



The
DISCIPLINARY BOARD
of the Supreme Court of Pennsylvania

November
2019
Newsletter



From the Chair

I want to begin this month's newsletter by informing the Bar of upcoming changes in the Office of Disciplinary Counsel. After more than 17 years of outstanding service and dedication to the Disciplinary Board, Paul J. Killion will be retiring as Chief Disciplinary Counsel in January 2020. At the conclusion of a search conducted by the Board, the Board hired Thomas J. Farrell to succeed Paul as the leader of the Office of Disciplinary Counsel effective January 1, 2020. Tom is well-qualified and currently in private practice in Pittsburgh. We will be sharing more details on this transition in future editions, but I wanted to provide this information to all of you now and express our sincere gratitude to Paul and extend a welcome to Tom at this time.



In this month's newsletter, you will also find amendments to the Pennsylvania Rules of Disciplinary Enforcement, succession planning data (in the aggregate) which was collected by the Board during the attorney registration process, an open vacancy on the Appellate Court Procedural Rules Committee, and an entirely new section titled "Attorney Well-Being." In the new Attorney Well-Being section, we present the third in a series of three articles published by www.law.com.

We will present more information on the subject of succession planning in the future, as the Board recognizes the inherent value of implementing succession plans.

On behalf of the entire Board, I wish you all a safe and happy Thanksgiving!

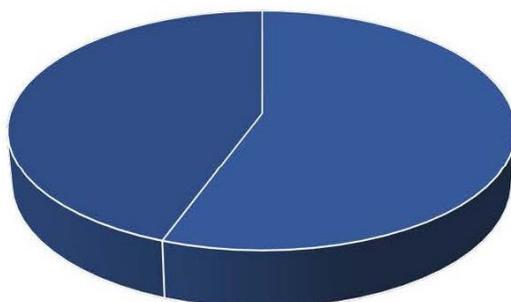
Andrew J. Trevelise, Esquire
Board Chair

Social Media

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Discipline Imposed

October 2019



- Informal Admonition - 0
- Private Reprimand - 0
- Public Reprimand - 0
- Public Censure - 0
- Disability Inactive Status - 0
- Temporary Suspension - 0
- Suspension - 5
- Disbarment - 4

Suspension

[Jeffrey Marc Benjamin](#)
[Stephanie Julia Brown](#)
[James A. Hickey](#)
[Jeffrey Keenan Martin](#)
[Joseph James O'Neill](#)

Disbarment

[Mark A. Ciavarella, Jr.](#)
[Peter Jonathan Cresci](#)
[Douglas Andrew Grannan](#)
[Jason Michael Purcell](#)

Rule Changes

New Rules Address Special Admissions, Legal Interns, and Lawyer Assessment

Three new rule amendments affect diverse subjects such as limited admissions and legal interns, as well as the universal concern with annual lawyer assessment fees.

On October 2, 2019, in a rule change published at [49 Pa.B. 6063](#) (10/19/19), the Supreme Court of Pennsylvania adopted a series of amendments to incorporate special admissions such as military spouses, in-house counsel, and participants in defender or legal services programs into various Rule of Disciplinary Enforcement.

[Pa.R.D.E. 102, Definitions](#), is amended to add definitions of "Attorney participant in defender or legal services programs," authorized in [Pa. Bar Admission Rule 311](#), "Attorney spouse of an active-duty service member," [Pa. Bar Admission Rule 304](#), and "Limited In-House Corporate Counsel," [Pa. Bar Admission Rule 302](#).

The official note to [Pa.R.D.E. 201, Jurisdiction](#), is amended to state that the jurisdiction of the Supreme Court and the Board extends to attorneys admitted under these types of limited admission.

[Pa.R.D.E. 217\(h\)](#), Formerly admitted attorneys, provides that attorneys with limited admission in these three categories who are disbarred or suspended for more than one year must surrender their limited certificates of authority on the same basis as attorneys of other classes of admission.

[Pa.R.D.E. 219\(d\)](#), Annual registration of attorneys, is amended to require that lawyers granted

limited admission as an attorney spouse of an active-duty service member must file an annual registration form and state certain information, which is already required for other types of admission.

In a proposed rulemaking published at [49 Pa.B. 5700](#) (10/5/19), the Pennsylvania Board of Law Examiners has proposed a series of amendments to [Pa. Bar Admission Rule 322](#), Authorized activities of certified legal interns. The amendments would allow certified legal interns to appear before appellate courts and participate in oral argument, and impose duties on supervising counsel to assure that the certified legal intern is fully prepared and appropriately supervised, and to be present during any appearance the certified legal intern makes before any tribunal.

Comments on the proposed rule may be submitted through November 5, 2019, addressed to the Counsel to the Board, Pennsylvania Board of Law Examiners, Pennsylvania Judicial Center, 601 Commonwealth Avenue, Suite 3600, P.O. Box 62535, Harrisburg, PA 17106-2535.

On October 16, 2019, in an order published at [49 Pa.B. 6522](#) (11/2/19), the Supreme Court of Pennsylvania entered an order creating a Lawyer Assessment Committee to make recommendations as to the annual attorney assessment fee. The Committee has seven ex officio members. The Court Administrator of Pennsylvania chairs the committee; the other six members are the Chairs and Vice Chairs of the Disciplinary Board, the Pennsylvania Lawyers Fund for Client Security, and the Pennsylvania Interest on Lawyer Trust Accounts Board, or their designates. The rule is effective immediately.

Attorney Registration

The Disciplinary Board believes that succession planning is essential to every attorney's practice. Recognizing that the future is unpredictable, attorneys should strive to lessen the impact of unexpected interruption in their relationships with clients by taking protective measures. During the annual registration process, the Disciplinary Board surveyed Pennsylvania attorneys regarding their plans to protect client interests in the event of the attorney's death or disability. The question was designed for informational purposes only as failure to have a designated successor is NOT a violation of the Rules of Professional Conduct or the Pennsylvania Rules of Disciplinary Enforcement. [Read More . . .](#)

Vacancies

The Supreme Court of Pennsylvania is aided by select boards, committees, commissions and councils consisting of more than 180 appointed volunteers - most, but not all, are lawyers and judges.

The panels have a wide range of responsibilities and functions. Some make recommendations to the Court for amendments, revisions or simplification of court procedural rules. Others regulate the practice of law, oversee continuing legal education for lawyers and administer funds to assist

individuals unable to pay for legal services. Still others advise on keeping the courts free of bias and discrimination and on long-range planning.

There is currently one vacancy on this panel:

- **Appellate Court Procedural Rules Committee** - Applicants should be knowledgeable about the Pennsylvania Rules of Appellate Procedure and experienced in state appellate practice in Pennsylvania.

For application information, click [here](#). Applications are due November 30, 2019.

Articles of Interest

Harrisburg Lawyer Receives State Prison Time for Stealing, Vandalizing Law Firm

A disbarred former lawyer has been sentenced to 1½ to 3 years in state prison for stealing from and vandalizing her former Harrisburg law firm. Judge William Tully of the Dauphin County Court of Common Pleas [sentenced Nichole Collins](#) to the jail term, followed by five years of probation and payment of \$160,000 restitution to the law firm of Shaffer & Engle. After being fired from the firm, Collins entered the firm office, stole a check, and poured what she said was Gatorade over the firm's computers. She blamed her misconduct on financial and marital problems, a gambling addiction, and a prescription drug reaction, but Judge Tully questioned her honesty and remorse, and increased her sentence based on her statements at the sentencing hearing.

Collins was [disbarred by consent](#) on March 12, 2018.

In a similar story, a St. Louis lawyer was [jailed for contempt and ordered to pay \\$775,000](#) to her former law firm after stealing 22,000 electronic files from the firm. Chelsea Merta admitted she took the files, many involving cases on which she was not involved, a week before her resignation from the firm. The award included the cost of the firm's forensic investigation and its legal fees. Merta filed for bankruptcy and sought to transfer the case to the bankruptcy court, but that effort failed when she admitted she had not defaulted on any debts and the desire to avoid the judgment was the sole reason for her bankruptcy filing.

Magisterial District Judge Disciplined for Yelling at Former Supporters Who Switched Loyalty

A magisterial district judge in Montgomery County has been reprimanded and placed on probation by the Pennsylvania Court of Judicial Discipline for loudly and publicly berating former supporters who had changed their support to his political opponents. The Court found that on three occasions, [Judge William I. Maruszczak](#), of King of Prussia, had [verbally abused former supporters and friends for their change in loyalties](#). These incidents occurred outside the courtroom, in polling places and on voice mail.

One of the conditions of probation requires that Maruszczak submit to a comprehensive psychological assessment by a licensed psychologist designed to assess impulse control and

anger related issues, including treatment recommendations if any.

Sexy Talk with Client Not Sex, But Still Unethical

A West Virginia lawyer has been suspended for exchanging sexually suggestive messages with a client, even though the exchange did not lead to physical sexual activity.

[Travis C. Sayre](#) was charged, among other issues, with violating Rule 1.8(j) of the West Virginia Rules of Professional Conduct, which, like Pennsylvania's corresponding rule, prohibits a lawyer from having sexual contact with a current client. After a probation officer discovered on his client's phone sexually suggestive messages from Sayre, he admitted that he had exchanged several messages with the client containing sexual content and exploring the possibility of a sexual relationship. However, that in-person contact never took place.

The West Virginia Court of Appeals found that Sayre did not violate Rule 1.8(j), due to lack of consummation of the suggested relationship. However, the Court found that his sexual banter with the client did violate [Rule 8.4\(a\) and \(d\)](#), conduct prejudicial to the administration of justice. This was one of several violations that led to a 120-day suspension.

Sliding Door Scandal: Maryland Attorney Suspended for Public Nudity

If you think what happens at the beach stays at the beach, think again.

A former Maryland prosecutor has resigned from his office and received a 60-day suspension after having sex and dancing nude in the sliding glass door of his tenth-story hotel room at Ocean City, Maryland. In June of 2017, [Ellis Rollins](#), who at the time was the state attorney for Cecil County, Maryland, was attending the summer conference of the Maryland State's Attorneys' Association. He and his wife thought no one could see their display of public nudity, but they were wrong. Four Pennsylvania women saw him from a neighboring condo (and reported that he appeared every time they stood on their balconies). Rollins was charged with two counts each of indecent exposure and disorderly conduct and convicted on two counts. The Maryland Court of Appeals found that his conduct violated [Rule 8.4\(d\)](#), conduct prejudicial to the administration of justice. Unlike the Pennsylvania version, a comment to the Maryland rule specifically states that sexual misconduct may violate this rule.

Send Lawyers, Guns, and Money

An Ohio lawyer has received a stayed suspension for having accepted guns in lieu of lawyer fees owed to his firm. [Keith Vanderburg](#) was the managing attorney of a law firm that represented a firearms dealer. At one point the company owed legal fees of \$27,000 to the firm. Vanderburg arranged to receive firearms for his personal use from the company for credits against the legal fee debt. Partners in his firm knew of the arrangement but did not realize Vanderburg was not reimbursing the firm for the goods received. In all, he took possession of approximately \$28,000 worth of firearms. When another lawyer took over as managing partner and realized Vanderburg had not paid the firm back, the partners reported the matter to disciplinary counsel. Vanderburg reimbursed the firm the next day.

The parties stipulated that Vanderburg's conduct violated Rule 8.4(c) of the Rules of Professional Conduct, prohibiting a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation. The Supreme Court of Ohio determined that he should receive a suspension for one year, stayed on the condition that he pay the costs of investigation and not engage in any misconduct for a year.

On these facts, no one can expect us to not offer [this](#).

Attorney Well-Being

Does the Legal Profession Need a Culture Shift?

Much attention has been focused on attorney wellness in recent years, such as the efforts that led to the National Lawyer Well-Being Task Force (previous story). Advice on self-care is freely available. But according to an [article in law.com](#) [free subscription required], some experts believe it is not enough to train lawyers how to care for themselves. They assert that firms and employers may need to change the culture of the practice of law, which expects young lawyers to develop patterns of behavior that do not serve their long-term welfare.

Dan Lukasik, founder of LawyersWithDepression.com, and director of the Workplace Well-Being for the Mental Health Association in Buffalo, New York, says that senior lawyers often pass on expectations that contribute to an unhealthy environment. He notes that the message to young lawyers is often "this is a tough, stressful profession. I survived it, you should too."

Tyger Latham, a clinical psychologist in Washington, D.C., whose clients include many lawyers, notes that often the profession focuses on the problems of substance abuse, without realizing they are symptoms rather than causes of lawyer dysfunction. He argues that these problems cannot be cured simply by treating the substance abuse issues, but require change to the underlying paradigm that produces them.

Dr. Elizabeth Tillinghast, a former practicing lawyer who is now a psychiatrist in New York, said lawyers are expected to be very aggressive on behalf of the client, but you have to be completely submissive and obedient to anyone higher up in the firm. This dichotomy leads many lawyers to lose track of who they really are. She notes that lawyers can regain their sense of autonomy in a supportive work environment.

Katie Herzog, a former psychology professor who consults with law firms and other businesses on training and management, argues that law firms should be seen as "professional families," as they were before before rapid lateral movement and industrywide consolidation made firm cultures more transactional. She recommends that firms need to provide meaningful and personal training on a mandatory basis, and present it as a resource and opportunity, not as a reflection of poor performance. She adds that lawyers have to be able to express their personal concerns without worrying about the impact on their careers.

Around the Court

AOPC Produces Video – Understanding the Courts

The AOPC recently produced a video titled “[Understanding the Courts](#)” to provide an overview of the Pennsylvania Judicial System. The succinct and informative 5-minute video is professional, informative, and engaging.

Pennsylvania Bar Association Names Assistant Court Administrator Andrea Tuominen Government Lawyer of the Year

The Pennsylvania Bar Association will present the 2019 Government Lawyer of the Year Award to Andrea B. Tuominen of Harrisburg, Assistant Court Administrator of Pennsylvania, on Nov. 14 at [Committee/Section Day](#) in Harrisburg.

Presented by the PBA Government Lawyers Committee, the award honors a government lawyer who has made a significant singular contribution or has dedicated his or her career to outstanding service to the profession for the benefit of the public or a government entity. [Read More...](#)

Resources

[FAQs - For the Public](#)

[Annual Report](#)

[Recent Discipline](#)

[FAQs - For Attorneys](#)

[Rules](#)

[Discipline Statistics](#)

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