

WHAT TO DO WHEN YOU RECEIVE A THREAT OF LEGAL MALPRACTICE

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1

Types of “Errors”

- No error;
 - Possibility of a cure;
 - Error is not curable, but no damages;
 - Error is not curable and caused damage;
 - Error caused damage, but not worth prosecuting
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2

Initial Threat or Demand

- Demand by client to fix or make it right
 - Threat to report the attorney to the State Bar (e.g. grievance)
 - Demand for return of fees
 - Demand for money damages
 - Demand free work
 - Threat of a lawsuit
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3

Initial Response

- Do not immediately fall on the sword
 - Do not make promises
 - Listen to their complaint
 - Let them know you will review or investigate and get back to them
 - Do not say “this is why I have insurance” or “I will send you my insurance information.”
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4

Notify the Appropriate People

- Managing attorney at the law firm
 - Staff
 - Professional Liability Carrier
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5

Hire an Attorney

- Counsel provided by your carrier or counsel you hire
 - If you have insurance, call your carrier before hiring counsel
 - Experienced in defending a legal malpractice claim
 - Listen to your attorney and heed their advice
 - Gather the file
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6

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