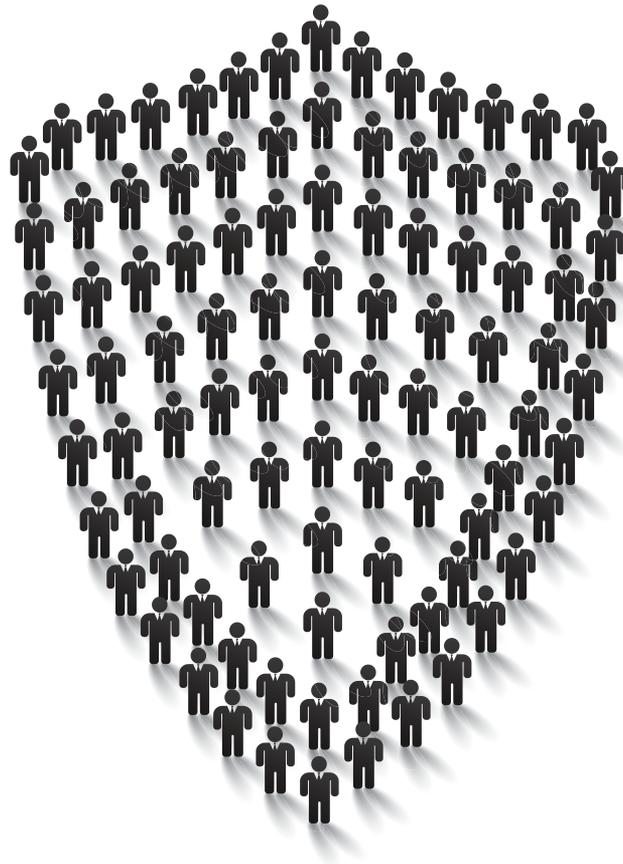


The Clients' Protection Fund Steps In

by Gordon Hickey



The yearly fees that lawyers pay to the Virginia State Bar support numerous civic activities and professional improvements, but perhaps nothing does more to enhance the profession than the small fee paid to the Clients' Protection Fund (CPF).

The fund, which is supported by an annual fee of \$25 paid by Virginia lawyers — \$10 starting in July 2018 — reimburses people who have suffered a financial loss because of the dishonest conduct of a Virginia lawyer.

In most cases, the offending lawyer has been disciplined by the bar for unethical behavior and the lawyer's license has been revoked or suspended. In a few cases, the lawyer involved has died and the clients are left with no other way to get their money back.

The bar has long recognized that while discipline protects the public from any future misconduct by the lawyer, it doesn't reverse the lawyer's previous conduct. The bar must sometimes act to make right the damage done by dishonest lawyers.

One case, which was investigated by current VSB President Doris Henderson Causey, involved a lawyer, Darryl A. Parker, who was

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hired by a woman who doesn't speak English to represent her disabled son with a lawsuit filed against a public school system. The boy's arm was broken while he was at school and the school system had taken responsibility.

The client had agreed to a one-third contingency fee. Parker worked out a settlement through the school's insurance carrier for \$60,000.

Parker received the check and had the client endorse it. He then deposited the money in his trust account and promised to send the client her son's share. Despite repeated calls to Parker, the client was never able to collect any money. Instead, Parker spent the money on personal and other expenses.

After getting nowhere with Parker, the client eventually filed a bar complaint. On August 28, 2015, Parker's license was revoked by the Virginia State Bar Disciplinary Board.

While that action advanced the bar's mission of protecting the public and regulating the profession, the disciplinary system is not set up to reimburse clients for the dishonest conduct of their lawyer. That's where the CPF steps in.

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The client's petition to the CPF for reimbursement was assigned to Causey, who was a member of the CPF board at the time. "Everything that was done on the case was done in English, and they couldn't speak English," Causey said. "The family desperately needed the money to take care" of the boy. After her investigation, Causey recommended the board pay the client \$50,000, which was the maximum allowed at the time. That limit has since been increased to \$75,000.

The files of the CPF contain many cases like the one involving Parker where people of modest means were taken advantage of by a dishonest lawyer.

In another case, lawyer Tawana Shephard was hired to represent a client in a loan modification case. The client reported that Shephard promised results within two months for fees totaling \$10,500, which the client paid. The CPF investigator found that

other than a phone call from an employee of Shephard's law firm indicating negotiations were going to start, no work was performed.

Eventually, the client went to the law firm office and found that it was closed.

Shephard's license was revoked by the VSB Disciplinary Board on November 20, 2015. Her client in this matter was ultimately reimbursed the entire \$10,500 by the CPF.

One more representative case involved a woman's dispute with a used car dealer. The woman had agreed to trade in her car and pay \$1,500 for another used car. When the deal fell through, the dealer refused to return the trade-in or the \$1,500.

The woman hired Jean Jerome Dandy Ngando Ekwalla's firm, the Ngando Law Firm, which filed suit. The client paid the firm \$2,850 and several other fees during the course of the case, which was to go to arbitration. The client paid all the fees, which totaled \$8,423.70, but Ekwalla never paid the arbitration fee and later refused to refund the money to the client.

On October 29, 2015, Ekwalla's license was revoked by the VSB Disciplinary Board.

The CPF paid the client \$8,423.70 to reimburse her for her losses to Ekwalla. To date, the CPF has paid more than \$150,000 in claims to Ekwalla's clients. He has been convicted of eight counts of writing bad checks and is awaiting sentencing.

While too often the CPF is asked to deal with cases involving people who desperately need the money reimbursed, desperation is not a defining criterion.

Margaret Nelson, the immediate past chair of the CPF board, describes a case where a family was defrauded by a trusted longtime friend. The lawyer represented an elderly couple, and when one of them died he assisted the executor of the estate and took control of the couple's assets. "After the second spouse died, the family discovered that all the money was gone," Nelson said.

The family had no inkling anything was wrong because the second spouse had been well taken care of. "This was a family that had loved and taken care of their parents. They were mortified that this lawyer did this to them," Nelson said.

The lawyer was convicted of embezzlement and was disbarred, but none of the family's money could be recovered. The CPF granted the beneficiaries \$50,000 each, the maximum allowed at the time. Had the limit

