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The
DISCIPLINARY BOARD
of the Supreme Court of Pennsylvania

**August 2020
Newsletter**



Unified Judicial System of Pennsylvania Coronavirus Information

The Pennsylvania Judiciary has provided [updates](#) regarding local court operations and proceedings. The Court continues to monitor developments regarding the spread of the coronavirus (COVID-19) and its impact on court operations.

[By Order of the Supreme Court of Pennsylvania, the general statewide judicial emergency declared and maintained in previous Court Orders of March 16, March 18, March 24, April 1 and April 28 ceased as of June 1, 2020. Any previous Orders in this line shall expire according to their own terms.](#)

The Court communicates regularly with the Governor's Office and the state Department of Health for guidance on measures to continue protecting the health and safety of court users and court employees.

Contact your local court for more information or [visit their website](#). Learn more about [filing emergency PFAs](#) during this pandemic. You can also learn more about mitigating the spread of the virus at Health.pa.gov.

From the Chair

As we enjoy and endure the dog days of summer, we continue to maintain our practices in these unprecedented times. Nearly all attorneys in the Commonwealth have renewed their annual registration. Unfortunately, on August 12, 2020, the Supreme Court issued an Order to administratively suspend 1,194 attorneys who failed to pay their annual license fee. Unless these attorneys act promptly, the Order will be effective on September 11, 2020 which will administratively suspend those who have failed to comply with their annual registration requirements. While the Board is grateful more than 98.4% of all Pennsylvania Attorneys completed the annual registration requirement within the allotted time frame, it urges those who may have inadvertently failed to do so to act promptly.



As you know, the Board has taken steps to establish protocols to use advanced video communication technology to conduct its proceedings. Video conferencing is being used for hearings and arguments. Public reprimands, part of the Board's duties, are now administered via the Disciplinary Board's YouTube channel. More than 100 people watched on July 22, 2020, as eight attorneys received public reprimands. All attorneys are encouraged to view future proceedings in order to understand and appreciate the system of discipline utilized in Pennsylvania.

We live in interesting and somewhat trying times. The Board continues to adapt to achieve its mission to protect the public, maintain the integrity of the legal profession, and safeguard the reputation of the courts. With your help and cooperation, we can continue to do so. Stay safe and enjoy the rest of the summer.

James C. Haggerty
Board Chair

Attorney Registration

Administrative Suspension Order Issued

On August 12, 2020, a Supreme Court Order was issued to administratively suspend up to 1,194 attorneys (about 100 less than last year) for failure to complete their annual registration requirement. The Order will be effective September 11, 2020. In the 30 days prior to the effective date, attorneys have the opportunity to complete their registration and thus be removed from the list of those to be administratively suspended in September.

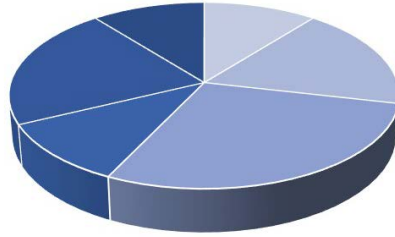
Attorneys required to register annually include those on Active or Inactive status, as well as those with limited admissions of In-House Corporate Counsel, Defender or Legal Services Attorney, or Foreign Legal Consultant. Annual registration is to be completed through the Unified Judicial System's [Online Portal](#). An [Online Video Tutorial](#) and [Help Center](#) are available to assist with any problems that may arise.

Social Media

Like us on [Facebook](#), follow us on [Twitter](#), and connect with us on [LinkedIn](#) for more news and information.

Discipline Imposed

July 2020



- Informal Admonition - 3
- Private Reprimand - 5
- Public Reprimand - 8
- Public Censure - 0
- Probation - 0
- Disability Inactive - 0
- Temporary Suspension - 3
- Suspension - 6
- Disbarment - 3

Public Reprimand

- [Qawi Abdul-Rahman](#)
- [Cynthia A. Baldwin](#)
- [Richard P. Gainey](#)
- [Sigang Li](#)
- [James R. Lloyd](#)
- [Michael P. O'Day](#)
- [William C. Penglase](#)
- [Jeffrey M. Robinson](#)

Temporary Suspension

- [Mark A. Hoffman](#)
- [William H. Lynch, Jr.](#)
- [Angelo M. Perrucci, Jr.](#)

Suspension

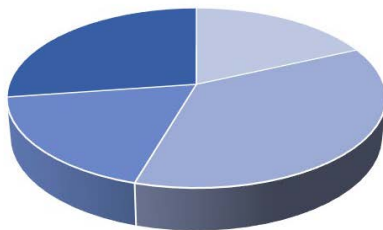
- [Joseph John Ashton, III](#)
- [Stephen Daniel Brinton](#)
- [Keith Michael McWhirk](#)
- [Edward W. Millstein](#)
- [Ross Peter Wagner](#)
- [William S. Winters](#)

Disbarment

- [Rhashea Lynn Harmon](#)
- [Harris Roy Rosen](#)
- [Thomas Kevin Schindler](#)

Reinstatement Granted

July 2020



- From Inactive - 2
- From Retired - 4
- From Administrative Suspension - 2
- From Disability Inactive - 0
- From Suspension - 3
- From Disbarment - 0

From Inactive Status

- [Richard A. Robinson](#)
- [Sanh Brian Tran](#)

From Retired Status

- [Russell L. Axelrod](#)
- [Elizabeth Cronin Leo](#)

[Lisa Gayle Soule'](#)
[Michael Edward Yasofsky](#)

From Administrative Suspension

[David W. Elkin](#)
[William J. Markwardt](#)

From Suspension

[James Francis Donohue](#)
[Samir George Hadeed](#)
[Robert Turnbull Hall](#)

Note: The above-listed reinstatements reflect only those granted by Supreme Court Order. An attorney listed above whose current license status does not reflect reinstatement has yet to submit the fees necessary to finalize reinstatement.

Rules

Board Proposes Revised Comment on Fee Division

The Disciplinary Board has published a proposed amendment to Rule 1.5 of the Pennsylvania Rules of Professional Conduct, regarding fees. The amendment would add a new Comment 5 regarding successor counsel in contingency fee matters. The proposed rule is published at [50 Pa.B. 4013](#).

The new Comment 5 states that in a situation where a client terminates a lawyer hired on a contingent fee basis and retains a new attorney, "successor counsel must notify the client, in writing, that some portion of the fee may be due to or claimed by predecessor counsel for services performed prior to the termination, and should discuss with the client the effect of that claim on successor counsel's proposed fee agreement."

The comment states that successor counsel's participation in negotiation of fees with predecessor counsel on the client's behalf may result in a conflict of interest, and that successor counsel must advise the client of the conflict and obtain informed consent to the representation as set forth in Rule 1.7. Written consent is not essential under the Pennsylvania rule, but is highly beneficial to both successor counsel and the client.

The comment further provides that if a dispute arises regarding distribution of the recovery, successor counsel must hold the disputed portion of the funds in trust pending resolution, in accordance with Rule 1.15(f).

Comments may be submitted until **October 7, 2020** to:

The Disciplinary Board of the Supreme Court of Pennsylvania
601 Commonwealth Avenue, Suite 5600
PO Box 62625
Harrisburg, PA 17106-2625
Fax: (717) 231-3381
Email: DBoard.Comments@pacourts.us

Disciplinary Board News

Disciplinary Board Publishes Protocols for Remote Proceedings

The Disciplinary Board has published a set of protocols governing the holding of proceedings by remote media, which has become necessary during the restricted activities due to COVID-19.

Proceedings covered include [Pre-Hearing Conferences](#), [Discipline or Reinstatement Hearings](#), [Motion Hearings](#), [Oral Arguments](#), and [Private or Public Reprimands](#).

Under guidance from the Administrative Office of Pennsylvania Courts (AOPC), the Disciplinary Board utilizes Cisco WebEx technology to conduct secure video conferences. Participants are responsible for providing their own equipment (i.e. laptop, desktop, smartphone, webcam, etc.), and ensuring that all necessary equipment and software are in good working order prior to the scheduled remote proceeding.

The protocols provide guidance for what hardware and software requirements are necessary. Participants must download the WebEx Meetings application to their computer or device, and are encouraged to download it to a second device as a backup precaution. The protocols provide links for the software and websites where instructional materials and online help are available.

They also provide guidance on setting up equipment for a problem-free online participation experience, and on the controls needed to operate the WebEx software. Participants must provide an email address and mobile phone number for use in the conference at least three days prior to the event, and participate in a test session that will be scheduled with Disciplinary Board staff within one week prior to the scheduled event. The protocols also address the sharing of documents and exhibits to be offered in the proceedings.

The provisions of the protocols regarding the conduct of proceedings state that remote proceedings have the same significance and dignity as in-person proceedings, and advise that "if you would not do it in a courtroom, do not do it in the remote conference." Participants are expected to appear in a private setting with potential for interruptions minimized. Appearing for a remote proceeding while outdoors, in-vehicle, occupying a public space, or performing personal functions is not permitted. Participants calling witnesses are expected to prepare their witnesses to participate under the same terms. Witnesses are placed in a virtual "lobby" while waiting to testify.

The protocols provide tips for participating in remote events, including:

- Mute yourself when not speaking, to avoid background noise;
- Use earbuds or headphones for best audio quality and to avoid feedback;
- Pause after speaking to allow for audio lag;
- Position the camera at or slightly above eye level;
- Do not use a mobile device held in the hand or lying flat;
- For best lighting, sit facing a window or with a light directed toward your face; and
- Dress in soft, solid colors.

CDC Corner

Recently, both the Pennsylvania Supreme Court and the Disciplinary Board amended numerous Rules of Disciplinary Enforcement and Disciplinary Board Rules to: update the procedures applicable to formal disciplinary proceedings; increase the efficiency of those proceedings by prohibiting the filing of certain motions; clarify rules addressing service of documents originating

with the Board; and authorize a single Board member to act on an interlocutory appeal. By Order dated July 6, 2020, the Supreme Court amended Pa.R.D.E. 205, 208 and 213, effective August 5, 2020. On August 8, 2020, the Disciplinary Board amended Disciplinary Board Rules §§ 85.11, 89.2, 89.21, 89.55, 89.93, 91.3, 93.22 and 93.23. These rule changes are effective on September 7, 2020.

The changes to the Disciplinary Board Rules delete an obsolete and confusing reference to an “action in equity” applying to formal proceedings. As a result of that deletion, it was necessary for the Supreme Court to amend Pa.R.D.E. 208(c) and (d) to provide that formal proceedings before special masters, hearing committees and the Board are governed by the Board Rules, the Pa.R.D.E., and the decisional law of the Supreme Court and the Disciplinary Board in attorney discipline and reinstatement matters. A Note after D.Bd.Rules § 89.2(a) further explains that the Pennsylvania Rules of Civil Procedure relating to pleading and motion practice are inapplicable to formal proceedings. Consistent with a desire to streamline pre-hearing and hearing processes by eliminating procedures that delay the prompt disposition of a case, D.Bd.Rules § 89.2(b) and (c) identify specific types of motions that “shall not be accepted for filing, but if accepted for filing, shall not be entertained,” including motions for summary judgment, motions to dismiss based on insufficient evidence to proceed with formal charges, and motions for directed verdict or nonsuit.

Amendments to D.Bd.Rules § 89.21 clarify that in most instances the Board may provide notice of orders, notices and other documents by mail. However, the Board must make personal service of “original process” upon a respondent-attorney unless (i) another method of service is required by the D.Bd.Rules or Pa.R.D.E. or (ii) personal service “cannot be made after reasonable efforts to locate and serve” the respondent.

D.Bd.Rules § 85.11 was amended to provide a procedure for interlocutory appeals to the Board of rulings on motions to disqualify a hearing committee member or special master. The new procedure is consistent with the procedure for addressing interlocutory appeals of rulings addressing challenges to a subpoena. Finally, Pa.R.D.E. 205(b) and (c)(16) and D.Bd.Rules §§ 93.22 and 93.23 were revised to give the Board Chair, the Vice-Chair, or a designated lawyer-member of the Board the authority to adjudicate interlocutory appeals and to address any substantive law issues raised by an interlocutory appeal.

The rules were published for comment in Volume 50, No. 5, on February 1, 2020. The Board did not receive any comments.

Raymond S. Wierciszewski
Deputy Chief Disciplinary Counsel

Articles of Interest

Missouri Lawyer: Judge Muted Me on Zoom!

Just when we thought we were getting the hang of this remote hearings thing, a new due process wrinkle comes out of the state of Missouri. A lawyer claims that a judge violated his and his client's due process rights by [putting him on mute during an online hearing](#).

Attorney Rob Eggert claims that Jefferson Circuit Judge Audra Ecklerle muted him “eight times during a 48-minute hearing, including once for five minutes and another time for seven minutes.” Eggert felt particularly aggrieved because the prosecutor attended the hearing in person and was not muted.

The judge stated that her use of the mute button was necessary to maintain the decorum of the hearing. “The court quite properly redirected counsel through the use of the mute button, as opposed to trying to yell over defense counsel’s screaming.” Reporters who heard the tape did not get the impression Eggert was shouting inappropriately.

On the other hand, who hasn’t wished over the course of a legal career for a mute button for certain attorneys?

Pennsylvania Lawyer Suspended for Misleading Statement in Bar Application

A newly admitted lawyer has agreed to a two-year suspension, served in part and stayed in part, after revelations that he misled both New Jersey and Pennsylvania bar authorities about the status of his law school degree.

Ross Peter Wagner was scheduled to graduate from Rutgers Law School in May 2017, but he dropped out of a course, leaving himself a few credits short of the requirement for graduation. Nonetheless, he applied to take the New Jersey bar examination and applied for a judicial clerkship job, on both occasions representing that he expected to receive his J.D. from Rutgers. He was allowed to take the bar exam and was hired for the clerkship.

In October 2017 the New Jersey Bar Examiners notified Wagner that his bar results would be withheld until he provided a certificate proving he had graduated from an accredited law school. When he failed to provide the certificate, the New Jersey authorities deemed his application withdrawn.

In January 2018, Wagner enrolled in a course at Rutgers which would meet his credits requirement and allow him to graduate.

In April 2018 he applied for admission to the Pennsylvania bar, in which he indicated he had received his degree from Rutgers in May 2017. He also failed to disclose that his New Jersey application had been deemed withdrawn and that he would have to reapply. He was admitted to the Pennsylvania bar in October 2018.

He passed the course in which he was enrolled, and Rutgers awarded him the Juris Doctor degree in May 2018. He reapplied to the New Jersey bar, but after a Character and Fitness inquiry, the Supreme Court of New Jersey ordered that he could not reapply until April 2020.

Wagner entered into a [Joint Petition in Support of Discipline](#), by which he agreed to discipline of his Pennsylvania license. He admitted that his conduct violated several Rules of Professional Conduct and Rules of Disciplinary Enforcement:

1. RPC 8.1(a), false statement in an application;
2. RPC 8.1(b), failing to disclose a fact necessary to correct a misapprehension;
3. RPC 8.4(c), conduct involving dishonesty, fraud, deceit, or misrepresentation;
4. RPC 8.4(d), conduct prejudicial to the administration of justice; and
5. Pa.R.D.E. 203(b)(6), material misrepresentation of fact or failure to disclose a material fact in a bar application.

The parties agreed that Wagner should receive a two-year suspension, with one year served and the remaining suspension stayed with one year of probation, including a term that he continue treatment with a professional counselor. A three-member panel of the Disciplinary Board recommended that the petition be granted, and the Supreme Court entered an order imposing

discipline in accordance with the agreement.

Pennsylvania Lawyer Disbarred for Frivolous Lawsuit, Pattern of Misconduct

A Philadelphia lawyer has been disbarred after the Disciplinary Board found she had engaged in an extended series of ethical violations, many of them related to a lawsuit with her landlord.

[Rhashea Lynn Harmon](#) was admitted to the bar in 2012, administratively suspended for failure to pay her registration fee in 2017, and [suspended for five years](#) on a reciprocal basis with a New Jersey disciplinary order in March 2020.

Harmon's disciplinary issues arose in part out of litigation with her landlord. Harmon signed a lease on an apartment in 2014, but never made a rent payment. Instead, she claimed to own the apartment as "an aboriginal indigenous Moorish American," and denied her landlord had any right to the premises. Over the next five years, Harmon engaged in a series of suits and litigation which cost the landlord an estimated \$43,000 in attorney fees, damages, and lost income. She was charged with criminal trespass, criminal mischief, and criminal conspiracy after an incident in which she and three companions broke into the apartment. She and her co-defendants disrupted the preliminary hearing in the criminal case and never appeared thereafter. A bench warrant on the case was out at the time of the disciplinary hearing.

Harmon also filed a Federal lawsuit against the landlord, her attorneys, and 51 other defendants including several Philadelphia and Pennsylvania officials, alleging constitutional conspiracy, intentional breach of fiduciary trust, defamation, libel, slander, invasion of privacy, theft and conversion of cultural relics. She filed a fraudulent IRS tax form 1099-OID with the Internal Revenue Service alleging that opposing counsel had received \$615,588 in income due to conversion of her property, and sent the landlord a "Notice of Audit" purporting to notify her that she is being audited by the "Guale Yamassee Juris Consul Department of Justice." She also alleged that counsel for the landlord attempted to kill her by releasing venomous spiders into her apartment.

In addition to her pattern of conduct toward the landlord and her counsel, Harmon notified parties of her appearance as counsel for an estate and filed documents in the Court of Common Pleas at a time when she was on administrative suspension. She sent opposing counsel an "executed Order of Judgment by the Guale Yamassee Sui Juris Consular Court against the listed debtors" purporting to grant a motion for judgment enabling the Respondent to file liens and attach judgments.

Harmon failed to respond to the disciplinary inquiry in any way and did not answer the Petition for Discipline or attend the disciplinary hearing. The Disciplinary Board found that Harmon violated nine Rules of Professional Conduct and eight Rules of Disciplinary Enforcement, including filing frivolous proceedings, using means intended to embarrass, delay, or burden a third person, unauthorized practice, conduct involving dishonesty, fraud, deceit or misrepresentation, and conduct that is prejudicial to the administration of justice. The Board also found that her contempt for the judicial and disciplinary systems, her lack of remorse or recognition of wrongdoing, and her failure to appear in the disciplinary proceeding were aggravating factors, and recommended disbarment. The Supreme Court accepted the Board's recommendation and disbarred Harmon by [Order dated July 13, 2020](#).

He Lives! Lawyer Discovers Fake Death Certificate

To New York attorney Meir Moza, it seemed like a tragic story such as what one sometimes encounters in criminal law. His client, Robert Berger, 25, was awaiting sentencing after a guilty plea to possessing a stolen car and attempting to steal a pickup truck. Mr. Moza had worked out a one-year prison sentence, which he thought a rather good deal. So he was shocked when Berger's family delivered a death certificate, indicating that Berger had committed suicide. He transmitted the certificate to prosecutors, thinking that would be the end of the matter.

But a sharp-eyed prosecutor thought something looked wrong and looked the form up with a Google search. The certificate looked official enough, with the state registrar's signature of verification, a blue border on official forms mentioning "multiple security features to deter fraud," and a unique bar code and filing number across the top. But the prosecutor suspected that the security watermark was missing, and another detail waved a big red flag. [The name of the New Jersey Department of Health, Vital Statistics and Registry was misspelled as "Regsitry."](#)

[The whole subterfuge unraveled quickly after a quick check with the agency.](#) The very-much-alive Mr. Berger was apprehended and arrested in suburban Pennsylvania on charges including providing a false identity to law enforcement. In addition to awaiting sentencing on the original plea, he is now facing an additional charge of forging a death certificate.

But he might be the first person ever whose life was saved by a failure to spellcheck.

Attorney Well-Being



LET'S TALK ABOUT MENTAL HEALTH

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[Lawyers Concerned for Lawyers](#) is a confidential and safe resource for Pennsylvania attorneys and their family members who may be struggling with their mental health or substance use. An astounding one in three legal professionals will face these issues at some point in their career. Over the past 32 years, LCL has confidentially assisted and supported thousands of individuals who have faced a myriad of challenges (including grief, stress, anxiety, depression, eating disorders, gambling problems, problematic alcohol or prescription drug use, etc.), helping them navigate through dark and difficult times. Members of our profession are dying because they are afraid or unable to ask for help. If you or someone you know is struggling, please call us. You may save a life. There is help and there is hope.

[Resources for the Legal Profession During COVID-19](#)

Confidential 24/7 Helpline: 1-888-999-1941

Lawyers-only support meetings
Peer and staff support & resource coordination
LCL resources are free, voluntary, & confidential
Free CLE, resources, and information at www.lclpa.org
Assessment by a healthcare professional to determine a customized treatment plan, if indicated

Around the Court



Pennsylvania Bar Exam to be Administered Remotely in October 2020

The Pennsylvania Board of Law Examiners (PABLE) has announced that, in light of continuing concerns related to the COVID-19 pandemic, the next Pennsylvania bar exam will be administered remotely Oct. 5-7, 2020.

“We know this has been a stressful time for bar applicants, and we hope this decision reassures them that they will have an opportunity to take the bar exam safely and soon,” said PABLE Chair David R. Fine.

In April, PABLE rescheduled the exam—ordinarily given in person at the end of July—to the beginning of September. PABLE has monitored guidance from the United States Centers for Disease Control and Prevention, the Office of the Governor and the Pennsylvania Department of Health, and it has determined that it cannot proceed with an in-person exam in September while ensuring the safety of applicants, proctors and board staff.

As in previous administrations, the exam will include both the multistate bar exam (the “MBE”), a performance test and a series of essays. The MBE will include 100 questions, which is half the usual number, and the MBE and the essay components of the exam will test on the same subjects as in previous bar exams. PABLE has included more information on its [website](#) and will continue to provide updates there.

Pro Bono Spotlight

The Coordinated System of Civil Legal Aid in Pennsylvania

By: Patrick Cicero, PLAN Executive Director

Since its inception in 1973, the delivery of civil legal aid has been highly coordinated, with strong oversight by the [Pennsylvania Legal Aid Network, Inc. \(PLAN\)](#). PLAN is a client-centered organization that provides leadership, funding, and support to increase the availability and quality of direct civil legal services to low-income individuals and victims of domestic violence where legal

representation is necessary to secure a critical need, such as access to housing, income maintenance, family law, or healthcare.

Annually, PLAN administers funding allocated by the General Assembly, the Pennsylvania IOLTA Board, and other funders for the delivery of civil legal aid provided by the 15 independent legal aid offices that collectively make up PLAN's network. This includes 9 regional legal aid programs covering all 67 counties throughout the Commonwealth and 6 specialty programs that provide statewide coverage for specialized areas of law such as housing, health, and utilities, or provide services to specialized populations. Annually, PLAN programs handle more than 75,000 legal cases.

When low-income Pennsylvanians can access civil legal representation, they are able to secure their income, housing, health, and families. Right now, in the midst of COVID-19, PLAN programs are assisting out of work Pennsylvanians access unemployment compensation, ensuring access to medical insurance and other forms of health care, and navigating housing, utility, and family law issues for households in need.

Beyond the direct results for clients, civil legal aid helps keep the economy healthy and thriving. In January 2020, the Pennsylvania IOLTA Board released an independent report from Franklin & Marshall College, titled [Economic Impact of Civil Legal Aid in Pennsylvania](#). A key finding from the report is that for every dollar invested in civil legal aid, Pennsylvania received \$12 in economic benefits in return.

In addition to providing direct legal services to clients through its network of programs, PLAN plays a critical monitoring and oversight role in ensuring that its programs meet grant conditions, regulatory requirements, and auditing standards. PLAN also annually funds the work of 10 summer law students and a number of attorney fellows through its Martin Luther King, Jr. internship and fellowship program. In addition, PLAN hosts an annual statewide training conference and provides hundreds of hours of CLE training (both live and via webinar) for its network attorneys and private counsel. Information about training events is available on PLAN's [website](#). Trainings are available at no cost to attorneys employed or affiliated with PLAN's programs and to attorneys who have assumed [emeritus status](#).

For more information about PLAN and its programs or to find out how you can get involved, please visit www.palegalaid.net or contact PLAN's Executive Director, Patrick Cicero by email at pcicero@palegalaid.net or by phone at (717) 710-3822.

We Want To Hear From You...

We are always on the lookout for stories of interest relating to legal ethics, new issues in the practice of law, lawyer wellness, and funny or just plain weird stories about the legal profession. If you come across something you think might be enlightening, educational, or entertaining to our readers or social media followers, [pass it along](#). If you're our original source, there may be a hat tip in it for you.

Resources

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