

Frequently Asked Questions – The Consumer Assistance Program

What is the Consumer Assistance Program?

The Mississippi Bar's Consumer Assistance Program (CAP) helps people with questions or problems with Mississippi Attorneys. When someone calls or writes The Mississippi Bar to complain about a Mississippi lawyer, the Consumer Assistance Program responds to the inquiry and attempts to identify the issue. Many issues can be resolved by providing information, contacting the attorney, or suggesting ways in which to resolve the dispute. The general public is usually provided with a Request for Assistance form to contact the Consumer Assistance Program, but the form is not required as CAP responds to all phone calls and written correspondence sent to The Mississippi Bar offices regarding complaints or inquiries.

Here are some typical questions and problems encountered by clients and consumers and what The Mississippi Bar's Consumer Assistance Program does to assist clients and/or consumers:

The attorney won't return my calls.

It is recommended that the client write the attorney a letter, sent by certified mail, return receipt requested, asking the attorney to contact the client within seven (7) working or business days. The client may request CAP call or write and ask the attorney to contact the client. If the attorney does not respond in the seven (7) working or business days, CAP asks the client to contact CAP office or send a copy of the letter with the client's name, address, and telephone number, and CAP will contact the attorney.

I don't know what's happening in my case. I haven't heard from my attorney in months.

Using the procedure outlined above, CAP will contact the attorney and request immediate contact with the client to provide the client with an update on the status of the case. The client can consider filing a Bar complaint against the attorney for failure to communicate.

I am having trouble getting an attorney to handle my case.

CAP can provide internet websites that can assist someone in locating an attorney. However, CAP is unable to recommend or refer anyone to a specific

attorney. In addition, CAP does not maintain referral lists of Mississippi attorneys. The Mississippi Bar does maintain an online directory of all Mississippi attorneys, but expresses no opinion as to the suitability of a particular attorney for a particular legal matter.

What should I do if I decide to fire my attorney?

It is suggested the client meet with the attorney by appointment or write the attorney a discharge letter sent by certified mail, return receipt requested. The client should ask for the file to be returned, an itemized bill of the attorney's time and expenses, and the return of any of the client's property or unearned fee within seven (7) working or business days. If the attorney does not respond within seven (7) working or business days, the client should consider contacting CAP for further options.

My attorney's bill is too high.

My attorney refuses to give me a refund after I fired him.

I'm afraid to fire my attorney because I paid a fee up front.

Clients should consider writing the attorney and requesting an itemized statement of the attorney's time and expenses and a refund of the unused part of any retainer. Attorneys must return any unearned fee or unused portions of a retainer when they are discharged or if they withdraw from the case. If the client and attorney cannot resolve the fee dispute, CAP can provide the client with forms to file a fee dispute petition with The Mississippi Bar's Fee Dispute Committee, a voluntary arbitration procedure.

My former attorney won't release my file.

The client may request CAP call or write the attorney regarding the client's request to obtain the file.

Can my attorney withdraw from the case?

Yes, most of the time. In some cases a judge may require the attorney to stay on the case. If a court case has already started, the attorney must file a motion to withdraw to be removed from the case. Judges have the discretion to grant or deny the motion to withdraw and the client is usually provided an opportunity to appear at a hearing on the motion and advise the court as to the nature of the problem with the request to withdraw.

**How do I get the court to appoint me an attorney?
How can I remove a court appointed attorney?**

Appointing attorneys to indigent criminal defendants is handled solely by the Circuit Court, Mississippi Supreme Court, or by the appropriate federal court. The Mississippi Bar cannot appoint, assign, refer, or recommend attorneys to any one in any type of case, civil or criminal.

Only the judge appointing the attorney to a case can remove that attorney upon request of the client and/or the attorney. Removal of an attorney and the appointment of a new attorney is strictly up to the judge.

My court appointed attorney provided me with ineffective assistance of counsel.

Ineffective assistance of counsel claims are common in criminal cases when a criminal defendant is attempting to overturn a guilty plea or conviction by trial. Ineffective assistance of counsel is primarily a legal defense used in appeals and post-conviction relief petitions (or habeas corpus motions in federal court). Since The Mississippi Bar is not a court of law, it has no jurisdiction over claims of ineffective assistance of counsel. If the client believes that an attorney has violated the Rules of Professional Conduct; however, the client may request CAP send out a Bar complaint form.

I need a transcript of my trial.

Trial transcripts are prepared by court reporters who take down testimony and record all proceedings related to the trial. If the attorney who handled the trial has a copy of the transcript, the attorney may provide the transcript, but may charge copying costs. If the client is an indigent criminal defendant, the transcript can be obtained from the clerks of the Circuit Court or the Mississippi Supreme Court. Otherwise, clients will have to pay for a copy through the court reporter or the court clerks. Upon request, CAP may contact the attorney involved for any communication problems that arise from transcript requests.

The attorney didn't pay my medical bills in a personal injury case.

The client is encouraged to contact the attorney and seek an explanation. The client may request CAP communicate with the attorney. We ask the client to provide specific information about the settlement of the case including the

disbursement documents and the agreement between the client and the attorney as to the fee payment arrangements.

The attorney settled my case without telling me.

The client can request CAP send a Bar complaint form to the client. If that event occurred, CAP attempts to find out the details about what may have been signed or what the attorney told them about the settlement offer.

The attorney got my settlement funds some time ago and I still don't have any money.

The client is encouraged to contact the attorney to determine the situation regarding the settlement funds. If the client does not understand the delay or what's happening, the client can request CAP contact the attorney.

A check on an attorney's trust or escrow account bounced.

The client or consumer may request a Bar complaint form from CAP. CAP will immediately send a Bar complaint form and urge the client to seek legal advice about how to recover the funds through an attorney or the District Attorney's Bad Check Unit.

My spouse's attorney said terrible things about me in court in a divorce case.

If the client or other party can show from the transcript or other documents that the attorney lied in court, there may be grounds for an ethical violation. In that instance, the consumer may request CAP send a Bar complaint form.

I heard an attorney is engaged in illegal activity.

If the caller has personal knowledge of illegal activity, the CAP advises the person to report the activity to the appropriate authorities. If the activity involves embezzlement of a client's funds, the consumer can request and CAP will send a Bar complaint form immediately. Mississippi attorneys are subject to disbarment if they are convicted of a felony offense.

An attorney who represents a creditor is pestering me to pay up.

The Fair Debt Collection Practices Act protects persons in collection matters and violations of that law may be reported to the Federal Trade Commission.

I want to sue my attorney for malpractice.

The disciplinary procedure of The Mississippi Bar does not recover money damages for clients. Legal malpractice cases are civil lawsuits and must be brought in a court of law. The client should consider hiring an attorney of their own choice to pursue any legal options.

I want to file a complaint against the Judge.

The Mississippi Commission on Judicial Performance handles all with complaints about judicial misconduct. To contact the Mississippi Commission on Judicial Performance, contact their offices at 601-359-1273 or [through their website](#).

The attorney won't pay his bill for my services.

CAP receives occasional inquiries from court reporters, expert witnesses, and medical offices asking for help in collecting unpaid bills from members of The Mississippi Bar. The Mississippi Bar is not a collection agency and does not attempt to collect "third party" bills. If the collection situation, however, deals with a signed lien agreement with a medical provider and the attorney personally guaranteed payment of medical bills upon the settlement of a case, the creditor can request a Bar complaint form.

What if I just want to file a bar complaint against an attorney?

CAP will send a Bar complaint form to anyone who requests one. CAP attempts to help consumers or clients solve problems in other ways by improving attorney-client communications and resolving conflicts through informal methods. Filing a Bar complaint will not impact the result of a case or any appeal. Filing a Bar complaint only deals with whether or not an attorney violated the Rules of Professional Conduct and can only potentially affect an attorney's privilege to practice law.

Why are Bar complaint forms not available online?

Simply having a Bar complaint form on online would be a disservice to the public and the profession. The Consumer Assistance Program assists persons with questions or issues with Mississippi attorneys by attempting to find other ways to resolve the conflict such as improving attorney-client communications. Often times a client or consumer calls CAP with a problem that does not

qualify for the Bar complaint process because it does not involve a violation of the Rules of Professional Conduct; however, CAP is often still able to assist this person in resolving their issue. As stated above, CAP will send a Bar complaint form to anyone who requests one. Reports show that nearly 70% of callers' problems are resolved without having to use the disciplinary process.

How can I get more information?

Contact The Mississippi Bar at (601) 948-2344.

Office hours are 8 AM to 5 PM, central time, Monday through Friday.

The fax number is (601) 355-8635. You may also write to the following address:

Consumer Assistance Program
The Mississippi Bar
P. O. Box 2168
Jackson, MS 39225-2168