

**TO: The Grievance Committee
The North Carolina State Bar
PO Box 25908
Raleigh, NC 27611
Telephone: (919) 828-4620**



NC State Bar Complaint Form For E-Filing (rev'd May 12, 2016)

I am filing a complaint against (Name of Lawyer) _____
(Lawyer's Address) _____ (City/County) _____
State _____ (Zip) _____

I am reporting alleged misconduct of the above-named lawyer. I agree to provide to the State Bar all pertinent information and records in my possession concerning the alleged misconduct. If a hearing or inquiry is ordered concerning the alleged misconduct of the lawyer, I will testify if requested. I understand that the immunity granted by N.C. General Statute 84-28.2 applies only to those statements made to the State Bar without malice.

- *I understand that the North Carolina State Bar may reveal this information to the accused lawyer and to others pursuant to the Rules of the State Bar. Initial _____*
- *I understand that the State Bar cannot give me legal advice, cannot represent me or intervene on my behalf in a court proceeding, cannot remove a lawyer from a case, cannot determine whether a lawyer committed malpractice or is indebted to me, and cannot change court orders. I understand that if I believe I have suffered damages because of an act or omission of a lawyer, I should not wait for the State Bar's disposition of a complaint before pursuing any legal claim or seeking legal advice. Initial _____*
- *My electronic or physical signature below confirms that the information I am providing on this form is, to the best of my knowledge, accurate. Initial _____*

Signature (type if completing online)

Date

MY NAME AND ADDRESS

Mr., Mrs., or Ms. _____

Address: _____ City: _____ State: _____

Zip: _____ Telephone: (____) _____ Alternate Telephone: (____) _____

Email: _____

DESCRIPTION OF THE COMPLAINT

In the space on the next page, tell us what the complaint is about. Include all the facts that you want the State Bar to consider, including names, dates and places. You will have a notebook-sized page for your description.

Please attach¹ any electronic documents that support the complaint to the email that will be generated when you click the "Submit via Email" button at the top of this page.

1. If you cannot attach supporting documents electronically, please submit the complaint form and the supporting documents by mail.

WHAT TO EXPECT IN THE DISCIPLINARY PROCESS

The lawyer disciplinary process in North Carolina begins when a grievance is filed with the State Bar. A grievance is an allegation that the conduct of a lawyer licensed to practice law in North Carolina has violated one or more of the formal rules governing lawyer conduct. These rules are defined in the Rules of Professional Conduct. The State Bar's Grievance Committee evaluates grievances to determine whether a lawyer has violated those Rules and, if so, imposes appropriate discipline or refers the matter for a trial. The Rules of Professional Conduct can be found at the State Bar's website, www.ncbar.gov.

The Grievance Committee opens approximately 1300-1500 files a year. Every grievance is assigned to a staff attorney in the State Bar's Office of Counsel. The person who files the grievance is called "the complainant." The form for filing a grievance is available at the State Bar's website. The complainant **must** provide all information he or she believes the Grievance Committee should consider. The staff attorney **will not** call the complainant to see if the complainant has additional information that was not provided. The complainant will receive a letter acknowledging that the State Bar received the grievance. The letter will identify the grievance file number and the staff attorney assigned to the grievance.

In the initial evaluation, the staff attorney will make a determination whether the complainant's allegations, assumed at this stage to be true and provable, constitute a violation of the Rules of Professional Conduct. When the allegations, if true and provable, would not constitute a Rule violation, the grievance must be dismissed because the Grievance Committee has no authority to take action unless there is a violation of the Rules of Professional Conduct. When the allegations, if true and provable, would constitute a violation of the Rules of Professional Conduct, the staff attorney ordinarily sends a Letter of Notice to the lawyer complained about, who is called "the respondent." The Letter of Notice is accompanied by a Substance of Grievance detailing the allegations of professional misconduct and identifying the Rules implicated by the allegations. The respondent must provide a written response to the Letter of Notice within 15 days of receipt of the Letter of Notice. The last paragraph of the Letter of Notice identifies the staff attorney who is handling the grievance.

All communications by the complainant or the respondent with the State Bar should be directed to the staff attorney assigned to the grievance and should reference the file number so the grievance can readily be located.

When the staff attorney receives the respondent's response, the staff attorney will determine whether he or she has enough information to understand what happened in the case. If necessary, the staff attorney will conduct further inquiry. Further inquiry is not always necessary. In many cases, the staff attorney can fully understand the necessary facts from reviewing the grievance and the response and any documents provided by the complainant and the respondent. In some cases, a small amount of additional information is needed. In cases involving very complicated facts or facts which are difficult to locate, extensive information gathering is required. There are cases in which the Grievance Committee must wait for outside events to occur before acting on the grievance. One example of this is when a pending court case must be concluded before the grievance can be addressed.

When the appropriate review is completed, the staff attorney will write a Report of Counsel to the Grievance Committee. The grievance will then be reviewed by the Chair or by the Chair and a Vice Chair of the Committee. In evaluating the grievance, the Chair or the Chair and Vice Chair must keep in mind that any violation of the Rules of Professional Conduct must be proven by **clear, cogent and convincing evidence**. If the Committee determines that the evidence is not sufficient to prove a Rule violation, the Chair or the Chair and Vice Chair will dismiss the grievance. The complainant and the respondent will be notified in writing of the Chair or the Chair and Vice Chair's decision. There is no appeal of the dismissal of a grievance.

If the Chair or the Chair and Vice Chair conclude the evidence is sufficient to prove a Rule violation, the grievance will be placed on an agenda for consideration at one of the State Bar's quarterly meetings. The meetings occur in January, April, July and October. At the quarterly meeting, the grievance will be assigned to one of three subcommittees. Each subcommittee will meet separately, consider the grievances

before it, and make its recommendations to the full Committee. The full Committee will then evaluate the grievance and determine whether the evidence is sufficient to prove a Rule violation. Unless and until the Grievance Committee imposes public discipline, identified below, information concerning the existence of a grievance is confidential.

The Grievance Committee can take any of the following actions:

- a. Dismiss the grievance;
- b. Issue a Letter of Caution (the conduct is not consistent with accepted standards of professionalism but is not technically a violation of the Rules of Professional Conduct);
- c. Issue a Letter of Warning (the conduct is a minor, unintentional or technical violation of the Rules);
- d. Issue an Admonition (this is permanent discipline but is not published)
- e. Issue a Reprimand (this is permanent discipline sent to the lawyer's local newspaper and published on the State Bar website);
- f. Issue a Censure (this is permanent discipline sent to the lawyer's local newspaper, published on the State Bar website and sent to the state and federal courts in North Carolina);
- g. Refer the lawyer to the Lawyers Assistance Program (this is a program intended to help a lawyer with substance abuse or mental health issues);
- h. Refer the lawyer to the Trust Account Compliance Program (this is a program intended to help a lawyer understand the requirements for operating a trust account to handle entrusted funds);
- i. Refer the case to the Disciplinary Hearing Commission ("DHC") for trial (this happens in a small percentage of cases when the Grievance Committee believes the conduct is serious enough that the lawyer's license to practice law should be suspended or the lawyer should be disbarred from practicing law).

Other than in cases referred to the DHC for trial, the Grievance Committee can impose discipline directly.

Cases are tried before the Disciplinary Hearing Commission for two reasons: (1) the lawyer rejects discipline imposed by the Grievance Committee or (2) the Grievance Committee believes the conduct is sufficiently serious that suspension of the lawyer's license or disbarment is likely the appropriate discipline. When a case is tried in the DHC, the staff attorney will file a civil action and the case will proceed according to the State Bar's Discipline and Disability Rules, the North Carolina Rules of Civil Procedure and North Carolina Rules of Evidence. After a hearing, the DHC will enter an order imposing discipline or dismissing the case. Appeal from an order of the DHC is to the North Carolina Court of Appeals.

What the State Bar CANNOT do:

The State Bar **cannot** order a lawyer to pay money to anyone.

The State Bar **cannot** give anyone legal advice.

The State Bar **cannot** give an advisory opinion about whether a lawyer violated a Rule.

The State Bar **cannot** intervene in a pending court action or remove a lawyer from a case.

The State Bar **cannot** determine whether a lawyer committed malpractice. A person who believes he or she has suffered damages because of legal malpractice should not wait for the Grievance Committee's action before deciding whether to pursue an independent malpractice or breach of contract claim in the court system.