

### July 2024 Newsletter









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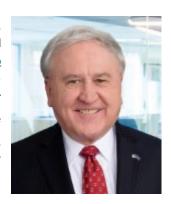
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### From the Chair

The deadline for Annual Attorney Registration was Monday, July 1, 2024. All Pennsylvania attorneys who have not yet completed registration for the 2024-2025 cycle are strongly encouraged to do so as soon as possible in order to avoid the imposition of late payment penalties or the administrative suspension of his or her license. The first late fee will be assessed after July 16<sup>th</sup>, and the second after August 1<sup>st</sup>. As of today's newsletter publication, approximately 94% of attorneys have completed the yearly registration obligation.



The Disciplinary Board recognizes the necessity for transparency in its work and service to both the public and the profession. As many readers will know, the Board livestreams all public proceedings on its YouTube channel. On July 18th, a three-member panel of the Board will administer public reprimands to six PA attorneys. Although the Board derives no enjoyment in the discipline of fellow practitioners, at times, such determinations become necessary in order to protect the integrity of the legal profession in PA. All are invited to view the livestream to gain a deeper understanding of the work and procedures of the Commonwealth's system of self-regulation.

Essential to the Board's most delicate work are its volunteer Hearing Committee Members. Performing a significant service to the profession, Hearing Committee Members assess Disciplinary Counsel's recommendations for discipline and conduct hearings on formal charges of professional misconduct and petitions for reinstatement. These individuals play a vital role in Pennsylvania's attorney disciplinary system. Each July, new Members are appointed to the Committee while others are reappointed to additional three-year terms. I would like to take this opportunity, on behalf of the Board, to extend my most sincere gratitude to new Members who are taking on this immense responsibility, reappointed Members who have chosen to further aid their communities, and Members whose tenure has recently ended and have dutifully upheld the mission of the Board throughout their service. The Board is most grateful for your generosity of time, talents, and efforts.

The Board wishes all a healthy and restful summer. I urge you to intentionally take time to recharge this season and to care for your personal and professional well-being.

Stay well,

John C. Rafferty, Jr. Board Chair

# Annual Attorney Registration

### Late Fees Assessed After July 16th and August 1st

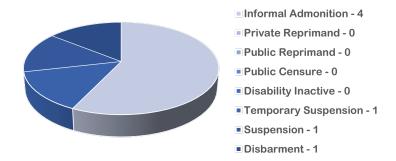
The deadline for the 2024-2025 <u>Annual Attorney Registration</u> was **July 1, 2024**. Any attorney currently on active or inactive status must <u>register</u> via the Unified Judicial System Web Portal. Registration fees are \$275 for active status and \$100 for inactive status; there is no fee for those timely registering for retired status. Payment may be made online.

The first \$200 late fee is 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 Pa. R.D.E. 219(f).



## Discipline Imposed

June 2024



### **Temporary Suspension**

James F. Loque

### Suspension

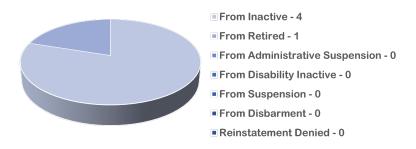
Bruce K. Warren, Jr.

#### Disbarment

John Macauley Burkman, Jr.

## Reinstatements

### June 2024



### From Inactive

Abby Kathryn Brown
Jaime Leon
Kristina Beth Magolis
Charles Brian Anthony Martinez

### From Retired

Jospeh James Schuster

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.

# Disciplinary Board News

Forty-Three Attorneys Appointed to First-Time Hearing Committee Assignments as Ten Members Reappointed to Additional Terms

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.



#### DISTRICT

Robert Joseph Cervone Jennier Myers Chalal Derrick W. Coker Justin Clint Danilewitz Salvatore Filippello Melanie Jane Foreman Lane Richard Jubb, Jr. John Michael Kunsch Amy Louise Kurland Michelle J. Piscopo Howard Andrew Rosen Douglas Keith Rosenblum Leonard G. Villari Marc Stuart Vogin Glenn Aaron Weiner Jared Scott Zafran Marc J. Zucker

### **DISTRICT II**

Anita Sada Davis\* Laurie Robin Jubelirer Peter A. Lennon Jeffrey William McDonnell Robert B. Mulhern, Jr.\* Brian Michael Nichilo Mary Kathleen O'Connor Phillip Alan Simon

\*Previously served as a

#### DISTRICT III

Lisa Marie Benzie\* **Edith Ann Brous** William R. Christman, III **Grace Elizabeth Doherty** Seth Todd Mosebey\* Jonathan B. Stepanian

### **DISTRICT IV**

Lawrence Henry Baumiller **Russell Bopp** Christopher W. Cahillane Erica Kelly Curren\* **Holly Lynn Deihl** Lindsay Sherwood Fouse\* Mallory Pamela Gold Michael J. Imbornone **Amy Beth Jones** Lauren Michelle Kelly Gielarowski\* Richard W. Kelly, Jr. **Linda Ann King Shawn David Kressley** Maureen Suzanne Kroll Jessica L. Lynch **Darth Moshe Newman** Lauren Renee Nichols\* Todd Michael Pappasergi\* Jay N. Silberblatt\* **Bradley Michael Somrak** Maureen Elizabeth Sweenev **Terrence Dalton Wright** 





### Rules

### **Board of Law Examiners Proposes Amendments to Reciprocity Rule**

The Pennsylvania Board of Law Examiners has issued a <u>proposed rulemaking</u>, detailing changes to <u>Rule 204 of the Pennsylvania Bar Admission Rules</u> which addresses reciprocal admission of lawyers licensed in other jurisdictions.

The proposed amendments expand the definition of the "practice of law" which will permit more attorneys from other jurisdictions to qualify for admission by reciprocity. Under the current rule, there are seven enumerated categories of legal activities that count as the practice of law. Under the proposed amendment, the Board will count time an attorney spends working as an independent contractor for a law firm providing legal services that require attorney licensure. The Board will also count two years of supervised practice which will allow attorneys who practiced under supervision for a short time until getting licensed to include that time towards the rule requirement.

An amendment to subsection (b) will allow an applicant to present a certificate of good standing from jurisdictions in which the applicant is active and has been admitted. The existing rule requires that applicants provide certificates of good standing from all jurisdictions where the attorney has ever been admitted – whether or not the attorney is still active in that jurisdiction. The proposed amendment retains the prohibition on admission for attorneys who are disbarred or suspended from practice in any jurisdiction.

Subsection (b)(4)(C) was added to allow candidates who successfully completed the Uniform Bar Examination (UBE) to establish competency for admission for up to five years after sitting for the UBE, provided they have three years of consistent practice time since attaining admission.

The Board also proposes changes regarding remote practice. Under the current language, Rule 204 specifies that the practice of law occur "in a state that affirmatively permitted such activity by a lawyer not admitted to practice law in the jurisdiction". This precludes the Board from counting remote work in many cases. To permit counting remote practice, the Board proposes to remove language requiring in-state practice and recognizes remote practice as qualifying practice time provided the applicant meets all the other Rule 204 requirements. A two-year limitation on counting the time an attorney practices remotely while located outside the United States will apply.

For attorneys who practice in a state that allows an attorney to obtain a limited or specialized license, such as practice as an in-house corporate counsel, the Board will only count practice after the attorney attains that license.

Written comments, suggestions or objections may be submitted by interested persons are invited to submit written comments on or before **August 16**, **2024**.

Executive Director, Pennsylvania Board of Law Examiners
Pennsylvania Judicial Center
601 Commonwealth Avenue, Suite 3600
P.O. Box 62535
Harrisburg, PA 17106-2535

## 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 18 at <b>10:00 am</b>	Gordon Sander Brown Deon Basheer Browning Jessica Michelle Dean Paul M. Goltz Carlos A. Martir, Jr. James S. Tupitza	Public Reprimands
July 18 at <b>10:45 am</b>	Robert Philip Tuerk	Oral Argument
September		
September 5	Daniel Michael Dixon	Reinstatement Hearing
September 16 September 18	Daryl Alan Yount	Disciplinary Hearing
October		
October 1	John M. Kerr	Disciplinary Hearing
October 8 October 9	Steven Ostroff	Disciplinary Hearing
October 28	Erik Mark Helbing	Disciplinary Hearing
November		
November 6 November 7	Brian Joseph Salisbury	Reinstatement Hearing

## **Vacancies**

The Supreme Court of Pennsylvania is aided by select boards, committees, commissions, and councils consisting of more than 180 appointed volunteers – most, but not all, are lawyers and judges. The panels have a wide range of responsibilities and functions. Some make recommendations to the Court for amendments, revisions, or simplification of court procedural rules. Others regulate the practice of law, oversee continuing legal education for lawyers, and administer funds to assist individuals unable to pay for legal services. Still others advise on keeping the courts free of bias and discrimination and on long-range planning.

#### There are currently vacancies on the following panels:

<u>Committee on Rules of Evidence</u> – Applicants should be knowledgeable about the Pennsylvania Rules of Evidence and possess trial court experience.

<u>Minor Court Rules Committee</u> – Applicants should be knowledgeable about the Pennsylvania Rules of Conduct, Office Standards and Civil Procedure for magisterial district judges and courts, and experienced in magisterial district court practice.

<u>Interest on Lawyer Trust Accounts (IOLTA) Board</u> – Applicants should be familiar with legal practice and procedure in Pennsylvania federal or state courts. Members also often have experience with financial institution practices.

### Application Instructions

If you would like to be considered to serve on a board, committee, advisory group, or related independent entity, email the application, cover letter, resume, and other pertinent information expressing your reasons of interest to <a href="mailto:SCApplications@pacourts.us">SCApplications@pacourts.us</a>.

More information may be found on the Unified Judicial System of Pennsylvania website.

Applications are due by Wednesday, July 31, 2024.

## Articles of Interest

### South Carolina Lawyer Disbarred after Stealing \$31 Million from Veterans

In an Opinion dated June 20, 2024, the Supreme Court of South Carolina disbarred a lawyer who was found guilty of swindling veterans out of nearly \$31 million by running an illegal scheme to pay veterans lump sums in return for assignment of their pensions and disability benefits. She charged the veterans high fees for this service and even <u>sued</u> some of them when they realized they were being bilked and refused or were unable to pay.

The Supreme Court disbarred lawyer Candy Kern after finding that she pled guilty to violating 18 U.S.C. § 371, conspiracy with objects of mail and wire fraud. She admitted that she used her law firm to represent buyers in a structured cash flow business that offered veterans cash payouts in return for assignment of their benefits. She confirmed that she withheld from both buyers and sellers the fact that Federal law prohibits the assignment of these benefits as well as misinformed the sellers about the lump sums they would receive. She was sentenced to five years' probation with five hundred days of home confinement and was ordered to forfeit \$1,446,336 along with costs and interest.

Kern was also ordered to pay restitution totaling \$2,943,438 plus administrative penalties totaling \$560,000 by the Securities Division of the Arizona Corporation Commission. She was fined \$725,000 and was enjoined from brokering, offering, or arranging purported sales of pensions and disability benefits, any related collection activity, and engagement in any financial services business in the state of South Carolina by a Federal Court.

Al in Law Is Happening: Thoughts on Its Effects

This newsletter has frequently featured stories of lawyers who came to grief from filing Algenerated documents without reviewing their accuracy, often containing "hallucinations" – completely fictitious citations.

However, recent articles have made it clear that AI resources are playing a greater role in the practice of law and not an entirely negative one. Several commentators have noted that AI-assisted research offers the possibility of more results obtained in far less research time to the economic and legal benefit of clients. Some suggest that the lawyer has a professional duty to clients to use such resources to achieve maximum effectiveness and efficiency.

One Federal judge on the Eleventh Circuit Court of Appeals recently took the time to write a concurring opinion to document his use of two Large Language Models (LLM) to research a definition for the purposes of a decision. In a case involving a contractor who was sued over installation of a ground-level trampoline, Judge Kevin Newsom wrote of his own use of ChatGPT and Google's Bard (now Gemini) to explore the everyday meaning of "landscaping" to determine whether the term applied to the project in question. He did so with skepticism only after conventional research proved time-consuming and unhelpful. Through this effort, he concluded that the results, rather than being "nutty" as he expected, were quite concise and useful. In a thirty-two-page opinion, he laid out long lists of pros, cons, and cautions but concluded that "LLMs have promise. At the very least, it no longer strikes me as ridiculous to think that an LLM like ChatGPT might have something useful to say about the common, everyday meaning of the words and phrases used in legal texts."

Those lawyers and firms who are interested in exploring Al-driven research options may face a bewildering variety of choices. Nicole Black, an attorney, author, journalist, expert on emerging technologies, and senior director of subject matter expertise and external education at MyCase, writes in the ABA Journal to offer a rundown of technologies available to lawyers and firms along with cautions and considerations about their choice and use. She concludes, "If you're part of a litigation team, the availability of AI tools that reduce the tedium of pretrial discovery tasks is undoubtedly a welcome reprieve from the repetitive, time-consuming discovery process . . . These tools won't replace you; instead, they will remove drudgery from your plate, enabling you to be the best lawyer possible for your clients."

Since the work best performed by Al applications – legal research and routine drafting – is often performed by paralegals, many have questioned whether the rise of Al resources will adversely affect the job market for paralegals. The Bureau of Labor Statistics <u>projects</u> a 4% increase in the number of paralegal jobs over the next decade, but a <u>Goldman-Sachs report</u> estimates that 44% of legal (lawyers and paralegals) jobs could be lost to Al-driven automation in the coming years.

Eda Rosa, host of the podcast *Let's Talk Paralegal* and CEO and founder of Eda Rosa, a law firm consultancy, is more optimistic. She comments, "Al may take a bulk of the administrative and even repetitive tasks that are included within the paralegal role. However, it will not be able to analyze and strategize a case to the capacity of a lawyer or a paralegal. Like any other technology, it has its limitations." Paralegals would be wise to view Al technology not as a threat but as a tool to expand their effectiveness. A study at George Washington University found that paralegals who employed Al software in drafting a contract were able to finish that task fifteen percent faster than those who didn't. Since it is a challenge for busy lawyers to invest time in learning and mastering Al technology, paralegals can enhance their value to their employers by developing their expertise in that area.

They may need to, as Ann Pearson, the founder of Paralegal Boot Camp, a training program for paralegals in Satellite Beach, Florida, <u>says</u>, "I advise paralegals that they shouldn't worry as much about Al taking their jobs as they should be worried about the paralegal who knows how to use Al taking their jobs in the future."

With the apparently inevitable growth of the use of AI technology not just in the legal profession but in many kinds of business, the role of insurance in managing the risks inherent in the technology becomes an important consideration.

Kevin P. Kalinich is the founder of Aon's Cyber Solutions Group and leader of Aon's global practice to identify exposures and develop insurance solutions related to intangible assets such as intellectual property, technology errors and omissions, professional and media liability, and coordination of insurance related to cyber perils and digital assets. He has written an extensive article for the ABA Journal detailing the risks, insurance gaps, and best practices relating to liability insurance for AI-related issues, not only for lawyers' and law firms' own professional liability coverage but also for business clients using AI technology whom lawyers may need to advise.

He notes that most organizations underinsure for intangible assets compared to what they cover for tangible items. He lists seven areas that liability policies should address, including technology errors and omissions, cyber liability, intellectual property, crime insurance, and others. He notes four areas of gaps where even well-written policies may not provide the coverage clients expect. Finally, he provides a list of best practices to follow and questions that law firms and business clients should ask to ensure that the coverage they obtain meets their needs and provides for contingencies that may arise.

In conclusion, he states, "As the AI landscape continues to evolve, a collaborative effort between stakeholders, led by legal counsel and compliance – and mandated by management – is crucial to ensure that the potential perils of AI are effectively managed and mitigated."

#### Pittsburgh Zoning Board Allows Heinz Ketchup Bottle – with Puns

The Pittsburgh Zoning Board of Adjustment <u>handed a victory</u> to the Senator John Heinz History Center by a <u>decision</u> allowing the Center to continue to display a thirty-five-foot tall Heinz Ketchup bottle, holding that the display did not meet the definition of a "sign". The bottle, which was formerly on display at Heinz Field before it was rebranded as Acrisure Stadium, is nearly twice the size allowed for a sign under the city ordinance.

The situation lent itself to humor, and the Board did not restrain itself. It noted, "The Applicant created its own fifty-seven varieties of a pickle when it installed the ketchup bottle without first determining whether the installation passed legal mustard under the Code's requirements." It added, "To be frank, the Board does not relish considering legal bottlenecks where the Applicant's anticipation of approval necessitates playing catch-up. Any seasoned applicant should understand that post hoc applications for approvals are a big dill and could be a recipe for landing in hot sauce."

The Board's essential finding was that the definition of a sign does not include works of art or physical constructs that do not promote a product, service, or activity. Since the Center draws its name from the late Senator John Heinz, rather than the iconic food products produced by the Kraft Heinz Company, the Board found that the display was a historical artifact from Heinz Field and was not intended to promote either the museum or the food products.

The Center noted that the installation of the bottle met with widespread community support and approval and that no one appeared at the hearing in opposition to the display. No doubt the center's response to the decision was, "Hot dog!"

## Attorney Well-Being

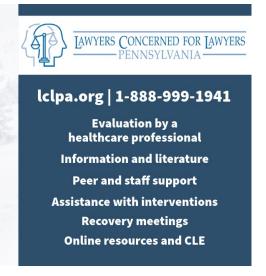
### **Explore the Disciplinary Board's Lawyer Well-Being Webpage**

The Disciplinary Board's "Lawyer Well-Being" webpage connects Pennsylvania attorneys with pertinent resources, articles, events, and CLE opportunities to better understand and support their mental health and well-being. To access the Board's new "Lawyer Well-Being" page, visit padisciplinaryboard.org/for-attorneys/well-being.



Lawyers Concerned for Lawyers is a confidential and safe resource for Pennsylvania attorneys and their family members who may be struggling with their mental health or substance use. 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. If you or someone you know is struggling, please call us. You may save a life.

There is help, and there is hope.



<u>Lawyers Concerned for Lawyers</u> is a confidential assistance program for the Pennsylvania legal community and their family members. LCL may not report information about a subject attorney back to the Disciplinary Board.

### Confidential 24/7 Helpline: 1-888-999-1941

Last year, 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 <u>Pa.R.D.E. 402(d)</u>. Included in these exceptions is the allowance for Disciplinary Counsel to make a referral of an attorney to <u>Lawyers Concerned for Lawyers of Pennsylvania</u> (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.

### Around the Court



### Supreme Court of Pennsylvania Declares Judicial Emergency in Dauphin County

On June 29<sup>th</sup>, the Supreme Court of Pennsylvania issued an <u>Order</u> declaring a judicial emergency for the Twelfth Judicial District as a result of an "unprecedented and untenable leadership void" in the Office of the Clerk of Courts due to sudden vacancies.

With the abrupt departure of the Clerk of Courts and her First Deputy, as well as the preceding termination of the Second Deputy, the order directs the President Judge to temporarily appoint an acting Clerk of Court to ensure that the duties assigned to the office are carried out without further interruption. Ultimately, a replacement for the Clerk of Courts will be appointed by the Executive Branch.

In a press release, Pennsylvania Supreme Court Chief Justice Debra Todd noted, "The efficient and effective operation of the office is critical to ensuring that the courts remain accessible to all court users and that the essential recordkeeping function of that office is properly and continuously performed in support of the judiciary and the timely administration of justice."

Read the full press release and Order <u>here</u>.

#### Pennsylvania Chief Justice Debra Todd Releases New Court Photo

Earlier this month, Chief Justice Debra Todd released its 2024 official Supreme Court photo. Featuring all seven Justices of the Court, the new photo was taken in the Supreme Court Courtroom in Pittsburgh by Pittsburgh-based photographer Jen Barker Worley.

Access the full press release here.



# Pennsylvania Courts Releases New Infographic Featuring Drug Delivery Resulting in Death Offenses and Convictions

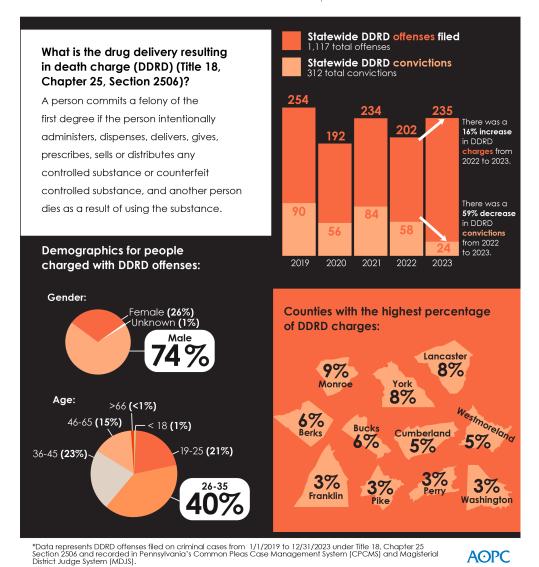
The Administrative Office of Pennsylvania Courts recently <u>published</u> a new infographic highlighting charges of drug delivery resulting in death (DDRD) in Pennsylvania. The charge entails a " felony of the first degree if the person intentionally administer, dispenses, delivers, gives, prescribes, sells, or distributes any controlled substance our counterfeit controlled substance and another person dies as a result of using the substance".

In 2023, there were 235 DDRD charges filed across the state, a sixteen percent increase from 2022. Twenty-four of those charges resulted in convictions.

Access the full press release here.

# Drug delivery resulting in death charges in Pennsylvania





## From the Pennsylvania Bar Association



As the Pennsylvania Bar Association continues its summer focus on pro bono work, we invite you to celebrate "Make a Will Month" this August. It is estimated that more than half of Americans eighteen and older don't have a will or necessary estate planning documents. *But you can help!* 

The <u>Real Property</u>, <u>Probate</u>, <u>and Trust Law Section</u> of the PBA conducts estate planning clinics and provide estate planning documents to low-income individuals free of charge. The section recruits volunteer lawyers to meet with clients and draft simple wills, financial powers of attorney, and advance health care directives, such as a health care power of attorney and/or a living will.

The PBA's <u>Wills for Heroes</u> program is another way for lawyers to produce wills and estate documents. Lawyers work to support and salute first responders, military personnel, and veterans by providing free wills and other estate documents.

In both programs, volunteer attorneys receive training and then create documents for participants at no charge in about one hour. Please visit <u>pabar.org</u> for additional details and to volunteer for the upcoming clinics.

While August is national "Make a Will" month, pro bono work is important all year. Not only is it a professional responsibility and an individual ethical commitment of each lawyer, but this work also helps the community and improves the operation of the judicial system.

Thank you for your support!

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> or follow Facebook, Instagram, and LinkedIn.

### 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

Pending Cases Recent Cases

<u>Case Research Collection</u> <u>Attorney Gateway</u>

Rules Search Opinions

<u>FAQs – For the Public</u> <u>FAQs – For Attorneys</u>

<u>Lawyer Well-Being</u> <u>Pro Bono</u>

Annual Report <u>Discipline Statistics</u>

PA CLE Board

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