



The
DISCIPLINARY BOARD
of the Supreme Court of Pennsylvania

October
2019
Newsletter



From the Chair

Our first newsletter of autumn focuses largely on lawyer well-being. Former Disciplinary Board Chair Douglas W. Leonard, a member of the National Task Force on Lawyer Well-Being, prepared an article for our readers to contemplate managing your “environment” to promote well-being. You will also find an article on the recent report by the National Task Force on Lawyer Well-Being.

In the Rules Changes section, please review the amendments to the Disciplinary Board Rules of Organization and Procedure which become effective on October 28, 2019. Also in this month’s newsletter, summary statistics on the just-completed Attorney Registration season are presented.



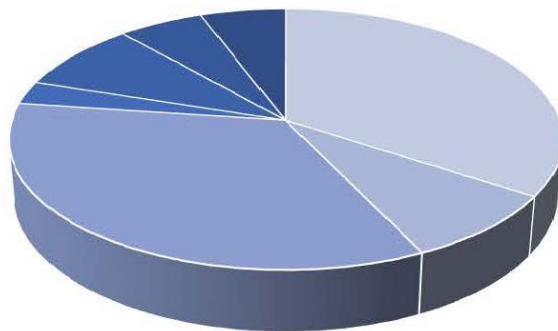
Andrew J. Trevelise, Esquire
Board Chair

Social Media

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Discipline Imposed

September 2019



- Informal Admonition - 12
- Private Reprimand - 3
- Public Reprimand - 12
- Public Censure - 0
- Disability Inactive Status - 1
- Temporary Suspension - 3
- Suspension - 2
- Disbarment - 2

Public Reprimands

- [Joshua M. Briskin](#)
- [Thomas M. Cusack, III](#)
- [John K. Foster, III](#)
- [Fred William Freitag, IV](#)
- [Susan P. Halpern](#)
- [Mark Francis Houldin](#)
- [Robert Ira Lipkin](#)
- [Mark M. Mack](#)
- [William Paul Marshall](#)
- [Charles Anthony Pascal, Jr.](#)
- [John E. Quinn](#)
- [Kevin Tanribilir](#)

Disbarment

- [Sal Greenman](#)
- [Scott Alan Westcott](#)

Suspension

- [Joseph Richard Costello](#)
- [Michael E. McHale](#)

Temporary Suspension

- [Asher Brooks Chancey](#)
- [John William Eddy](#)
- [James Robert Protasio](#)

Rule Changes

Board Issues Amendments to Rules of Organization and Procedure

On September 28, 2019, the Disciplinary Board issued a set of amendments to its Rules of Organization and Procedure, often known as the Disciplinary Board Rules. The rulemaking was published at [49 Pa.B. 5552](#). These amendments incorporate numerous changes to several of the Rules to reflect new descriptions and responsibilities for the Executive Office, the Board Prothonotary, the Prothonotary of the Supreme Court, Disciplinary Counsel within the Office of Disciplinary Counsel, and Hearing Committee members. Many of the changes have already been implemented and are intended to bring the Board Rules into conformity with the [Rules of Disciplinary Enforcement](#).

One new provision is an amendment to [Section 93.52\(a\)](#), stating that all pleadings shall be addressed to the Board Prothonotary. All other communications and submittals should be addressed to the Board at the Executive Office unless otherwise specially directed.

[Section 93.81](#), regarding hearing committees, is amended to add a provision that the Board has discretion, when circumstances require, to appoint hearing committee members from outside the appropriate disciplinary district, or to transfer a matter to another disciplinary district.

The amendments take effect October 28, 2019.

Attorney Registration

On average, about 76,000 attorneys are required to complete annual registration. This year, 437 attorneys did not complete this requirement and were therefore placed on Administrative Suspension, effective September 13, 2019. [Read more](#) . . .

Articles of Interest

National Lawyer Well-Being Task Force Issues Report, Undertakes Work

In response to efforts initiated by the ABA Commission on Lawyer Assistance Programs, the National Organization of Bar Counsel, and the Association of Professional Responsibility Lawyers, the [National Task Force on Lawyer Well-Being](#) has begun work addressing issues of well-being and support for lawyers. The organization has issued a report called [“The Path to Lawyer Well-Being: Practical Recommendations for Positive Change.”](#) The organization says that in response to the report, 29 states have established working groups or task forces, and revised regulations related to continuing legal education (CLE) programming and to bar admissions to address wellness issues.

The organization has also commissioned studies, hosted summits, and established funding to enhance well-being and support services for lawyers.

Lawyer Requests “Honor of Disbarring Me”

[The District of Columbia Board on Professional Responsibility](#) [disbarred a lawyer](#) after he sent the Board a sarcastic email in response to a series of complaints saying, “A disbarment letter from ODC will be framed and go up right alongside those diplomas. Please do me the honor of disbarring me.” He also described the disciplinary process as corrupt and racist.

In the case of Glenn Stephens, a hearing committee conducted a four-day hearing on the case and recommended that Stephens be suspended for three years. Based on Stephens’ sarcastic email, however, the Office of Disciplinary counsel moved for his disbarment by consent. The Board noted that its procedure for disbarment by consent requires that a lawyer file an affidavit acknowledging the truth of the allegations, and that Stephens’ email did not comply with that requirement. It issued an order requiring Stephens to show cause why he should not be disbarred, to which Stephens responded only with a number of copies of a color image of Flavor Flav from the hip-hop group Public Enemy with the text “ODC IS A JOKE,” an apparent reference to Public Enemy’s 1990 song “911 is a joke.” The Board then entered an order disbarring Stephens despite the lack of conformity to the resignation rule.

Although the outcome seemed obvious, [two members of the Board dissented](#), arguing that the Board should follow the rule as written and determine the complaints on the merits under its rules.

Will deep fake videos destroy the reliability of video evidence?

In recent years, the phenomenon of deepfakes has attracted a good deal of attention and discussion. Deepfake technology employs artificial intelligence to create highly realistic video and audio segments which make it appear a person is speaking or acting in ways the person has not done. The deepfake process is described [here](#). Recent examples include [this segment](#) in which comedian Jordan Peele creates a convincing but false video of former President Obama, or [this safe for work but creepy graft](#) of Jim Carrey's face onto actress Alison Brie's voice and body.

Deepfake technology also lends itself to audio applications. A businessman in the United Kingdom was [reportedly scammed out of \\$243,000](#) by a deepfake telephone call that sounded remarkably like his boss ordering him to transfer money between accounts.

The technology for such deceptive alteration of images is becoming increasingly automated and widely available to users. These developments have [led many lawyers and legislators to worry](#) about the potential corruption of video and audio evidence in courtrooms. The phenomenon has the potential not only to allow fraud and false outcomes, but to ratchet up the cost of litigation significantly as the use of expensive experts to examine evidence and testify as to its authenticity becomes necessary.

Some legislators have proposed bills aiming to limit the harm of the new technology. A [bill](#) introduced into the United States Senate by Sen. Ben Sasse (R-NE) would establish a criminal offense of "Fraud in connection with audiovisual records." A group of New York state legislators offered a [bill](#) to extend privacy laws to allow a person to control a "digital replica," although [some are concerned](#) such efforts may restrict First Amendment rights and make certain biographical projects impossible.

Tara Vassefi, Washington Director at TruePic, a digital forensics company, [argues](#) that Sections (13) and (14) of Rule 902 of the Federal Rules of Evidence provide a structure for protecting the authenticity of audio and video evidence.

As the techniques and ubiquity of convincing deepfake evidence become more widespread, lawyers can expect to come into contact with evidence of questionable authenticity, and to see more aggressive efforts to control the use of altered electronic data.

When A Bot Writes Lawyer Ads

Writer and wiseguy Keaton Patti made a bot watch over 1,000 hours of lawyer ads and then write its own commercial. The [result](#) may not bring in any clients, but it sure is entertaining.

Around the Profession

Lawyer Behavior: The Intersection of You and Your Environment

By: Douglas W. Leonard, Member, National Task Force on Lawyer Well-Being

Does this scenario sound familiar? You like to work at a particular coffee shop every once in a while. Excellent java, away from the distractions of the office, free Wi-Fi, comfortable chairs, great background music at just the right volume...nirvana. Productivity!

One day it is crowded and rather than *your spot*, you get a bad seat. A couple sits near you and starts to argue. Someone changes the music to something you don't like, and it's too loud. How are you feeling now? Cranky maybe? Unsettled? Unhappy? Guess what – your productivity just dropped. What had been a comfortable place of tranquility is now disruption central.

On top of that, the coffee isn't right, and you take out your frustration on the Barista. You catch yourself and apologize for acting out... "that's not me," you explain.

Are you aware of how your environment shapes you – are you a victim of your environment?

If you monitor, participate, or support the lawyer well-being movement at all, you know that study after study has demonstrated that lawyers are feeling the impact of stress more than ever. Symptoms surface across multiple categories: physical, mental, emotional, and behavioral. [Read more...](#)

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 two vacancies on these panels:

- [Criminal Rules Committee](#) - Applicants should be knowledgeable about the Pennsylvania Rules of Criminal Procedure and are experienced in state criminal practice in Pennsylvania.
- [Orphans' Court Rules Committee](#) - Applicants should be knowledgeable about the Pennsylvania Orphans' Court rules and experienced in orphans' court practice in Pennsylvania.

For application information, click [here](#). Applications are due October 31, 2019.

Resources

[FAQs - For the Public](#)

[Annual Report](#)

[Recent Discipline](#)

[FAQs - For Attorneys](#)

[Rules](#)

[Discipline Statistics](#)

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