. In addition, they are not able to tell you if something is or isn't an ethical rule violation or whether a Bar Complaint should be filed.

WHAT HAPPENS AFTER I FILE A COMPLAINT?

Your complaint will go through an initial review to determine whether the conduct alleged violates an ethical rule requiring further investigation.

Sometimes complaints are dismissed without investigation because the alleged conduct does not constitute an ethical rule violation. Complaints appropriate for alternative disposition are assigned to an OBC attorney to conduct a preliminary review to attempt informal resolution. You will be notified if your complaint is processed in this manner.

If your complaint alleges serious misconduct not appropriate for alternative disposition, it will be assigned to a lawyer in the OBC. This lawyer will act as an investigator. The OBC lawyer does not represent the Complainant or the Attorney in the matter.

Your complaint will be forwarded to the lawyer listed on the complaint (now referred to as the Respondent) for a written response to the alleged violations. If additional information is needed from you as the complaining witness, you will be contacted. Your participation is important, but please note complaining witnesses are NOT parties to the disciplinary matter.

The disciplinary process requires a thorough investigation. In some instances, the process can take a rather long time. Your patience with the process will be greatly appreciated. You may contact the OBC to inquire about the status. If the OBC has

additional questions or needs additional documentation from you, you will be contacted in writing. Because of this, it is important that you notify OBC of any changes in your contact information.

Once the OBC investigation of the complaint is complete, it will be presented to the Inquiry Commission (IC) of the Kentucky Supreme Court for review. The IC is an independent body appointed by the Kentucky Supreme Court to review complaints presented to them by the OBC. The IC may decide a charge is not appropriate, but that discipline is warranted and may issue an Order of Private Admonition to the Respondent. If no discipline is determined to be appropriate, but the conduct warrants a caution to the attorney, they may issue a warning letter. In some instances, the IC determines dismissal of the complaint is appropriate.

If a Charge is issued against the Respondent, and the Respondent disputes the violations, an evidentiary hearing may be held. In that case, your testimony may be required.

WHAT KIND OF DISCIPLINARY ACTION CAN BE TAKEN AGAINST AN ATTORNEY?

The Kentucky Supreme Court has the power to discipline a lawyer who is guilty of an ethics rule violation. For example, the Court can:

- Privately admonish or warn a lawyer through the actions of the Inquiry commission;
- Issue a public reprimand;
- Suspend the lawyer's license to practice in Kentucky for period of days, months, or years, which may be probated on certain conditions; or
- Enter an order of permanent disbarment prohibiting the lawyer from the practice of law in Kentucky forever.

The sanction will depend on the nature of the misconduct and the surrounding circumstances and only affects the lawyer's license to practice law. The sanction is not a ruling that the lawyer is guilty of malpractice, nor is it a decision in favor of any person making a claim against the lawyer.

The OBC does not have any authority to interfere or intervene in the court system. A disciplinary proceeding has no direct effect on any underlying case in which the alleged misconduct occurred. Because this process is not a substitute for your remedies in court, for your protection, **do not wait** for the results of your complaint to seek out any other relief to which you may be entitled.

You should not expect any award of damages or reimbursement of loss as a result of the disciplinary process, although, occasionally the Court will order restitution.

All decisions made by the Inquiry Commission, Inquiry Commission Chair, and the Kentucky Supreme Court are final. The OBC is not authorized to give detailed explanations as to why your complaint was handled a certain way by any of these decision-making bodies.

CLIENT SECURITY FUND

If money was lost due to dishonesty, fraud, or other unethical conduct within the attorney/client relationship, contact the OBC to request a Client's Security Fund claim form. Claims must be filed **no later than two years** after you knew or should have known of the attorney's dishonest conduct. Forms are also available on our website, www.kybar.org.

EXPECTATIONS

What should you expect?

- A fair and impartial review, wherein staff may communicate with you, the attorney or judicial officer, and other parties to obtain information;
- An efficient disposition of your complaint, considering the complexity of the matter, cooperation of all parties, and availability of documents, among other things, which may affect the duration of the investigation; and
- To receive official notification of the disposition of your complaint.

What should you NOT expect?

- Legal advice;
- Any change to a court's decision (i.e., conviction or incarceration status);
- Direction from OBC to the judicial officer or an attorney to take or refrain from a particular action;
- Representation by OBC concerning your legal matter;
- A referral to a new lawyer
- Reimbursement or other monetary compensation.

COMPLAINT INSTRUCTIONS

(Please read carefully)

1. Complaints against law firms are not accepted.
2. If you file a complaint against more than one lawyer, you must file a SEPARATE form for each and include details and exhibits specific to that attorney only. You should not make specific references in the details regarding a complaint you have filed on a different attorney. If those comments are included in the details regarding an attorney other than the one listed on the form, it will be returned to you.
3. Do not combine details or exhibits into one document and include it as the attachment to multiple complaints. Each form will need specific details regarding the listed attorney and a set of exhibits related to that information.
4. State specifically what the attorney did or failed to do which constitutes unethical conduct. If drugs, alcohol or mental disability are believed to have affected the lawyer's representation, please state facts in support of that belief.
5. Provide the names, addresses, and phone numbers of any witnesses.
6. Each complaint must have an original notarized signature. Copied signatures will not be accepted.
7. You may attach copies of evidence to support your Complaint. ***Do not send originals of documentation. They will not be returned.*** Attach COPIES of relevant documentation. It is not necessary to attach the entire case file. Attaching documents that have no relevance will only slow down the process of reviewing your complaint. Relevant documents may include:
 - Fee or retainer agreement and proof of payments made to the attorney;
 - Correspondence with the attorney, including letters, e-mails, and text messages;
 - Notes of conversations; and
 - Court filings
 - Receipts, contracts
8. Please type or print in black ink
9. Do not bind the complaint.
10. Your complaint will be returned without review if:
 - It is not notarized;
 - It names more than one attorney or is against a firm;
 - Any documents have staples, stickers, or sticky notes;
 - The document is illegible; or
 - It concerns someone who is not licensed to practice law in Kentucky (unless a UPL case).
11. Mail Completed form with attachments to the following address:

KENTUCKY BAR ASSOCIATION
OFFICE OF BAR COUNSEL
514 WEST MAIN STREET
FRANKFORT KY 40601-1812

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COMPLAINT FORM

PART 1: COMPLAINANT INFORMATION (You)			
Title:	First Name:	Middle:	Last Name:
Address:			
City, State, ZIP:			
Email:		Phone Number:	
PART 2: RESPONDENT ATTORNEY (Attorney you are complaining about) Only one attorney per form. We cannot accept a complaint against a law firm.			
Title:	First Name:	Middle:	Last Name:
Address:			
City, State, ZIP:			
Name of Law Firm/Employer:			
Are you an attorney/formerly admitted attorney? ☐ YES ☐ NO Bar Number(s): If YES, in what jurisdiction(s)?		Are you a judge? ☐ YES ☐ NO If YES, which court and where?	
PART 3: BACKGROUND INFORMATION			
What is your connection to the attorney you are complaining about? ☐ Client ☐ Opposing Party ☐ Opposing Counsel ☐ Judicial Officer ☐ Clerk ☐ Other:			
If you are the client, date representation began:		Is the matter still pending? ☐ YES ☐ NO	
If your complaint involves a court case or other legal proceeding, please provide the case name, case number, county, and court in which it was filed:			
Indicate what type of legal matter: ☐ Adoption ☐ Bankruptcy ☐ Criminal ☐ Corporation/Partnership ☐ Employment Law ☐ Estate/Probate ☐ Family/Domestic ☐ Civil ☐ Immigration ☐ Juvenile ☐ Landlord/Tenant ☐ Personal Injury ☐ Real Estate ☐ Social Security ☐ Workers' Comp ☐ Other:			
Does the attorney still represent you? ☐ YES ☐ NO	If NO, date representation terminated		Date of last contact with the attorney?
Check One: The attorney was ☐ APPOINTED by a court or ☐ RETAINED (paid by you, or someone on your behalf).			
If retained, who paid the attorney?		How much was paid to the attorney?	
Was there a written fee agreement? ☐ YES ☐ NO If YES, please provide a copy with your supporting documentation.			

PART 3: BACKGROUND INFORMATION (CON'T)

Though not required, have your concerns been raised directly with the attorney? ☐YES ☐NO If YES, please answer

the following:

When were the concerns raised?

By what means (e.g., letter, email, telephone call)?

What was the result (e.g. no reply from the attorney, attorney responded but concerns were not resolved)? Attach more pages if necessary.

Though not required, if you have a pending/open court case, have your concerns been raised with the court? ☐YES ☐NO ☐N/A If YES, please answer the following::

When were the concerns raised?

By what means (e.g., via motion, conciliation, hearing)?

What was the result (e.g., pending hearing; Opinion or Order was entered)? Attach more pages if necessary.

PART 4: PRIOR COMPLAINTS CONCERNING THIS MATTER OR THIS ATTORNEY:

Have you previously submitted a complaint(s) concerning this matter/this attorney with OBC, another Bar Association, Court, Attorney General, or any other agency or office?

☐YES ☐NO If YES, please answer the following:

Name of Office/Agency:

Date Submitted:

Is the matter ongoing or has it been resolved?

Nature of Your Complaint:

Result/Action Taken by the Office/Agency

PART 5: DETAILS OF COMPLAINT (More pages may be added if necessary.)

I swear the foregoing statements are true and correct to the best of my knowledge and belief and I will voluntarily appear and testify to the facts in the complaint if called upon to do so by the Kentucky Bar Association.

SIGNATURE OF COMPLAINANT

NOTARY'S CERTIFICATE

COMMONWEALTH/STATE OF: _____)

COUNTY OF: _____)

The above complainant, _____, (print complainant's name) appeared before me in person, and the complaint being subscribed and sworn to before me, a Notary Public, in and for the State and County this the _____ day of _____, 20____.

NOTARY PUBLIC
My Commission expires: _____