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Attorney News - January 2015



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Things to Remember

- **Follow the Disciplinary Board on Twitter**

This newsletter is intended to inform and educate members of the legal profession regarding activities and initiatives of the Disciplinary Board of the Supreme Court of Pennsylvania. To ensure you receive each newsletter and announcement from the Disciplinary Board of the Supreme Court of PA, please

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The End of Paper: Attorney Registration to Go Paperless Next Year

The 2015-2016 registration year will be the last year attorneys will be able to register using a paper annual fee form. Beginning in 2016, the Attorney Registration Office will no longer be mailing or accepting paper forms. The Attorney Registration Office suggests that attorneys and firms consider eFiling the 2015-2016 forms to familiarize themselves with the process.

There are two ways to pay annual fees by eFiling:

- By credit card: register and update all attorney data at one time for a nominal fee of \$2.75 per credit card transaction; or
- By voucher and check: Update all data, print a voucher, and mail it with a check or money order.

There are several reasons to eFile:

- Each online form is pre-populated with previously supplied attorney data;
- A proxy user may be designated to act on an attorney's behalf for various eServices through the Unified Judicial System's portal;
- Multiple attorneys can be assigned to one proxy, who can then update all attorney data at once;
- Paperless forms are protected through the Administrative Office of the Pennsylvania Courts' top-tier security system;
- All registration forms will be in one place online; reducing paper to keep track of and less clutter;
- Eliminating paper forms uses fewer resources, saves costs, and helps the environment.

Watch our Attorney Registration Tutorial and create attorney and proxy accounts at:

<http://ujportal.pacourts.us>.

Registration notices and reminders will only be sent by email beginning in May 2016. In the coming weeks, **attorneys who have not registered an email address with the Registration Office will receive a mailing requesting that they provide an email address by March 1, 2015.** Email addresses provided to the Attorney Registration Office are not published or shared.

Castille Retires; Saylor Takes Helm as Chief Justice

Ronald D. Castille has **retired** as Chief Justice of the Pennsylvania Supreme Court. **Thomas G. Saylor** took the oath of office to become the 56th Chief Justice of the Supreme Court.

Chief Justice Emeritus Castille served for 21 years on the Supreme Court, and became Chief Justice in 2008. After graduating from Auburn University on a Navy ROTC scholarship, Castille, a native of Miami, joined the United States Marine Corps and served in the Vietnam War, where he was wounded and lost a leg. He won the Bronze Star with Combat "V" for valor, two Purple Heart medals for combat wounds, the Presidential Unit Citation, the Naval Unit Citation, the Combat Infantry Badge and the Vietnamese Cross

of Gallantry.

Medically retired from the Marines, he was admitted to the Naval Hospital in Philadelphia, the beginning of a long relationship with the city. He graduated from law school at the University of Virginia, and joined the Philadelphia District Attorney's Office in 1971. He became District Attorney in 1986, serving in that post until 1991, then went into private practice until his election to the Supreme Court in 1993.

In his tenure as Chief Justice, Castille has steered the Pennsylvania court system through difficult financial times resulting from the recession, and navigated through controversies that led to the departure of two justices from the Court.

Chief Justice Emeritus Castille has stated his intention to continue work on issues dealing with the quality of justice, and on behalf of veterans.

Chief Justice Saylor has taken over administration of the Supreme Court and the Pennsylvania judicial system. He was elected to the Supreme Court in 1997, after serving for four years on the Superior Court. He also attended the University of Virginia, graduated from the Columbia School of Law, and earned a master's degree in law from the University of Virginia. He engaged in private practice for 16 years, sandwiched around terms as Director of the Bureau of Consumer Protection and First Deputy Attorney General in the Pennsylvania Attorney General's Office. While in private practice he also served as First Assistant District Attorney of Somerset County.

He is the first chief justice from southcentral Pennsylvania since Chief Justice J. Hay Brown of Lancaster, who assumed office in January 1915.

Supreme Court Disbars One of its Own

Last month we **reported on the end** of the legal struggle of former Supreme Court Justice Joan Orié Melvin, as she withdrew her appeal of her criminal conviction on corruption charges. On January 15, 2015, the Supreme Court brought an end to the saga by **accepting the resignation** of their former colleague from the bar and disbaring her by consent.

Supreme Court Adopts New Trust Account Rules

In September we reported on a major rule change proposing significant changes in the Rules of Professional Conduct and Rules of Disciplinary Enforcement regarding client funds and trust accounts. By an order adopted December 30, 2014, the Supreme Court approved these changes. The rule change was published January 17, 2015, at **45 Pa.B. 279**.

Every attorney who handles client funds should be aware of the changes in this rulemaking. The following are major changes attorneys should know about:

- Rule 1.15, Rules of Professional Conduct – Recordkeeping:
 - The written statement of the basis of fees required by Rule 1.5(b) must be maintained as part of the required records kept under Rule 1.15(c).
 - The check ledger for a trust account should indicate the purpose of each check or disbursement.

- Where an account is used to hold funds of more than one client, a lawyer shall also maintain an individual ledger for each trust client, showing the source, amount and nature of all funds.
- Whatever method is used to maintain required records must include a backup so that the records are secure and always available.
- The backup must be made at the end of any day on which entries have been entered into the records.
- Records must be readily accessible to the lawyer and available for production to the Pennsylvania Lawyers Fund for Client Security or the Office of Disciplinary Counsel in a timely manner upon a request or demand.
- A regular trial balance of the individual client trust ledgers shall be maintained. The total of the trial balance must agree with the control figure computed by taking the beginning balance, adding the total of moneys received in trust for the client, and deducting the total of all moneys disbursed.
- On a monthly basis, a lawyer must conduct reconciliation for each fiduciary account, which must show that the reconciled total cash balance agrees with the total of the client balance listing. All records and computations sufficient to prove compliance with this requirement must be preserved for five years.
- Only a lawyer admitted to practice law in this jurisdiction, or a person under the direct supervision of the lawyer, shall be an authorized signatory or authorize transfers from a Trust Account or any other account in which Fiduciary Funds are held.
- The Comments to Rule 1.15 are extensively revised to provide further guidance on trust account and fiduciary fund management.
- New Rule 5.8, Rules of Professional Conduct, imposes prohibitions and restraints involving dealing in investment products.
 - A lawyer shall not broker, offer to sell, sell, or place any investment product unless separately licensed to do so.
 - A lawyer shall not recommend or offer an investment product to a client or person in a fiduciary relationship, or invest funds belonging to such a person in an investment product, if the lawyer or a person related to the lawyer receives compensation from or has an ownership interest in that product.
- Rule 208 of the Rules of Disciplinary Enforcement is amended to provide that the Board or Disciplinary Counsel may seek emergency temporary suspension of any lawyer who has failed to maintain or produce the records required under Rules 1.15 of the Rules of Professional Conduct or Rule 221 of the Rules of Disciplinary Enforcement.
- Rule 219, Rules of Disciplinary Enforcement, regarding annual registration, is amended to require that the annual statement of each attorney who holds client funds must set forth:
 - Every account not reported as a trust account or IOLTA, that held funds of a client or third party, and over which the attorney had sole or shared signature authority or authorization to transfer funds to or from the account.
 - Every business operating account maintained or utilized by the attorney in the practice of law.
- Rule 221, Rules of Disciplinary Enforcement, regarding funds of clients and third persons and mandatory overdraft notification, is amended as follows (many of the requirements echo those of Rule 1.15(c), Rules of Professional Conduct):
 - Records required under Rule 1.5 (fee agreements and distribution statement in a contingent fee matter) must be maintained for five years.

- For accounts in which funds of multiple clients are held, an individual ledger must be maintained for each client.
- A regular trial balance of the individual client trust ledgers shall be maintained, and the terms under which it is balanced are specified.
- Backup accessible upon request is required.
- Records must be available for production to the Pennsylvania Lawyers Fund for Client Security and the Office of Disciplinary Counsel upon request.
- Procedure for a request for records by Disciplinary Counsel is set forth. Other amendments concern disciplinary practice and procedure:
 - Rule 213, Rules of Disciplinary Enforcement, is amended to define new procedure for challenging subpoenas.
 - Amendments to Rule 215, Rules of Disciplinary Enforcement, regarding timing and public status of attorney resignations.
 - Amendments to Rule 217, Rules of Disciplinary Enforcement, as to steps that must be taken by disbarred or suspended attorneys.
 - Rule 218, Rules of Disciplinary Enforcement, is amended as to eligibility to apply for reinstatement after disbarment.

The rule changes take effect February 28, 2015.

Rosenberg, Penny to Helm Disciplinary Board in 2015-2016

By **order** dated January 21, 2015, the Supreme Court has designated Howell K. Rosenberg, Philadelphia County, as Chair and Jane Gowen Penny, Dauphin County, as Vice-Chair of the Disciplinary Board, beginning January 29, 2015.

By **order** dated January 14, 2015, the Court reappointed Lawrence M. Kelly, Lawrence County, to a three-year term as a member of the Board.

PBA Commission on Women in the Profession Seeks Participation in Survey

In 1995, the Pennsylvania Bar Association's Commission on Women in the Profession undertook a project to illustrate the participation and leadership roles of women in the Association and to evaluate the direction in which the Association should move in order to continue to encourage women's participation. Out of these efforts, the Women in the Profession Report Card was born, and it continued to be published every year through 2013. Copies of previous Report Cards are available on the Association's website at [WIP_Report_Card](#).

Traditionally, the Report Card contained statistics detailing the status of women in the state and federal judiciaries, the district attorney's and public defender's offices, and the 100 largest law firms in Pennsylvania, in addition to within the Association itself. To make the information more relevant to PBA members, including women in the profession who practice in settings other than the previously identified groups, the Commission is expanding its research this year to include as many Pennsylvania attorneys, both male and female, as possible.

The survey seeks input about your satisfaction with your legal career as well as your concerns about the

legal profession and your practice. The survey should take about 10 minutes to complete. If you need to exit before completing, you may return at any time by clicking the original survey link to return where you ended. The Commission would appreciate your response by February 6, 2015. Click here to begin the survey: [2015 Commission on Women in the Profession Survey](#).

Survey results will be published in the 2015 Report Card, which will be available via this e-newsletter.

Let Us Know

Got a tip, a link, a correction, a question, a comment, an observation, a clarification, a wisecrack, an idea you'd like to see addressed? We are always glad to hear from you. Please do not reply to this email. Write us at comments@padisciplinaryboard.org.

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