

## **DID YOUR LAWYER COMMIT LEGAL MALPRACTICE?**

We wrote recently about the Top Five Tips for Hiring an Attorney and What to Watch Out for When Hiring an Attorney. We hope those helped you make the important decision about who to hire. But what happens if you already hired an attorney and they made a mistake that hurt your case? What can you do? Do you have any recourse? The answer is - that depends. Attorneys are allowed to exercise their discretion about how to handle a particular case. Some case results aren't what either the client or the attorney hoped for, but make sense under the circumstances. Some results, however, are caused by actual errors made by the attorney and you may be entitled to seek compensation from the attorney in those cases. Here are some of the most common areas where attorneys make mistakes:

- 1. Missing a Statute of Limitations.** There are time limits, called statutes of limitation, for when a lawsuit has to be filed with the clerk of the court for the lawsuit to be effective. If the lawsuit isn't filed by those deadlines, then any right to make a claim can be lost forever. How these time periods are calculated is a very complicated issue. First, the time periods are different in different types of cases. Also, in some types of cases, it not only matters when an event happened, but when the injured person discovered that an event happened. Sometimes lawyers calculate these time periods wrong, and the client's rights are lost.
- 2. Not getting the right person or company served with lawsuit papers in the time allowed.** In addition for the time limit for filing a lawsuit, there are time limits for when the necessary suit papers have to served (delivered) to the defendants in the lawsuit. If the right papers are not served on the right people in the right timeframe, it is as if the lawsuit was never filed. Unfortunately, there are cases where the lawyer serves the wrong people or serves them too late, and the lawsuit gets dismissed.
- 3. Having a conflict of interest with the client.** Not all lawyers can represent all the clients who come to them with potential cases under all conditions. A lawyer has a duty to any one client that cannot be compromised by adding other clients. For example, a lawyer can only represent one side in a divorce case. Another example is that a lawyer can represent only one person in a car wreck if there isn't enough insurance to fully compensate everyone who might deserve compensation. A conflict is a serious matter and lawyers should avoid them.
- 4. Filing a frivolous lawsuit.** Despite all the urban legends, and fortunately for us all, there are very few frivolous lawsuits filed. However, the law is clear that if you hire a lawyer who files a frivolous lawsuit, you and the lawyer can be punished for doing so. If you are counting on and following your lawyer's advice (as you should be) and you are unexpectedly hit with sanctions, your lawyer may be accountable to you for the harm caused by filing such a lawsuit.

- 5. Stealing your money.** Lawyers have to handle client matters, and client funds, with a high degree of responsibility. This “fiduciary relationship” means that the lawyer cannot, ever, take funds that belong or may belong to a client without strict accounting and the client’s approval. Sadly, sometimes lawyers take a client’s money when they shouldn’t. That is always wrong, even if they make up for it later. A lawyer should be and is strictly accountable to a client for all funds.

**At Nelson Boyd, we represent clients whose previous lawyers have harmed them by committing legal malpractice. If you think you may have a claim, please contact us at (206) 971-7601 or toll free at (877) 971-7601 and see our website at [www.nelsonboydlaw.com](http://www.nelsonboydlaw.com).**