

FAQ: Abusive Litigation and Attorney Misconduct

1. What happens if an attorney files a frivolous lawsuit or makes misrepresentations in court?

Judges have several options for addressing abusive litigation tactics, including:

- **Sanctions under Court Rules:** Attorneys can face financial penalties or be required to pay the opposing party's legal fees if their actions are deemed frivolous under Rule 1:4-8 of the New Jersey Court Rules.
- **Criminal Prosecution for False Swearing:** In rare cases, attorneys who knowingly make false statements under oath can be prosecuted for the crime of false swearing (N.J.S.A. 2C:28-2), although this is more common when personal financial gain is involved.
- **Contempt of Court:** Judges can hold attorneys in contempt of court and impose sanctions for disrespectful or disruptive behavior, either in the presence of the judge (Rule 1:10-1) or through a formal process (Rule 1:10-2).
- **Referral to Disciplinary Authorities:** Judges can report attorneys to the Office of Attorney Ethics (OAE) for investigation of potential ethical violations.

2. Can lawyers be held accountable for making false statements outside of court?

Yes, attorneys are bound by the Rules of Professional Conduct (RPCs), which govern their behavior both inside and outside the courtroom. Several RPCs address truthfulness and honesty, including:

- **RPC 3.1 (Meritorious Claims and Contentions):** Attorneys must have a good faith basis for their legal arguments and cannot file frivolous claims.
- **RPC 3.3 (Candor Toward the Tribunal):** Attorneys must be truthful to the court and cannot knowingly make false statements or present false evidence.
- **RPC 4.1 (Truthfulness in Statements to Others):** Attorneys must be truthful in their communications with clients, opposing counsel, and the public.
- **RPC 8.4 (Misconduct):** This catch-all rule prohibits conduct that is prejudicial to the administration of justice or involves dishonesty or misrepresentation.

Attorneys who violate these rules can face disciplinary action, including admonishment, suspension, or disbarment.

3. What is the Client Protection Fund, and how can it help me if my lawyer has been dishonest?

The Client Protection Fund is a program administered by the State Bar of Arizona that provides financial reimbursement to clients who have suffered losses due to their attorney's dishonest conduct. The fund is financed by annual dues paid by Arizona attorneys.

4. What types of lawyer misconduct are covered by the Client Protection Fund?

The fund covers losses resulting from actions such as:

- Theft or embezzlement of client funds.
- Wrongful conversion of client property.
- Failure to refund unearned fees.
- Intentional dishonesty or deceit leading to financial harm.

5. Who is eligible to receive money from the Client Protection Fund?

Individuals and small businesses who have hired an Arizona attorney and suffered a financial loss due to the attorney's dishonest conduct may be eligible. However, certain parties are excluded, such as family members of the attorney and most corporations.

6. How do I file a claim with the Client Protection Fund?

You can contact the State Bar of Arizona by phone or visit their website to obtain an application form. You will need to provide documentation supporting your claim and cooperate with the fund's investigator.

7. How long does it take to receive payment from the Client Protection Fund?

The process can take a year or longer, as it involves an investigation, a disciplinary action against the attorney, and a vote by the fund's board.

8. How much money can I receive from the Client Protection Fund?

The maximum payment per person is \$100,000, and the total limit for claims against one lawyer is \$250,000.