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The
DISCIPLINARY BOARD
of the Supreme Court of Pennsylvania

April 2021
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.

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

It is an honor to write this message to you as Chair of the Disciplinary Board. Together with Vice Chair Jerry M. Lehocky, I want to assure each of you that our Board is committed to ensuring the Pennsylvania attorney regulatory system remains one of the finest in the nation. This Board is charged with protecting the public, maintaining the integrity of the legal profession, and safeguarding the reputation of the courts. We are grateful for the opportunity to lead such a distinguished organization.



I wish to express my appreciation to former Board Chair James C. Haggerty and former Vice Chair John F. Cordisco for their mentorship and dedication to the profession throughout their tenure on the Board and particularly their service in Board leadership. Their dedication to our mission was integral to the Board's success in the recent years – and particularly during the pandemic. Although their service on the Board is now complete, their work will endure for years to come.

Please welcome our new Board members Robert J. Mongeluzzi and Shohin H. Vance, whose terms commenced on April 1, 2021.

As you read in our March newsletter, now-former Chief Justice Thomas G. Saylor announced his retirement transition plan, which included transitioning the role of Chief Justice to Justice Max

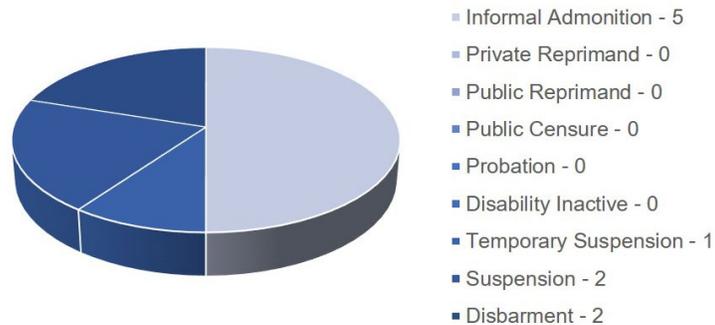
Baer effective April 1, 2021, while maintaining his status as a Justice of the Supreme Court until his retirement in December. I thank Justice Saylor for his distinguished service on the Supreme Court for the past 23 years and for his dedication and commitment serving as Chief Justice since 2015. Chief Justice Baer has been a distinguished member of the bench for more than three decades. I congratulate Chief Justice Baer on his new leadership role. It is an honor to serve as Disciplinary Board Chair under such an esteemed bench.

Our Well-Being section of this newsletter focuses on [Well-Being Week in Law](#) which will be held the week of May 3. We encourage all of our readers to participate in the events which will focus on physical, spiritual, occupational & intellectual, social, and emotional well-being. After the events of the past year, we all could use a reminder to focus on our well-being.

Stay well,
Jack P. Goodrich
Board Chair

Discipline Imposed

March 2021



Temporary Suspension

[Chad M. Salsman](#)

Suspension

[Andrew Russell Hurda](#)

[Robert G. Young](#)

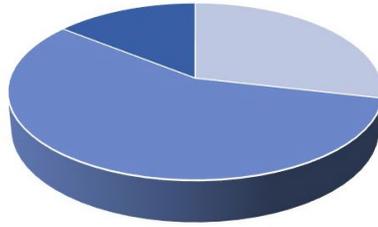
Disbarment

[Stephanie Ashley Hand](#)

[Donald B. Moreman](#)

Reinstatement Granted

March 2021



- From Inactive - 2
- From Retired - 0
- From Administrative Suspension - 4
- From Disability Inactive - 0
- From Suspension - 1
- From Disbarment - 0

From Inactive

[Jeffrey Michael Parrella](#)
[Shonu Verma](#)

From Administrative Suspension

[Paul Joseph Berks](#)
[Robin Lynne Cohen](#)
[Allyson Filippis](#)
[Koji Francis Fukumura](#)

From Suspension

[Benjamin Hart Perkel](#)

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.

Upcoming Public Proceedings

We encourage you to observe our public disciplinary and reinstatement hearings, oral arguments, and public reprimands on the [Board's YouTube channel](#). View "Upcoming Public Proceedings" at the bottom of the Board's home page, www.padisiplinaryboard.org.

May 3 - Clarence E. Allen - Disciplinary Hearing
 May 10 - Douglas Carl Dorsey - Reinstatement Hearing
 May 18 - William P. Fedullo - Disciplinary Hearing
 May 19 - William P. Fedullo - Disciplinary Hearing
 TBD - Paul Christopher Dougherty - Public Reprimand

Proceedings are scheduled to begin at 9:30am unless otherwise noted.

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 are currently vacancies on the following panels:

- [Appellate Court Procedural Rules Committee](#) - There is **one** position available. Applicants should be knowledgeable about the Pennsylvania Rules of Appellate Procedure and be experienced in state appellate practice in Pennsylvania.
- [Civil Procedural Rules Committee](#) - There is **one** position available. Applicants should be knowledgeable about the Pennsylvania Rule of Civil Procedure and be experienced in state civil practice in Pennsylvania.

Application Instructions

If you would like to be considered to serve on a board, committee, advisory group, or related independent entity, email the [application](#), cover letter, resume, and other pertinent information expressing your reasons of interest to SCApplications@pacourts.us. Click [here](#) for more application information.

Applications are due by April 30, 2021

Rules

Board of Law Examiners Adopts Uniform Bar Examination

The Pennsylvania Board of Law Examiners has [announced that it will begin administering the Uniform Bar Examination \(UBE\)](#) beginning with the July 2022 bar exam. It has also published a [Notice of Proposed Rulemaking \(NPR\)](#), proposing to adopt a new [Rule 206 of the Pennsylvania Bar Admission Rules](#) to provide for admission by transfer of a UBE score from a jurisdiction other than Pennsylvania. The NPR appeared in the [March 26, 2021 edition of the Pennsylvania Bulletin](#) at 51 Pa.B. 1649 (3/26/21). The content of the current [Rule 206](#) will be transferred to a new Rule 207.

The new rule will state that an applicant for licensure by transfer must pass the UBE at the minimum passing score set by the Board, which is currently 272. Applicants seeking admission to the bar by UBE transfer score must submit a score no older than 30 months from the first day of the UBE administration for which they seek to transfer the score. They must also satisfy the requirements of [Rule 203](#), including paragraphs (a) (academic qualifications), (b)(2) (character and fitness), and proposed amendment (b)(3) (satisfactory completion of the MORE).

Conforming amendments to several other Bar Admission Rules are set forth in the [Annex](#) to the NPR.

Comments may be submitted until **May 27, 2021** to:

Pennsylvania Board of Law Examiners
Attn: Counsel to the Board
601 Commonwealth Avenue, Suite 3600
P.O. Box 62535
Harrisburg, PA 17106-2535

Board Proposes Rule Changes on Advertising, Communications About Services

As presented in the March edition of this newsletter, the Disciplinary Board [proposed amendments](#) to Rules 7.1, 7.2, 7.3, 7.4, 7.5, and 7.7 of the Pennsylvania Rules of Professional Conduct, addressing communications about legal services, advertising, solicitation, fields of practice, firm names, and other matters.

Comments may be submitted until **May 21, 2021** 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

Former Board Chair & Vice-Chair Leave Board after Completing Terms of Service

After each completing two terms of service, Former Board Chair, [James C. Haggerty, Esquire](#), and Former Board Vice-Chair, [John F. Cordisco, Esquire](#), have left the Board after expiration of their second terms.



Disciplinary Board Issues Annual Report

The Disciplinary Board has released its [Annual Report for 2020](#). A few highlights from the report:

- 2020 saw the retirement of long-serving Chief Disciplinary Counsel Paul J. Killion, and the beginning of the service of his replacement, Thomas J. Farrell, who was recently [honored as a fellow of the American College of Trial Lawyers](#).

- Due to the COVID-19 pandemic, the Disciplinary Board moved to remote technology for day-to-day operations and events such as hearings, arguments, reprimands, and Board meetings. The Board conducted and streamed to the public 16 hearings, 6 oral arguments, 10 public reprimands, and 1 hearing on a petition to dissolve temporary suspension.
- The Board received 18% fewer complaints than in 2019.
- Discipline was imposed in 148 cases, down by 30% from 211 in 2019. The average number of cases from 2016 to 2018 was 162, however, only 9.4% more than 2020.
- Over 76,000 attorneys received attorney registration notices. Of these, only 374 failed to complete registration and were placed on administrative suspension, the smallest number in recent history.
- Exactly 1,000 new attorneys were admitted to practice in Pennsylvania.
- The Board now has smartboards in three offices (Philadelphia, Pittsburgh, and most recently Trooper) with access to a fourth at the Pennsylvania Judicial Center in Harrisburg. These boards allow videoconferencing for hearings, and also the presentation of evidence and witnesses by both the Office of Disciplinary Counsel (ODC) and the Respondent, or their Counsel.
- The Board has developed the Case Research Collection (CRC), a repository of public and private discipline and reinstatement matters currently incorporating matters from the past five years. The system is under testing by the ODC. The Board is preparing the release of the CRC to the public by way of the Board's website. Users will be able to search cases by discipline imposed, rule(s) violated, and keyword, among many other criteria.
- In 2020, the ODC opened 3,652 complaints and closed 4,026.

CDC Corner

The Judicial Role in Regulating Attorney Conduct

In January, the South Carolina Supreme Court issued a public reprimand for misconduct in a dispute regarding an estate. (In the Matter of Lisa Fisher, Respondent, [Appellate Case No. 2020-0000226](#)) Ms. Fisher, admitted pro hac vice in South Carolina, had filed “a series of frivolous pleadings, motions and appeals...and protracted the related litigation for over ten years...” Fisher was sanctioned for violating the South Carolina Frivolous Civil Proceedings Sanctions Act, which provides, *inter alia*, that “[i]f the court imposes a sanction on an attorney in violation of the provisions of this section, the court shall report its findings to the Commission on Lawyer Conduct.” The mandatory reporting provision of the Act is rare. Indeed, under Federal Rule of Civil Procedure 11, judges have discretion in deciding whether to make a referral to disciplinary authorities.

In Pennsylvania, [Rule 2.15 of the Code of Judicial Conduct](#), “Responding to Judicial and Lawyer Misconduct”, addresses a judge’s responsibilities to report lawyer misconduct.¹ [CJC Rule 2.15\(B\)](#) states that “[a] judge having knowledge that a lawyer has committed a violation of the Pennsylvania Rules of Professional Conduct that raises a substantial question regarding the lawyer’s honesty, trustworthiness, or fitness as a lawyer shall inform the appropriate authority.” The requirement that judges report attorney misconduct is the same as a lawyer’s reporting requirement as set forth in [RPC 8.3\(a\). Comment \(1\) to CJC Rule 2.15](#) makes clear that “[t]aking action to address known misconduct is a judge’s obligation,” but “limits the reporting obligation to those offenses that an independent judiciary must vigorously endeavor to prevent.”

The threshold for triggering the mandatory reporting requirement is high – and appropriately so. Judges should not be concerned that by failing to report every incident of bad behavior by an

attorney they run the risk of exposing themselves to discipline. However the [Code of Judicial Conduct](#), as well as other considerations, suggests that further analysis is necessary.

[CJC Rule 2.15\(D\)](#) states that “[a] judge who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Pennsylvania Rules of Professional Conduct shall take appropriate action.” [Comment \(2\)](#) states that [CJC Rule 2.15\(D\)](#) is not limited to situations where a judge has actual knowledge. The Rule reaches all violations, not just those that raise a substantial question regarding honesty, trustworthiness or fitness. [Comment \(2\)](#) further explains that appropriate actions “include but are not limited to communicating directly with the lawyer who may have committed the violation, or reporting the suspected violation to the appropriate authority or other agency or both.”

In deciding whether the appropriate action under [CJC Rule 2.15\(D\)](#) should include reporting suspected violations to disciplinary authorities, judges should consider that the conduct they are aware of may not be an isolated incident, but may be part of a pattern of behavior. Most lawyers today have geographically diverse practices. Misconduct in one court of common pleas, an appellate court, another state’s court, or a federal court may seem insignificant. If each judge considers the misconduct an aberration and does not report the attorney, disciplinary authorities will not be able to see the existing or emerging pattern of misconduct. Reporting the attorney to disciplinary authorities may also lead the attorney to seek help for issues that may be contributing to the misconduct, such as depression, gambling addiction and substance abuse. As a result, ODC encourages judges who may be on the fence to make a report. Our office is charged with protecting the public. Making the report allows us to undertake an investigation, view the attorney’s behavior in the context of other disciplinary complaints and the attorney’s disciplinary history, and take action, if necessary, to protect the public.

Raymond S. Wierciszewski
Deputy Chief Disciplinary Counsel

¹Although not addressed directly to judges, [Pa.R.D.E. 214\(b\)](#) imposes a mandatory reporting requirement on “[t]he clerk of any court within the Commonwealth in which an attorney is convicted of any crime, or in which such conviction is reversed, [who] shall within 20 days after such disposition transmit a certificate thereof to Disciplinary Counsel, who shall file such certification with the Supreme Court.”

Articles of Interest

ABA Ethics Committee Issues Formal Opinion on Materially Adverse Interests

The American Bar Association’s Standing Committee on Ethics and Professional Responsibility issued [Formal Opinion 497](#), addressing Conflicts Involving Materially Adverse Interests.

The term “materially adverse” arises to conflicts involving [former clients under RPC 1.9](#) and [prospective clients under RPC 1.18](#). The Opinion traces the history of the concept of material adverseness, and notes that “material adverseness” can exist even when direct adverseness – i.e., the lawyer being on the opposite side of a former or prospective client in a case – does not.

The opinion notes that “material adverseness” does not reach situations in which the representation of a current client is simply harmful to a former client’s economic or financial interests, without some specific tangible direct harm.

The opinion gives several examples of how a materially adverse situation may arise, such as:

- Suing or negotiating against a former client on the same or on a substantially related matter, which is both directly and materially adverse.
- Attacking lawyer's own prior work. The opinion cites an example in which a lawyer represented the city in negotiating lanes for a company's truck traffic to a quarry, then undertook a challenge to the negotiated path in private nuisance litigation on behalf of neighboring landowners. While the city was not a party to the subsequent challenge, the lawyer was disqualified for taking a position contrary to his own prior work.
- Examining a former client. If a lawyer must use information learned in the former representation in order to competently examine the former client as a witness in another case, the lawyer has a conflict, unless that information has become "generally known."

The opinion concludes,

"Material adverseness" may exist when the former client is not a party or a witness in the current matter if the former client can identify some specific material legal, financial, or other identifiable concrete detriment that would be caused by the current representation. However, neither generalized financial harm nor a claimed detriment that is not accompanied by demonstrable and material harm or risk of such harm to the former or prospective client's interests suffices.

The opinion further notes that even if a conflict exists, the lawyer may still be able to proceed with the representation by obtaining the informed consent of the prior client. Informed consent is defined in [RPC 1.1](#) as "consent by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct." A law firm may also be able to proceed after screening a lawyer with a personal conflict consistent with the requirements of [RPC 1.18\(d\) \(2\)](#).

Lawyer Grabbing Lunch Embarrassed on Zoom

A lawyer in Patna, India, decided, as many of us have from time to time, to grab a bite to eat during an extended Zoom conference. And like many of us, he forgot to check that his camera was turned off, which became a problem when the nation's Solicitor General tried to speak to him. Not until the Solicitor General called him on the phone did he realize what was happening.

It's far from the worst Zoom error, as a formerly prominent American legal celebrity could attest¹, but it might be the funniest. [His expression at 0:25](#), when the realization strikes, is priceless.

¹ Nope, not even going to link that one.

Attorney Well-Being

Well-Being Week in Law – May 3-7

May has long been recognized as Mental Health Awareness Month, and in conjunction with that event, the first week in May – this year, May 3-7 – has been designated by the Institute for Well-Being in Law (IWIL) (formerly named the National Task Force on Lawyer Well-Being) as [Well-](#)

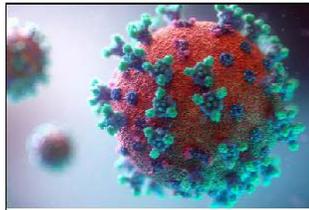
[Being Week in Law \(WWIL\).](#)

Organizations such as the American Bar Association (ABA) Law Practice Division's Attorney Well-Being Committee and the ABA Commission on Lawyer Assistance Program's (CoLAP) Well-Being Committee will sponsor a number of events to raise awareness about mental health and encourage action and innovation across the profession to improve well-being. [WWIL in 2020](#) included sessions on physical, spiritual, intellectual, occupational, social, and emotional well-being. Topics addressed include:

- Physical well-being: Diet, sleep, stress management, substance abuse recovery;
- Spiritual well-being: Finding a sense of purpose and meaning, aligning life and work to values;
- Occupational and intellectual well-being: Learning and development, personal satisfaction and growth, financial stability;
- Social well-being: building connections and support networks, contributing to groups;
- Emotional well-being: Understanding, identifying, and using emotions, getting help.

The organization has not published a specific agenda for the 2021 observation yet, but interested persons can sign up for notifications at [this link](#).





Coping with COVID-19?

LAWYERS CONCERNED FOR LAWYERS — PENNSYLVANIA —

Overwhelmed? Anxious?

Concerned about your own mental health or
substance use during these stressful times?

Concerned about the mental health of a
family member or colleague?

100% Confidential Helpline
1-888-999-1941

www.lclpa.org

[Lawyers Concerned for Lawyers](#) (LCL) 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.

[Resource Guide 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



PA Supreme Court, Department of Human Services Address Criminal Justice Reform for
Pennsylvanians with Autism

Recognizing the importance of criminal justice reform for those with an autism spectrum disorder (ASD), the Pennsylvania Supreme Court, along with the Pennsylvania Department of Human Services (DHS), took steps toward addressing access to justice issues in central Pennsylvania and the Susquehanna Valley.

“The goal here is simple – listen to those living in silence for too long, learn from their experiences and give power to their voices to educate those around us,” Justice Kevin Dougherty said. “That’s the way you work together to bring about real and lasting change for people in need.

“These forums have sparked invaluable conversations with more than 1,000 people across Pennsylvania – and we’re just getting started. The message is clear -- if we’re truly committed to reforming our system, we need to broaden our vision and open ourselves up to someone else’s reality – especially when it looks different than our own.”

In 2020, the Supreme Court signaled its commitment to Pennsylvanians with autism by forming a first-of-its-kind partnership with the Department of Human Services to heighten the focus on helping judges better understand and communicate with individuals with an ASD.

[Read More...](#)

From the Pennsylvania Bar Association



Attorneys who hold client funds must maintain IOLTA accounts. However, many have received very little training on how to appropriately manage these accounts. The PBA’s education department, the Pennsylvania Bar Institute (PBI), has a number of resources and CLE programs to help attorneys understand the requirements; one being [IOLTA Compliance: Keeping Client Funds Safe and Keeping You Out of Trouble 2020](#).

Another recent course offering was [IOLTA Accounts - More Questions & More Answers to the Most Commonly Asked Questions](#). This program covers topics like: Fee Agreements, Distribution Statements, Accounting and Delivery of Funds, Liens, Mandatory Overdraft Notification, Client Ledger, Exclusions, Exemptions, Ethics, and more! [Download this program’s course book](#).

Please note that the Disciplinary Board of the Supreme Court of Pennsylvania and the Pennsylvania Bar Association (PBA) are separate organizations. For more information about PBA, visit their [website](#).

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

[FAQs - For the Public](#)

[Annual Report](#)

[Recent Discipline](#)

[FAQs - For Attorneys](#)

[Rules](#)

[Discipline Statistics](#)

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Disciplinary Board of the Supreme Court of Pennsylvania,
601 Commonwealth Avenue, Suite 5600, PO Box 62625, Harrisburg, PA 17106