

## REPORT . . . LAWYERS PROFESSIONAL RESPONSIBILITY BOARD

By

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There has been, unfortunately, in recent months, an increase in the number of complaints of unprofessional conduct filed with our office. In August alone, 87 new complaints were received. This total not only far surpasses the prior one-month record of 66, but it is also far ahead of the approximately 55 complaints which are received in an average month.

I hope that the recent upsurge in complaints is of short duration. I am using this month's article to remind attorneys that many complaints are avoidable.

There is no surer way to prompt the filing of an ethics complaint than to ignore client communications. Maintaining reasonable communication with clients does not mean that every telephone call must be returned on the day that it is received. Attorneys should, however, be in the habit of consistently and reasonably returning all telephone calls promptly and responding to other client communications. Consistent failure and tardiness in responding have been held to constitute unprofessional conduct.

I am aware of many attorneys who do far better than maintaining the bare minimum contact with clients which is necessary to avoid a finding of unprofessional conduct. These attorneys supply copies of all correspondence and documents to their clients as they are produced and received. They also take pains to explain to their clients the workings of the legal system, as it applies to their clients' cases. These attorneys anticipate and explain to their clients the reasons for any unusual delays. It is our experience that attorneys who initiate such procedures in their offices rarely, if ever, are accused of inadequate communication.

While many complaints arise because attorneys fail to explain to their clients the reason for legitimate delays in their cases, it is clear that many other complaints are the result of actual neglect. Some attorneys believe that their practices will die if they turn down cases on the ground that they already have too much work to handle. We can only respond that the press of other matters is not an adequate defense to a charge of neglecting a legal matter in violation of the Code of Professional Responsibility. If the new case is one in which immediate action is required, the attorney, if he is already overworked, must decline it. If the new matter is one in which immediate action is not necessary, the attorney prior to accepting it,

should explain to the prospective client the length and possible effect of any delay, and give the prospective client an opportunity to engage other counsel. The attorney is, of course, never permitted to neglect existing clients in order to accept a new case.

Attorneys who have neglected matters entrusted to them should candidly advise their clients of their neglect. The consequences of admitted neglect will usually be far more bearable than those which flow from the client's discovery that the attorney has deceived the client about the status of the case. It should be remembered that clients often contact courts, and even adverse parties and counsel, to verify their own attorneys' representations concerning the status of their cases.

Unnecessary fee disputes are also the source of many complaints. The Lawyers Professional Responsibility Board has long encouraged attorneys to reduce fee agreements to writing at the time the case is accepted. Improper attempted withdrawals prior to the conclusion of the case because of fee squabbles continue to be a frequent source of complaints.

Many of the complaints could be avoided easily if attorneys sought advance guidance concerning their actions. The answer to many ethical problems appears in the Code itself. In cases where attorneys have looked at the Code and are still unsure of the answer, the advice of their peers or a call or letter to our office should result in additional guidance.

The foregoing catalog of problems and their possible solutions is hardly comprehensive. It is clear, however, that preventive action by attorneys could eliminate many of the complaints we are currently receiving.