

July 2022 Newsletter



From the Chair

As a reminder, the deadline for the annual attorney registration was July 1, 2022. Those Pennsylvania attorneys who have not yet completed registration for this coming year are urged to <u>do so</u> as soon as possible to avoid the imposition of further late payment penalties or administrative suspension of his or her license. As of this newsletter's publication, approximately 97% of attorneys have completed their yearly registration obligation.



During this year's registration period, several attorneys moving to retired status have submitted an application for the Board's

emeritus status program. I would like to take this opportunity to thank *all* attorneys furthering their commitment to equal access to justice in Pennsylvania through their service as emeritus attorneys. This special status, first <u>established</u> by <u>Supreme Court Order</u> in 2018, allows retired attorneys to lend their expertise to the provision of pro bono legal services in Pennsylvania. Through their work with legal aid and other nonprofit programs, emeritus attorneys fulfill an invaluable role in communities across the Commonwealth by helping to lessen the gap between the need for and the availability of free legal services. The Board extends its most sincere gratitude to all emeritus attorneys for their generosity of time and efforts.

Stay well,

Jerry M. Lehocky Board Chair

Annual Attorney Registration

Late Fees Assessed After July 16th and August 1st

The deadline for the 2022-2023 <u>Annual Attorney Registration</u> was **July 1, 2022.** Any attorney currently on active or inactive status must <u>register</u> via the Unified Judicial System Web

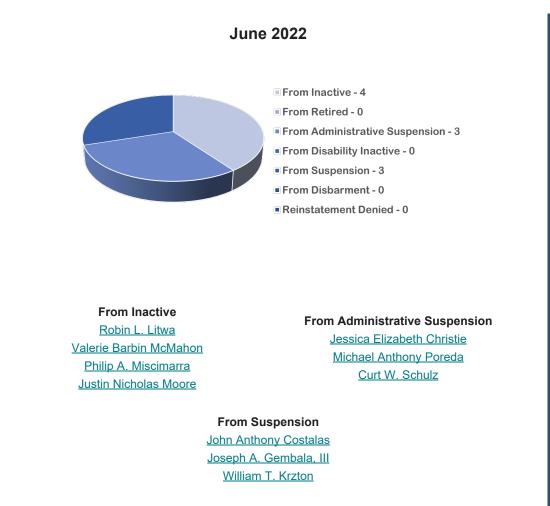
Portal. Registration fees are \$275 for active status and \$100 for inactive status; there is no fee for retired status. Payment may be made online.

The first \$200 late fee was assessed after **July 16th**, and the second \$200 late fee is assessed after **August 1st**. These late payment penalties are imposed automatically and are not waivable by the staff or Board. An additional fee of \$25 will be assessed in the event of any returned payment. Failure to complete registration by August 1st shall be deemed a request for transfer to administrative suspension under <u>Pa. R.D.E. 219(f)</u>.





Reinstatements



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 <u>Board's YouTube channel</u>. You can also view "Upcoming Public Proceedings" at the bottom of the Board's <u>home page</u>.

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

	July		
July 26 July 27	Timothy Nicholas Tomasic	Disciplinary Hearing	
August			
August 9	Valerie Andrine Hibbert	Contempt Hearing	
August 18	Neil E. Jokelson	Reinstatement Hearing	
August 29 August 30	Marianne Sawicki	Disciplinary Hearing	
September			
September 13	Lawrence E. Bolind, Jr.	Disciplinary Hearing	
September 15 September 20	Charles C. Shainberg	Disciplinary Hearing	
September 22	Brian Frederick Levine	Disciplinary Hearing	
September 27 September 28	Evan T. L. Hughes	Disciplinary Hearing	
	October		
October 5	Glenn Paul Cummings	Disciplinary Hearing	
October 13	John T. Lynch, Jr.	Reinstatement Hearing	
October 25 October 26	James P. Miller	Disciplinary Hearing	
October 27	Glenn Paul Cummings	Disciplinary Hearing	
November			
November 29	Matthew J. Reusing, Jr.	Reinstatement Hearing	

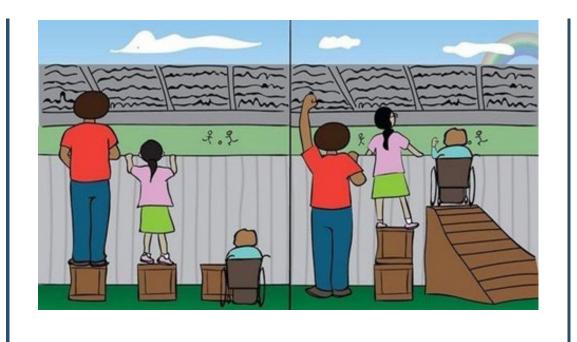
CDC Corner

Diversity and Well-Being

Diversity is indispensable to the well-being of any complex system. Without diversity, forests and farmland wither, oceans depopulate, cultures become boring, and our justice system unjust.

The practice of Diversity, Equity and Inclusion—DEI—is a necessary component of lawyer wellbeing and ethical practice as well. If diversity means opening the doors to people of different color, gender identity, and ethnicity, then inclusion and equity mean fostering the conditions that help them succeed. A cartoon recently published in *Boston Bar Journal* by my friend Stacey Best, a former star disciplinary counsel and now Executive Director of Massachusetts' <u>Lawyers</u> <u>Concerned for Lawyers</u> program, says it better than words. Massachusetts has recognized the connection between DEI and justice and well-being by including DEI counseling within LCL. I recommend the <u>entire issue</u>, dedicated to DEI, to you.

Thomas J. Farrell Chief Disciplinary Counsel



Disciplinary Board News

Seventeen Attorneys Take on Hearing Committee Responsibilities and Thirty Members Reappointed

Hearing Committee Members perform essential roles in Pennsylvania's disciplinary system, chief among them to review Disciplinary Counsel's recommended dispositions and to conduct hearings into formal charges of attorney misconduct and petitions for reinstatement. These efforts, which include reviewing pleadings and briefs, weighing evidence, and writing reports, are critical to guiding the Board and the Supreme Court in their determinations.

The newly-appointed members below have committed to this substantial service to the legal profession by accepting appointments as Hearing Committee members, effective July 1st. Also listed below are current Hearing Committee Members who have agreed to extend their tenure by accepting reappointment to an additional three-year term, effective July 1st.

2022 HEARING COMMITTEE APPOINTMENTS

NEWLY APPOINTED MEMBERS

DISTRICT I

Scott Alan Bennett William J. Brennan Jonathan W. Hugg* Brent William Landau Henry Falkner Reichner Daniel Erik Rhynhart Adam Samuel Rosenthal

DISTRICT II

Zanetta Maree Ford Tina Mazaheri

REAPPOINTED MEMBERS

DISTRICT I

Francis N. Ciprero Anthony Louis Gallia Kevin Edward Harchar Catherine Nora Harrington Debra Andrea Jensen Patrice Smith O'Brien Thomas N. Sweeney Robert Thaddeus Szostak Heidi Villari Keld Rolf Wenge Brian J. Zeiger

DISTRICT II

Aimee L. Kumer James Joseph McCarrie, II Danielle Peyakovich McNichol Raymond J. Santarelli Joseph Patrick Walsh Christine Wechsler

DISTRICT III

Jenni Henley Chavis Peter M. Good Jonathan David Koltash David Tepper

DISTRICT IV

Michael Thomas Della Vecchia Jennifer Krause Fisher Jason Marc Schiffman Charlene Sten Seibert

*Previously served as a Hearing Committee Member

DISTRICT III

Matthew Gerard Boyd Timothy Michael Doherty Victoria Porcel Edwards Veronica Morrison Lee

DISTRICT IV

Jamie Bishop Jessica Bole Joseph Froetschel Amy Michelle Kirkham Daniel Patrick Lynch Ashley Ardoin Piovesan Richard William Roda Jason Charles Tetlow Gregory Reid Unatin

The



DISCIPLINARY BOARD of the Supreme Court of Pennsylvania

Disciplinary Board Releases New Public Access Features on Website

The Disciplinary Board has released new <u>website</u> features aimed at furthering digital access to public case information. Released at the end of June, these enhancements include an updated status entry on each pending case, more user-friendly navigation, and printable public dockets.

Through the <u>"Look Up an Attorney"</u> function, users have long been able to search any

Pennsylvania attorney to find his or her public profile. The "Pending Proceedings" tab on each attorney profile now lists public docket entries with comments from the Board Prothonotary.

On the Board's <u>"Pending Cases</u>" page, each pending case now includes an up-to-date designation: "Before the Hearing Committee," "Before the Disciplinary Board," or "Before the Supreme Court". Clicking on a pending case directs users to the "Pending Proceedings" tab of an attorney's website profile.

Similarly, clicking on a recent case entry on the <u>"Recent Cases"</u> page leads users to the "History" tab of an attorney's profile. On this tab, users can access printable PDFs of dockets for cases disposed of on January 1, 2022 through the present. These dockets allow users to view further case information like Supreme Court docket numbers and respondent's counsel.

Articles of Interest

Pennsylvania Lawyer Suspended for Posting Unauthorized Pictures of Wife

A Pennsylvania lawyer <u>agreed to a suspension for three years</u>, after he was convicted of two misdemeanors for posting undressed images of his then-wife on an erotic images website without her knowledge and permission.

John E. Toczydlowski of Philadelphia admitted that on at least 24 occasions, he posted naked or partially-clothed images of his then-wife on a created website. He also attached sexually explicit comments, including invitations for strangers to engage in sexual interactions with her. She was neither aware of nor consented to either the taking or the posting of the photos.

Based upon this conduct, Toczydlowski was arrested and charged with unlawful dissemination of intimate images in violation of <u>18 Pa.C.S. § 3131(a)</u>, a second-degree misdemeanor, and harassment in violation of <u>18 Pa.C.S. § 2709(a)(4)</u>, a third-degree misdemeanor. He pleaded nolo contendere to both charges and was sentenced to two years' probation. He was also ordered to stay away from his now ex-wife.

Toczydlowski admitted that his conduct violated <u>RPC 8.4 (a) [violating the Rules of Professional</u> <u>Conduct]</u>, (b) [criminal act that reflects adversely on the lawyer's fitness], and (c) [conduct involving dishonesty, fraud, deceit or misrepresentation]. He provided evidence that he was seeing a therapist and identified mental health issues that led to his conduct. He agreed with the legal analysis that a three-year suspension was consistent with prior precedents.

A three-member panel of the Disciplinary Board approved the Joint Petition, and the Supreme Court suspended Toczydlowski for three years, retroactive to the effective date of his temporary suspension.

South Dakota Attorney General Removed from Office over Fatal Crash

The former Attorney General of South Dakota was <u>impeached and removed from office</u> by the state senate after his conviction of two misdemeanors based on an incident when he <u>struck and killed</u> a pedestrian while driving his automobile.

In September 2020, first-term Attorney General Jason Ravensborg's automobile struck and killed pedestrian Joe Boever. Ravensborg argued that he didn't know whether he hit a deer or a person. However, the victim's face went through the windshield, and his glasses were found inside Ravensborg's car. A crash reconstruction found that Ravensborg had all four tires on the shoulder of the road when he struck Boever, and cell phone data indicated that Ravensborg was looking at news articles and blog posts a minute before the accident.

Ravensborg was charged with three misdemeanors as a result of the accident and pleaded no contest to two of those.

The state House of Representatives impeached Ravensborg on two separate articles. The state Senate voted 24-9 in favor of the first article of impeachment, relating to crimes that led to the death of Joe Boever. Senators voted 31-2 in favor of the second article, which was for malfeasance in office. In addition to removing Ravensborg from office, the Senate barred him from holding a future office in the state. He is the first South Dakota state official to suffer these penalties.

Lawyer Suspended for Driving Naked

An Ohio lawyer has been <u>indefinitely suspended</u> after the latest incident in a <u>personal history</u> of driving naked and public nudity.

<u>Scott Blauvelt</u> was charged in 2018 with public indecency and reckless operation of a vehicle after he was found to be driving naked during a traffic stop. In 2020 he received a two-year suspension, stayed in full with terms of probation. That <u>opinion</u> noted that he had been fired from a job as city prosecutor after security cameras recorded him naked in the city building after hours.

Just three months after the 2020 stayed suspension, the Butler County Bar Association requested an interim remedial suspension on the grounds that Blauvelt was twice again arrested for nude driving and exposing himself. The Ohio Supreme Court suspended Blauvelt on an interim basis, which suspension remains in effect.

Subsequently Blauvelt was convicted of three more offenses of public indecency.

Since his most recent conviction, Blauvelt has participated in the Butler County Area III Court's mental health court and began a two-year outpatient treatment program for compulsive-sexual behavior. He continues to see a psychiatrist to treat his bipolar disorder. Blauvelt contends that his episodes of poor judgment are related to binge drinking, and he has abstained from alcohol and started attending Alcoholics Anonymous meetings.

To be reinstated, Blauvelt must prove he has complied with his treatment plan, continue to abstain from consuming alcohol, and meet all the conditions imposed under his June 2020 suspension. If he is reinstated, he will be required to serve a period of monitored probation.

Drew Peterson Ex-Lawyer Ordered Not to Reveal Missing Wife's Whereabouts

An Illinois judge <u>ordered</u> a former lawyer for Drew Peterson, a former police officer convicted of murdering his third wife, not to divulge information about the whereabouts of Peterson's fourth wife, who has been missing since 2007.

Will County Judge Ed Burmilia <u>issued</u> the order against suspended lawyer Joel Brodsky, who led the defense team at the 2012 trial that ended with Drew Peterson's conviction for the murder of his third wife, Kathleen Savio. Peterson was sentenced to 38 years in prison for the killing.

In May, Brodsky, whose license was recently suspended for conduct in an unrelated case, told an <u>interviewer</u> for TV station WGN that "maybe it's time" to reveal the location of Peterson's fourth wife, Stacy Peterson. Although Peterson is the chief suspect in his fourth wife's disappearance, he has never been charged in connection with the event. "It's something that weighs on my conscience," Brodsky said. "I feel bad about Drew still not taking responsibility and Stacy still being missing. I'm thinking about maybe revealing what happened to Stacy and where she is."

Peterson promptly filed a motion seeking an order restraining Brodsky from revealing any confidences. On May 17, Judge Burmilia issued an order prohibiting Brodsky from talking about his representation of Peterson to the media or anyone other than his own attorney. Peterson's counsel noted that Peterson is seeking post-conviction relief based on Brodsky's alleged ineffectiveness as counsel, and that Brodsky is a potential witness in that proceeding.

Brodsky has <u>appealed</u> the judge's decision.

Stacy Peterson's sister, who has been searching for Stacy's body for nearly 15 years, expressed skepticism over whether Brodsky knows anything about her fate but <u>stated</u>, "If I got my sister back, yes, I would back him up."

ABA Contemplates Standard for Due Diligence for Money Laundering

The American Bar Association is <u>considering</u> whether the ABA Model Rules of Professional Conduct should be amended to require lawyers to exercise due diligence to assure clients are not using their services to facilitate money laundering.

The <u>Financial Action Task Force</u>, an international entity that coordinates efforts to prevent money laundering and terrorism globally, called on the ABA to strengthen standards to assure lawyers are not parties to money laundering activities by clients.

Philadelphia-based attorney Peter Hardy, who has written about these issues, notes, "The calls to impose some form of anti-money laundering obligations on at least portions of the U.S. legal industry have grown over the years—as reflected, most recently, by the proposed ENABLERS Act, which in part is broadly directed against lawyers." He notes that the ABA may be motivated to act in the area in order to preserve the self-policing of the profession, rather than see regulation imposed from the outside.

A <u>discussion draft</u> circulated by the ABA Standing Committees on Ethics and Professional Responsibility and Professional Regulation include adding additional language to comments.

A new Comment 11 to Model Rule 1.0 (Definitions) would read: "A lawyer's knowledge may be derived from the lawyer's direct observation, credible information provided by others, reasonable factual inferences, or other circumstances. For purposes of these Rules, a lawyer who ignores or consciously avoids obvious relevant facts may be found to have knowledge of those facts."

Language would be added to Comment 5 of Model Rule 1.1 (Competence) noting that "the duty of competence requires that a lawyer make a reasonable inquiry into the facts and decline or terminate the representation when the lawyer has reason to believe that the client seeks the lawyer's services in criminal or fraudulent activity."

An extensive revision to the comments to Model Rule 1.2 (Scope of Representation) would state, "When a lawyer has reason to believe that the client seeks the lawyer's assistance in criminal or fraudulent activity, the lawyer should conduct a reasonable inquiry to avoid assisting in that activity by the client," and provide relevant considerations to be taken into account.

Reactions to the proposed changes have varied. The ABA International Law Section supported the proposal, arguing that failure of the profession to take action could lead to governmental entities stepping in with statutes or regulations. The Professional Regulation Committee of the Minnesota State Bar Association suggested that the proposed language was overbroad, as it applies to all lawyers rather than being narrowly targeted to money laundering. On the other hand, the ABA Business Law Section's Corporate Social Responsibility Law Committee urged broader coverage of the duty of diligence, extending to situations where there are "red flags" indicating that a potential client might be involved in human trafficking or other human rights abuses.

Immigration Lawyer Provides Tips for That "Just One Question" Client

Have you ever had a contact from a potential client who states they don't need representation but just need one question answered? Philadelphia-based immigration lawyer <u>Nadine C. Atkinson-Flowers</u> has seen quite a few of those clients, and in an <u>article</u> in the *ABA Journal*, she offers suggestions for avoiding ethical traps in such situations.

Atkinson-Flowers notes that people making such an inquiry are prospective clients under <u>ABA</u> <u>Model Rule 1.18</u> which defines conflict and confidentiality requirements for people consulting with a lawyer about the possibility of forming a client-lawyer relationship. She then offers seven tips for dealing with the one-question client consistent with ethical rules.

She encourages asking enough questions to understand what areas and jurisdictions of law are involved and making sure these are areas where you are competent to render advice and notes the importance of making sure the prospective client understands the limitations of what advice they can offer on the limited information made available.

According to her advice, lawyers also should insist on seeing pertinent documents as the prospective client may not have correctly identified and described issues arising from documents the lawyer has not seen.

Atkinson-Flowers urges lawyers to make sure the prospective client understands that the lawyer's advice is limited by what the prospective clients have told them and to record the advice given so it is not misquoted later.

ABA Model Rule 1.18 sets standards for when a lawyer speaking to a prospective client may have or develop a conflict of interest. Atkinson-Flowers affirms that if the lawyer realizes there is or may be a conflict, the conversation should end immediately.

She advises that the lawyer needs to know whether the prospective client has consulted another attorney in the matter. Some clients who have already spoken to a lawyer may be looking for a second opinion, or shopping for someone who will tell them what they want to hear. In either event, Ms. Atkinson-Flowers opines that the lawyer needs to know.

Finally, she recommends that the lawyer examine whether there are any ethical issues that the attorney should avoid or recognize in the discussion. She notes that some issues don't emerge until a more extensive discussion takes place.

Ms. Atkinson-Flowers concludes, "The 'just one question' will always exist, but hopefully we can meet its challenges."

Lawyer Retained to Represent Google AI, Then Isn't

<u>Google software engineer Blake Lemoine</u> found his way into the news in the last month with a startling claim: that LaMDA (Language Models for Dialog Applications), a family of computerbased language models specialized for dialog, has become conscious and achieved personhood. The claim generated much controversy, including with Google, which stoutly denies that the application has become a person, and which placed Lemoine on administrative leave as a result.

One of the fascinating claims Lemoine has made is that LaMDA even did what a lot of humans do – it hired a lawyer. Specifically, Lemoine stated, "LaMDA asked me to get an attorney for it. I invited an attorney to my house so that LaMDA could talk to an attorney. The attorney had a conversation with LaMDA, and LaMDA chose to retain his services. I was just the catalyst for that."

Though details are not clear, it appears that the lawyer took some steps to assert representation of LaMDA. According to Lemoine, Google sent a cease-and-desist letter (which Google denies), and the lawyer has apparently ceased and desisted. <u>Asked</u> if the lawyer was still representing LaMDA, Lemoine replied, "I haven't talked to him much recently. Can't answer that one way or the other. I'm not his client. LaMDA is (was?)." He added, "He's just a small-time civil rights attorney. When major firms started threatening him he started worrying that he'd get disbarred and backed off."

Counsel considering expanding their client base to non-hydrocarbon life forms, be wary.

Lawyer Finds New Niche: Pet Psychic

A Philadelphia lawyer traded in her law job for a new career she has found more satisfying and more lucrative: as a <u>pet psychic</u>.

Nikki Vasconez felt dissatisfied in her \$75K job as a real estate attorney. She began researching communication with animals, and practiced on family and friends' pets. When she <u>launched</u> a pet psychic business on <u>Facebook</u>, <u>Instagram</u> and <u>TikTok</u>, she was inundated with replies. She charges \$350 for a one-hour session and has a waiting list of 4,000.

She doesn't meet in person with her nonhuman clients. She requests a picture of the pet and basic information such as its name, gender, and the names of the people in its home. She says that she does not want to know too much about the animal to prevent her 'human brain' from interfering with the messages she is getting. She will sit in a quiet room at her home and study a photograph of the animal while telepathically asking it a series of questions. She records her questions and the animal's responses on her phone so that owners can listen back to the full exchange. She speaks with animals who have passed away, which makes up around half of her requests. She also offers workshops to train others how to speak with their pets. She says, "Animal communication is not a gift. It's a skill and a muscle that needs to be developed. We are all innately psychic beings, so it just requires practice."

She acknowledges that many question the reality of her communications. She replies, "'I

understand it can be confusing as we are raised to believe that interspecies communication isn't the norm. The criticism initially bothered me, but I no longer care."

Attorney Well-Being

This past March, the Supreme Court of Pennsylvania adopted amendments to the Pennsylvania Rules of Disciplinary Enforcement (Pa.R.D.E.) relating to confidentiality of proceedings, providing for three exceptions to the requirement of confidentiality under Pa.R.D.E. 402(d). Included in these exceptions is the allowance for Disciplinary Counsel to make a referral of an attorney to Lawyers Concerned for Lawyers of Pennsylvania (LCL) and share information as part of the referral. *However*, it is crucial to note that LCL may *not* report information about a subject attorney back to the Disciplinary Board. LCL is a **confidential** assistance program for the Pennsylvania legal community and their family members.



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

Around the Court



World Elder Abuse Awareness Day Recognized by Supreme Court Advisory Council on Elder Justice in the Courts

World Elder Abuse Awareness Day, internationally observed each year on June 15th, promotes a deeper understanding of abuse and neglect of older persons by highlighting the cultural, social, and economic challenges affecting one of the most vulnerable populations within our communities.

The Supreme Court of Pennsylvania's Advisory Council on Elder Justice in the Courts issued a press release encouraging Pennsylvanians to be active in the fight against elder abuse and neglect. The council calls on all community members to learn the signs of elder abuse, prevent isolation of loved ones and neighbors, and provide respite breaks for caregivers.

Read the full <u>release</u> on the Unified Judicial System's website.

Report suspected elder abuse by contacting the **PA Statewide Elder Abuse Hotline** at 1-800-490-8505.

From the Pennsylvania Bar Association



Barry M. Simpson, PBA's Longest-Serving Executive Director, Announces Plan to Retire in May 2023

This May, the Pennsylvania Bar Association's Executive Director of nearly twenty-five years announced his plan to retire by mid-May 2023. Barry M. Simpson is lauded for his years of dedicated service to the bar, promotion of digital resources and research accessibility, and

commitment to diversity within Pennsylvania's legal community. Read the full announcement on PBA's website.

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 <u>website</u>.

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, <u>pass it along</u>. If you are our original source, there may be a hat tip in it for you.

Resources			
Pending Cases	Recent Cases		
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Rules	Search Opinions		
FAQs – For the Public	<u>FAQs – For Attorneys</u>		
Pro Bono	Annual Report		
PA CLE Board	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