

## **Professional Responsibility and Discipline of Attorneys**

Under Article VI, section II, paragraph 3 of the 1947 State Constitution, the New Jersey Supreme Court has the exclusive authority to make Rules governing “the administration of all courts in the State,” governing “practice and procedure in all such courts,” and exercises “jurisdiction over the admission to the practice of law and the discipline of persons admitted.”

The New Jersey system for admission and discipline of attorneys is governed by the Court rules and not by bar associations or other entities. It is a system unique to New Jersey. The Supreme Court has established procedures to assure the qualification of attorneys admitted to practice in the state and regarding their character and fitness. It has also established a comprehensive system for the discipline of attorneys through local district ethics committees or Special Ethics Masters who hear disciplinary cases. De novo review of their findings is conducted by a statewide Disciplinary Review Board. The Court’s Office of Attorney Ethics oversees the process of presenting disciplinary complaints which are ultimately reviewed by the Supreme Court before discipline is embodied in an order or opinion. An attorney shall be disbarred if he or she misappropriates clients funds entrusted to them or for other reasons involving dishonesty or wrongdoing. Discipline can also range from disbarment, suspension for a definite or indeterminate period (with satisfaction of certain requirements before readmission), censure, reprimand, or admonition based on the conduct and findings involved.

Fee Arbitration Committees handle disputes between attorneys and clients over invoices and payment of bills. Their conclusions and findings are also reviewed by the Disciplinary Review Board.

There is also a disciplinary process involving grievances filed against judges which are investigated by the Advisory Committee on Judicial Conduct which may

file complaints, conduct hearings and makes reports to the Supreme Court. The Court may impose discipline including ordering removal after a separate hearing before a three- judge panel.

The decisions of the New Jersey Supreme Court develop the process and bases for imposing discipline, and reflect that the Supreme Court is quite rigid by imposing discipline for dishonesty and wrongdoing in connection with conduct of attorneys and judges both as professionals and outside the profession. The following is a sample of key ethics cases.

In re Opinion 39 of Committee on Advertising, 197 NJ 66 (2008) (limitations on comparative attorney advertisements).

Petrillo v Bachenberg, 139 NJ 472 (1995) (obligation of attorney to third parties; reliance of third party on attorney's acts and work product).

In re Opinion 26, 139 N.J. 323 (1995), with certain modifications, the South Jersey title closing practice where attorneys do not participate in the closing, which is handled by realtors and title agents, does not constitute the unauthorized practice of law.

Madden v Delran Tp., 126 NJ 591 (1992) and Rodriguez v Rosenblatt, 58 NJ 281 (1976) (compelling attorneys to accept appointment as counsel for indigent defendants facing sentence of consequence or magnitude when charged with non-indictable offense).

Jacob v Norris, 128 NJ 10 (1992) client's "right" to counsel; limitations on right of firm to restrict practice of departing attorney or his firm); see also Weiss v Carpenter, Bennett & Morrissey, 143 NJ 420 (1996); Heher v Smith, Stratton Wise, 143 NJ 448 (1996) and 170 NJ 213 (2001) regarding arbitrability of firm agreements with a firm.

Reardon v Marlayne, Inc., 83 NJ 460 (1980) and Dewey v RJ Reynolds Tobacco Co., 109 NJ 201 (1988) (confidentiality; disqualification application; disqualification of former counsel).

In re Wilson, 81 NJ 451 (1979) (knowing misappropriation of trust funds requires disbarment). See also In re Hollendonner, 102 NJ 21 (1985) (“...henceforth an attorney found to have misused escrow funds will confront the disbarment rule of In re Wilson...”).

American Trial Lawyers v N.J. Supreme Court, 66 N.J. 258 (1974) (upholding R1;21-7(c) (contingent fee rule), In re Li Volsi, 85 NJ 576 (1981) (upholding constitutionality and procedures of fee arbitration committees), and State v Rue, 175 NJ 1 (2002)(Supreme Court authority over admission and discipline of attorneys under NJ Constitution; Rue makes RPCs and Court Rules of equal significance in implementing the Court’s authority and holds that R.3:22-6 trumps RPC 3.1 in this case);

In re Friedland, Querques and Robbins, 59 N.J. 209 (1971), attorneys disciplined for arranging hidden payment of money for withdrawal of a valid criminal complaint.