

Causation hurdles in legal malpractice suits

Daily Journal

07.22.2013

Sometimes attorneys make mistakes. Sometimes clients are upset because they believe their attorneys mishandled their cases. When these two factors converge, a legal malpractice lawsuit may be looming. If the client takes the next step and decides to file a legal malpractice lawsuit against his or her attorney, the client will generally blame the attorney for the client's perceived detriment. Nevertheless, filing a legal malpractice claim – even one rife with attorney mistakes and client dissatisfaction – does not necessarily mean the claim is tenable.

One reason why a legal malpractice claim against an attorney does not always prove to be viable is because of the nature of the elements that have to be established. In California, a legal malpractice claim is comprised of four elements: (i) the duty of the attorney to use such skill, prudence, and diligence as members of his or her profession commonly possess and exercise, (ii) breach of that duty, (iii) causation, and (iv) damages. This article focuses on the last two elements of causation and damages and the challenges a plaintiff faces in establishing them in the legal malpractice context.

This article can be read in full at <https://www.dailyjournal.com>.

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