

## **Attorney Admonished Over Fee**

**by**  
**Henry C. Granison, Assistant Director**  
**Minnesota Office of Lawyers Professional Responsibility**

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A dispute between a lawyer and a client about fees is often the underlying cause for a complaint filed with the Office of Lawyers Professional Responsibility. Pursuant to guidelines established by the Lawyers Board, most fee disputes are summarily dismissed by the Director's office without any investigation. The dismissal will give the complainant the address of the fee arbitration committee for their local district. Fee arbitration committees are set up to resolve such disputes between attorneys and their clients. Some fee-related complaints are investigated, however, and a few result in private admonitions.

There are two types of fee complaints that are most often investigated. The first type is a complaint that on its face includes an allegation of a clearly excessive fee ("My lawyer charged me \$20,000 for a non-contested dissolution matter."). The second type of fee complaint is a complaint that includes an independent determination (such as judicial findings) that a lawyer's fee was excessive.

### **recent complaint**

In a recent complaint which resulted in the issuance of an admonition, a complainant sent a copy of the court's findings of fact and order to the Director's Office. The court had denied most of the lawyer's fee petition and as a matter of law held that the lawyer's billing was excessive. The lawyer had sought to recover fees in an amount that was ten times the amount of the damages sought in a mechanic's lien action against the client. The court found that early in the litigation, the opposing party offered to reasonably settle the lawsuit. The settlement offer also included the adversary's legal fees, which at the time of the settlement offer, equaled only one-third of the damages sought by plaintiff.

Rule 1.5(a), Minnesota Rules of Professional Conduct (MRPC), requires that a lawyer's fee "shall be reasonable."

### **eight factors**

There are eight factors that are used to determine the reasonableness of any lawyer's fee:

1. Time required, complexity of the issues and expertise needed;
2. Lost opportunity to lawyer regarding other employment;
3. Usual fee for like legal services;
4. Amount at issue and results obtained;
5. Time limitations;
6. Lawyer's prior professional relationship with this client;

7. Lawyer's experience, reputation and ability; and
8. Whether fee is fixed or contingent.

In the recent complaint, the court specifically found that the representation was not a complex or novel problem and that the results obtained by the attorney were negligible. In addition, the court found that respondent's conduct in seeking to collect an excessive fee from his client harmed the lawyer's client. The lawyer was admonished for violating Rule 1.5(a), MRPC.

Because the court had prevented the attorney from collecting an excessive legal fee from his client, the client prejudice was not enough to warrant seeking public discipline against the lawyer. Therefore, an admonition was issued.