



The
DISCIPLINARY BOARD
of the Supreme Court of Pennsylvania

March 2022 Newsletter



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From the Chair

Today, March 21, 2022, marks the Golden Anniversary of the Disciplinary Board of the Supreme Court of Pennsylvania. Established by [Order](#) of the Supreme Court dated March 21, 1972, the Disciplinary Board has regulated attorney conduct for the past five decades. Though practices and procedures have evolved considerably over that time, service has remained the heart of the Board's work. Serving the Commonwealth, its communities, and its legal profession continues to be the Board's top priority, and this milestone offers the opportunity for the Board to reaffirm its mission to protect the public, maintain the integrity of the legal profession, and safeguard the reputation of the courts.



We will reach the final days of our anniversary celebration next week. It has been a pleasure to look back on the Board's remarkable fifty-year history and celebrate its accomplishments. Published today, the Board's [2021 Annual Report](#) details the endeavors of another year of its legacy. However, as gratifying as it has been to reflect on past growth, we look to the future of attorney discipline with great confidence in the next generation of leaders.

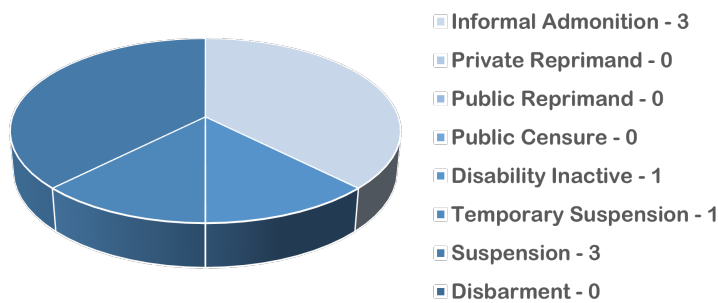
This week, we also highlight exemplary efforts of partner court agencies. In support of greater access to justice for all Pennsylvanians, the PA Continuing Legal Education Board announced approval of CLE credit for pro bono work due to the great success of their three-year pilot project which ran from 2019-2021. A recent Supreme Court [Order](#) amended Rules 106 and 108 of the Pennsylvania Rules for Continuing Legal Education, formally affording PA attorneys to earn CLE credit for pro bono legal services performed through an accredited provider. The Disciplinary Board offers its ardent congratulations to the CLE Board, one of our most esteemed partners, on this outstanding achievement.

With appreciation,

Jack P. Goodrich
Board Chair

Discipline Imposed

February 2022



Disability Inactive Pa.R.D.E. 301

[James W. Zerillo](#)

Temporary Suspension

[John E. Toczydlowski](#)

Suspension

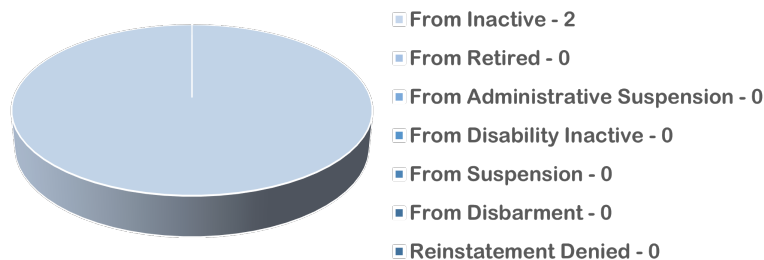
[William D. Hobson](#)

[Andrew S. Hurwitz](#)

[Elliott James Schuchardt](#)

Reinstatements

February 2022



From Inactive

[Tiffany Marie Ambrose](#)

[Joshua Hamilton Meyeroff](#)

Note: The above-listed granted reinstatement matters reflect only those granted by Supreme Court Order. An attorney listed as reinstatement granted, but 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](#). You can also view "Upcoming Public Proceedings" at the bottom of the Board's home page, www.padisiplinaryboard.org.

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

<i>March</i>		
March 22 March 23	Christopher Nicholas Urbano	Disciplinary Hearing
<i>April</i>		
April 19	William Jay Gregg	Reinstatement Hearing
April 20	Timothy Nicholas Tomasic	Disciplinary Hearing
April 26	Richard Hulings Luciana	Disciplinary Hearing
April 27	Marianne Sawicki	Disciplinary Hearing
<i>May</i>		
May 5 May 6	Arkady Rayz	Disciplinary Hearing
May 9	Brian M. Puricelli	Disciplinary Hearing
May 10	Marianne Sawicki	Disciplinary Hearing
May 11	Joshua M. Briskin	Disciplinary Hearing
May 17	Daniel P. Ring	Reinstatement Hearing
May 25	Neil E. Jokelson	Reinstatement Hearing
<i>June</i>		
June 2	Vincent James	Reinstatement Hearing
June 7 June 8	Dale Robert Wiles	Reinstatement Hearing
June 14	Jay L. Yackow	Disciplinary Hearing
June 21 June 22	Douglas M. Marinos	Reinstatement Hearing
June 30	Steven Ronald Savoia	Disciplinary Hearing
<i>July</i>		
July 6 July 7	Mark Adam Goldstein	Disciplinary Hearing
<i>August</i>		
August 23	Matthew J. Reusing, Jr.	Reinstatement Hearing
<i>To Be Scheduled</i>		
Thomas Joseph Dancison, Jr. – Public Reprimand		

Disciplinary Board News

Disciplinary Board Issues 2021 Annual Report

The Disciplinary Board has sent its Annual Report for 2021 to the Supreme Court and made it available [here](#).

The Annual Report always provides an illuminating sketch of the current composition of the Pennsylvania bar. 75,680 attorneys registered, of whom 48,385 (63.9%) were resident attorneys on active status, 16,625 (22.0%) were non-resident active, and 9,998 (13.2%) were inactive. 87.5% of attorneys completed their registration by the July 1 deadline, and 96.2% finished the process in time to avoid a late penalty.

Of those who chose to answer the demographic questions, 61.2% were male and 38.7% female. By age, 23.0% are under 40, 45.4% are in their 40s and 50s, and 31.6% are over 60.

Of those who serve Pennsylvania clients, 51.3% have a succession plan in place, and 48.6% do not.

Since 2018, emeritus status has been an option for retired attorneys who desire to perform pro bono work with legal aid organizations. At year-end, 26 attorneys have elected emeritus status, an increase from 23 at the start of the year.

The Disciplinary Board conducted three of its four quarterly meetings remotely by WebEx. The Board adjudicated 27 matters during the year (19 discipline and 8 reinstatement cases). The Board filed recommendations to the Supreme Court in 25 matters (17 discipline and 8 reinstatement). The Court issued orders in 20 adjudicated matters, adopting the Board's recommendation in 19 of those. Hearing committee members reviewed 83 disciplinary referrals, conducted 21 prehearing conferences, and held 15 disciplinary and 17 reinstatement hearings. They filed 25 reports recommending action.

Disciplinary Counsel opened 3,818 new complaints in 2021, and resolved 3,836 matters.

The total number of disciplinary actions concluded was 132, down by 10.8% from 148 in 2020. Disbarments were down by 40% from 2020 (from 32 to 18), but private discipline was up 26%, from 42 to 53.

The report details numerous educational presentations, panels, and conferences the Board, staff, and hearing committee members performed. The report also details updates to the Board's [website](#) that include:

- a new [online filing module](#) allowing staff and respondent- and petitioner-attorneys to electronically file pleadings directly with the Board;
- a [Pro Bono page](#), seeking to connect Pennsylvania attorneys with available resources to perform pro bono service and to advance equal access to justice for all Pennsylvanians; and
- the [Case Research Collection](#), which makes available public case information and documents from 2016 through the present. Users can browse the collection or use search criteria to narrow findings.

View "The Retirement Discussion" for Free in March

There is only a short time left to [view "The Retirement Discussion" for FREE!](#) The program was presented in collaboration with the Pennsylvania Bar Association (PBA). Board Members and staff participated on a panel discussing a successful path to retirement. Highlighted topics included succession planning, license status options, applicable rules, ethical implications, and

available resources.



Please note that CLE credit is NOT earned when viewing the presentation for free at the above link. If you wish to purchase the on-demand video through the Pennsylvania Bar Institute for CLE credit, you may do so [here](#).

Rules

Supreme Court Orders New Registration Fee with Increase

By [Order](#) dated March 14, 2022, the Supreme Court of Pennsylvania [amended Rule 219\(a\)](#) of the Pennsylvania Rules of Disciplinary Enforcement, regarding annual registration of attorneys. The amendment raises the Disciplinary Board's portion of the annual attorney fee from \$145 to \$195, effective with the 2022-2023 registration period, for which fees will be due July 1, 2022. With the amendment, the total attorney registration fee for 2022-2023 will rise from \$225 to \$275.

Supreme Court Amends Conservatorship Rule

By [Order](#) dated March 10, 2022, the Supreme Court adopted an [amendment to Rule 328](#) of the Pennsylvania Rules of Disciplinary Enforcement, which addresses compensation of conservators appointed to protect the interests of clients of attorneys who become absent because they have abandoned their practice, disappeared, died, or been transferred to inactive status because of incapacity or disability.

The amendment eliminates language which required the conservator, appointed by the President Judge of the Court of Common Pleas, to enter into a contract with the Chair of the Disciplinary Board. The amendment preserves provisions setting the conservator's compensation at an hourly rate identical to that received by court-appointed counsel at the non-court appearance rate in the judicial district, allowing the conservator to apply for enhanced compensation only under extraordinary circumstances.

The amendment will be effective thirty days from issuance of the Order.

CDC Corner

The Disciplinary Process – Part One

One thing is undisputable about the attorney disciplinary system: it is complex and intricate. I've learned this not only from my own struggles with it but from comments I've heard in two years of participating in over twenty CLEs about the system. Some of its complexity is unavoidable, and some we are trying to remedy. This month's column is the first of my attempts to explain it.

Complaints

Disciplinary "complaints" are not pleadings. They are not filed with the Supreme Court or the Board; they are not served on the respondent-attorney; and they do not require a response from the attorney. In fact, in most cases the attorney never sees it.

A complaint is more akin to a grievance that triggers Office of Disciplinary Counsel's (ODC) investigation. We dismiss many without notifying the attorney that one has been submitted to us. They are confidential and non-public, although the complainants can publicize them if they wish, but at a risk: by doing so, the complainant forfeits the rule-guaranteed immunity from suit for anything said in a complaint.

The charging document at a hearing is the "petition for discipline" which ODC prepares based on its own investigation. It may overlap with the complaint's allegations, but often it differs considerably from the complaint. ODC has an internal policy, however, that if a case proceeds to a hearing, ODC will produce the complaint to the respondent before the hearing if the complainant will testify at the hearing, or if the complaint contains exculpatory information.

ODC generally receives 3,700 to 4,300 complaints each year. Ninety-five percent of them are dismissed; about 85% of those without ODC making a formal request to the respondent for any information - a so-called "DB-7." (We might informally request information of the respondent; usually, that's a sign to the respondent that if she satisfies our concern—e.g., sends us the fee agreement showing that it was a flat fee or the timely-filed notice of appeal—the investigation will be dismissed.)

Dismissals and "Anonymous" Complaints

There are no pleading standards in the rules for a complaint other than that it must be signed and it must contain a statement of the facts on which it is based. See [D.Bd. Rule 87.2\(c\)](#). Our website does have an electronic form, and each field must be completed or the system won't accept the complaint. This includes the name and address of the complainant, because if the matter proceeds to the DB-7 stage, the rules require that we provide that information to the respondent. See [D.Bd. Rule 87.7\(b\)\(1\)](#). The [complaint form](#) is available in English and 13 other languages.

The rules authorize ODC to open an investigation on its own initiative, either in addition to complaints against that attorney or without any complaint. See [D.Bd. Rule 87.1\(b\)](#). Most often the reason is either that a complainant does not want his name attached to a complaint or that we learn of possible misconduct from other sources - a news article or a judicial opinion, for example.

Providing information without attaching one's name to a complaint does have a downside: the "informant" cannot learn of the complaint's disposition if it is either a dismissal or private discipline (an informal admonition or private reprimand). The rules do require us to notify complainants of dismissals or private dispositions. See [D.Bd. Rule 87.51\(a\)\(1\)](#).

ODC can dismiss complaints on several bases: lack of jurisdiction, frivolousness, Board policy, prosecutorial discretion, or "any other reason." See [D.Bd. Rule 87.8\(b\)](#). The rules do not define

“prosecutorial discretion,” and we consider dismissal discretion to be broad and to include resource allocation decisions. Our procedures authorize the assigned disciplinary counsel and her immediate supervisor to make the final dismissal decision; neither the Chief Disciplinary Counsel nor the Deputy Chief review dismissals in the ordinary course. Dismissals are not subject to review by Hearing Committees or the Board (remember, complainants are not parties), although a complainant can ask the assigned disciplinary counsel and the Chief Disciplinary Counsel to reconsider. See [D.Bd. Rule 87.9\(b\)](#).

Next month, I'll describe the investigative process, DB-7's (requests for a respondent's position), and DB-3's (requests to prosecute).

Thomas J. Farrell
Chief Disciplinary Counsel

Articles of Interest

Connecticut Trial Courts Can Disbar Attorneys. One Just Did.

Here in Pennsylvania, as in most states, we are accustomed to a disciplinary process separate and discrete from the trial and appellate courts to administer professional discipline. We can count on complaints being investigated by professional counsel, trial before a hearing committee, and successive review by the Disciplinary Board and the Supreme Court, all with layers of due process. In most states this is true.

But not all. Connecticut's [Practice Book](#) contains an obscure provision (Section 2-45) which allows any court to disbar or otherwise discipline a lawyer for conduct committed in the presence of the court. The order may be summary, entered without complaint or hearing. Furthermore, the rule directs the attorney grievance process to defer to the findings of a court that does so. It [happened in January](#).

By an Order dated January 25, 2022, Judge Thomas Moukawsher of the Connecticut Superior Court (a trial level court) [disbarred Nickola J. Cunha](#), counsel for a divorce litigant before the court. Moukawsher's order found that Cunha had made “empty and malicious” claims of abuse and antisemitic declarations to win an advantage for her client by “snarling the case into an un-triable mess.” He found that Cunha had accused the system of being broken and corrupt, but had used the system's indulgence of her claims to obstruct its operation. Moukawsher's order barred Cunha from seeking reinstatement for five years.

Cunha told the [Journal Inquirer](#) that she was being targeted as a solo practitioner without the resources to defend herself. She said, “What they expect and will not get is for me to bow down and apologize. I will not apologize for something I did not do.”

Cunha is listed on the [attorney search site](#) of the Connecticut Judicial Branch as disbarred, citing the order of Judge Moukawsher.

Seventh Circuit Denies Discharge of Costs of Disciplinary Proceeding in Bankruptcy

The U.S. Seventh Circuit Court of Appeals, in a decision of first impression, held that costs of a disciplinary proceeding imposed after a finding of violation of the applicable rules was a penalty

rather than an unsecured debt, and thus nondischargeable in bankruptcy.

Wisconsin lawyer Tim Osicka was suspended by the Supreme Court of Wisconsin in 2009. One of the provisions of the disciplinary order assessed costs of the proceeding in the amount of \$12,500. Osicka did not pay the costs at the time.

In 2011, Osicka filed a bankruptcy proceeding in which he listed the costs assessment as an unsecured debt owed to the Office of Lawyer Regulation. OLR did not contest the petition. Osicka received a general discharge.

In 2019, Osicka sought reinstatement to the practice of law, but OLR required payment of the disciplinary costs before recommending reinstatement. Osicka then reopened his bankruptcy proceeding and sought a declaration that the award of costs was discharged in bankruptcy. He argued that the costs award was not a “fine, penalty, or forfeiture” within the meaning of 11 U.S.C. § 523(a)(7), and instead served only to compensate the OLR for the expense it incurred in the underlying disciplinary proceeding against him. The Bankruptcy Court denied his application, and he appealed.

In an [Opinion dated February 7, 2022](#), the Seventh Circuit affirmed the Bankruptcy Court’s denial. The Court examined the judicial history of fines, penalties, and forfeitures under § 523(a)(7), and concluded that the award of costs represented a “penalty” rather than compensation to the OLR, citing the definition of a “penalty” in *Black’s Law Dictionary* as “[p]unishment imposed on a wrongdoer” that can take the form of a “sum of money exacted as punishment for either a wrong to the state or a civil wrong.” It viewed the allocation of expenses as “an expenditure by the government, part of the expense of governing” that was not undertaken “expecting to create a debtor-creditor relationship,” which under caselaw is not dischargeable. The Court noted cases from the First, Ninth, and Eleventh Circuits which have come to the same conclusion.

Gun-Toting St. Louis Lawyers Receive Stayed Suspensions

St. Louis personal injury lawyers [Mark and Patricia McCloskey gained a brief moment of national celebrity in the summer of 2020](#), when they appeared on the front lawn of their home brandishing guns at Black Lives Matter protestors marching to the house of the city’s mayor, who lives in the same development. But their time in the limelight came with a cost, as the Supreme Court of Missouri imposed an order of discipline on the couple.

Following the incident, the couple were charged with felony offenses. Mark McCloskey pleaded guilty to misdemeanor fourth-degree assault and was ordered to pay a \$750 fine. Patricia McCloskey pleaded guilty to misdemeanor harassment and was ordered to pay a \$2,000 fine. Ms. McCloskey’s sentence was more severe as she was filmed pointing her gun directly at the protestors. Missouri Governor Mike Parson [pardoned the couple](#) in August 2021.

Nonetheless, [Missouri Disciplinary Counsel requested that the Supreme Court suspend the McCloskeys](#) based on their criminal pleas. Chief Disciplinary Counsel Alan Pratzel noted that a pardon does not relieve the parties of the consequences of their behavior.

In a [pair of Orders](#) entered February 8, 2022, the Supreme Court found that the McCloskeys pled guilty to crimes involving moral turpitude. The Court suspended their licenses indefinitely, but stayed the suspension with one year of probation subject to [terms and conditions](#). If they are found to have violated the probation, the suspensions will take effect, and no applications for reinstatement will be accepted for six months.

Lawyer Can Continue Suit Alleging Paralegal Tried to Poison Him

We often talk about a bad relationship as “poisoned,” but a Texas lawyer [claims his paralegal tried to literally poison](#) him to prevent him finding out about her misconduct.

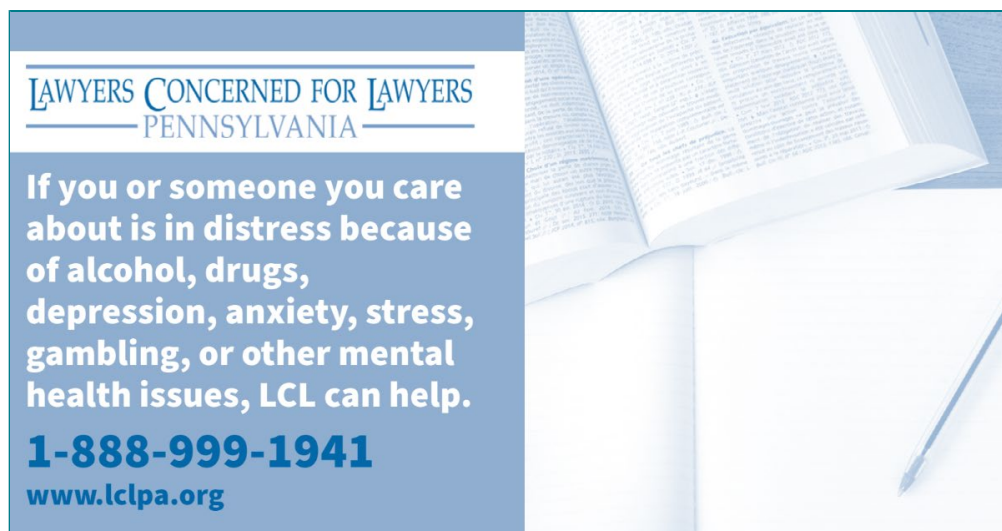
The sordid history of lawyer Art Guzman and his former paralegal Ashley Syzmonek is recounted in an [opinion by the Texas Court of Appeals](#) that could serve as a synopsis for a miniseries. Guzman originally sued Syzmonek for defamation, as she told various people he was depressed and not taking care of his law practice. He later amended his complaint to allege numerous other causes of action, including stealing money from the practice, lying to or not communicating with clients, authorities, and Guzman’s accountant, failing to renew his malpractice insurance, failing to send his tax records to his accountant, diverting his emails to a personal email address, and not sending his response to a disciplinary complaint to disciplinary authorities, resulting in his disbarment. To top it all, he accused her of poisoning him with massive levels of antifreeze in order to keep him from finding out about her misconduct.

Syzmonek asserted a defense to the defamation action asserting that her statements about Guzman’s mental condition were protected under Texas’s whistleblower statute. The Court of Appeals rejected this defense, and allowed Guzman’s defamation claim to go to trial.

Guzman succeeded in getting his disbarment reversed, and is currently active and eligible to practice law. Syzmonek is apparently still employed at another law firm. The merits of Guzman’s accusations against his former paralegal may be determined in future proceedings. No criminal charges were filed against either.

No air date for a mini-series has been announced.

Attorney Well-Being



**LAWYERS CONCERNED FOR LAWYERS
PENNSYLVANIA**

If you or someone you care about is in distress because of alcohol, drugs, depression, anxiety, stress, gambling, or other mental health issues, LCL can help.

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. 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



PA CLE Board Announces Formal Approval of CLE Credit for Pro Bono Service

The Pennsylvania Continuing Legal Education (CLE) Board has announced changes in rules and regulations that offer lawyers the option of completing a portion of their CLE requirement with credits earned through pro bono service.

By Supreme Court [Order](#), Pa.R.C.L.E. Rule 108(e) and related CLE Regulations have been updated to reflect this change.

The [new amendments](#) allow lawyers to earn one (1) CLE credit for every five (5) hours of pro bono service completed through an Accredited Provider of Pro Bono CLE. A maximum of three (3) credit hours earned in this manner may be applied towards the annual CLE requirement. Work is required to be completed through legal service providers accredited by the CLE Board and performed for a person of limited means or charitable organization. Organizations eligible for accreditation must be Pennsylvania-based non-profits that receive funding for their pro bono programs from the Pennsylvania Interest on Lawyers Trust Accounts Board (IOLTA) or the Pennsylvania Legal Aid Network (PLAN). Organizations who do not receive funding from IOLTA or PLAN but maintain partnerships or referral relationship with IOLTA/PLAN grantees are also eligible for accreditation.

These amendments formalize rules and regulations for a model that was evaluated during a three-year pilot project from 2019-2021. During the trial period, twenty participating organizations coordinated with over 1,000 volunteers to report over 2,300 hours of CLE. These credits account for over 11,500 hours of pro bono service.

The CLE Board considers this initiative a successful blending of continuing education opportunities and efforts to serve Pennsylvanians in need. "The Board is quite pleased to administer our Supreme Court's vision of incorporating pro bono service into the continuing legal education mission," said Doug Ress, CLE Board Chair. "We look forward to maintaining and expanding our ongoing relationship with and support of PLAN, IOLTA and other accredited pro bono CLE providers for the mutual benefit of the Bar and the communities served."

The Pennsylvania Legal Aid Network endorses the CLE credit for pro bono initiative. "PLAN, Inc. and our statewide network of civil legal aid programs and projects are delighted that the Supreme Court has made this change permanent," said Max Laun, Interim Executive Director of PLAN. "Getting CLE credit for performing pro bono work is the best of both worlds: lawyers can meet their compliance obligations while doing good for underserved clients, and the clients and programs benefit as more lawyers take on this vital work."

The CLE Board is responsible for administering the rules pertaining to mandatory continuing education for attorneys. This responsibility includes monitoring attorney compliance with the CLE requirements and accrediting CLE providers and courses.

The Board's website offers online tools to help attorneys locate educational options and track their CLE compliance. To access these services and learn more about CLE for Pro Bono, please visit www.pacle.org or call (717) 231-3230.



SUPREME COURT OF PENNSYLVANIA

Pennsylvania Interest on Lawyers Trust Account Board

2021 IOLTA Annual Report Released

The IOLTA Board is pleased to share with Pennsylvania's legal community their [2021 Annual Report](#). In support of the IOLTA Board's mission, more than \$20 million in grant funds financed the delivery of free civil legal aid to low-income Pennsylvanians. The IOLTA Board is proud to support the critical work of their grantees in every corner of the Commonwealth.

The [2021 Annual Report](#) features client stories from three of IOLTA's esteemed grantees and a heartfelt testimonial from a North Penn Legal Services' attorney who benefits from the Loan Repayment Assistance Program. The IOLTA Board is extremely grateful for the voluntary financial support they receive from members of the private bar. The list of donors begins on [page 20](#).

If you are interested in supporting the delivery of civil legal aid through pro bono representation, contact your local bar association or [click here](#) for a list of IOLTA-funded legal aid programs. To learn more about the IOLTA Board, please visit www.paiolta.org or contact their office directly at (717) 238-2001.

From the Pennsylvania Bar Association



Financial Literacy & Health

Financial literacy and health are concepts important to everyone but critical for lawyers. Not only do lawyers have their own finances to handle, but they also hold various obligations related to client and third-party funds. When it comes to attorney misconduct in this area, it is not just blatant theft or fraud that has the potential to get an attorney into trouble. Other types of mishandling, such as commingling of funds or failure to properly account for IOLTA funds, can lead to a disciplinary complaint.

The Pennsylvania Bar Association (PBA) has various benefits and services that can help with financial literacy and health, including law practice management resources, discounts for members with finance-related vendors, and CLE and non-CLE educational opportunities.

The PBA's Legal Academics Committee and Young Lawyers Division are co-sponsoring "[Deciphering the Student Loan Landscape](#)", a free, non-CLE program, on April 6, 2022 at 4:00 p.m. This program will discuss the new federal student loan repayment policies, the Public Service Loan Forgiveness Program, cancellation of student loan debt, the state of the law on discharging student loan debt in bankruptcy, and tips on taking control of one's finances. Click [here](#) to register.

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.

Resources

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