

WHAT IS LEGAL MALPRACTICE IN CALIFORNIA?

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Legal malpractice occurs when an attorney fails to provide reasonably competent representation to a client who sought his or her legal services. Like medical malpractice, legal malpractice can give rise to civil litigation. A client who sustains harm as a direct result of legal malpractice can file a civil lawsuit against the attorney who was responsible for causing that harm.

Legal malpractice cases can be complicated. Anyone who believes he or she was the victim of legal malpractice should consult a

knowledgeable attorney. He can determine whether a strong case can be made, and explore the options for filing a civil lawsuit.

WHAT IS LEGAL MALPRACTICE?

Legal malpractice occurs when one of the following happens:

- An attorney is negligent, or provides substandard legal services.
- An attorney breaches the fiduciary duty owed to clients. As a fiduciary, attorneys must put the needs of their clients first.
- An attorney breaches a contractual agreement with a client.
- An attorney violates any duty owed to a client, including a breach of confidentiality.

The [American Bar Association](#) lists the most common types of legal malpractice claims arising in the United States. They include:

- A failure to know the law or to apply the law correctly. Attorneys must understand the laws related to all cases they undertake and must ensure they apply the law correctly when counseling for or acting on behalf of clients.
- Planning errors. Attorneys who fail to develop a strategic case plan can be responsible for their negligence.
- Inadequate discovery or investigation. Attorneys have a basic obligation to prepare a solid case for their clients. This means conducting a reasonably competent investigation before a case progresses to trial or is settled.
- Failure to file documents: When an attorney does not file documents on time, a case can be dismissed or a plaintiff could face other damaging setbacks in his claim.
- Failure to obtain client consent. Attorneys must act on behalf of clients. While a lawyer provides legal advice, a client ultimately maintains control of his case and attorneys must obtain consent before acting.
- A conflict of interest. Attorneys must make sure they do not accept cases if they have other existing clients with competing interests.
- Improper withdrawal: Attorneys should not withdraw from representing a client without justification if doing so could cause harm to the interests of the client.
- Fraud: Attorneys have a duty to be honest in all client dealings.
- Malicious prosecution: An attorney should not move forward with prosecuting a case if the decision to do so is based on malice and/or if there is

insufficient evidence to form a good-faith belief in the guilt of the individual being prosecuted.

- Clerical errors: Attorneys should double check work to make sure no clerical errors occur in the legal paperwork filed on a client's behalf.



These are a few of the many ways attorneys can let their clients down and breach the legal obligations they owe them. In any case where legal malpractice occurs, a victim can file a complaint with the [California Bar Association](#). The Bar Association may conduct an investigation to determine if disciplinary action should be taken against the negligent lawyer. A civil lawsuit can also be filed so a plaintiff can seek monetary compensation for losses the lawyer's failure caused.

A civil case for legal malpractice requires a plaintiff to prove several things by a *preponderance of the evidence*. A plaintiff must prove that, more likely than not:

- The attorney owed a duty to the client because an attorney/client relationship existed.
- The attorney provided substandard legal services or breached that duty.
- The plaintiff was harmed as a direct result of the attorney's failures.

The plaintiff must show the extent of harm experienced as a result of the legal malpractice. A plaintiff cannot prevail in a legal malpractice case simply by showing a lawyer did something wrong or failed to obtain the result the client wanted. The plaintiff has to be able to demonstrate that the outcome of the case would have been different if the attorney had not been negligent. This can be difficult to prove, which can make a legal malpractice case challenging.

A LONG BEACH LEGAL MALPRACTICE ATTORNEY CAN HELP

“Your Injuries are Personal to Me”

Plaintiffs in a legal malpractice case will usually need to present expert witnesses who can testify about what an attorney did wrong and why the attorney’s failures were harmful. The Law Office of Michael D. Waks has extensive experience providing legal representation to plaintiffs when harm has occurred due to the failures of an attorney. To speak with a Long Beach lawyer who can put together a strong malpractice case, call the Law Office of Michael D. Waks at [888-394-1174](tel:888-394-1174) or use the convenient [online contact form](#) to schedule a free consultation. You are under no obligation and you will never pay any money unless you recover damages for your injuries. I offer bilingual services as part of my comprehensive approach to legal representation and I am available 24/7 to talk to you about your case.

About the Author



Michael D. Waks

Personal injury victims need someone who understands their pain, who is invested in them and will guide them through the complicated maze of their medical and legal worries. They need an attorney who cares about them and their families.

My name is Michael Waks and I am a personal injury attorney in the Los Angeles Area focused on the needs of people who have suffered because of someone else's actions.

While still attending Southwestern University School of Law, I clerked for a big defense law firm that represented manufacturers of asbestos. I read the files and met the people whose lives were ruined by asbestos and I knew, for the rest of my career, I wanted to help people like them: the victims, not the perpetrators.

I have been doing just that for over 30 years. As soon as I passed the Bar I opened the Law Office of Michael D. Waks in Long Beach and began exclusively representing seriously injured accident victims. I decided to be a sole practitioner so I could handle every case personally. I understand clients are different and that in the wake of an accident their suffering will be unique, ranging from physical and financial to emotional.

I tell my clients from the start, "I want you to only worry about one thing, and that is to do exactly what your doctor tells you in order to get better. Leave the rest to me."

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