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August 7, 2001

**ALABAMA BAR URGED TO REQUIRE ATTORNEYS
TO REPORT EXCESSIVE FEES**

The Washington Legal Foundation (WLF) this week petitioned the Board of Bar Commissioners of the Alabama State Bar to require attorneys who have been found by courts to have charged excessive fees to report that fact to Bar authorities. WLF's petition argued that in the absence of such a reporting requirement, lawyers are likely to escape sanction for charging excessive fees.

This is the second petition filed by WLF in the current phase of its SCALES ("Stop the Collapse of America's Legal Ethics") project. WLF plans to file similar petitions over the next several months in other states where excessive attorney fees are a significant problem.

The rules governing attorney conduct in every state prohibit attorneys from charging or collecting unreasonable or excessive fees. When a client files a complaint with bar authorities that his attorney has charged an excessive fee, the complaint is investigated and occasionally leads to imposition of sanctions against the attorney. However, in the absence of a client complaint, bar authorities rarely hear about instances in which excessive fees have been charged -- even in instances in which a court has determined that the fee requested and/or collected was excessive. WLF's petition would require attorneys to file those court decisions with the State Bar so that the State Bar can decide whether disciplinary proceedings are appropriate.

"To be sure, there will be many instances in which a court has determined that the attorney fee charged or requested was excessive, but in which sanctions against the attorney will not be warranted," said WLF Chief Counsel Richard Samp after filing the Alabama petition. "But the reporting requirement is not burdensome; and without such a requirement, many ethical violations are not even coming to the attention of those responsible for ensuring that lawyers are not engaged in misconduct," Samp said.

WLF's petition argues that self-reporting should be required whenever: (1) a court determines that the fee actually collected by the attorney was excessive; or (2) the attorney has sought a fee award from a court, and the court has reduced the amount requested by more than 50%. The reporting requirement would apply only to those fee requests

reduced due to excessiveness; it would not apply to fee requests denied because the court determined that the attorney was ineligible for a fee award.

WLF's petition noted that there have been numerous recent cases in which Alabama attorneys were found to have charged excessive fees, but virtually none of those cases resulted in a State Bar ethics inquiry. For example, attorneys representing Alabama in a recent suit against the tobacco industry sought a \$2 million fee. The Alabama Supreme Court denied that request as excessive after determining that the attorneys performed minimal work, and played no role in the nationwide settlement under which Alabama will receive billions of dollars from the tobacco industry. The Court determined that any fee in excess of \$115,000 would be unreasonable. In another case last year, the Alabama Supreme Court said that it was wholly unreasonable for attorneys in a class action suit to seek \$915,000 in fees following a settlement under which their clients received \$4,500 in benefits. In yet another case, it was determined that Alabama attorneys representing mortgagees regularly charge a fee of 15% of the proceeds from a real estate foreclosure sale, regardless of the sale price or the amount of work performed (which generally remains constant even as the sale price rises).

"The public will lose confidence in the legal profession unless it believes that the profession is willing to police itself," said WLF's Samp. "The public repeatedly complains that lawyers are charging excessive fees; bar authorities have no way to respond to those charges unless they take steps to ensure that they will become aware of those attorneys who are, indeed, charging excessive fees."

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