

The Attorney Grievance System

by Diane Hartman

If the phone rings for you and it's the Supreme Court Office of Attorney Regulation, would you:

- a. Refuse the call and book a plane to Mexico?
- b. Check into an emergency room with your heart beating wildly?
- c. Welcome the call because it's a new system and chances are they'll help you?

While a call still "scares the heck out of them," admits John Gleason, head of Attorney Regulation, he hopes you'll choose "c."

"The overwhelming majority of complaints result in dismissal and no discipline--probably 80 percent of the 5,000 calls we get each year. Every person in this office is committed to the new attorney discipline system and to helping attorneys stay out of trouble. That's not to say that an attorney engaging in serious misconduct isn't in trouble. But most problems are minor and we can correct them quickly. Our goal is not to have the attorneys hanging, not knowing what's going to happen. We usually resolve things within days.

"I can't emphasize it enough--we're truly trying to help attorneys while protecting the public."

There are three significant differences between the old disciplinary system and the new:

1. The intake system. In the past, complaints could linger for three to nine months. The new system has three attorneys and two investigators taking the phone complaints--and the goal is to handle every complaint within 10 days. For the public, it used to be a "cold and meaningless system, but now they get to talk to one of our attorneys. Although about 80 percent of the complaints are dismissed (similar to the old intake system), we are resolving the complaints much more quickly."
2. Cases are now tried before a Presiding Disciplinary Judge. "In the past we tried cases before the Grievance Committee. Although the committee was extraordinary in the time and dedication they devoted, it was difficult to try cases quickly. With the judge, we cut the time in half."
3. The creation of an Appellate Disciplinary Commission. "Every attorney has an appeal of right to any decision made by the judge and hearing board. Before, it went back to the Grievance Committee and ultimately to the Supreme Court."

The good news is that "as a result of the new system, we're down to virtually no appeals. The judge is doing a good job, the hearing board is doing a good job and we're doing a good job.

"A typical call Attorney Regulation might get is from a person going through a difficult divorce, or a client whose attorney isn't communicating or won't release files. Also, we receive calls from judges inquiring about an attorney's conduct before the court. The attorney might be unprepared or be dishonest to the court and the judge is looking for information about whether to report it."

If it seems that the attorney has a problem, Attorney Regulation can put him or her into a diversion program.

An attorney might be sent to ethics school, Gleason said. "It was created by our office a year ago. It's open only to attorneys who are ordered to attend by the judge, the Supreme Court or

as a result of a diversion agreement. It's seven hours on how to deal with clients, with opposing counsel, with judges, and financial accounts. It also addresses the private conduct of attorneys that results in professional discipline. This is Ethics 101; many of the attorneys never had anybody help them understand what their ethical obligations are. Helping them stay out of trouble is our sole goal. It's not punitive, it's to help ensure that they never come back into the system."

Lawyers might be referred to the Colorado Lawyers Health Program for substance abuse problems or untreated mental health issues. Others might be given a "practice monitor," a senior attorney who could help a younger attorney review his or her cases, give help with tickling, calendaring and client relations. The practice monitor provides quarterly reports to the Office of Attorney Regulation. Another program is financial monitoring, where an attorney might be hooked up with a CPA for financial help.

It's easy to see how lawyers "march toward the abyss," Gleason said. "It begins with minor misconduct that's never corrected. In the past, all we could do was discipline them and many could have cared less about a Letter of Admonition. Now, we can offer substantive help to both the attorney and the public."

Eleven years ago, when Gleason went to work for this office, "it was rare to get a complaint about a new attorney. Now those complaints are routine. We're graduating about 500 to 1,000 new lawyers a year. Some open their own practice, or worse, open up with a law school friend and neither one of them has a good understanding of their ethical and professional obligations. They're constantly stumbling over things. The new system is designed to help this type of attorney."

The new system has been in place more than a year. "Linda Donnelly, now retired, and I, along with Justice Rebecca Kourlis and Justice Michael Bender, worked for two years to get it up and running. During the first year, we talked with about 10,000 lawyers to explain it. We meet with every attorney organization that will let us, with 10 attorneys or a hundred. We recognize we don't have all the answers. We respond to suggestions and try to make the system one that the court and the profession are proud of while at the same time protecting the public from unethical attorneys."

What could attorneys do to avoid that dreaded phone call?

1. Have a good solid written fee agreement.
2. Focus on good attorney/client relations.
3. Recognize the importance of professionalism and respect for the legal process.

Gleason said comments about the new process have been overwhelmingly positive. "We get a lot of bad lawyers out of the profession and we help a lot of other lawyers. This public is well served by this process."
