



The
DISCIPLINARY BOARD
of the Supreme Court of Pennsylvania

December 2021
Newsletter



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From the Chair

As we enter this holiday season and close out 2021, I look back on the Board's accomplishments. We have many reasons to be proud of our continued advancement of the Board's mission - to protect the public, maintain the integrity of the legal profession, and safeguard the reputation of the courts. The Board has sought to increase transparency, hold the profession to account, and bolster confidence in the entire system. I must thank my fellow Board members, our volunteer hearing committee members, and our staff, for their invaluable contributions to our work.



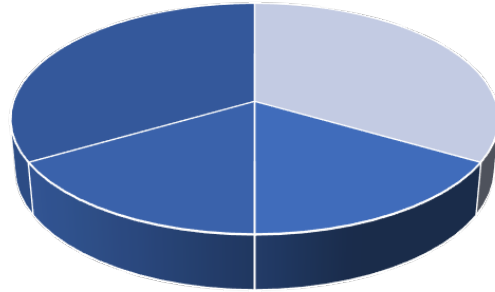
I wish each of you a safe, happy, and healthy holiday season and a sense of optimism for the new year. As I shared with you last month, the coming year marks the Board's 50th anniversary and I look forward to sharing our plans for celebration in 2022.

On behalf of the entire Board, happy holidays to you and yours!

Jack P. Goodrich
Board Chair

Discipline Imposed

November 2021



- Informal Admonition - 2
- Private Reprimand - 0
- Public Reprimand - 0
- Public Censure - 0
- Disability Inactive - 1
- Temporary Suspension - 1
- Suspension - 2
- Disbarment - 0

Disability Inactive Pa.R.D.E. 301

[Paul David Hunt](#)

Temporary Suspension

[Sean Peter Hvizdzak](#)

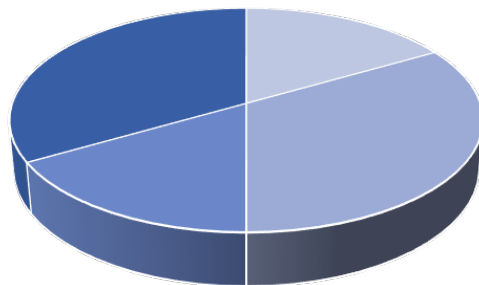
Suspension

[Andrew Wilson Barbin](#)

[Michael Eric Greenberg](#)

Reinstatement Granted

November 2021



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

From Inactive Status

[Kathleen Laura Kraninger](#)

From Retired Status

[Eric Bradley Fields](#)

[Elise I-Hsi Lin](#)

From Administrative Suspension

[Diane M.A. Moore-Eubanks](#)

From Suspension

[Robert J. Colaizzi](#)

[Jami Segota](#) (to Inactive)

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.

January

January 26 - Joshua M. Briskin - Disciplinary Hearing
January 31 - Thomas Mark Shultz - Disciplinary Hearing

February

February 16 - Marianne Sawicki - Disciplinary Hearing
February 17 - Marianne Sawicki - Disciplinary Hearing
February 23 - Milena Mladenovich - Disciplinary Hearing
February 24 - Lon VanDusen Hughes - Disciplinary Hearing

March

March 2 - Stephen Paul Hildebrand - Disciplinary Hearing
March 3 - Shawn-Ryan White - Disciplinary Hearing
March 8 - Joshua Lawrence Gayl - Reinstatement Hearing
March 9 - Joshua Lawrence Gayl - Reinstatement Hearing
March 10 - Matthew J. Reusing, Jr. - Reinstatement Hearing
March 22 - Christopher Nicholas Urbano - Disciplinary Hearing
March 23 - Christopher Nicholas Urbano - Disciplinary Hearing
March 28 - James Harry Turner - Disciplinary Hearing

April

April 19 - William Jay Gregg - Reinstatement Hearing

To Be Scheduled

Steven Gapar Bazil - Public Reprimand

Scheduled proceedings begin at 9:30 am unless otherwise noted.

Rules

Disciplinary Board Amends Rule to Provide for Electronic Filing

By Order published November 13, 2021, at [51 Pa.B. 7050](#), the Disciplinary Board amended Section 93.52 of its Rules of Organization and Administration to address electronic filing of documents in disciplinary matters. The amendment adds a sentence to state, "Electronic filing may be accomplished

CDC Corner

Emergency Temporary Suspensions

FYI: ODC has begun to seek emergency temporary suspensions (“ETS”) more frequently. There are three kinds. While use of all three has increased, the most change will be seen in applications under [Pennsylvania Rule of Disciplinary Enforcement \(“Pa.R.D.E.”\) 208\(f\)\(5\)](#), which authorizes an ETS when a respondent fails to produce or maintain requested records or otherwise obstructs a disciplinary investigation.

[Rule 214 ETS](#). ODC reports attorney convictions directly to the Supreme Court. The Court may issue a rule to show cause why a convicted attorney may not be suspended, either on ODC’s motion or *sua sponte*. The Court will rule based on the application and the response. If the suspended attorney wants a hearing, she must petition for dissolution of the suspension. See [Pa.R.D.E. 214\(d\)\(4\)](#). A single Board member holds the hearing and issues a recommendation to the Court. The Court then decides whether to modify or dissolve its order based on the hearing record and the recommendation. *Id.*

[Rule 214](#) suspensions often follow a felony conviction, where a suspension is the likely final sanction. In such a case, an attorney might be well-advised to consent to an ETS to commence the suspension immediately and advance the date when it will end.

The Court has imposed [Rule 214](#) ETS’s for misdemeanor convictions. [In the Matter of Richard J. McCague, No. 2766 Disciplinary Docket No. 3 \(Jan. 15, 2021\)](#) (conviction for criminal contempt punished by \$4847 fine); [In the Matter of William H. Lynch, Jr., No. 2722 Disciplinary Docket No. 3 \(July 13, 2020\)](#) (conviction of misdemeanor stalking).

[Rule 208\(f\)\(1\) ETS](#). This rule authorizes ODC to petition the Court for injunctive or other relief, including an ETS, when “the continued practice of law by [an attorney]...is causing immediate and substantial public or private harm because of the misappropriation of funds...or because of other egregious conduct...” The petition requires concurrence of a Board member. If the Court finds merit in the application, it issues a rule to show cause to the attorneys. After considering the response, the Court may temporarily suspend the attorney and provide other relief. See [Pa.R.D.E. 208\(f\)\(2\), \(3\)](#). As with [Rule 214](#), to obtain a hearing, the attorney must petition to dissolve the order. See [Pa.R.D.E. 208\(f\)\(4\)](#).

[Rule 208\(f\)\(5\) ETS](#). Under this rule, ODC may petition the Disciplinary Board for a rule to show cause why the Respondent should not be placed on temporary suspension for failure to maintain or produce the trust account records covered by [Pa.R.P.C. 1.15\(c\)](#) and [Pa.R.D.E. 221\(e\)](#) and [\(g\)](#), failure to comply with a subpoena, or other material delay or obstruction of a disciplinary proceeding. If the response shows a need for a hearing, a single Board member presides and reports to the Board, which makes a recommendation to the Court.

Petitions for ETS under [208\(f\)\(1\)](#) and [\(f\)\(5\)](#) are filed under seal. Once the order of ETS is issued, the petition and response become public in 208(f)(1) matters. All proceedings and filings relating to convictions are public.

There are no precedential Supreme Court opinions on these provisions and few publicly available Board recommendations. The Board’s continued revisions to its website will make ETS pleadings available in the future for public review. But if an ETS petition is denied, there is no public record of it.

Other trends to note: ODC is seeking [Rule 214](#) suspensions more often in cases involving offenses of a sexual nature, whether felony or misdemeanor, as well as seeking [208\(f\)\(1\)](#) suspensions even while serious criminal charges are pending, e.g., [ODC v. Sean Peter Hvizdzak, No. 2826 Disciplinary Docket No. 3 \(Nov. 24, 2021\)](#) (wire fraud and money-laundering); [ODC v. Jeffrey Lynn Thomas, II, 2828 Disciplinary Docket No. 3 \(Oct. 27, 2021\)](#) (sexual assault); [ODC v. Chad Michael Salsman, No. 2778 Disciplinary Docket No. 3 \(March 25, 2021\)](#) (sexual assault). Second, while ODC intends to be more aggressive in seeking [208\(f\)\(5\)](#) suspensions, we generally will give the attorney a second chance, at least, to produce the requested documents. Further, we are proceeding cautiously in using (f)(5) where the attorney responds but lacks required records because she hasn't maintained them. While the Rule's language does authorize an ETS for the failure to maintain records, we are cognizant that recordkeeping violations often do not end in suspensions - if there is no evidence that the absence of records accompanied or furthered misappropriation.

Thomas J. Farrell
Chief Disciplinary Counsel

Articles of Interest

Pennsylvania Lawyer Suspended for Failing to Inform Court of Adverse Judgment, Other Misconduct

By [Order](#) dated November 18, 2021, the Supreme Court of Pennsylvania suspended a Cumberland County lawyer based on five cases of misconduct, including one based on his failure to inform the court of an adverse judgment in a parallel civil action in another county.

The Supreme Court suspended Andrew Wilson Barbin, of Mechanicsburg, for eighteen months. The Court based its decision on the report of the Disciplinary Board setting forth 262 findings of fact spread over 33 pages. The Board found that Barbin engaged in a pattern of repeated neglect and incompetence in four client matters, with many of the problems arising from missed court hearings, out of time filings, and poor communication. The record also established that he filed frivolous pleadings and acted with deception to the court in some of the cases.

The lead case cited by the Disciplinary Board arose from the complaint of a senior judge of the Dauphin County Court of Common Pleas. Barbin represented a former state dog law official who brought a defamation action against animal rights activists based on their criticism of her work while in office. Barbin provided a copy of the complaint to a news reporter for the *Philadelphia Inquirer*, who used it as the basis of an article published in the newspaper.

Based on the newspaper article, one of the activists sued Barbin for defamation and false light claims in the Court of Common Pleas of Philadelphia County. The Philadelphia case went to trial before the Dauphin County case did, and resulted in a jury verdict that Barbin defamed the plaintiff, cast her in a false light, and did so with actual malice. The jury awarded the plaintiff \$50,000 in actual damages and \$50,000 in punitive damages, which Barbin paid with funds from his insurance carrier.

Barbin continued, however, to litigate the Dauphin County case. He obtained a default judgment against one of the defendants (although he had not served a Notice to Defend with the complaint). The court scheduled a hearing on damages, and Barbin filed Proposed Findings of Fact and Conclusions of Law in which he failed to mention the Philadelphia verdict. Opposing counsel filed an answer raising the defense of collateral estoppel based on the Philadelphia verdict. The court then entered an order striking the default judgment, finding that the Plaintiff's claims were collaterally estopped by the Philadelphia decision, and dismissing the claims with prejudice. Barbin appealed the decision to the

Superior Court, which upheld the judge's ruling.

The Disciplinary Board found that in the defamation litigation, Barbin violated [R.P.C. 1.1](#) [competence]; [R.P.C. 1.16\(a\)\(1\)](#) [failure to withdraw]; [R.P.C. 3.1](#) [asserting a claim without basis in law or fact]; [R.P.C. 3.3\(a\)\(1\)](#) [making or failing to correct false statement to a tribunal]; and [R.P.C. 8.4\(c\)](#) [conduct involving dishonesty, fraud, deceit, or misrepresentation].

The Disciplinary Board noted as aggravating factors that Barbin had prior discipline in the form of an informal admonition and a stayed suspension, and that he did not take responsibility for his actions or express remorse.

The Hearing Committee recommended that Barbin receive a suspension for one year and one day, stayed in its entirety with two years of probation with a practice monitor. The Disciplinary Board rejected this resolution, and recommended a suspension for eighteen months. The Supreme Court accepted the Board's recommendation and suspended Barbin for eighteen months, effective December 18, 2021.

Florida Lawyer Suspended for Texting Advice to Client During Deposition, Lack of Candor to Court and Opposing Counsel

A Florida lawyer has been [suspended for 91 days](#) for texting advice to a witness during a telephone deposition, and then misrepresenting the nature of his actions under questioning by the opposing counsel and an administrative law judge.

Derek Vashon James represented the employer in a worker's compensation case. The claimant's counsel scheduled a telephone deposition with the employer's adjuster, which James attended as counsel for the employer. During the deposition, opposing counsel heard typing sounds and asked James and the witness whether they were texting during the deposition. James denied texting the witness and stated he was only receiving a text from his daughter. Claimant's counsel asked James to stop texting and put his phone away, and James agreed. The parties took a break, and when the deposition resumed, James continued to attempt to text advice to the witness. However, he blundered and sent the coaching texts to claimant's counsel instead. Claimant's counsel then stopped the deposition and filed a motion for production and in-camera inspection of all the texts sent during the deposition. The Judge of Compensation Claims ordered production of the text messages, and James produced two pages of texts but none from his daughter. The judge rejected claims by James that he sent the texts during a break in the deposition and that attorney-client privilege prohibited their disclosure.

In his disciplinary proceeding, James tried to blame the incident on the conduct of opposing counsel during the deposition. A disciplinary referee found that he had texted his client for the purposes of coaching during the deposition, and that he had misled both counsel and the court by claiming he was texting with his daughter and did not send the incriminating texts during the deposition. The referee found this violated Bar Rule 4-8.4(d) (conduct prejudicial to the administration of justice), and recommended a 30-day suspension. The [Florida Supreme Court](#), however, disagreed with this disposition and suspended James for 91 days, an interval for which reinstatement is not automatic.

Georgia Judge Bans Elf on the Shelf: Escapes Naughty List

A judge has taken the heat for countless weary parents by banning the popular Elf on the Shelf from shelves in Cobb County, Georgia.

By a [mock order published on Twitter](#), Chief Judge Robert D. Leonard, II made a judicial finding that the toy “leaves our children of tender years in states of extreme emotional distress.” The findings of fact that supported this conclusion were based on an incident in his own home, when three children went to school in tears after an accusation of “elf murder.”

For those who somehow escaped familiarity with the Elf on the Shelf tradition, the elves are reportedly sent to homes to watch children by day. They do not move during the day, but at night, they return to the North Pole to report to Santa whether children were naughty or nice. If a child touches the Elf, however, it loses its ability to communicate with Santa, with potentially catastrophic consequences for children (or at least those warranting placement on the “Nice” list). Apparently, an unauthorized touching in the Leonard household triggered the incident that led to the ban.

The story has local connections, as the Elf on the Shelf legend is based on a [book](#) written by Cobb County natives Carol Aebersold and Chanda Bell, and illustrated by Coë Steinwart.

The Lumistella Company, producers of the Elf on the Shelf toy, [issued a statement quoting Santa Claus](#) that Judge Leonard had no jurisdiction over Christmas cheer. Presumably this was based on advice of polar counsel, as Santa Claus is generally not regarded as an authoritative voice on legal jurisdiction. The company did add, “Santa has checked his list twice, and Judge Leonard is still on the ‘nice’ list.” So no hard feelings.

Unaddressed in the order is the status of adults who have developed a subtext to the Elf on the Shelf tradition by arranging the figures in poses which, shall we say, put them in serious jeopardy of “Naughty” list placement.

ABA Lists Hot Gifts for Lawyers

Got a lawyer on your gift list? Or need some filler for a Christmas list to be distributed to loved ones? The ABA Journal is here to help with its [2021 Gifts for Lawyers](#) guide. From a \$450 personalized video greeting from Ice-T to some nifty legal-themed socks and tree ornaments, they have what you need for that last-minute stocking stuffer. Lists from the past five years are available, as well.

Attorney Well-Being

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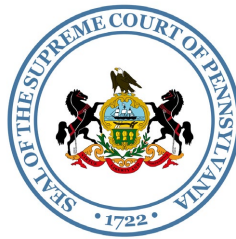
[Lawyers Concerned for Lawyers](#) (LCL) is a confidential and safe resource for Pennsylvania attorneys and their family members who may be struggling with their mental health or substance use. An astounding one in three legal professionals will face these issues at some point in their career. Since 1988, 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



Bar Admission Ceremonies Details Announced

The Supreme Court of Pennsylvania recently published an updated schedule and COVID-19 protocols for the December 15th bar admission ceremonies. Learn more on the [PA Courts website](#).



BAR ADMISSION CEREMONIES

DATE	LOCATION
December 15, 2021 at 10:00 a.m. (Last name: A-Q)	City Hall Courtroom 653, Philadelphia
December 15, 2021 at 11:00 a.m. (Last name: R-Z)	City Hall Courtroom 653, Philadelphia
January 27, 2022 at 11:00 a.m.	City-County Building Rm 801 - Supreme Court Courtroom, Pittsburgh



Dates and times of bar admission ceremonies are subject to change. Please consult the PA Courts website closer to the time of your ceremony for additional details.

Supreme Court Publishes Rules Implementing Language Access Plan

By [Order](#) dated November 19, 2021, the Supreme Court of Pennsylvania published a set of rule changes intended to implement the Unified Judicial System's [Language Access Plan](#) (UJS-LAP). The new language expands obligations of the courts to provide reasonable accommodation for individuals with limited English proficiency (LEP) or who are deaf or hard of hearing (DHH).

The order amends [Rules of Judicial Administration 250 through 262](#). New Rule 261(A) states:

It is the policy of the UJS to provide meaningful language access to the courts for all individuals who are Limited English Proficient ("LEP") or deaf or hard of hearing ("DHH") to ensure that such persons have due process and equal access to all judicial proceedings, court services, programs, and activities. Ensuring meaningful language access means providing timely, accurate, and effective language services at no cost to persons who are LEP or DHH, whether requested or not.

The new rule requires courts to review data concerning the languages for which interpreters are most frequently requested and translate vital documents in accordance with the policy and procedures established by the Administrative Office. Oral translation of documents must be provided when a translated document is not available.

A qualified interpreter must be provided for any court services, programs, or activities and in every judicial proceeding where a LEP person is a principal party in interest, or where a court finds good cause for provision of interpreter services.

A qualified interpreter must be provided for a DHH person in any court services, programs, or judicial proceedings where the DHH person is a principal party in interest, or for any person, including a spectator, who seeks a reasonable accommodation.

New Rule 262 states that these rules apply to every entity in the UJS, including appellate, trial, and magisterial district courts, as well as boards, committees, and offices under the administrative authority of the Supreme Court.

New Rule 263 directs the Court Administrator to promulgate uniform standards for the provision of meaningful language and DHH access through the UJS-LAP, and each judicial district to promulgate local language access plans in conformity with a template from the Administrative Office.

The new rules are published at [51 Pa. Bulletin 7409](#) (12/4/2021), and take effect January 1, 2022.

From the Pennsylvania Bar Association



Promoting Professional Excellence in the Law: PBA Serves Lawyers in Every Practice Area in Every Corner of Pennsylvania

Reflecting on 2021, there are many reasons to feel grateful. Despite the numerous challenges presented this past year, there are an incredible number of attorneys, judges, and other professionals who continuously work to advance and improve the legal profession and our courts. The [Pennsylvania Bar Association](#) (PBA) is proud to be a part of this work. As you renew your PBA membership for 2022, please know that PBA is here to serve you.

Association members are able to serve on PBA's [more than 50 committees](#) which is an easy way to connect to others with similar interests and specialties. Each year, PBA also develops and delivers hundreds of high-quality, Pennsylvania-specific [CLE programs](#) and publications that are always looking for new faculty members and writers.

PBA offers the information, tools, and online resources that best foster professional excellence in your career. Members have access to PBA's law practice management and ethics hotline as well as many [benefits and cost-saving programs](#), including USI Affinity insurance, LawPay, Clio, and Fastcase. And, if you are looking for a connection to help you fulfill your pro bono responsibilities, learn more about [Pennsylvania Free Legal Answers](#).

PBA thanks each of you for your time, commitment, and willingness to contribute to the legal profession and your communities. PBA is here to support your professional goals and practices. How can PBA help to make your life easier in 2022?

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 are our original source, there may be a hat tip in it for you.

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