

WHAT TO DO WHEN YOU RECEIVE A THREAT OF LEGAL MALPRACTICE

Patricia A. Peterson

Vice President of Claims & Risk Management

ppeterson@tlie.org

512-480-9074



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
-

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
-

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.”
-

4

Notify the Appropriate People

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

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
-

6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: What to Do When You Receive a Threat of Legal Malpractice (REPLAY)

First appeared as part of the conference materials for the 2023 First Friday Ethics (July 2023) session

"What to Do When You Receive a Threat of Legal Malpractice (REPLAY)"