

THE GRIEVANCE PROCESS & MOST COMMON VIOLATIONS

PRESENTED BY:

NICOLE E. JACKSON

ROSENBLATT LAW FIRM
16731 HUEBNER ROAD, SAN ANTONIO, TEXAS 78248
(210) 562-2900
NICOLE@ROSENBLATTLAWFIRM.COM



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What is a Grievance?

- Written Statement
- Intended to Allege Professional Misconduct by a lawyer or lawyer Disability;
- Received by the Office of the Chief Disciplinary Counsel (CDC)

- Who can File a grievance?
 - Clients
 - Other Lawyers
 - Judges
 - Anyone that believes they have witnessed attorney misconduct



CLASSIFICATION: INQUIRY

- The CDC will review the grievance and make one of three classifications;
- If grievance *fails to allege professional misconduct or disability* – it will be classified as an “inquiry” and dismissed within 30 days.
- Reasons for dismissal:
 - Complains about outcome of case – not a violation of ethical rules;
 - Does not complain about a lawyer’s conduct in his/her professional capacity;
 - Duplicative of previous filing.



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CLASSIFICATION: COMPLAINT

- If grievance, on its face, alleges professional misconduct – it will be classified as a “complaint”;
- The CDC will send the complaint to the lawyer (now the Respondent) for a written response.
- COMMON PROBLEM: FAILURE TO OPEN THE LETTER
- PRACTICE TIP: CONTACT YOUR MALPRACTICE CARRIER



CLASSIFICATION: DISCRETIONARY REFERRAL

- This classification allows the CDC to refer minor grievances to the State Bar's Client Attorney Assistance Program (CAAP).
- If the complaint is referred, the Respondent must agree to meet with the program administrator to assess the professionalism issues that contributed to the misconduct;
- The Respondent must agree in writing to waive any applicable time limits and to complete specific terms and conditions, including restitution if appropriate, by a date certain and to pay for any costs associated with the terms and conditions.
- If the Respondent agrees to participate and completes the terms in a timely manner, the underlying grievance will be dismissed.
- If the Respondent not fully complete the terms of the agreement, the grievance will continue in the ordinary disciplinary process.



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GOAL OF THE RESPONSE



What is the goal?



The end game?



Finding of *No Just Cause* to proceed on the complaint.



**COMMON PROBLEM: ANGRY
LAWYERS WRITE ANGRY
THINGS**

Now is not the time to tell the CDC that your client is crazy and caused all of the problems in the first place.
The focus is on the lawyer's actions – not the clients or complainants.



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