

State Bar of New Mexico
Client Protection Fund

2024
Annual
Report

Presented to the
Supreme Court of New Mexico
and the State Bar of New Mexico
Board of Bar Commissioners

Full report available at www.sbnm.org/CPF



State Bar of New Mexico
Client Protection Fund

2024 Commission

Tonya Herring
Chair
Scotty Holloman
Vice-Chair

Mick Gutierrez
Secretary/Treasurer

Ex Officio Members

Richard B. Spinello
Stormy Ralstin



State Bar of New Mexico Client Protection Fund

Commissioners

Don Anque
Allison Block-Chavez
Andrew Cloutier
Sally Galanter
James Reist
Hon. Linda Vanzi

Commission Liaison

Anne L. Taylor

February 13, 2025

Dear Colleagues,

I appreciated the opportunity to serve as the 2024 Chair of the Client Protection Fund Commission. This 2024 Annual Report and previous annual reports describe the Commission's history and purpose, which is to promote public confidence in the administration of justice and the integrity and competence of attorneys admitted and licensed to practice law in New Mexico.

To achieve this goal, claims are assigned to a Commissioner, who reviews and investigates the claim to determine if the claim meets the requirements for reimbursement from the Client Protection Commission Fund. The Commissioner writes a Recommendation denying, or approving the claim in whole or in part, up to a cap of fifty thousand dollars (\$50,000). The Recommendation is then voted on by the full Commission.

This year the Commission saw a significant increase in the number of claims and the amount of money paid out to clients who suffered financial losses due to the dishonest conduct of a New Mexico attorney. In 2024, the nineteenth full year of the Commission's operation, Commissioners approved twenty-nine (29) claims in whole or in part and denied thirteen (13) claims. The total amount of claims approved and paid was \$203,671.92. Of the twenty-nine (29) claims approved, twenty-six (26) of the claims were against one attorney.

The Commission has made considerable progress related to its goal to promote public confidence in the integrity of the profession. In April 2024, the Commission hired a paralegal, Febely Ibarra, to assist the Commissioners with reviewing and investigating claims, as well as organizing meetings, preparing agendas, drafting minutes, and numerous other duties. The Commissioners and I want to thank Ms. Ibarra for her support, her professionalism, and diligent efforts to further the Commission's mission.

In addition, the Commission is currently collaborating with the Bernalillo County District Attorney's office to pursue legal action against attorneys who have caused monetary losses to clients as a result of their dishonest conduct. The Commission hopes this will remind all New Mexico attorneys of their ethical and professional duty to comply with the rules regarding trust accounting, retainers, and unearned fees.

Thank you to all the Commissioners for their dedication and service in furthering the Commission's goals, with special thanks to Commissioners James Reist and Sally Galanter, whose terms expired in December 2024, but who energetically and expertly served the Commission for several years, including as Chairs in 2021 and 2023, respectively. Thank you also to Mick Gutierrez who continued to faithfully serve the Commission under trying circumstances. On behalf of all Commissioners, I thank the New Mexico State Bar and Disciplinary Board staff, who are essential to the Commission's work and success.

Finally, it is with great sorrow that we note the recent passing of David Powell, the State Bar's Director of Finance. We thank David for his efficiency, expertise, and professionalism in managing the Commission's accounting and financial affairs. He will be sorely missed.

Sincerely,

Tonya Noonan Herring

Tonya Noonan Herring
2024 Chair



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Introduction



History and Purpose

The purpose of the Client Protection Fund (CPF) is to promote public confidence in the administration of justice and the integrity of the legal profession by reimbursing losses caused by the dishonest conduct of lawyers admitted and licensed to practice law in the courts of this jurisdiction. The Client Protection Fund Commission was established by order of the New Mexico Supreme Court effective Dec. 13, 2005, as a permanent commission of the State Bar of New Mexico Board of Bar Commissioners. The Supreme Court adopted a modified version of the American Bar Association's model rules for client protection funds and codified them at Rules 17A-001 *et seq.* of the New Mexico Rules Annotated. The Commission oversees the CPF and is charged with receiving, holding, managing, and disbursing money from the Fund according to the rules. The State Bar is responsible for administering the Commission, developing and approving the budget, and managing operations and staffing. Since January 1, 2014, the New Mexico Disciplinary Board has assisted in the technical administration of the Commission's tasks, including the processing of claims under the Commission's direction.

Revenues

The initial resources for the Fund were provided in 2005 by a Supreme Court order transferring funds from accumulated fines against lawyers who failed to comply with the Court's Minimum Continuing Legal Education requirements. In 2008 the Supreme Court ordered an additional transfer of funds from MCLE to the Fund. In 2009 the Supreme Court ordered a \$15 annual assessment of every active New Mexico attorney pursuant to Rule 17A-003 (B) NMRA. In 2010, 2012, 2016, and 2018 additional monies were also transferred from MCLE to the Fund by Supreme Court Orders. The State Bar provides in-kind support to the Fund and the Commission through staff support, office and meeting space, and fiscal administration. (See 2024 Financial Information, page 10). From time to time, the Fund receives monies from court-ordered sanctions directed to the fund at the discretion of the judge.

Eligible Claims

To qualify for a reimbursement from the Fund, a client must have incurred a financial loss caused by the dishonest conduct of a New Mexico-licensed lawyer who was counseling, advising, or representing the client or serving in another fiduciary capacity such as a trustee. The claim must be filed no later than five years after the client knew or should have known of the lawyer's dishonest conduct. Dishonest conduct is specifically defined under the CPF rules as wrongful acts such as theft or embezzlement of money or the wrongful taking or conversion of money, property, or other things of value; e.g., failing to refund unearned fees or borrowing money from a client without the intention to repay or disregarding the lawyer's inability or reasonably anticipated inability to repay.

A typical CPF claim involves a lawyer who collected a retainer from a client, performed some legal work, and then became unable or unwilling to finish the work or refund the unearned amount.

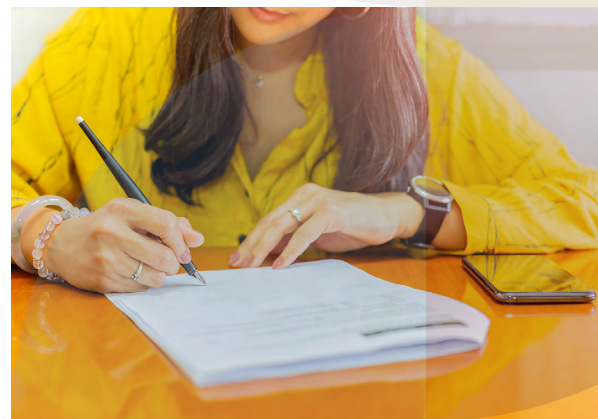
The rules also include a hardship exception which allows the Commission, in cases of extreme hardship or special and unusual circumstances, to recognize a claim that was filed late or would not otherwise be reimbursable. This exception is rarely used. The maximum reimbursable amount was increased in 2012 from \$10,000 to \$20,000 per individual claim, and, effective January 1, 2016 from \$20,000 to \$50,000.

Processing a Claim

The claimant must complete a prescribed claim form. The claimant must provide a copy of any written agreement pertaining to the claim and copies of any checks, money orders, receipts, or other proof of payment. The claimant is responsible for completing the form and providing evidence of a reimbursable loss up to the maximum amount payable per claim.

The CPF gives notice of a claim to the lawyer against whom it is filed (or the lawyer's representative) and allows 20 days for a response. The Disciplinary Board is also notified of the claim. After the lawyer's response and other initial facts and documents are gathered, the claim is assigned to one of the CPF commissioners for investigation. The commissioner investigates and presents a recommendation to the full Commission. If appropriate under the circumstances, the recommendation includes the investigating commissioner's estimate of any amount that should be allowed as a credit against the claim for the value of work the lawyer performed or costs the lawyer properly paid with client funds. The approval or denial of a claim requires the affirmative votes of at least five commissioners.

The claimant and the lawyer are notified of the Commission's decision. Either party may request reconsideration in writing within 30 days of the denial or determination of the amount of a claim. If no request for reconsideration is received, the check for any approved reimbursement is sent after the notice period expires. If a timely request is received, the check for any approved reimbursement is sent after the Commission has reconsidered its decision. Rule 17A-013 NMRA provides that in either case the Commission's decision is final and there is no further right of appeal. Reimbursement is discretionary and no person has a legal right to reimbursement from the Fund. As part of the claim form, the claimant agrees to assign his/her claims against the lawyer to the fund in the event that the CPF makes a payment, and the CPF may pursue reimbursement and recovery from the lawyer or the lawyer's successor (e.g., an estate).



2024 Annual Report Highlights and Commission Activities



The Client Protection Fund Commission finished its nineteenth full year of operation in 2024 paying nearly \$203,671.92 in 29 claims against 4 lawyers. To date, the Commission has paid \$1,528,960.34 in cumulative reimbursements for clients' financial losses involving 87 lawyers. Year-by-year and cumulative statistics appear later in this report.

The Commission met 4 times in 2024, with Commissioners appearing in person and via Zoom. The 2024 National Client Protection Fund Forum in Denver was attended by 3 members of our Commission.

The Commission reminds everyone that Rule 17A-018(A) protects the confidentiality of information on claims, claimants, and respondent lawyers with exceptions for approved claims and other limited purposes as set forth below:

- A. Publicizing awarded claims. Claims, proceedings and reports involving claims for reimbursement are confidential until the commission authorizes reimbursement to the claimant, except as provided below, unless provided otherwise by law. After payment of the reimbursement, the commission shall publicize the nature of the claim, the amount of reimbursement, and the name of the lawyer. The name and the address of the claimant shall not be publicized by the commission unless specific permission has been granted by the claimant. The commission may provide a waiver to the claimant which authorizes disclosure.
- B. Exceptions. This rule shall not be construed to deny access to relevant information by the disciplinary board, other professional discipline agencies or other law enforcement authorities as the commission shall authorize, or the release of statistical information that does not disclose the identity of the lawyer or the parties, or the use of such information as is necessary to pursue the fund's subrogation rights under Rule 17A-015 NMRA.

**Visit the State Bar website at
www.sbnm.org/cpf
for further information on the
Client Protection Fund.**



State Bar of New Mexico
Client Protection Fund

2024 Claims and Respondent Lawyers

2024 Claims and Respondent Lawyers

As required by Rule 17A-018, the Commission reports that 29 claims resolved in 2024 resulted in payments to the complaining party as a result of the actions of 4 lawyers. The following table summarizes those payments.

2024 Summary of Claims Approved by Lawyer				
Lawyers	Lawyer's Status as of 12/31/2024	Claims Approved in 2024	Dollars Awarded in 2024	Reason
Donald Gilpin	Incapacitated	26	\$167,220.46	Unearned Fees
J. Wayne Griego	Active	1	\$5,531.37	Unearned Fees
Patrick Martinez	Active	1	\$22,125.00	Unearned Fees
Shannon Robinson	Disbarred	1	\$8,795.09	Unearned Fees
Claims paid on 4 lawyers	Total approved	29	\$203,671.92	

Annual Statistics 2006-2024

2006-2024 Annual Statistics

CLAIMS APPROVED	2006-2019	2020	2021	2022	2023	2024	TOTALS
Total number of claims approved in whole or in part	253	7	10	48	11	29	329
Total dollar amount of claims approved and paid (revised from prior annual reports after reconciliation of cumulative lawyer summary)	\$942,704	\$41,877	\$62,398	\$179,367.99	\$98,941.43	\$203,671.92	\$1,528,960.34
CLAIMS DENIED							
Total number of claims denied in whole or part	259	12	7	13	14	13	318
Total dollar amount of denials	\$1,601,702	\$277,192	\$149,624	\$259,099.28	\$145,128.38	\$124,916.79	\$2,557,662.45
Claims made over limit	20	0	1	2	0	1	24
Total amount denied over limit	\$290,638	0	\$51,000	0	0	\$57,875.00	\$399,513.00
Total amount denied for other reasons	\$1,311,064	\$277,192	\$98,624	\$259,099.28	\$145,128.38	\$67,041.79	\$2,158,149.45
CLAIMS PENDING AT END OF YEAR							
Claims undecided and carried over to next year	130	16	34	26	13	4	-----
Claim amount pending at end of year	\$919,450	\$205,821	\$347,744	\$183,792.42	\$345,931.37	\$98,950.00	-----
ATTORNEY STATISTICS							
Total number of attorneys with claims filed	249	14	20	27	26	19	-----
CONTRIBUTIONS/ SANCTIONS/ RESTITUTION	\$57,887.49	\$12,932.31	\$12,991.03	\$16,465.18	\$32,205.53	\$97,819.79	\$230,301.33

Full report available at
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Client Protection Fund

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Thank You!

Thank you to the 2024 Client Protection Fund Commissioners for their willingness to serve and their contributions in fulfilling the purpose of the Client Protection Fund Commission. The Commission's success would not be possible without the commitment and work of the Commissioners.

Chair Tonya Herring
Vice-Chair Scotty Holloman
Secretary/Treasurer Mick Gutierrez
Commissioner Don Anque
Commissioner Allison Block-Chavez
Commissioner Andrew Cloutier
Commissioner Sally Galanter
Commissioner James Reist
Commissioner Honorable Linda Vanzi

Also, thank you to **Chief Disciplinary Counsel Anne Taylor** and **Disciplinary Board Staff Tamma Williams** for assisting the Commission in completing its work. Their assistance has contributed immeasurably to the success of Commission.

If you are interested in serving on the Client Protection Fund Commission or other State Bar Committees/Commissions, please contact the State Bar of New Mexico at 505-797-6000.



State Bar of New Mexico
Client Protection Fund