



# CLAIMS & COMPLAINTS

## WHAT'S THE DIFFERENCE?

### CLAIM FACTS

- A professional liability (or “legal malpractice”) claim is a demand for compensation for an alleged error or omission made by a lawyer; the claimant is seeking a monetary award, but is not necessarily alleging ethical misconduct or illegal activity by the lawyer
- A claim is made in writing to the attorney’s insurance carrier
- If the claim is found to have merit by the carrier, an offer to settle will be made; if the carrier does not find merit, it will reject the claim
- The claimant may either agree to a settlement or file a lawsuit if they are unhappy with carrier’s offer or dismissal
- The claim procedure is wholly separate from any action of the Office of the General Counsel or PRC
- A demand for compensation is only a claim if the lawyer has insurance, otherwise any burden of defense and expenses – even without merit – falls solely on the lawyer or firm

### BAR COMPLAINT FACTS

- A bar complaint stems from a grievance alleging unethical or illegal conduct by a lawyer. A grievant is asking notice be taken of a potential violation
- Formal grievances must be made via an official form submitted to the Office of the General Counsel (GC)
- GC investigates all matters involving alleged misconduct or incapacity of any lawyer and reports the results of investigations to the Professional Responsibility Commission (PRC)
- The PRC then determines the disposition of grievances or directs the instituting of a formal complaint for alleged misconduct or personal incapacity of an attorney with the Oklahoma Supreme Court
- An unhappy client or unfavorable outcome is not necessarily a violation of law or ethics rules, so many grievances may be found to be without sufficient grounds





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### THE RELATIONSHIP

On first glance, “claim” and “bar complaint” might appear similar or even linked. Although it’s easy to understand that conclusion, the two are not as related as one might think.

The relationship between claims and grievances is largely nonexistent. For example, a DUI could result in a grievance or bar complaint, but not likely an insurance claim. Conversely, missing a deadline may result in a claim but probably would not rise to the level of prosecution as a bar complaint. However, the catalyst for both may be the same – such as a conflict of interest – but the handling of each would be independent.

### PROTECTING YOURSELF

Both a grievance and claim may be made with or without merit and both require some level of investigation or research, as well as possibly incurring defense cost.

The best defense against a grievance is staying well within the law and ethics rules, including thorough documentation and client communication. However, any lawyer can be sued for any reason so the strongest defense against a claim is having the best professional liability insurance possible. This includes not just making certain your limits are adequate, but that your insurer has a familiarity with the courts and local counsel to ensure you have the best possible representation if and when it’s needed.

