

LEGAL MALPRACTICE



Legal malpractice is an umbrella term for all the causes of action one can bring against a lawyer. In its simplest and most common form, legal malpractice is a negligence case against a lawyer. This occurs when an attorney mishandles a case due to an error or omission and damages result. In other words, the attorney failed to act as a reasonable lawyer would have in similar conditions and circumstances.

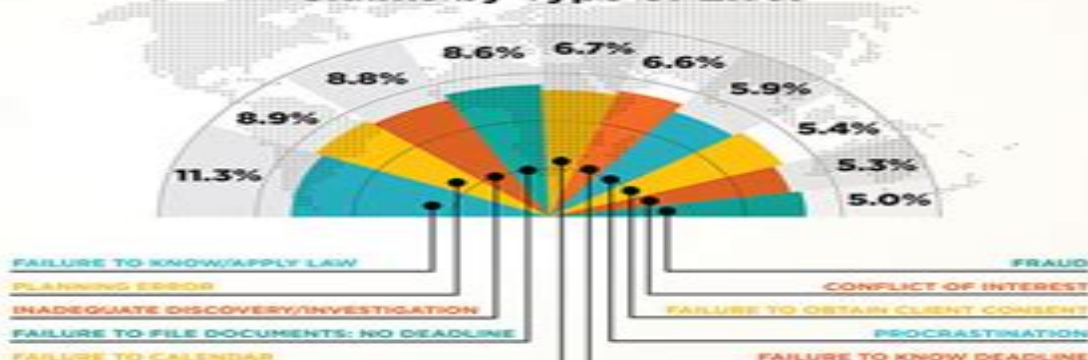
What do I need in order to prove legal malpractice?

- An attorney-client relationship between you and the lawyer
- Demonstrate a breach of the duty to provide skillful and competent representation (negligence or breach of fiduciary duty)
- Cause Financial Loss



Almost half of all legal malpractice claims are due to substantive errors (making mistakes with the legal matter itself). These can include not knowing the law, conducting an inadequate discovery, and planning or procedure errors (such as missing a statute of limitations deadline).

Top 10 Most Common Legal Malpractice Claims by Type of Error



Examples of Legal Malpractice:

- Failure to know the law
- Inadequate investigation
- Missed Statute of Limitations
- Conflict of Interest
- Errors or omissions that result in a lawsuit being dismissed
- Billing fraud
- Improper legal advice
- Dishonesty
- Breach of fiduciary duty
- Failure to correctly file a patent
- Obstruction of justice
- Failure to inform client or obtain client consent
- Failure to follow client instructions
- Violation of Deceptive Trade Practices Act



What Kind of Damages Can I Recover?

- Negligence - Actual (Exemplary For Gross Negligence)
- Breach Of Fiduciary Duty - Actual, Exemplary, Fee Forfeiture
- Fraud - Actual, Exemplary
- Breach Of Contract - Actual, Attorneys' Fees
- Violation Of DTPA - Actual, Mental Anguish, Treble



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Characteristics Of Legal Malpractice

Artur Victoria



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Characteristics of Legal Malpractice National Legal Malpractice Data Center (États-Unis), 1989 **Characteristics of**

Legal Malpractice, 1989 **The Lawyer's Desk Guide to Legal Malpractice** Alice Hughey, ABA Standing Committee on Lawyers' Professional Liability, 1992 **Profile of Legal Malpractice**, 1986 This work provides a statistical analysis of lawyers professional liability claims drawing on data gathered by the National Legal Malpractice Data Center

Characteristics of a Profession Artur Victoria, 2025-04-02 The sociological understanding of professions goes beyond a simple job description to address the complex interplay of expertise social power and ethical responsibility Defining a profession requires going beyond the superficial aspects of work to consider the intricate web of social structures and relationships that shape the practice and perception of different occupations This is not a static definition but a dynamic process subject to historical and societal influences A key characteristic is the possession and application of specialised knowledge This knowledge is not just technical skills but a deep understanding of principles theories and methodologies that requires extensive education and training This expertise is the basis of professional authority and legitimacy It enables professionals to make informed judgements and decisions that others who lack this expertise cannot This expertise isn't simply acquired through rote learning it's refined through experience and continuing professional development further enhancing the professional's authority and credibility Another characteristic is autonomy Professions have considerable control over their own work processes This includes setting standards of practice regulating entry to the profession and maintaining disciplinary mechanisms for members who breach these standards This self regulation is crucial in ensuring the quality of professional work and the protection of the public interest The medical profession for example sets rigorous standards for medical education and licensing to ensure that only qualified individuals can practice medicine Similarly the legal professions maintain strict codes of conduct and disciplinary procedures to deal with instances of professional misconduct thus maintaining the integrity of the legal system However this autonomy is not absolute it's a negotiated balance constantly refined by societal expectations and legal frameworks The degree of autonomy varies from profession to profession and is often challenged by external forces such as government regulation or technological advances The concept of self regulation is inextricably linked to the ethical responsibilities inherent in professional practice Professions are expected to adhere to strict ethical codes that place the welfare of their clients or patients above personal gain These ethical codes are more than a set of rules they represent a commitment to uphold the trust that society places in professionals Breaches of this trust can have devastating consequences eroding public confidence and undermining the legitimacy of the profession Medical malpractice legal malpractice and engineering failures all illustrate the potentially disastrous consequences of professionals failing to meet their ethical obligations The ethical dimension reinforces the social contract

between professionals and the public a reciprocal agreement whereby professionals receive privileged status in exchange for service to the public good Distinguishing professions from mere occupations highlights the essential distinction between expertise and specialised knowledge While occupations involve specific skills and training professions involve a higher degree of autonomy self regulation and ethical responsibility The distinction isn't always clear cut and some professions aspire to professional status a process known as professionalization This process typically involves a formalised educational structure the establishment of professional associations the development of professional codes of conduct and efforts to gain legal recognition and regulatory authority The evolution of nursing from a largely informal occupation to a highly regulated profession over the last century illustrates this dynamic The historical development of professions provides a rich background for understanding their current characteristics The medical profession for example underwent a long process of professionalization moving from a largely unregulated practice to a highly specialised and regulated field This process involved the development of medical schools the establishment of licensing boards and the creation of professional associations The legal profession followed a similar trajectory with the establishment of law schools bar associations and rigorous licensing requirements However the trajectories of different professions were different influenced by social economic and political forces The interplay of these forces highlights the social construction of professions their characteristics and boundaries are not inherent but rather shaped by social processes and power dynamics The digital age has brought significant changes to the scenery of professions Technological advances have affected the nature of professional work blurring traditional limitations and creating new opportunities and challenges Telemedicine online legal services and remote engineering consultations have changed the way professionals interact with their clients and colleagues This digital transformation also requires the adaptation of ethical frameworks and regulatory mechanisms to address unique challenges such as data privacy cyber security and the potential for bias in algorithmic decision making The evolving nature of professional work in the digital age requires continuous reassessment of professional standards to ensure they remain relevant and effective in a rapidly changing world This ongoing adaptation demonstrates the dynamic nature of professions a constant negotiation between established norms and emerging realities Exploring these changes is essential to understanding the future of professions and their role in society The rapid pace of change requires an ongoing dialogue between professionals policy makers and the public to ensure that professional practice remains aligned with societal values and expectations The ongoing challenge is to promote a balance between innovation and ethical considerations and to maintain the integrity and public trust that underpin the professional enterprise Professional power is not simply the ability to perform a specific task it's a multifaceted phenomenon woven into the fabric of social control It derives from the specialised knowledge and skills that professionals possess giving them authority and influence far beyond the technical aspects of their work This power manifests itself in a variety of ways shaping social norms influencing policy decisions and

even affecting the distribution of resources and opportunities The ability to diagnose disease represent clients in court or design safe infrastructure all carry an inherent power that stems from societal dependence on these specialised skills However this dependence requires careful consideration of the potential for misuse and abuse of this power *Lawyers in the Dock* Richard L. Abel, 2011-05-12 Six detailed accounts of New York lawyers disciplined for neglect overcharging and excessive zeal Provided by publisher **Washington and Lee Law Review** ,1991 Legal Ethics Deborah L. Rhode, David Luban, 1995 *Proceedings of the Section on Survey Research Methods* American Statistical Association. Survey Research Methods Section, 1985 Papers presented at the annual meeting of the American Statistical Association Foundations of the Law and Ethics of Lawyering George Meredith Cohen, Susan P. Koniak, 2004 This work is a collection of articles that explore the tension between the law governing the conduct of lawyers and the complex ethics of lawyering that pulls against that law and competes with it This collection emphasizes the regulatory framework that has developed to govern the conduct of lawyers and draws heavily on the work of law and economics scholars Secondary Legal Sources ,1992 Informational Reports to the House of Delegates American Bar Association, American Bar Association. Annual Meeting, 1992-02 **Recora Company, Inc. v. Faier** ,1990 The Complete Guide to Contract Lawyering Deborah L. Arron, Deborah Guyol, 1999 **Michigan Law Review** ,1993 Professional Responsibility Thomas D. Morgan, Ronald D. Rotunda, 2000 The Law and Ethics of Lawyering Geoffrey C. Hazard, Susan P. Koniak, Roger C. Cramton, 1994 This extensive revision will update this innovative casebook throughout reporting the many important developments in the field since 1993 incorporating at many points an analysis of relevant provisions of the ALI Restatement of the Law Governing Lawyers Many segments of the book are substantially redone including the crime fraud exception to the attorney client privilege disclosure of client identity furtherance of client fraud on third persons or on a tribunal regulation of excessive fees role of the government lawyer responsibilities of the lawyer for a class form of practice restrictions regulation of multi state international practice choice of law in multi state practice SMU Law Review ,1993 **An Application of the Risk Management Process to Wisconsin's Lawyers' Professional Liability Exposure** Howard G. Olson, 1979

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