

## **Knoxville Bar Association Fee Dispute Resolution Program**

From time to time disputes occur between a client and attorney relating to attorneys fees. Ideally, a lawyer and client will reach an agreement about the lawyer's fees before the work is begun, and that agreement will be adequate for the length of the case. If a problem does arise, the Knoxville Bar Association (KBA) Fee Dispute Resolution Committee can help to resolve the fee dispute. The Committee's services extend to all attorneys who practice in Knoxville and the contiguous counties, not just members of the KBA.

The Committee is made up of attorneys and lay persons. The decision of the Committee is non-binding, meaning that neither the KBA, nor the Committee, has the authority to enforce the Committee's decision by legal action.

The services of the Committee are free. Any client may register a fee complaint against his or her attorney. The process of resolving the complaint depends on the cooperation between the client and the attorney. Without cooperation, there is little the Committee can do.

In order to participate, the following standards must be met:

- Both parties must agree to participate. Neither party can be forced to do so.
- Related correspondence, including billing statements, fee agreements and communications should accompany the complaint form.
- If there is a complaint currently pending with the Board of Professional Responsibility of the Tennessee Supreme Court, the Committee may not be able to assist with the dispute.

### **When does the Committee dismiss complaints?**

- When either party does not agree to participate.
- When the Committee finds the complaint does not relate to fees. (This frequently occurs when the client is unhappy with the outcome of the case and believes the attorney could have handled it differently).

Once the fee dispute complaint form has been filed with the KBA, a copy of the complaint form and any accompanying materials will be sent to the attorney for a written response. The Committee reviews the written submissions and follows up with the parties with any additional questions. A hearing is not typically held. The fee dispute process from the initiation of the complaint through its review will typically last two to six months. The parties will be notified in writing once the Committee issues an opinion.

### **Note:**

The Committee will only consider the matter of fees and not consider any ethical complaints the client has against the attorney. Complaints about an attorney's conduct or possible ethical violations should be filed through the Board of Professional Responsibility of the Tennessee Supreme Court.

Other than what has been submitted to the Committee by the attorneys and the client, the Committee does not know the facts of the case. The Committee does not have the authority to second-guess the length of time it took to resolve the matter or the amount of expenses incurred. The Committee will not have sufficient information to reconstruct each action taken by the attorney and the client during the entire period of representation but bases its decision on experience, common sense, the Rules of Professional Conduct, decisions of the courts and ethics opinions.

**KNOXVILLE BAR ASSOCIATION  
FEE DISPUTE RESOLUTION COMMITTEE**

**RULES OF PROCEDURE**

- I. **Name of Committee:** KBA Fee Dispute Resolution Committee (the “Committee”).
- II. **Purpose of Committee:** The Committee, as a standing committee of the Knoxville Bar Association, shall assist Knox County lawyers and their clients (and lawyers and clients from other counties at the discretion of the Committee) in resolving disputes relating to fees if requested to do so by either the lawyer or the client if both agree to have the dispute resolved by the Committee. The Committee’s authority is limited to the attempted resolution of fee disputes and it is not authorized to decide on ethical complaints or disputes concerning the legal competence of an attorney. The Committee shall also consider fee disputes referred to the Committee by judges or the Board of Professional Responsibility if all parties to the dispute agree to participate. All decisions of the Committee are non-binding. Neither the Committee, the Knoxville Bar Association, nor any party to the dispute shall have the authority to enforce the Committee’s decision by legal action. The non-binding nature of decisions of the Committee shall not preclude either party from pursuing any legal claim before any court of competent jurisdiction, nor shall a client be precluded from filing a complaint with the Board of Professional Responsibility.
- III. **Composition of Committee:** The Committee shall be composed of ten members, at least eight of which shall be lawyers and two of which may be non-lawyers. Two of the lawyer-members shall be chosen by the president of the Knoxville Bar Association and shall act as chairpersons. The remaining members shall be selected by the chairpersons in consultation with the president of the Knoxville Bar Association. In considering lawyers to serve on the Committee, the president and chairpersons shall, to the extent possible, select lawyers who represent diverse practice areas.
- IV. **Method of Initiating a Fee Dispute Proceeding:** A fee dispute proceeding may be initiated by either a lawyer or a client by completing a complaint form prepared by the Committee. The Committee has the right to change the form or to accept a fee dispute by any other written request (such as a letter) which, in the opinion of the Committee, will adequately apprise the respondent with the basis of the dispute. The complaint shall be filed with the office of the Knoxville Bar Association, shall be stamped or otherwise marked with the date of filing and shall be promptly forwarded to the chairpersons of the Committee. The party submitting a fee dispute shall be provided with a copy of these rules. There shall be no charge to present a fee dispute to the Committee.

- V. **Handling of Dispute:** Within twenty (20) days following the Committee chairperson's receipt of a properly completed complaint form, the chairperson shall forward a copy of the complaint to the respondent named therein, along with a copy of these rules. The respondent will be instructed to advise the Committee in writing, within thirty (30) days of the respondent's receipt of the complaint, whether the respondent consents to submit the dispute to the Committee. If there is no timely consent received from the respondent, the complainant shall be so notified and the Committee shall take no further action. If the respondent consents, the respondent shall then have an additional twenty (20) days from the date of such consent to submit to the Committee a further written response to the merits of the dispute. The Committee, in appropriate circumstances, shall have the discretion to extend either the time for submitting a consent or the time for submitting a response. The Committee generally will forward a copy of the written response to the complainant and may, in the discretion of the Committee, permit comment on the response by the Complainant. If a party does not provide a timely response after agreeing to participate in a dispute before the Committee, the Committee shall proceed to consider the dispute based upon the information submitted to the Committee. The Committee shall consider the dispute as soon as is practicable following receipt of all permitted responses. No hearing is required; however, the Committee may, at its discretion, request that the parties attend the Committee meeting to further discuss the complaint or to respond to questions from members of the Committee. The Committee may also consider a dispute on a preliminary basis, defer its decision and request additional information from one or both of the parties to the dispute. Unless the Committee defers action on the dispute to its next meeting, a written opinion shall be (a) issued by a member of the Committee designated by one of the chairpersons, (b) signed by the member authoring the opinion and one of the chairpersons and (c) promptly forwarded to the parties to the dispute. Since the decisions of the Committee are non-binding, there shall be no appeal rights. In appropriate circumstances, and in the discretion of the Committee, the Committee may grant a rehearing of any of its decisions. The Committee is not governed by any absolute deadline for issuing its opinion; however, typically, the Committee's review is expected to be completed within six (6) months from the date of the complaint.
- VI. **Committee Conflicts:** At least ten (10) days prior to the date of each Committee meeting, all Committee members shall be advised by a chairperson of the names of the parties to disputes to be heard at the next Committee meeting. All lawyer-members of the Committee shall run standard conflict checks on both parties and shall promptly advise one of the chairpersons of a conflict which precludes the member from considering a particular dispute. Likewise, non-lawyer members of the Committee shall notify one of the chairpersons if there is a friendship or other association with any party to the dispute which would preclude such non-lawyer member from considering the dispute. All Committee members should avoid the

appearance of impropriety in agreeing to consider any dispute.

- VII. **Standards for Resolution of Disputes:** The Committee shall decide disputes based upon experience, common sense, the Rules of Professional Conduct promulgated by the Supreme Court of the State of Tennessee, decisions from courts of the State of Tennessee and any professional conduct opinions published by the Board of Professional Responsibility. A quorum shall consist of five (5) members and a decision may be reached by a simple majority.
- VIII. **Committee's Reporting To Board of Professional Responsibility:** In accordance with Formal Ethics Opinion 89-F-119 of the Board of Professional Responsibility of the Supreme Court of Tennessee, the members of the Committee shall have no obligation to report any ethical misconduct they discover during the course of service as a panel member.
- IX. **Tracking of Results:** Commencing with calendar year 1997, the Committee shall track all fee disputes and report the following information, in January of each subsequent year, to the Knoxville Bar Association Board of Governors.
1. Number of disputes submitted to Committee in the previous calendar year.
  2. Number of disputes in the previous calendar year and the general nature of the disputes.
  3. Of the disputes considered, the number decided favorably to the client, the number decided favorably to the lawyer and the number involving a decision partially in favor of both parties.
  4. The average days between submission of a dispute and its resolution.

The annual report of the Committee shall not disclose the names of parties participating in fee disputes or the specific results of any dispute. The annual reports shall be available for inspection by any member of the Knoxville Bar Association or the public.

- X. **Confidentiality:** Except as may be required by Article VIII of these rules, all fee disputes shall remain strictly confidential. Each member of the Committee shall sign a form agreeing to the confidentiality of all disputes submitted to the Committee.
- XI. **Adoption of Rules:** These rules were adopted by the Knoxville Bar Association Board of Governors on November 16, 2011 and shall remain in effect until modified by the Board.

Knoxville Bar Association  
Fee Dispute Resolution Committee

COMPLAINT FORM

Name and Address of Complainant: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Home Phone # \_\_\_\_\_ Cell Phone # \_\_\_\_\_ Work Phone # \_\_\_\_\_  
Email Address \_\_\_\_\_ Preferred method of contact:  Home  Cell  Work  Email

Date of this Complaint: \_\_\_\_\_

Name and Address of Attorney (Respondent): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

How did you learn about the KBA Fee Dispute Resolution Committee? \_\_\_\_\_

When did the services of the attorney begin? \_\_\_\_\_ When did the services of the attorney end? \_\_\_\_\_

Amount of money in dispute \_\_\_\_\_ Type of legal matter (domestic, criminal, etc.) \_\_\_\_\_

Is there a written agreement or a confirmation letter regarding the legal services which were to be performed?  
\_\_\_\_\_. If so, please provide a copy. If not, please state in detail your understanding of the services  
to be performed and the terms under which the services were to be performed (attach additional sheet if necessary):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

What do you believe would be a fair resolution in this matter?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**IF YOU WANT INFORMATION OR DOCUMENTS CONSIDERED BY THE COMMITTEE, THEY MUST BE ATTACHED TO THIS FORM.**

Please describe in as much detail as you believe necessary the specific nature of your complaint (attach additional sheet if necessary).

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Do you have any correspondence, billing statements, contracts or other legal documents which would assist the Fee Dispute Resolution Committee in resolving your complaint? If so, please attach copies.  
**THIS WILL ASSIST THE COMMITTEE IN PROMPTLY RESOLVING YOUR COMPLAINT.**

State the names, addresses and phone numbers, if any, of other people with direct knowledge of your complaint.

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*It would be helpful to the Committee if you attached a separate sheet of paper which briefly summarizes the knowledge of those listed above.*

Is there a complaint currently pending with the Board of Professional Responsibility?  Yes  No

Have you made any other complaints similar to the one described above to any court or other organizations or regulatory bodies? \_\_\_\_\_ If so, please state the resolution or current status of any such complaints.

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