



Supreme Court of Illinois

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SUPREME COURT AMENDS RULE TO EXPAND DEFINITION OF REIMBURSEABLE LOSS

As part of its continuing effort to promote public confidence in the administration of justice, the Illinois Supreme Court has announced that a client whose case is not completed due to the death or disability of his or her attorney, and who has made reasonable efforts to pursue civil remedies, is now eligible to apply for reimbursement of unearned fees paid to the attorney.

When adopted in 1994, Supreme Court Rule 780 created a Client Protection Program (CPP) Trust Fund to reimburse certain losses incurred by clients of Illinois lawyers. The rule was created to provide a mechanism for a client to obtain reimbursement if the attorney engaged in dishonest conduct causing the client financial loss. The fund is administered by the Illinois Attorney and Registration Commission (ARDC).

According to Supreme Court Chief Justice Rita B. Garman, “The Court recognizes that a client may also incur such a loss when the attorney dies or becomes disabled during the representation. By amending this rule, we signal to the public that we are equally concerned about the client who suffers a financial loss due to events outside the attorney’s control, such as death or disability.”

The amendment is effective immediately. Claimants may apply for reimbursement through the CPP. More information on submitting a claim is available at: <https://www.iardc.org/clientprotection.html>.

“The ARDC is reluctant to label any lawyer as ‘dishonest’ simply because that lawyer died or became disabled before rendering services or refunding unearned fees,” said ARDC Administrator Jerome Larkin. “By proposing this amendment, our Commissioners were seeking to include within the purview of the CPP any client who paid a lawyer for legal services when, through no fault of the lawyer, those services were not provided. Under the amended rule, such a client will have access to a source of recovery of fees that were paid but not yet earned by the lawyer.”

In 2014, the ARDC paid out \$1.3 million on 95 claims involving 40 lawyers who had been disciplined for misconduct. The ARDC said that the total amount of unearned fee awards resulting from the expansion of Rule 780 is predicted to be about five percent of all pay-outs. Further, these payments will not contribute significantly to the anticipated draw-down of the CPP reserve, which stood at approximately \$3.4 million at the beginning of 2015.

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Funding for all Client Protection Program payments comes from the annual registration fees paid by Illinois attorneys. Attorneys who have been practicing for three years or longer pay \$382 per year, \$25 of which going to the CPP.

The ARDC operates under the authority of the Supreme Court, which regulates the admission and discipline of lawyers in Illinois. Commissioners establish ARDC policies, appoint members of the ARDC Hearing and Inquiry Boards, and appoint the Administrator, subject to approval by the Supreme Court. There are seven Commissioners, three of whom are non-lawyers.

Justice Lloyd A. Karmeier serves as Supreme Court liaison to the ARDC. Joan M. Eagle serves as chair of the Commission.

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