Fundamentals of Law Practice Management 2026
May 14, 2026
Delaware State Bar Association

<u>Agenda</u>

8:30 a.m. – 9:00 a.m. – Check In and Registration

9:00 a.m. – 10:30 a.m. Avoiding a Disciplinary Complaint

Office of Disciplinary Counsel
Charles Slanina, Esquire, *Ciardi Ciardi & Astin*

10:30 a.m. – 10:45 a.m. Break

10:45 a.m. – 12 p.m. Technology & Ethical Practices (1.3 ethics)

Molly DiBianca, Esquire, *DiBianca Law*

12:00 p.m. – 1:00 p.m. Lunch (provided by DSBA)

1:15 p.m. – 2:30 p.m. Law Office Practice

Gregory P. Skolnik, Esquire, *Heckler & Frabizzio, P.A.*
Samuel D. Pratcher, Esquire, *Pratcher Krayer LLC*
Meghan Butters Houser, Esquire, *Law Offices of Weiss, Saville, Medinilla & Houser, P.A.*
James R. Donovan, Esquire, *Doroshow, Pasquale, Krawitz & Bhaya*

2:30 p.m. – 2:45 Break

2:45 p.m. – 4:15 p.m. Lawyer-Client Relations

Lisa M. Grubb, Esquire, *Marshall Dennehey*
Rachel D. Allen, Esquire, *Nitsche & Fredericks, LLC*
Catherine M. Cramer, Esquire, *Brockstedt Mandalas Frederico*
Michael G. Owen, Esquire, *Morris James LLP*
Sarah B. Cole, Esquire, *Marshall Dennehey*

4:15 p.m. – 4:45 p.m. Wellness & Work/Life Balance (.5 ethics)

Jim Deel, *Executive Director of the Delaware Lawyers' Assistance Program*

This seminar offers 6.0 credits, including 1.8 ethics to Delaware Attorneys; 6.0 credits, including 1.5 ethics to Pennsylvania Attorneys; and 7.2 credits, including 2.1 ethics to NJ Attorneys.

Charles Slanina (Managing Partner - Delaware)

Office Location: Wilmington, Delaware
Phone: (302) 295-5655
Direct: (302) 658-1100
Email: cslanina@ciardilaw.com
vCard: Download

Charles Slanina, a native Delawarean, graduated from the University of Delaware and Catholic University School of Law. He is admitted to the Bars of the Supreme Court of the State of Delaware, the United States District Court for the District of Delaware, the United States Court of Appeal for the Third Circuit, and the United States Supreme Court.

Upon graduation from law school, Mr. Slanina was the sole law clerk for the Delaware Family Court statewide.

He then joined the Delaware Department of Justice. During his eight-year tenure as a Deputy Attorney General, he headed civil and criminal trial units, including the Family Court, Medicaid Fraud and Patient Abuse Unit, and represented state administrative agencies while prosecuting high profile criminal cases.

Mr. Slanina next spent four years at the Office of Disciplinary Counsel as the Chief Disciplinary Counsel, investigating and prosecuting violations of the Rules of Professional Conduct as well as Unauthorized Practice of Law matters.

He has been in private practice since 1993. That practice has included representation of lawyers and other professionals before licensing agencies and the court.

His practice currently focuses on professional responsibility counseling and defense. Mr. Slanina provides ethics advisory opinions for many Delaware, national and international firms and testifies as an expert in professional responsibility matters in Delaware, Pennsylvania and New Jersey courts. In addition, he has served as a special prosecutor for the New Castle County Ethics Commission.

Mr. Slanina is a frequent speaker on legal ethics and professional responsibility topics at seminars and conferences sponsored by the Delaware State Bar Association, Delaware

Trial Lawyers Association, University of Delaware Academy of Lifelong Learning, Superior Court Trial Practice Forum, Delaware Supreme Court Pre-Admission Conference and has also been an adjunct professor at Widener University School of Law.

He is the author of *"Ethically Speaking,"* a monthly column discussing legal ethics issues, published in The Journal, the magazine of the Delaware State Bar Association. Mr. Slanina is a member of the American Bar Association, the Delaware Bar Association, the Association of Professional Responsibility Lawyers and the Rodney Inns of Court, where he has served as President. Martindale-Hubbard has rated Mr. Slanina as AV for legal ability and ethical standard based on peer review and he was named one of Delaware's "Power Attorneys" and is frequently featured as *Delaware Today's* "Best Lawyers."

Member:
Delaware Bar – Admitted 1980; United States District Court for the District of Delaware; United States Court of Appeal for the Third Circuit; and the United States Supreme Court

Education:
J.D. 1979, Columbus School of Law, the Catholic University of America, Washington, D.C.
B.A. 1976, University of Delaware

Professional:
Partner - Ciardi Ciardi & Astin: 2024 to present.

Founder/Partner - Finger & Slanina, LLC: 2003 to 2024.
Practice areas: Professional Responsibility, including disciplinary defense, issuing advisory opinions and testifying as an expert on ethics and standards of practice issues; insurance defense in toxic tort matters; and plaintiff's personal injury.

Special Prosecutor - New Castle County Ethics Commission

Partner, Tybout, Redfearn & Pell: 1998 to 2003. Practicing in the areas of professional responsibility, criminal law and insurance defense, including toxic tort, personal injury, workers compensation, and medical malpractice.

Biggs & Battaglia: 1995 to 1998. Practicing in the areas of professional responsibility, plaintiff's personal injury, and criminal defense.

Erhart & Laffey: 1993 to 1994. Practicing in the areas of professional responsibility, personal injury, criminal and family law.

Chief Disciplinary Counsel for the Bar of the Supreme Court of Delaware: 1989 to 1993. The Office of Disciplinary Counsel serves as the enforcement arm of the Delaware Supreme Court investigating and prosecuting attorney misconduct as well as unauthorized practice of law cases.

Senior Deputy Attorney General - Family Court Unit, Office of the Attorney General, State of Delaware: 1989 to 1989.

Director - Delaware Medicaid Fraud Unit, State of Delaware: 1987 to 1989.

Deputy Attorney General, State of Delaware, Criminal Division: 1982 to 1987.

Deputy Attorney General, State of Delaware, Civil Division: 1981-1982.

Family Court Law Clerk: 1980-1981

Professional Associations:
Member: Delaware State Bar Association; American Bar Association; Association of Professional Responsibility Lawyers; Delaware Trial Lawyers Association; ABA Center for Professional Responsibility; Former President, Rodney Inns of Court. Former member National Organization of Bar Counsel.

Lecturer:
Frequent speaker on legal ethics and professional responsibility at topics seminars and conferences sponsored by the Delaware Bar Association, Delaware Trial Lawyers Association, University of Delaware Academy of Lifelong Learning, National Organization of Bar Counsel, Superior Court Trial Practice Forum, and Delaware Supreme Court Pre-admission Conference. Adjunct Professor at Delaware Law School.

Publications:
Contributor to *Delaware Lawyer*, monthly ethics columnist to *The Journal* of the Delaware State Bar Association. Articles available online at www.dsba.org.

Jessica Tyler, ODC

Jessica Tyler is currently Chief Disciplinary Counsel for the Delaware Supreme Court's Office of Disciplinary Counsel. Ms. Tyler started with ODC as a Deputy Disciplinary Counsel in 2022. She came to the Court from her position as Shareholder with the law firm of Marshall Dennehey Warner Coleman & Goggin, where she practiced civil litigation defense in the firm's Wilmington office. Before entering private practice, Ms. Tyler served as a law clerk to Judge Mark D. Buckworth and Judge Jay H. Conner (ret.) in Delaware Family Court.

Avoiding Disciplinary Complaints

May 14, 2026

Charles Slanina, Esq.
Ciardi Ciardi & Astin

Jessica L. Tyler, Robert D. Cecil, Jr., & Daniella Spitelli-Sarnecky
Office of Disciplinary Counsel

What is the nature of our profession?

Preamble to the Rules

[1] A lawyer, as a member of the legal profession, is:

- ✓ a representative of clients,
- ✓ an officer of the legal system
- ✓ and a public citizen having special responsibility for the quality of justice.

How are we regulated?

The Supreme Court has the inherent and exclusive authority for admitting and disciplining persons with regard to the practice of law in Delaware

How are we regulated?

- [12] The legal profession’s relative autonomy carries with it special responsibilities of self-government. The profession has a responsibility to assure that its regulations are conceived in the public interest and not in furtherance of parochial or self interested concerns of the bar. Every lawyer is responsible for observance of the Rules of Professional Conduct. A lawyer should also aid in securing their observance by other lawyers. Neglect of these responsibilities compromises the independence of the profession and the public interest which it serves.

ODC Complaint Process

- Types:
  - Telephone Complaints
  - Written Complaints
- Sources
  - Clients
  - Judicial Referrals
  - Opposing Counsel
  - Self-reports
  - Banks
  - Law Enforcement Agencies
  - LFCP Referrals

An ODC Update

Complaints

2021: 130

2022: 141

2023: 181

2024: 202

2025: 267

Ethics Hotline

2021: 71

2022: 98

2023: 136

2024: 171

2025: 146

Common Complaints against one's own lawyer

- "Blocking and tackling"
- My lawyer didn't do what I asked
- My lawyer was rude by telling me my case had no chance, motion had no merit, etc.
- My lawyer is clearly working against my interests and helping opposing counsel
- Misunderstanding of the scope of representation
- Intemperate remarks

Common Complaints against Opposing Counsel

- Misrepresentation to the Court
- Lying
- Delaying my case
- Conspiracy

The Initial Process

Screening
Evaluation
Investigation

Rule 9 of the Delaware Lawyers' Rule of Disciplinary Procedure

Disciplinary Procedure Rule 9

- ODC evaluates each complaint
- Reasonable inference of misconduct?
- Notify the attorney and request a response to assist
  - Background/context
  - Respond to allegations
  - Anything else which may be helpful
  - No need to send voluminous documents
- Confidentiality of disciplinary complaints
- Complainants notified of the final disposition

On the topic of Avoiding Complaints…

Generative Artificial Intelligence

Should you use it? (your call)

Do you have to use it? (no)

What if you use it?

- Know where the information is going
- Know how it works
- Verify the output
- Have a Firm-wide written policy
- Supervise and train for compliance

Some Ethical and Practice Considerations

1.1 Competence

1.6 Confidentiality

3.1, 3.3 Candor & Meritorious Claims and Contentions

5.1, 5.2, 5.3 Supervision

8.5 Responsibilities to Other Jurisdictions

Sanctions can be imposed by

- The tribunal itself
- Disciplinary system

October 2025 – Iowa – Public Reprimand

Facts:

- Initial Brief – some citations did not stand for proposition, some were incorrect, and some were entirely fictitious; Court ordered the lawyer provide copies of the cases or their correct citations
- Blamed a transcription error
- In reality, the lawyer knew at the time he gave that reason that his staff had used ChatGPT in editing the brief
- Then filed an Amended Brief with similar citation problems
- Court admonished the lawyer

October 2025 – Iowa – Public Reprimand

Rules:

- 3.3(a)(1) Candor – blamed a transcription error when he knew it was his assistant's use of ChatGPT; 2nd brief also contained misrepresentations of cases with continued AI use
- 5.3(b) – Supervision – aware the legal assistant was using ChatGPT and that it was causing errors; did not check citations before filing it
- 8.4(d) – Conduct prejudicial to administration of justice –initial failure to catch the problem & subsequent failure to remedy the errors forced the Court to address the issue; wasted resources

Avoiding Disciplinary Complaints…

- Manage your Clients
- Manage your Cases
- Manage your Office

Screen for Problem Clients

Clients to avoid – *Courtesy of Chip Slanina, Esq.*

- Clients with multiple prior counsel
- Clients who visit on the eve of the SOL
- Clients with unrealistic expectations
- Clients interested only in the “principle”
- Clients with negative or hostile opinions of attorneys
- Clients who are victims of “conspiracies”
- Client with a big brown bag or box of materials
- Clients looking for a “war-time consiglieri”
- Contingency Fee Client
- Free Clients
- Team Clients
- Social Media Client

Objectives of the Representation

Rule 1.2(a) - Subject to paragraphs (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of the representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued...

BUT...

There are ethical limitations on lawyer's obligation to abide by a client's decisions

Rule 1.2(d) – Criminal or Fraudulent Conduct

Rule 3.1 Meritorious claims and contentions

Rule 3.3 – Candor towards tribunal

Rule 3.4(b) - Fairness to Opposing Party & Counsel

Can I withdraw from the case?

- Rule 1.16, Cmt. [3] …Difficulty may be encountered if withdrawal is based on the client's demand that the lawyer engage in unprofessional conduct. The court may request an explanation for the withdrawal, while the lawyer may be bound to keep confidential the facts that would constitute such an explanation. *The lawyer's statement that professional considerations require termination of the representation ordinarily should be accepted as sufficient.* Lawyers should be mindful of their obligations to both clients and the court under Rules 1.6 and 3.3.

How to Avoid Issues

- Manage your Clients
- Manage your Cases
- Manage your Office

Screen the Case

Screen potential cases for:

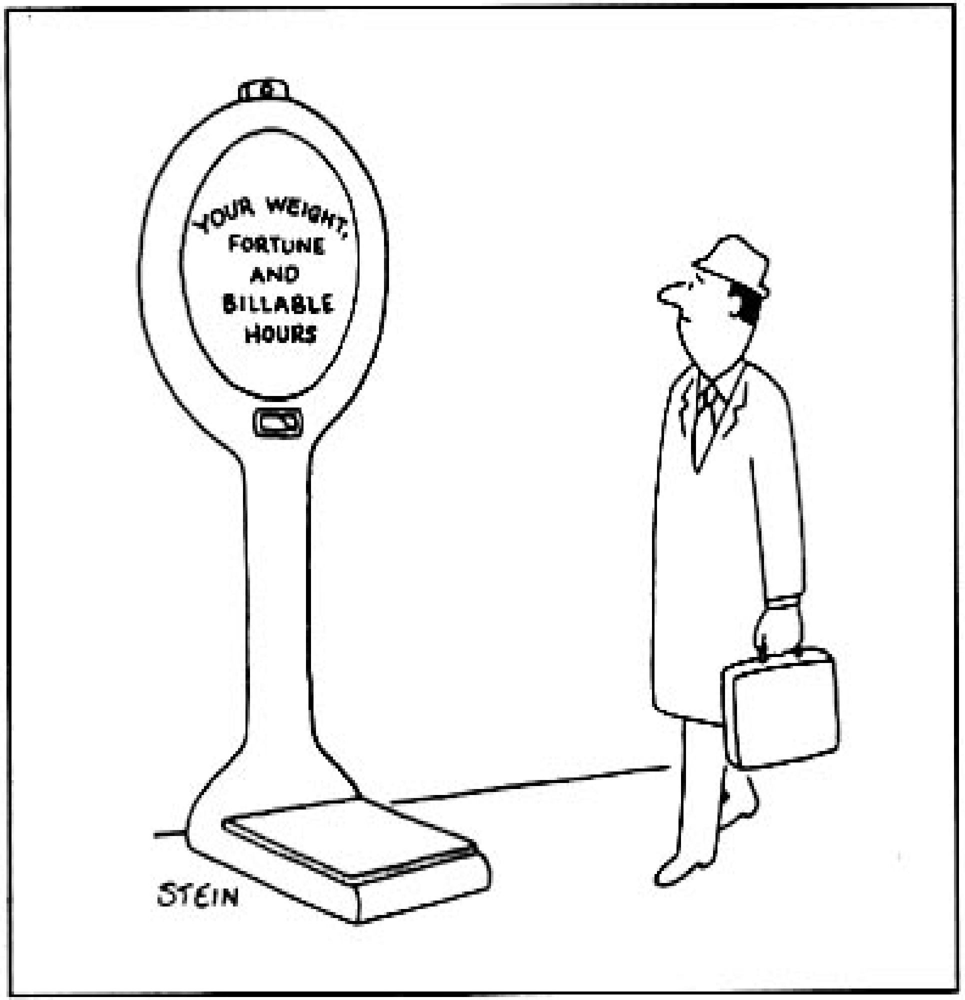
- Value
- Clients who can pay
- Jurisdiction
- Statute of limitations
- Difficulty

Take control…and stay in control.

- Establish ground rules, including decision-making
- Set expectations
- Communicate
- Document the file
- Provide status reports

Limit confusion and surprises…

- Clearly define the scope of the representation utilizing a well-drafted fee agreement or engagement letter
- Provide fee statements
- Be honest and don't make promises you can't keep.



Rule 1.16: When MUST You Decline or Terminate Representation?

(a) [A]lawyer shall not represent a client or…***shall*** withdraw from the representation of a client if:

(1) the representation will result in *violation of the rules of professional conduct or other law;*

(2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client; or

(3) the lawyer is discharged.

Rule 1.16: When MAY You Decline or Terminate Representation?

(b) Except as stated in paragraph (c), a lawyer ***may*** withdraw from representing a client if:

(1) *withdrawal can be accomplished without material adverse effect on the interests of the client*;

(2) the *client persists in a course of action* involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent;

(3) the client has used the lawyer's service to perpetrate a *crime or fraud*;

(4) the client insists upon taking action that the lawyer considers *repugnant or with which the lawyer has a fundamental disagreement*.

Rule 1.16: When MAY You Decline or Terminate Representation?

(5) the client *fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services* and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled;

(6) the representation will result in an *unreasonable financial burden on the lawyer* or *has been rendered unreasonably difficult by the client*; or

(7) *other good cause* for withdrawal exists.

Rule 1.16(c): BUT…It's up to the Court…

- (c) A lawyer *must* comply with applicable law requiring notice to or permission of a tribunal when terminating a representation. *When ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation.*

Rule 1.16(d) Continuing Obligations to the Client Post-Termination

(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to ***protect a client's interests***, such as ...surrendering papers...to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred.

- Comment 9: *Even if* the lawyer has been *unfairly discharged* by the client, a lawyer must take all reasonable steps to mitigate the consequences to the client.

How to Avoid Issues with Termination of Representation

- Non-Engagement Letters
- Disengagement Letters
- Maintain confidentiality
- Take steps to avoid foreseeable prejudice to the client
- Turn over files to new counsel
- Return Unearned Fees

Golden Rules to Avoid Issues

- Manage your Clients
- Manage your Cases
- Manage Your Relationship with the Court
- Manage your Office

Other special obligations that come with the choice to be a lawyer?

[5] A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs.
A lawyer should use the law's procedures only for legitimate purposes and not to harass or intimidate others. A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers and public officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold legal process.

Misrepresentations/False Statements

To Whom?

- To Courts
- To Clients
- To Opposing Counsel/Others
- To State Bar

Telling a partial-truth may also be construed as a violation of Rule 8.4

It is professional misconduct for a lawyer to:

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

(d) engage in conduct that is prejudicial to the administration of justice

Manage Your Office

- Duty to supervise subordinate attorneys
- Duty to supervise non-lawyer staff
- Mishandling Fees & Trust Accounts

Manage Your Office: Rule. 5.3
Responsibilities regarding non-lawyer assistants

- With respect to a non-lawyer employed or retained or associated with a lawyer:

  (a) a [lawyer with *managerial authority*] shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer;

  (b) A [*supervising lawyer*] shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer;

Duty to Comply with Rules includes:

- Failure to file Annual Registration Statements & Certificates of Compliance
- Failure to respond to CLE Commission
- Failure to respond to ODC – R. 8.1(b)

Mishandling Trust Accounts

- **Rule 1.15 – Safekeeping of Property**
  - Your non-delegable fiduciary duty – review your accounts
  - Commingling
  - Misappropriation
  - Failure to maintain books & records
  - Failure to promptly pay out funds
- **Rule 1.15A – Trust Account Overdraft Notification**

Rule 1.5 – Fee Agreements

- Fee must be "reasonable"
- The scope of the representation and the basis or rate of the fee and the expenses for which the client will be responsible shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation, except when the lawyer will charge a regularly represented client on the same basis or rate.
- Limitations on contingent fee arrangements

Rule 1.5 – Advanced Fees

- A lawyer may require the client to pay some or all of the fee in advance of the lawyer undertaking the representation, provided that:
  - The lawyer SHALL provide the client with a written statement that the fee is refundable if not earned,
  - The written statement shall state the basis under which the fees shall be considered to have been earned, whether in whole or in part, AND
  - All unearned fees SHALL be retained in the lawyer's trust account, with a statement of the fees earned provided to the client at the time such funds are withdrawn from the trust account.

Are there any pressures associated with law practice?

- Yourselves
- Your clients
- Your colleagues and partners
- Your bosses
- The tribunal before whom you are appearing
- Your (or your family's) desire to attain/sustain a certain lifestyle
- Obligation to meet payroll of your staff
- May be your friends or family members
- And as we know other factors (that are not human)
  - Anxiety and depression
  - Alcohol and drugs

Other Resources for Delaware Bar Members

- **DSBA Professional Guidance Committee ("PGC")**

- **Delaware Lawyers Assistance Program (DE-LAP)**

Jim Deel, Executive Director
Phone: (302) 777-0124 or (877) 24-DELAP
Web: www.de-lap.org

  - Confidentiality assured unless an attorney specifically waives confidentiality to have their participation considered as a mitigating factor in their disciplinary matters
  - Assist attorneys with chemical dependency, compulsive behaviors, and emotional distress

Ethics Hotline

Disciplinary Counsel

MENU

- ODC Home
- Counsel
- How to File a Complaint
- Instrucciones para presentar una queja
- FAQs for the Public
- FAQs for Lawyers

Office of Disciplinary Counsel

Ethics Hotline for Lawyers

ODC will provide informal, non-binding guidance to a lawyer regarding compliance with the Rules. A request for guidance should relate to a lawyer's contemplated, prospective conduct. ODC guidance will not be in the form of legal advice, and the guidance discussions should not be construed as creating an attorney-client relationship. Although any guidance provided by ODC will be confidential, a lawyer may waive such confidentiality in any subsequent, related disciplinary matter in which that lawyer is a disciplinary respondent.

To reach the Ethics Hotline, please call the ODC at 302-651-3931 and advise the receptionist you are making a hotline call. You also have the option of emailing the Ethics Hotline at ARMS_ODC_EHOTLINE@delaware.gov.

- Call: (302) 651-3931
- Email: ARMS_ODC_EHOTLINE@delaware.gov

Molly DiBianca, DiBianca Law, LLC

Molly is the Managing Partner of DiBianca Law, where she advises and litigates claims on behalf of employers. She prosecutes and defends against the enforcement of post-employment covenants, such as noncompete and nonsolicitation agreements. Molly also represents a select number of individuals who have been wronged by their employer in seeking to vindicate their rights. Molly also mediates commercial and employment claims and serves as a AAA mediator and arbitrator.

Molly serves as a Governor-appointed member of the Delaware Architectural Accessibility Commission and the Delaware Commission on Artificial Intelligence and serves on the Delaware Supreme Court's Commission on Law and Technology as the Co-Chair of the Emerging Technologies Committee. Molly wrote The Delaware Employment Law Blog, which was named to the ABA Journal's Blawg 100 Hall of Fame in 2014. In her free time, Molly enjoys driving cars at inadvisable speeds around a closed racetrack.


The Legal Ethics of AI

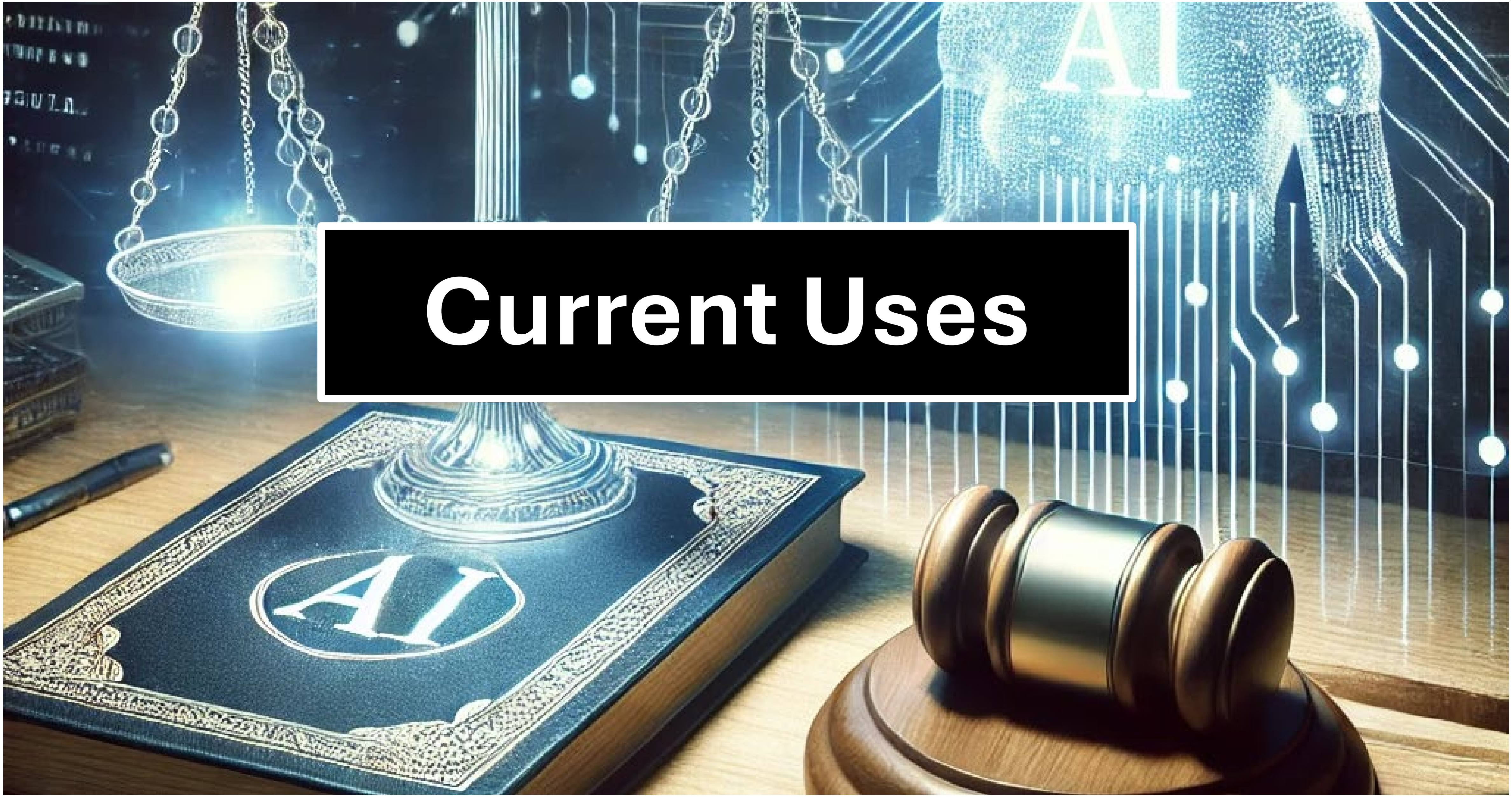
Agenda

Current Uses

Risks

Risk Mitigation

Current Uses




Arizona Supreme Court unveils AI-generated reporters


OF ARIZ
TATE OF ARIZONA

NATIONAL

Family shows AI video of slain victim as an impact statement — possibly a legal first

UPDATED MAY 12, 2025 · 7:27 PM ET

Juliana Kim

A screenshot of the AI generated video of Christopher Pelkey.

YouTube

Use by Judges

IN RE:
INTERIM POLICY ON THE USE OF GENERATIVE AI BY JUDICIAL OFFICERS AND COURT PERSONNEL

1. **Authorized User Remains Responsible.** Any use of GenAI output is ultimately the responsibility of the Authorized User. Authorized Users are responsible to ensure the accuracy of all work product and must use caution when relying on the output of GenAI.

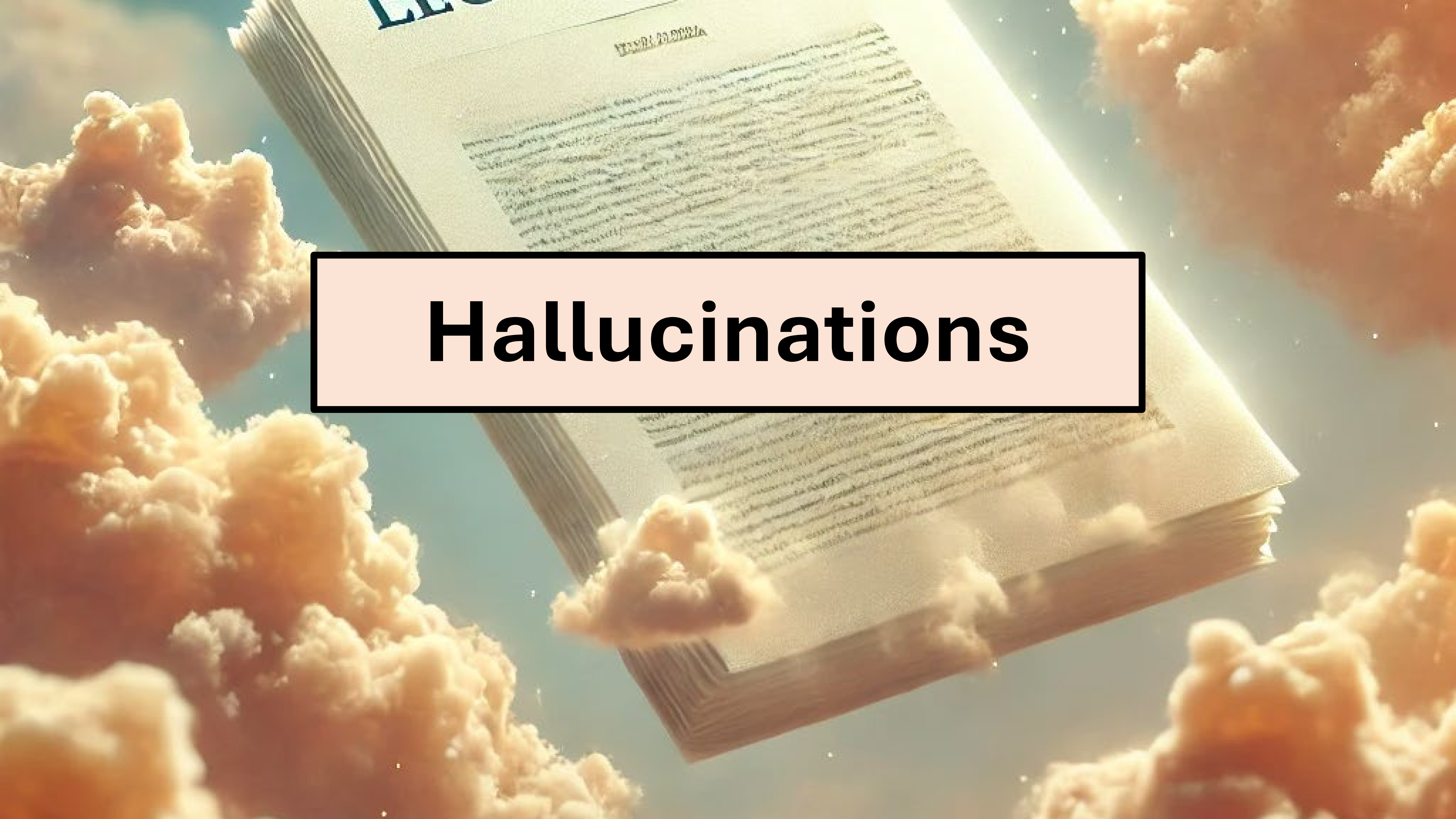
2. **Informed Use.** Authorized Users should not use Approved GenAI without a working knowledge and understanding of the tools. Authorized Users should be trained in the technical capabilities and limitations of Approved GenAI prior to use.

3. **Decision Making.** Authorized Users may not delegate their decision-making function to Approved GenAI.

4. **Compliance with Laws and Judicial Branch Policies.** Use of GenAI must comply with all applicable laws and judicial branch policies.

5. **Non-Approved GenAI.** Authorized Users may not input any Non-Public Information into Non-Approved GenAI. Non-Approved GenAI may not be used on State Technology Resources.

Hallucinations



damiencharlotin.com/hallucinations/

AI Hallucination Cases

This database tracks legal *decisions*[1] in cases where generative AI produced hallucinated content – typically fake citations, but also other types of AI-generated arguments. It does not track the (necessarily wider) universe of all fake citations or use of AI in court filings.

While seeking to be exhaustive (**973** cases identified so far), it is a work in progress and will expand as new examples emerge. This database has been featured in news media, and indeed in several decisions dealing with hallucinated material.[2]

If you know of a case that should be included, feel free to contact me.[3]

Based on this database, I have developped an automated reference checker that also detects hallucinations: PelAIkan. Check the Reports in the database for examples, and reach out to me for a demo !

For weekly takes on cases like these, and what they mean for legal practice, subscribe to Artificial Authority.

Click to Download CSV

Delaware Decisions

Lillard

(Del. Super. Mar. 2025)

An

(Del. Ch. Apr. 2025)

In re Bittrex, Inc.

(D. Del. Oct. 2025)

Jordan

(D. Del. Bkry. Dec. 2025)

Fletcher v. Experian Info Solutions (5th Cir. Feb. 15)

“Shows no sign of abating”

If it were ever an excuse to plead ignorance of the risks of using generative AI to draft a brief without verifying its output, it is certainly no longer so.


Experts

Use by Judges


SANCTIONS

Privilege / Confidentiality

EXCLUSIVE

really use it for.

What do people ask the popular chatbot? We analyzed thousands of chats to identify common topics discussed by users and patterns in ChatGPT's responses.

November 12, 2025


Risk Mitigation
AI
AI


Client Consent

Certification

Attorneys and/or parties must disclose the use of AI-assisted technology in the creation or editing of any document or evidence submitted to the court. Such disclosure should include a general description of the AI technology used and its role in the preparation of the materials. The disclosure must be made at the time of submission through a certification attached to the document or evidence, indicating the type of AI used and certifying the attorney's final review and approval of the AI-assisted material.


JOHN MINOR WISDOM
UNITED STATES COURT OF APPEALS BUILDING
FIFTH CIRCUIT


CALIFORNIA

Risk Mitigation and Response

Preventative

- Clear written policy
- Supervise & train staff
- Pre-filing protocol

Responsive

- Correct
- Review prior filings
- Revise policy and protocol

<u>James R. Donovan, Esquire</u>

A partner at the firm Doroshow, Pasquale, Krawitz, and Bhaya, James attended Salesianum, the University of Delaware, and Widener University. James practices in the areas of workers' compensation and personal injury in DPKB's Smyrna, Dover, and Milford Offices. James is the past President of the Delaware Trial Lawyers Association. He can be reached at JamesDonovan@dplaw.com

MEGHAN BUTTERS HOUSER

Ms. Houser is a Director at the law firm of Weiss, Saville, Medinilla & Houser, P.A. She joined the firm in 2010 and practices in the areas of plaintiff's civil litigation, personal injury, and workers' compensation. She was admitted to practice law before the Delaware Supreme Court in 2010, the U.S. District Court for the District of Delaware in 2011 and the United States Supreme Court in 2017. Ms. Houser graduated summa cum laude from Canisius College in 2007 with a B.A. in History and Political Science. She received her J.D. from Villanova University School of Law in 2010.

Ms. Houser has been a member of the Delaware Trial Lawyers Association since 2010, having served as President in 2019-2020. Additionally, Ms. Houser is a member of the Randy J. Holland Workers' Compensation Inn of Court where she serves as Co-chair of the Service Committee. Since 2010, Ms. Houser has served as an active member of the Delaware State Bar Association, and previously served as Chair of the Workers' Compensation Section. Ms. Houser is also a member of the Women & the Law section and has served as a member of the DSBA's Nominating Committee.

GREGORY P. SKOLNIK (Firm Tenure 2012; Position: Workers' Compensation Attorney), born Philadelphia, Pennsylvania, April 1, 1986; admitted to bar 2011, Delaware and New Jersey. Education: Pennsylvania State University (B.A., 2008); Widener University School of Law (J.D., *cum laude*, *pro bono* distinction, 2011). Member: Delaware State Bar Association (Workers' Compensation and Young Lawyers Sections); Randy J. Holland Workers' Compensation Inn of Court. Practice Areas: Workers' Compensation and Insurance Defense.

Biography:

Greg focuses his practice exclusively on representing employers and insurance carriers in workers' compensation litigation in Delaware. He is licensed to practice law in Delaware and New Jersey. He is a graduate of Penn State University, earning a B.A. in Political Science. He attended law school at the Delaware Law School, and graduated *cum laude*, in the top 10% of his class, and with *pro bono* distinction. Following law school, he served as a Judicial Law Clerk for the then five Judges of the New Castle County Court of Common Pleas. After his clerkship, he joined Heckler and Frabizzio.

Greg maintains an active membership in the Workers' Compensation Section of the Delaware State Bar Association. He was a member of the Section's Special Committee that authored revisions to modernize subsection 2347 of the Workers' Compensation Act, that were ultimately passed and signed into law. He serves as President for the Randy J. Holland Workers' Compensation Inn of Court. He is a regular speaker on various topics including Delaware Workers' Compensation law. For many years he was an Attorney Coach for the Mount Pleasant High School Mock Trial Team, and continues to support the team. He has served as a Peer Mentor and speaker in a Delaware Bar review program offered by the Minority Judges and Lawyers Section of the Delaware Bar. In 2021, he was selected by the Delaware Business Times to their list of Achievers & Innovators Under 40. He has been voted a Top Lawyer in Delaware Today every year since 2018. He is AV Preeminent Peer Review rated by Martindale Hubbel.

PratcherKrayer
INJURY LAWYERS

Samuel D. Pratcher, III*
Nicholas M. Krayer
William R. Stewart, III^
Christine Kane~

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Website: www.PKinjury.com

*Also Admitted in NJ & PA
^Also Admitted in PA
~Also Admitted in PA, NY & NJ

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Samuel D. Pratcher, III is a managing partner at Pratcher Krayer, LLC. Samuel was born in Wilmington, Delaware and graduated from Salesianum High School. He graduated *with honors* from Hampton University in 2005 with a Bachelor of Science degree in Political Science. In 2009, he received his law degree from Thomas M. Cooley School of Law. While in law school, Samuel served as judicial extern to the Honorable Joseph J. Farnan, Jr., in the United States District Court of Delaware. He gained valuable experience researching and writing court opinions on civil rights and employment law matters.

After law school, Samuel completed a year-long clerkship with The Honorable Charles H. Toliver, IV of the Superior Court of the State of Delaware. As a law clerk, he conducted research and assisted in writing court opinions in business litigation, personal injury and criminal law matters.

Attorney Pratcher has received recognition from his peers as a top personal injury lawyer in the State of Delaware (Delaware Today Magazine, Top Lawyer 2013, 2016, 2019-2025). Attorney Pratcher has gained national recognition from National Academy of Personal Injury Attorneys (NAOPIA) having been selected as a Top 10 personal injury attorney in Delaware in 2013, 2016 - 2024. Super Lawyers selected Mr. Pratcher as a 2017 and 2018 Rising Star in the practice of law for the State of Delaware. No more than 2.5% of Delaware attorneys are selected for this honor. Super Lawyers consecutively selected Mr. Pratcher as a top personal injury attorney from 2021 through 2026.

Mr. Pratcher is admitted to practice in Delaware, New Jersey, Pennsylvania, the United States District Court of Delaware, and the Supreme Court of the United States of America.

Past Employment Positions

The Honorable Charles H. Toliver, IV, Superior Court of the State of Delaware, Law Clerk

The Honorable Joseph J. Farnan, Jr., U.S. District Court of Delaware, Judicial Extern

Delaware Department of Justice, Law Clerk

Professional Associations and Memberships

- Alpha Phi Alpha Fraternity, Inc.
- Million Dollar Advocates Forum Member
- Delaware Trial Lawyers Association, Board of Directors 2015-Present and President (2021)
- Randy J. Holland Delaware Workers' Compensation American Inn of Court
- Torts and Insurance Section of Delaware State Bar Association, Chair 2013-2016
- The American Association of Justice, Leaders Forum
- Delaware State Bar Association, Multicultural Judges and Lawyers Section
- Vice President, New Castle County Small Firm & Solo Practitioner Chair, Executive Committee of DSBA (2016-21)
- Delaware Trial Lawyers Association, Minority Caucus Representative to The American Association of Justice
- Wilmington Country Club, Member

Recognition

- Best Lawyers in America, Delaware Personal Injury (2025)
- DSBA, Community Service Award 2020
- The National Black Lawyers, Top 40 Under 40 (2017-2022)
- The National Black Lawyers, Top 100 (2024- 2025)
- Super Lawyers, Rising Star Award (Delaware 2017, 2018)
- Super Lawyers, Super Lawyer (Delaware 2021 - 2025)
- 40 under 40 Award Winner, Chains, Inc. (2014)
- Delaware Today Magazine – Delaware Top Lawyers-Litigation (2013)
- Delaware Today Magazine – Delaware Top Lawyers-Torts and Insurance Practice (2013)
- Delaware Today Magazine – Delaware Top Lawyers – Personal Injury (2020 -2025)
- Top 10 Attorney, Under the age of 40, by National Academy of Personal Injury Attorneys (Delaware 2014-2022)
- Martindale-Hubbell, Client Distinction Award 2015

Classes/Seminars

- How to Manage a Law Firm and Excel in Your Own Practice, August 5, 2025
- Cyber Security in Law Firms and The Pitfalls of Social Media, February 13, 2018
- National Institute of Trial Advocacy (NITA), Faculty Member (2017)
- Delaware State Bar Assoc., Workers' Compensation Conference, Ethics, May 6, 2015
- Delaware State Bar Assoc., Workers' Compensation Conference, The "But For" Causation Standard, January 19, 2016
- The 21st Annual Rubenstein-Walsh Seminar on Ethics and Professionalism, Effective and Ethical Mediation Techniques, February 5, 2016
- Delaware Trial Lawyers Assoc., Worker's Compensation Claim with a Potential Third Party Claim, June 11, 2016
- Delaware Bench and Bar Conference, Civil Litigation, June 17, 2016

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UNPUBLISHED OPINION. CHECK COURT RULES BEFORE CITING.

Superior Court of Delaware.

Elisha BALLARD, Plaintiff,
v.
TAKEDA PHARMACEUTICALS AMERICA, INC.; Takeda Pharmaceuticals U.S.A., Inc., f/k/a Takeda Pharmaceuticals North America, Inc.; Takeda Pharmaceutical Company Limited; and Eli Lilly and Company, Defendants.

No. N16C–10–177 JRJ
|
Date Submitted: June 16, 2017
|
Date Decided: August 7, 2017

Upon Plaintiff's Motion for Order Extending, for Cause, the Time Limit for Service of Process Under Rule 4(j) of the Superior Court Civil Rules: **DENIED.**

Attorneys and Law Firms

James D. Heisman, Esquire, Napoli Shkolnik, LLC, 919 North Market Street, Suite 1801, Wilmington, Delaware, Attorney for Plaintiff.

Philip A. Rovner, Esquire, and Jonathan A. Choa, Esquire, Potter Anderson & Corroon, LLP, Hercules Plaza, P.O. Box 951, Wilmington, Delaware, Attorneys for Defendants.

OPINION

Jurden, P.J.

I. INTRODUCTION

***1** Plaintiff Elisha Ballard filed a Complaint in this Court against Defendants Takeda Pharmaceuticals America, Inc., Takeda Pharmaceuticals U.S.A., Inc., f/k/a Takeda Pharmaceuticals North America, Inc., Takeda Pharmaceutical Company Limited, and Eli Lilly and Company (collectively "Defendants") on October 21, 2016 (the "Elisha Ballard Action"), alleging causes of action related to Plaintiff's use of the prescription drug Actos®. Plaintiff's counsel failed to serve Defendants within 120 days as required under Rule 4(j) of the Superior Court Civil Rules. Almost two months after the 120–day time limit had run, Plaintiff's counsel filed a "Motion for Order Extending, for Cause, the Time Limit for Service of Process Under Rule 4(j) of the Superior Court Civil Rules." For the reasons set forth below, Plaintiff's Motion is **DENIED.**

II. BACKGROUND

The Elisha Ballard Action is one of a number of Actos cases filed in this Court by Plaintiff's counsel. Elisha Ballard and plaintiffs in the other Actos cases allege that the use of Actos caused the plaintiffs to develop bladder cancer. [1] The relevant background is as follows. Plaintiff's counsel is the managing partner of his firm's Delaware office and is responsible for office operations including the filing and service of complaints. [2] Plaintiff's counsel delegated responsibility for the filing and service of pharmaceutical complaints, including the Elisha Ballard Complaint, to a paralegal acting under his direction. [3]

On August 30, 2016, the paralegal filed a complaint in this Court on behalf of Jerry Ballard against Defendants, alleging personal injuries as a result of ingesting Actos (the "Jerry Ballard Action"). [4] Attached to the Jerry Ballard Complaint were praecipes requesting the issuance of process. [5] The Prothonotary issued the requested writs, directing the Sheriff of New Castle County to serve two of the four Defendants, Takeda Pharmaceuticals America, Inc. and Takeda Pharmaceuticals U.S.A., Inc. (the "Delaware Defendants"), and directing Plaintiff's counsel to serve the non-Delaware Defendants in accordance with 10 *Del. C.* § 3104, Delaware's long-arm statute, and in accordance with Article 5 of the Hague Convention when appropriate. [6] On October 17, 2016, the Sheriff filed Sheriff's Returns attesting that he had served the Delaware Defendants. [7] It is not clear from the record whether the non-Delaware Defendants were properly served because Plaintiff's counsel did not file any proof of service under § 3104 for the non-Delaware Defendants. [8] Nevertheless, on November 2, 2016, the Defendants filed an answer in the Jerry Ballard Action. [9]

***2** On October 21, 2016, the paralegal filed the Elisha Ballard Complaint, [10] and on November 28, 2016, the paralegal began the process of obtaining the writs necessary for service of process in the Elisha Ballard Action by ordering checks payable to the New Castle County Sheriff from the firm's accounting department. [11] Having received the checks, on December 7, 2016, the paralegal confused the Elisha Ballard Action with the Jerry Ballard Action and "mistakenly printed and delivered the earlier filed [Jerry] Ballard case to the [P]rothonotary to obtain writs for service." [12] On January 18, 2017—more than 120 days after Jerry Ballard Complaint was filed—the Prothonotary issued the requested Jerry Ballard Action writs, including writs directed to Plaintiff's counsel to complete long-arm and Hague Convention service. [13] Again, the Sheriff served the Delaware Defendants and filed Sheriff's Returns attesting to service, [14] and again, the record is not clear regarding service of the long arm writs. In her affidavit, the paralegal explains that the second set of Jerry Ballard long arm writs were "internally misfiled" due to an unspecified clerical error. [15] As a result, the long arm writs were not served until the clerical error was discovered. [16]

On April 11, 2017, the Court held a scheduling conference to consolidate seven of the Actos cases filed by Plaintiff's counsel, not including the Elisha Ballard Action, for pre-trial purposes. [17] After this conference, Plaintiff's counsel asked the paralegal to review his Actos cases to ensure that service on Takeda Pharmaceutical Company Limited, a Japanese entity, was consistent with the Case Management Order. [18] At this point, Plaintiff's counsel learned of his failure to serve Defendants in the Elisha Ballard Action. [19]

On April 21, 2017, Plaintiff's counsel filed the instant Motion seeking an enlargement of time for service of process in the Elisha Ballard Action. In support of the Motion, Plaintiff's counsel included an affidavit from his paralegal in which the paralegal acknowledges that she confused the Elisha Ballard Action with the Jerry Ballard Action, leading to the initial failure to request issuance of service writs in the Elisha Ballard Action. [20] However, the paralegal does not explain in her affidavit what, if any, oversight or support she received from attorneys at the firm in connection with the filing and serving of the complaints. [21]

***3** On May 24, 2017, the Court held oral argument and asked Plaintiff's counsel how something like this could have happened. [22] Plaintiff's counsel stated, without any further explanation, that a good faith effort was made to serve the Defendants and that internal checks were in place to track service. [23] In response, defense counsel suggested that, in "putting the blame on this paralegal," Plaintiff's counsel failed to account for an apparent lack of institutional procedure that should have caught and corrected the mistake within 120 days of the filing of the Elisha Ballard Complaint. [24] Conspicuously, Plaintiff's counsel's only response to defense counsel's allegation of "a firm-wide institutional deficiency" was reasserting that "[i]t was an honest, good faith mistake," and "[w]e tried to make service." [25] When the Court specifically pressed Plaintiff's counsel on his failure to realize that something had gone awry despite multiple occasions upon which he should have been alerted either to the double process in the Jerry Ballard Action or to the lack of process in the Elisha Ballard Action, Plaintiff's counsel agreed that there were opportunities to discover the mistake, but offered no explanation of what efforts he, the attorney responsible for service of process, undertook to track service of process. [26]

Troubled by, and not satisfied with, Plaintiff's counsel's failure to account for his own actions in this case, the Court ordered Plaintiff's counsel to submit an affidavit explaining what measures he took to ensure timely service of process. [27] In his affidavit, Plaintiff's counsel avers that "service events were tracked by [the paralegal] to ensure timely service and reported to me" and that he had regular meetings with the paralegal "to discuss service tracking issues." [28]

III. PARTIES' CONTENTIONS

Plaintiff argues that good cause exists to extend the Rule 4(j) 120 day window to effect service because the error in service was "an honest mistake." [29] Plaintiff further argues that none of the Defendants in the Elisha Ballard Action will be prejudiced if the Court grants Plaintiff's Motion. [30]

Defendants counter that Plaintiff's counsel has failed to show good cause as required under Rule 4(j). [31] Specifically, Defendants contend that, at a minimum, Plaintiff's counsel should have noticed the error in service when the Sheriff did not file returns of service in the Elisha Ballard Action for the Delaware Defendants and when no Defendant answered the

Complaint in the Elisha Ballard Action.[32] Defendants further contend that Plaintiff's counsel's inaction and inattention preclude a finding of good faith.[33]

IV. STANDARD OF REVIEW

Superior Court Civil Rule 4(j) allows service to be perfected after the 120–day window has closed only if the requesting party shows "good cause" why service was not made within 120 days. Rule 4 does not define good cause, but Delaware courts interpret good cause to require a showing of excusable neglect, meaning a showing of "good faith" and a "reasonable basis for noncompliance."[34] Stated differently, excusable neglect is that "neglect which might have been the act of a reasonably prudent person under the circumstances."[35] "In determining whether the moving party's neglect was 'excusable,' all surrounding circumstances may be considered."[36] Delaware public policy favors allowing a litigant their day in court, and "[R]ule [4(j)] seeks to balance the need for speedy, just and efficient litigation" with this public policy.[37]

***4** Dismissal of a claim is a severe penalty, and courts are reluctant to apply dismissal except as a last resort.[38] However, Rule 4(j) provides no option other than dismissal when a plaintiff cannot show good cause, and the Court has denied motions to enlarge time made after the 120–day time limit has run even when the denial would preclude a cause of action against a defendant because the statute of limitations has run.[39] A plaintiff cannot rely on the prejudice they will suffer if their claims are dismissed as a substitute for good cause,[40] nor can a plaintiff rely on lack of prejudice to a defendant.[41]

V. DISCUSSION

In this case, it is clear there was neglect. The question is whether that neglect is excusable. In general, "[d]iligent efforts to comply with the Rule demonstrates excusable neglect, whereas delays resulting from half-hearted efforts by counsel to perfect service do not."[42] Delays resulting from "mistake or inadvertence of counsel" do not establish excusable neglect,[43] and mere negligence without a valid reason does not constitute excusable neglect.[44]

Plaintiff cites to *Jackson v. Minner*[45] in support of her argument that counsel's conduct constitutes excusable neglect.[46] In *Jackson,* Richard Jackson, an inmate in the Sussex Correctional Institute in Sussex County, was being transported to a Board of Parole hearing at, what was then, the Delaware Correctional Center in Kent County.[47] Upon entering a transport van at the Delaware Correctional Center, Jackson fell to the ground and was injured.[48] Jackson brought negligence claims and attempted to serve the defendants, Department of Correction employees, at what he believed was their Sussex County office[49] However, the defendants worked in Kent County, and the Sheriff of Sussex County was unable to serve them within 120 days.[50] The Court gave Jackson an additional 120 days to effect service.[51]

***5** Although *Jackson* is similar to this case in that the plaintiff mistakenly believed that service was made, there are a few key differences. Plaintiff's counsel is an experienced attorney in a law firm with the resources and ability to verify that each stage of service of process has occurred in accordance with the Superior Court Civil Rules, and if an error or delay in service occurs, Plaintiff's counsel has the resources and ability to discover the error or delay within 120 days after the filing of the complaint and to immediately request an enlargement of time under Rule 6(b) "for cause shown." Jackson was a *pro se* prison inmate, not at liberty to research his defendants in order to properly direct service and unable to verify whether the Sherriff had successfully served the defendants.

Plaintiff also relies on *Fluharty v. Richeson.*[52] In *Fluharty,* the plaintiff filed a complaint against "Earl" Richeson, rather than "Karl" Richeson.[53] The Sheriff was unable to serve "Earl" Richeson at the address provided and returned the writ "non est."[54] The plaintiff then filed an amended complaint correcting "Earl" to "Karl" less than two months after the complaint was filed, but service was not perfected until 127 days after the filing, in part because there was roughly a six-week delay within the Sheriff's office.[55] The Court found that good cause existed specifically citing "the reasonable lapse of time in which the [p]laintiff acted to correct these errors and the [Sheriff's] delay in service."[56]

As with *Jackson,* there are several key differences between *Fluharty* and this case. Counsel in *Fluharty* noticed that an error was made when the Sheriff filed a Sheriff's return "non est," and counsel attempted to correct the error, all within 120 days after the complaint was filed. In this case, Plaintiff's counsel did not notice the error in service despite multiple events which should have alerted him to the lack of service in the Elisha Ballard Action.

For sixth months, the only entry in the Elisha Ballard Action docket was the Complaint. The Prothonotary did not docket the issuance of any writs; the Sheriff did not file any Sheriff's Returns; Plaintiff's counsel did not file any proof of service on the non-Delaware Defendants; the Defendants did not file an answer or a motion to dismiss; and the Elisha Ballard Action was not noticed for the April scheduling conference. Even assuming Plaintiff's counsel reasonably mistook the repeat service in the Jerry Ballard Action for service in the Elisha Ballard Action, Plaintiff's counsel should have expected and anticipated that Defendants would respond to the Elisha Ballard Complaint in mid-February. [57] But, it was not until April 16, 2017—almost two months after the 120–day window for service had closed—that Plaintiff's counsel directed the paralegal to verify service on Takeda Pharmaceutical Company Limited in his Actos cases. [58]

Meanwhile, in the Jerry Ballard Action, service events were being docketed even though more than 120 days had passed since the filing of the Jerry Ballard Action and despite the fact that Defendants had already filed an answer. [59]

***6** To find excusable neglect, the Court must find "neglect which might have been the act of a reasonably prudent person under the circumstances." In this case, the paralegal made a mistake when she confused the Jerry Ballard Action with the Elisha Ballard Action and requested writs for a second time in the Jerry Ballard Action. However, as the Court stated during oral argument, what is troubling in this case is not that a mistake occurred, but that there were multiple opportunities where counsel should have figured out that something had gone awry. [60]

At oral argument, Plaintiff's counsel expanded on his argument that his neglect is excusable by highlighting the fact that the Elisha Ballard and the Jerry Ballard Actions have "identical defendants, identical injuries,... identical spelling names and pronunciation ...identical defense counsel." [61] This argument is unavailing. The similarity between the cases was known or should have been known to Plaintiff's counsel at the time he filed the Elisha Ballard Action. [62] A reasonably prudent attorney should and would have been sensitive to the possibility of confusion given the number of Actos cases and the fact that there were two Actos plaintiffs with the same last name. [63]

In light of the foregoing, the question becomes whether Plaintiff's counsel's failure to timely discover that service had not occurred precludes a finding of good cause. This question was answered in *Desantis v. Chilkotowsky*. [64] In *Desantis,* the plaintiff filed a complaint on December 20, 2002. [65] On December 30, 2002, the plaintiff attempted to serve a "David Chilkotowsky" through the New Jersey Secretary of State. [66] However, the defendant David Chilkotowsky was a resident of Delaware, and the attempt at service failed. [67] No further action was taken by plaintiff until June 10, 2003, when the Prothonotary mailed a letter advising plaintiff that service must be made within 120 days of filing the complaint. [68] The plaintiff requested an enlargement of time, and the Court denied that request stating "although [p]laintiff had attempted to serve the incorrect [defendant] ... through the Long–Arm Statute, no return receipt or affidavit were filed as an amendment to the complaint." [69] Thus, "it appears [p]laintiff should have been aware that service was not properly perfected." [70] In this case, as in *Desantis,* Plaintiff's counsel should have been aware that service was not perfected —at a minimum—when no service returns were filed.

***7** As to Plaintiff's counsel's argument that Delaware public policy "favors permitting a litigant a right to a day in court" and Defendants will not be prejudiced if this Court enlarges the 120 day window, [71] the Court does not find that these considerations change the outcome under Rule 4(j). Public policy should not tip the balance unless there were sufficient diligent efforts on the part of Plaintiff's counsel to comply with the rule. This comports with the Court's statement in *Desantis* that "Rule 4(j) must be strictly construed unless plaintiff can establish good cause for its failure to comply." [72]

As to Plaintiff's prejudice argument, the Delaware Supreme Court has explained that "there is nothing in [Rule 4(j)] that excuses noncompliance when it is alleged that a defendant is not prejudiced by the failure of service." [73]

The record before the Court demonstrates that Plaintiff's counsel failed to act as a reasonably prudent attorney should and would have acted under the circumstances. Therefore, Plaintiff's counsel has failed to show good cause, and the Elisha Ballard Action must be and is dismissed without prejudice. [74]

VI. CONCLUSION

For the foregoing reasons, Plaintiff's Motion for Order Extending, for Cause, the Time Limit for Service of Process Under Rule 4(j) of the Superior Court Civil Rules is **DENIED.**

IT IS SO ORDERED.

All Citations

Not Reported in A.3d, 2017 WL 3396488

Footnotes

1 *E.g.,* Complaint (Trans. ID. 59731526).

2 Affidavit of James D. Heisman ("Pl.'s Counsel Aff.") ¶¶ 1–2 (Trans. ID. 60744707).

3 *Id.* ¶ 3; Motion for Order Extending, for Cause, the Time Limit for Service of Process Under Rule 4(j) of the Superior Court Civil Rules ("Pl.'s Mot."), Ex. B Affidavit of Elizabeth Bonfiglio ("Paralegal Aff.") ¶ 1 (Trans. ID. 60504882).

4 Paralegal Aff. ¶ 2; Jerry Ballard Action Complaint (Trans ID. 59493087). The Jerry Ballard Action case number is N16C–08–253 JRJ.

5 Jerry Ballard Action New Castle County Praecipe, 10 *Del. C.* § 3104 Praecipe, and Hague Convention Praecipe (Trans. ID. 59493087).

6 *Id*; Jerry Ballard Action Writs Issued (Trans. ID. 59634096).

7 Jerry Ballard Action Sheriff's Return (Trans. ID. 59705210); Jerry Ballard Action Sheriff's Return (Trans. ID. 59705209).

8 *See* Rule 4(h) ("In an action in which the plaintiff serves process pursuant to 10 *Del. C.* § 3104, § 3112 or § 3113, the defendant's return receipt and the affidavit of the plaintiff or the plaintiff's attorney of the defendant's nonresidence and the sending of a copy of the complaint with the notice required by the statute shall be filed as an amendment to the complaint within 10 days of the receiving by the plaintiff or the plaintiff's attorney of the defendant's return receipt ....").

9 Jerry Ballard Action Defendants' Answer (Trans. ID. 59779728).

10 Pl.'s Mot. ¶ 3; Paralegal Aff. ¶ 4.

11 Pl.'s Counsel Aff. ¶ 4; Paralegal Aff. ¶ 5.

12 Paralegal Aff. ¶ 6.

13 Jerry Ballard Action Writs Issued (Trans. ID. 60098688).

14 Jerry Ballard Action Sheriff's Return (Trans. ID. 60098688); Jerry Ballard Action Sheriff's Return (Trans. ID. 60133489).

15 Paralegal Aff. ¶ 7 ("Plaintiffs' counsel received approximately 12 bankers' boxes full of summonses and complaints to be served in the month of January, 2017, including the second issued Jerry Ballard long arm writs. As a result of a clerical error, these Jerry Ballard long arm writs were mistakenly attached to another complaint and internally misfiled. The long arm writs were promptly mailed upon discovery of this clerical error.").

16 *Id.*; Jerry Ballard Action Affidavits of Service (Trans. ID. 60448380). Neither the paralegal's affidavit nor the affidavit of Plaintiff's counsel explains how the clerical error was discovered, by whom, or what events precipitated its discovery. In any event, another opportunity to discover both the double service in the Jerry Ballard Action and the lack of service in the Elisha Ballard Action was lost.

17 Case Management Order filed in multiple cases (Trans. ID. 60457834).

18 May 24, 2017 Hearing Transcript ("Hr'g Tr.") at 4:12–17 (Trans ID. 60652263); Paralegal Aff. ¶ 8.

19 Pl.'s Mot. ¶ 8.

20 Paralegal Aff. ¶ 6.

21 *See* Del. Lawyers' R. Prof'l Conduct 5.3 ("With respect to a nonlawyer employed or retained by or associated with a lawyer: (a) a partner in a law firm ... shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer; (b) a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer ....")

22 Hr'g Tr. at 3:11–16.

23 *Id.* at 3:17–4:2.

24 *Id.* at 6:11–7:15.

25 *Id.* at 7:1, 12:7–18.

26 *Id.* at 16:13–23.

27 June 5, 2017 Letter from the Court to Plaintiff's Counsel (Trans. ID. 60681937).

28 Pl.'s Counsel Aff. ¶¶ 8–9.

29 Hr'g Tr. at 11:16–20.

30 Pl.'s Mot. ¶ 11.

31 Defendants' Opposition to Motion for Order Extending, for Cause, the Time Limit for Service of Process Under Rule 4(j) of the Superior Court Civil Rules at 1–2 (Trans. ID. 60620205).

32 *Id.* at 2.

33 *Id.; see Doe v. Catholic Diocese of Wilmington, Inc.,* 2010 WL 2106181, at *5 (Del. Super. May 26, 2010) ("If total inaction were to constitute a good faith effort, Rule 4 would be rendered meaningless."); *Huelsenbeck v. Fermin–Jimenez,* 2013 WL 2481533, at *1 (Del. Super. June 7, 2013) (denying plaintiff's Rule 4(j) motion where "[t]he record here shows an almost complete lack of diligence by [p]laintiffs").

34 *Dolan v. Williams,* 707 A.2d 34, 36 (Del. 1998) (quoting *Dominic v. Hess Oil VI. Corp.,* 841 F.2d 513, 517 (3d Cir. 1988)).

35 *Id.* (quoting *Cohen v. Brandywine Raceway Assoc.,* 238 A.2d 320, 325 (Del. Super. 1968)).

36 *DiSabatino v. DiSabatino,* 922 A.2d 414, 2007 WL 812766, at *3 (Del. 2007) (TABLE) (citing *McDonald v. S & J Hotel Enters.,* 2002 WL 1978933 (Del. Super. Aug. 27, 2002)) (describing excusable neglect determinations under Rule 60(b)).

37 *Dolan,* 707 A.2d at 36.

38 *Drejka v. Hitchens Tire Serv.,* 15 A.3d 1221, 1224 (Del. 2010).

39 *See Anticaglia v. Benge,* 2000 WL 145822, at *1 (Del. Super. Jan. 20, 2000) (stating "the effect of this Court not granting the [m]otion for an enlargement of time will be to preclude a subsequent cause of action against [defendant] by [plaintiff]"). *See also Ellis v. Davis,* 1997 WL 527941, at *5 (Del. Super. July 22, 1997) (holding good cause for an extension of service after the 120 days did not exist and dismissing the complaint after the statute of limitations had run).

40 *Catholic Diocese,* 2010 WL 2106181, at *5 ("Stated another way, a plaintiff who did nothing at all to accomplish service could avoid the effects of the Rule merely by alleging prejudice, which would *always* arise from the dismissal of a defendant. Not only does the law in Delaware not allow prejudice to be the single guiding factor, but our decisional law does not excuse any noncompliance with the jurisdictional requirements on that basis alone, as to do so would effectively emasculate the Rule."); *see Doe v. Colonial School Dist.,* 2011 WL 7063682, at *2 (Del. Super. Sept. 30, 2011) (" 'good cause,' not mere 'prejudice' is required.").

41 *DeSantis v. Chilkotowsky,* 877 A.2d 52, 2005 WL 1653640, at *2 (Del. June 27, 2005) (TABLE) ("There is nothing in [Rule 4(j)] that excuses noncompliance when it is alleged that a defendant is not prejudiced by the failure of service.").

42 *Anticaglia,* 2000 WL 145822, at *2 (citing *Ellis,* 1997 WL 527941, at *2).

43 *Wass v. Calloway,* 1996 WL 190020, at *3 (Del. Super. Feb.21, 1996) (citing *Braxton v. United States,* 817 F.2d 238, 242 (3d Cir. 1987)).

44 *Dishmon v. Fucci,* 32 A.3d 338, 346 (Del. 2011).

45 2011 WL 947069 (Del. Super. Mar. 17, 2011).

46 Pl.'s Mot. ¶ 10.

47 *Jackson,* 2011 WL 947069, at *1.

48 *Id.*

49 *Id.* at *4.

50 *Id.*

51 *Id.*

52 1998 WL 283467 (Del. Super. Apr. 20, 1998).

53 *Id.* at * 1.

54 *Id.*

55 *Id.* at *1–2. (noting that the delay in service may have been a result of the holidays since the second praecipe was filed on December 3, 1997, but was not served until January 16, 1998).

56 *Id.* at *2.

57 *See* Super. Ct. Civ. R. 12(a) ("A defendant shall serve an answer within 20 days after service of process, complaint, and affidavit, if any, upon that defendant....").

58 Hr'g Tr. at 4:12–17.

59 *See* Super. Ct. Civ. R. 12(h)(1) ("A defense of ... insufficiency of service of process is waived ... if it is neither made by motion under this Rule nor included in a responsive pleading or an amendment thereof permitted by Rule 15(a) to be made as a matter of course.").

60 *Id.*

61 *Id.* at 4:3–8.

62 *See* Del. Lawyers' R. Prof 1 Conduct 1.1 ("A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation."); Del. Lawyers' R. Pro'l Conduct 1.3 ("A lawyer shall act with reasonable diligence and promptness in representing a client."); Del. Lawyers' R. Prof'l Conduct 1.3 cmt. 2 ("A lawyer's workload must be controlled so that each matter can be handled competently.").

63 *See* Del. Lawyers' R. Pro'l Conduct 5.3 ("With respect to a nonlawyer employed or retained by or associated with a lawyer: (a) a partner in a law firm ... shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer; [and] (b) a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer ....").

64 2004 WL 1790113 (Del. Super. July 27, 2004), *aff'd,* 877 A.2d 52 (Del. 2005).

65 *Id.* at *1.

66 *Id.*

67 *Id.*

68 *Id.*

69 *Id.*

70 *Id.* at *l.

71 Pl.'s Mot. ¶¶ 9, 11 (quoting *Dolan,* 707 A.2d at 360).

72 *Desantis,* 2004 WL 1790113, at *2. y construed unless plaintiff can establish good cause for its failure to comply." Similarly, when evaluating the Federal Rules of Civil Procedure, the Third Circuit has consistently held that the 120 day time limit of Rule 4(j) must be "strictly applied." *Catholic Diocese,* 2010 WL 2106181, at *5 (quoting *Lovelace v. Acme Markets, Inc.,* 820 F.2d 81, 84 (3d. Cir. 1987)).

73 *Desantis*, 2005 WL 1653640, at *2; *see Miller v. State, Dep't of Public Safety,* 2009 WL 1900394, at *5 (Del. Super. June 16, 2009) (stating "the fact that a defendant would not be prejudiced by plaintiff's failure to serve is equally irrelevant in service of process issues or excusable neglect" (citing *Anticaglia,* 2000 WL 145822, at *2)).

74 *Ellis,* 1997 WL 527941, at *5 ("What happened here is unfortunate. One of the unhappy aspects of this job is rendering an opinion that neglect of counsel was not excusable, especially since we all commit errors. The Court should and does seek to decide cases on their merits. But a policy in favor of deciding cases on their merits does not permit either the parties or the Court to disregard the law of civil procedure and professional responsibility without colorable excuse. Plaintiffs bear the burden of showing that their failure to comply with the procedural requirements is excusable, and they have not met that burden here.").

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DELAWARE STATE BAR ASSOCIATION
COMMITTEE ON PROFESSIONAL ETHICS

FORMAL OPINION 2021-1
July 9, 2021

This opinion ("Opinion") is merely advisory and is not binding on any attorney, court, or any other tribunal.

Nature of the Inquiry

Members of the Delaware State Bar Association have asked the Committee on Professional Ethics ("the Committee") to address whether an attorney licensed in Delaware may practice Delaware law while working remotely from another jurisdiction in which the lawyer is not licensed, such as from a home office, without engaging in the unauthorized practice of law in violation of Rule 5.5(a) of the Delaware Lawyers' Rules of Professional Conduct ("DLRPC"). This Opinion addresses only the application of Rule 5.5(a) of the DLRPC.

Conclusion

The Committee concludes that lawyers licensed in Delaware (the "licensing jurisdiction") may ethically engage in the practice of Delaware law, for clients with Delaware matters, while physically present in another jurisdiction in which they are not admitted ("local jurisdiction") unless a statute, rule, case law, or opinion of the local jurisdiction prohibits the conduct, provided that such lawyers may not hold themselves out as being licensed to practice in the local jurisdiction and may not advertise or otherwise hold themselves out as having an office in the local jurisdiction, or provide or offer to provide legal services for matters subject to the local jurisdiction, unless otherwise authorized.

Background

In light of the COVID-19 pandemic, it has been increasingly common for lawyers to practice remotely. The emergency restrictions that the Governor of the State of Delaware and the Chief Justice of the Delaware Supreme Court have imposed have led many Delaware law offices to require their lawyers and staff to work from home over the past year or more. Lawyers who are working remotely have sought clarification as to whether and under what conditions they may work remotely on matters of Delaware law, from other jurisdictions, without engaging in the unauthorized practice of law in violation of Rule 5.5(a) of the DLRPC.

<u>Discussion</u>

The American Bar Association Standing Committee on Ethics and Professional Responsibility addressed this issue in Formal Opinion 495, Lawyers Working Remotely (December 16, 2020). The Pennsylvania Bar Association Committee on Legal Ethics and Professional Responsibility, together with the Philadelphia Bar Association Professional Guidance Committee, adopted the reasoning and conclusion of the ABA Formal Opinion 495 in a joint opinion, Ethical Considerations for Lawyers Practicing Law from Physical Locations Where They Are Not Licensed, Joint-Formal Opinion 2021-100 (March 2, 2021).

ABA Formal Opinion 495, as well as the Pennsylvania and Philadelphia Bar Associations' Joint Formal Opinion 2021-100, concluded that a lawyer who is admitted in one jurisdiction may practice the law of that licensing jurisdiction while working remotely in a local jurisdiction, with certain conditions. We agree with the reasoning of these opinions as set forth herein and conclude that a Delaware-licensed lawyer may practice Delaware law, for clients with Delaware matters, while in a local jurisdiction, even if not licensed in such jurisdiction, subject to the conditions discussed herein.

This Opinion does not address whether and in what circumstances a lawyer who is *not* licensed in Delaware may represent Delaware clients from an office located outside of Delaware. *See generally*, *In re Tonwe*, 929 A. 2d 774 (Del. 2007); *In re Nadal*, 82 A. 3d 716 (Del. 2013).

ABA Formal Opinion 495 concluded:

> The purpose of Model Rule 5.5 is to protect the public from unlicensed and unqualified practitioners of law. That purpose is not served by prohibiting a lawyer from practicing the law of a jurisdiction in which the lawyer is licensed, for clients with matters in that jurisdiction, if the lawyer is for all intents and purposes invisible *as a lawyer* to a local jurisdiction where the lawyer is physically located, but not licensed. The [ABA] Committee's opinion is that, in the absence of a local jurisdiction's finding that the activity constitutes the unauthorized practice of law, a lawyer may practice the law authorized by the lawyer's licensing jurisdiction for clients of that jurisdiction, while

> physically located in a jurisdiction where the lawyer is not licensed if the lawyer does not hold out the lawyer's presence or availability to perform legal services in the local jurisdiction or actually provide legal services for matters subject to the local jurisdiction, unless otherwise authorized.

Rule 5.5 of the DLRPC is substantially similar to Model Rule 5.5. We conclude that the analysis of Model Rule 5.5 applies as well to Rule 5.5 of the DLRPC.

ABA Formal Opinion 495 addressed the question of establishing an office in a local jurisdiction in which a lawyer is not licensed as follows:

> Model Rule 5.5(b)(1) prohibits a lawyer from "establish[ing] an office or other systematic and continuous presence in [the] jurisdiction [in which the lawyer is not licensed] for the practice of law." Words in the rules, unless otherwise defined, are given their ordinary meaning. "Establish" means "to found, institute, build, or bring into being on a firm or stable basis." A local office is not "established" within the meaning of the rule by the lawyer working in the local jurisdiction if the lawyer does not hold out to the public an address in the local jurisdiction as an office and a local jurisdiction address does not appear on letterhead, business cards, websites, or other indicia of a lawyer's presence. Likewise it does not "establish" a systematic and continuous presence in the jurisdiction for the practice of law since the lawyer is neither practicing the law of the local jurisdiction nor holding out the availability to do so. The lawyer's physical presence in the local jurisdiction is incidental; it is not for the practice of law. Conversely, a lawyer who includes a local jurisdiction address on websites, letterhead, business cards, or advertising may be said to have established an office or a systematic and continuous presence in the local jurisdiction for the practice of law.

Subject to any contrary law of the local jurisdiction in which a Delaware lawyer may be practicing remotely, the Committee adopts the reasoning above with respect to Model Rule 5.5(b)(1) as applicable to lawyers licensed in Delaware who are providing legal services remotely in a local jurisdiction.[1] The purpose of Rule 5.5

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[1] Rule 5.5(b)(1) states that "A lawyer who is not admitted to practice in this jurisdiction shall not: (1) except as authorized by these Rules or other law, establish

of the DLRPC is to protect the public from unlicensed and unqualified practitioners of law.[2] This purpose is not served by barring Delaware-licensed lawyers from practicing the law of Delaware, for clients with matters in Delaware, just because such lawyers are physically located in a local jurisdiction where they are not licensed, provided that the law of the local jurisdiction does not prohibit such conduct, and such lawyers do not hold themselves out publicly as a lawyer in that jurisdiction or offer to or accept representation of clients in that jurisdiction.[3] Finally, for the avoidance of any doubt, this Opinion does not address any applicable court or similar rule, including Delaware Supreme Court Rule 12(a) and the requirement stated therein regarding the maintenance of a *bona fide* office for the practice of law in the State of Delaware.

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an office or other systematic and continuous presence in this jurisdiction for the practice of law; or (2) hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction." This Opinion addresses only the permissibility under Rule 5.5(a) of Delaware lawyers working remotely in a different, local jurisdiction. This Opinion does not address the permissibility under Rule 5.5(b)(1) of lawyers who are not admitted to practice in Delaware working remotely from Delaware.

2 Other issues of legal ethics that may be raised by remote lawyering, but are not addressed in this Opinion, include Rule 1.6 (confidential information) and Rules 5.1, 5.2 and 5.3 (supervision of attorney and non-attorney staff). *See generally*, Rule 8.4(a) (one cannot attempt to violate the DLRPC through the acts of another.)

3 ABA Formal Opinion 495 opines that: "[i]f a particular jurisdiction has made the determination, by statute, rule, case law, or opinion, that a lawyer working remotely while physically located in that jurisdiction constitutes the unauthorized or unlicensed practice of law, then Model Rule 5.5(a) also would prohibit the lawyer from doing so." We adopt that view with respect to Rule 5.5(a) of the DLRPC as well.

DSBA Presentation Outline

- Talk about conflicts in big firms first
- Overview
  - Divided into two parts
    - Ethical (from research)
    - Managerial (from experience)
    - Obviously overlap but good management goes beyond the purely ethical
- Rule 5.1
  - Responsibilities of a lawyer supervising another lawyer
    - When you become responsible to supervise another lawyer, you have to make "reasonable efforts" that they're also keeping within the Rules of Professional Conduct
    - Basically, when you agree to supervise newer attorneys you take on the responsibility of making sure that they stick to the rules as well
    - Can happen in a couple of ways
      - Actually be assigned full time supervisory capacity
        - i.e. this is your associate
        - You are now responsible to take reasonable efforts to make sure they stay within the rules all the time
        - Examples in injury work: review of statute of limitations for all cases, review of active cases, spot checks
      - Be assigned an associate for a short period
        - i.e. on this case, you're first chair

        - Now you're only responsible to make sure they're within the code of ethics on the case you're working on
        - Basically, heavy is the head when it comes to projects or cases
- Rule 5.2
    - Attorneys who are being supervised still need to make sure that they're within the code of ethics
    - If it is a clear cut case, the supervised attorney can still get in trouble
        - Would need to be very clear, like violating attorney client privilege without one of the granted exceptions or such
    - If it is a more questionable case, the supervising attorney takes on the responsibility
        - Even if the supervised attorney disagrees, as long as they think there's an argument to be made, they're safe following orders, ethically anyway
        - Means, that the only person who can get punished is the supervising attorney
    - This makes it very important to get input from supervised attorneys when making a call like this
        - Often times, they've been to law school more recently so they may be more familiar with the newest case law on the rules and have read the rules more recently
        - Could be that they change your mind
- Rule 5.3
    - Supervising non-lawyers
        - This includes paralegals, secretaries, typists, receptionists, law clerks, anyone who works for you that might have the ability to break the rules

            - Also includes other people you hire, like investigators, IT professionals, technology court room assistants, medical record reviewers
    - You are responsible for the actions of your office staff if:
        - You tell them to do something and it turns out that something is unethical
        - If you know about something unethical they did and didn't try to prevent it (if you knew about it in time to do so) or failed to take remedial action
        - If you were their supervisor and failed make reasonable efforts to ensure they comply with the rules
    - Reasonable efforts
        - In house
            - Starts with education
                - Examples
                    - Making all employees sign confidentiality agreement
                        - Really helps emphasize how important that is
                    - When you discover behavior outside the rules, don't just correct but take the time to explain
                        - Always helps when people understand the why of something, then they can apply it more broadly
                        - Explain the consequences for you (only works if they like you though)
                    - Sending office staff to CLE courses where appropriate
                    - Make sure employees are trained by experienced staff when possible

            - Receptionist is more likely to know the ethical issues that crop up at that position better than most attorneys
            - Make sure they know not to give legal advice
    - Set up appropriate systems
        - Ballard v. Takeda
            - Lawyer in that case set up a system for service that involved a paralegal who was in charge
            - Nothing wrong with that, just need a system to check to make sure everything works
            - Side note: wasn't there for oral arguments and didn't read briefing but shows that even a simple mention of office staff can make that the focus of the opinion, which makes it look like you're tossing office staff under the bus. Similar situations have happened to me and I avoid using terms like "paralegal", "staff", or "office" because I am ultimately responsible for whatever happened and bringing up someone else can look like you are passing blame
            - In this case, the court held that the supervisory system set up wasn't enough to shield them
        - In our office we have staff meetings every other week, paralegals prepare case lists, we go over them

          - Zoom makes having meetings easier even if everyone cannot be in the same space
          - Not my idea, not trying to take credit
          - Not just for the paralegals, good for us as well
    - Outside employees
      - Work with people that work with other law firms
        - Less education needed
          - Still need to make sure they understand
        - More likely they stick to the rules since would be a reputational hit
      - Make sure any agreements include them agreeing to keep to the rules of professional conduct
      - In some cases, makes sense to have the client agree to the hiring before it happens
        - Especially when it involves someone having access to sensitive information
- AI
  - Probably have heard a lot about AI in your CLEs
  - Have to be careful what AI is being used
    - Often trained on data fed into them
    - Cannot feed confidential data into public AI, only ones designed to be used in law firms
    - Lots of systems say that they do not train on your data, trust them at your own peril

    - Need to know what your staff is doing
        - Caught staff using Co-pilot
        - Microsoft says they're not using the data but I do not know if I trust them
        - Have conversations with staff about what they are using AI for, make sure it is appropriate
    - Need to read every case cited
        - Always needed to do that but now with hallucinations need to be more vigilant
        - Need to make sure cases come from Westlaw/Lexis
            - AI has made up entire cases that aren't real, not enough to see them, need to see them on actual search engine to confirm that they are real
- Staff Relationships
    - Not technically in the rules of professional conduct
    - Relationships between lawyers and people they supervise are an issues just like they are in every other line of work
        - Different if the relationship pre-exists the supervisory role
            - i.e. hiring someone you are already married to as a paralegal
        - The power imbalance makes this a situation that is best avoided
        - Can become an ethical situation if a complaint is made
    - Spend a lot of time with our office staff
        - Easy to become too relaxed and cross lines
        - Important to remember the power you have over people you supervise and make sure you aren't accidentally abusing that power
    - If you have joint supervisory capacity over someone, have a responsibility to keep an eye out for this sort of behavior by other supervisors as well

        - Not saying relationships with people in the work place are prohibited but it is essential that the dynamics of the power supervisors have is kept in mind and every step is taken to make sure that that power is not being abused
- My experience
    - Every lawyer is told “don’t try to be another lawyer, learn from them, but be your own kind of lawyer”
        - Great advice, needs to be authentic
        - Same goes for being a boss/supervisor
        - People can smell when you’re being in authentic
        - Everyone has their own style of leadership, you need to figure out what yours is and stick with it
            - For some people, following up on every step to make sure it was done their preferred way is what they like to do
            - Other people tend to be more hands off
            - Both can work but only if that is your style
    - Square peg, round hole
        - Every human has strengths and weaknesses
        - Doesn’t mean everyone is equal, but everyone is good at at least some things
        - As the supervisor, important to find people with strengths that compliment your weaknesses
            - If you tend towards disorganization, an staff person who is organized can be vital

    - If you are methodical, a staff person or junior attorney who can turn around work more quickly (if maybe not exactly precise) can help in instances where precision is not necessary
- Important to work with a staffer's strengths instead of harping on their weaknesses
    - Not saying allow them to screw up all the time
    - About accepting other people's limitations and our ability to change those people in any meaningful way
- Find ways to motivate that work for each person, not one size fits all
    - Compliment sandwich (compliment, criticism, compliment) because I find it condescending (probably because I know the technique)
        - Does work for some people
    - Do need to make sure to thank and praise people
    - Figure out what level of criticism people can take
        - Some people can take anything and let it just roll off their back
        - Other people will be frozen by fear that any decision they make will be criticized
- As a younger attorney (as I once was) older staff members can be a challenge
    - Some of them will never respect you because they just won't and that's ok as long as they do what you tell them to do
    - Have to prove yourself to them for them to respect you, can't just be assumed
        - More senior attorneys can't order them to respect you though need to order them to listen to you

            - They will have long formed habits on how they do things
                - Need to pick your battles on what to ask them to change
                - In theory, they should change whatever you ask them to, you're the lawyer, but in reality making them change everything that do is a great way to ensure they never actually work well with you
                - Sometimes things are annoying but you can live with them. Other times things need to change so that you can effectively do your job. Super important to be able to tell the difference
    - Happy staff, happy work life
        - Job is to be part camp counselor
        - Have to keep morale up
            - Is also a firm wide issue but if you're in charge of unit or a satellite office, also important for you
            - Even if you just have one staff member, morale is important, you want them to want to work for you
        - If someone is happy, they're less likely to leave
            - If someone offers them more money, they'll probably leave, that's just life
            - But if they're unhappy, they'll be looking for other work
            - Every time you get a new person, they need to be trained, turn over makes it harder to make money
            - It is unlikely you will avoid turnover your entire legal career (maybe the one upside to having spouses or family members be office staff). The

goal is to try to make the numbers lower so you have more years with well trained, effective staff members

- Remote work
    - This can make staff more likely to want to work for you, less commuting
    - Might be an area of the law where you can do much remote work
        - Tough if client contact is important
        - Tough if paperwork needs to have wet signature by law
    - If you won't let them, someone else might
    - Just try to be flexible

FUNDAMENTALS OF LAW PRACTICE MANAGEMENT AND TECHNOLOGY

Case Management: Plaintiff's perspective

1. **Calendaring**
    - **Who sets the schedule? If staff set the schedule, make sure to notify that staff member of dates/times you are unavailable or on vacation. If the attorney does his/her own scheduling, make sure to place it on an office-wide calendar so everyone can access it and see what is being scheduled for cases or time off.**
    - **Try to coordinate with other attorneys in the office, so that everyone is not taking vacation at the same time.**
    - **Try to find out if another attorney in the office will be out for a prolonged period of time (long vacation, medical issues, trial, etc.) to try to accommodate coverage during that period for other ongoing matters.**
    - **Plan well in advance for any conferences and/or vacation time.**
    - **Block off time on the calendar for not only work matters, but also personal matters, to avoid scheduling during a date/time you are unavailable.**
    - **Have a system in place to keep track of when depositions need to be scheduled. Make sure to schedule expert reports or depositions in accordance with Court deadlines.**

1. **Conflicts**
    - **Prior to retaining a new client or even agreeing to mediate/arbitrate a case for other attorneys, always run the names of the parties involved through a computer-wide conflicts check.**
    - **In the event of a conflict, as long as your firm does not currently represent one of the parties for an ongoing matter, disclose the conflict to counsel for both parties and ask if they still consent to proceed.**
    - **If you currently represent a client/plaintiff for a matter against another person/defendant and that person/defendant wants to hire you to represent them for another matter, the conflict still exists. You cannot represent that person/defendant until after the pending case involving your client/plaintiff concludes.**
    - **Make sure that if you represent several people involved in the same matter that there is no inherent conflict in doing so. For example: Mom, Dad (driver) and child are involved in a motor vehicle accident and want you to represent the whole family. If the defendant can make any allegations that Dad (driver) was at all at fault for causing the collision, then you cannot represent the whole family at once. You have a conflict because passengers Mom and child may need to sue both the defendant and Dad for their injuries. In that situation, you should refer either Mom and child or Dad to another attorney for representation.**

1. **Billing**
    - **If working based on a contingency fee, routine billing to clients is not done; instead, your fee comes at the time of settlement at the end of the case.**
    - **Routine office bills should be paid by your office manager or managing attorney to ensure they are processed and mailed in a timely manner. Have a system in place that works for your office to accomplish this.**
    - **From time to time, do not be hesitant to seek pricing from different vendors or review your current services. Ask colleagues at other firms what vendors they use and trust. Get quotes and shop around, especially if having difficulty with a current vendor or needing additional services.**
    - **Make sure whoever handles the bills, reviews them for accuracy. You would be surprised how many bills come in that have incorrect charges.**

1. **Tickling/Suspense**
    - **Our practices operate on deadlines. This is THE most important part of law practice management.**
    - **Have a computer diary AND a paper diary for suspense.**
    - **As soon as a trial scheduling order or hearing date is available, set up a diary for all deadlines. If possible, have those deadlines come up periodically to remind you. Once the task is complete, have a way to check off that deadline from your diary.**
    - **Give yourself ample time to meet deadlines. Having a buffer period in place allows you to ask for extensions, if needed.**
    - **Make staff aware of impending deadlines. If they do not know of the deadline, it will not be a priority.**

Succession Planning

1. **Consult with a lawyer to set up succession plans**
2. **Useful to have in place in the event of death, disciplinary action, disability, retirement, etc.**
3. **Discuss with shareholders what happens in the event one shareholder cannot continue to practice or leaves the firm**
4. **Make sure to properly designate the attorney who will succeed you and/or your firm and report that information during your Annual Registration with the Supreme Court**
5. **Recommendations from the ABA:**
    - **Written instructions concerning how and where client information is stored, including bank and other account details (e.g., operating and trust account information);**
    - **Information concerning disposition of closed client files, information about law office equipment leases or other contracts;**
    - **Information regarding payment of current liabilities;**
    - **Instructions to gain access to computer and voicemail passwords;**
    - **Information detailing how the successor will be compensated**

1. **Important to have succession plans in place in order to comply with Delaware Rules of Professional Conduct 1.3 Diligence, 1.17 Sale of Law Practice and 1.17A Dissolution of Law Firm**
    - **Comment 5 to Rule 1.3 states to prevent neglect of client matters in the event of a sole practitioner's death or disability, the duty of diligence may require that each sole practitioner prepare a plan, in conformity with applicable rules, that designates another competent lawyer to review client files, notify each client of the lawyer's death or disability, and determine whether there is a need for immediate protective action**

Law Office Practice: Document Retention Policies & Case Management

1. Document Retention Policies:

a. **DLRPC 1.15(a) provides:** "A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. Funds shall be kept in a separate account designated solely for funds held in connection with the practice of law in this jurisdiction. Except as provided in (g) with respect to IOLTA-eligible funds, such funds shall be maintained in the state in which the lawyer's office is situated or elsewhere with the consent of the client or third person. Funds of the lawyer that are reasonably sufficient to pay financial institution charges may be deposited in the separate account; however, such amount may not exceed $ 2,000 and must be separately stated and accounted for in the same manner as clients' funds deposited therein. Other property shall be identified as such and appropriately safeguarded. *Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of* ***five years*** *after the completion of the events that they record.*"

b. **See also: Statute of limitations for legal malpractice.** The three-year statute of limitations set forth in 10 *Del. C.* § 8106 governs legal malpractice actions in Delaware. A claim accrues and the three-year period begins to run at the time of the alleged malpractice. Ignorance of the facts does not act as an obstacle to the operation of the statute under Delaware law. We recognize, however, a limited "discovery exception" to the rigid application of the statute of limitations. The three year period is tolled "where the negligence was inherently [*8] unknowable by a blamelessly ignorant plaintiff." If this exception applies, the statute of limitations does not begin to run until the "discovery of facts 'constituting the basis of the cause of action or the existence of facts sufficient to put a person of ordinary intelligence and prudence on inquiry which, if pursued, would lead to the discovery' of such facts." *Sammons v. Andersen*, 2009 Del. LEXIS 115, *7-8, 968 A.2d 492.

c. **DLRPC 1.16(d) provides:** "Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, *surrendering papers and property to which the client is entitled* and refunding any advance payment of fee or expense that has not been earned or incurred. *The lawyer may retain papers relating to the client to the extent permitted by other law*."

i. **Comment [9] Assisting the Client upon Withdrawal.** -- Even if the lawyer has been unfairly discharged by the client, a lawyer must take all reasonable steps to mitigate the consequences to the client. The lawyer may retain papers as security for a fee only to the extent permitted by law. See Rule 1.15.

ii. **What may need to be turned over? The "entire file" approach:** This approach distinguishes between the lawyer's external work product, which the client has a right to obtain, and the lawyer's internal work product, [*14] which the client does not have any right to receive. A lawyer's external work product includes documents that "have been voluntarily and strategically exposed to public light by the attorney to further his client's interests," such as "pleadings and other papers which are filed with the court" and "correspondence to the client, to the opposition and to witnesses, and correspondence which the attorney receives from the same." The lawyer's internal work product includes those documents "typically characterized by their informality [and] candor, and containing mental impressions, conclusions, opinions, or legal theories," such as "notes written by the attorney to himself prepatory to drafting other documents or as preparation for deposition or trial, or notes of interviews." *TCV VI, L.P. v. TradingScreen Inc.*, 2018 Del. Ch. LEXIS 128, *13-14, 2018 WL 1907212.

iii. **What if you do not turn over?** *See In re Carmine*, 559 A.2d 248, 251-52 (Del. 1989) (finding that an attorney violated Rule 1.16(d) by "fail[ing] to surrender his file to [successor counsel] on numerous occasions"); *In re Higgins*, 565 A.2d 901, 903-07 (Del. 1989) (finding that attorney "failed to surrender papers and property to which his client was entitled upon termination of representation in violation of [Rule] 1.16(d)"). *Judy v. Preferred Commun. Sys.*, 29 A.3d 248, 254, 2011 Del. Ch. LEXIS 125, *13. Courts consider multi-factoral analysis like that followed in *Lucky-Goldstar* that allows a court to gauge when and to what degree an attorney's retaining lien should be respected. After engaging in a fact-specific balancing of interests, a court can take into account the competing interests of the attorney, the client, and the judicial system, determine whether the lien should be enforced in whole or part, and evaluate whether the partial or complete release of the lien should be conditioned on the client providing alternative security. Id.

d. How to dispose of client files when proper to do so?

i. Shred paper files. Consider using a document destruction company.

ii. With electronic files, ensure data is completely wiped out and can't be destroyed.

iii. Before destroying a client file, make sure an attorney reviews it. Is there any reason why the file should be preserved longer? Are there any original documents in the file, such as contracts, that should be saved?

iv. Send a letter to the client's last known address stating that the file is about to be destroyed and that the client is welcome to pick it up. Obtain a receipt for any files you return.

v. Keep an organized inventory of how you handled each file (e.g., permanently deleted it, shredded it, returned it), and the date of the disposition.

2. **Case Management – calendaring/tickling, conflicts, billing:**

a. **Calendaring/tickling: Competence (DLRPC Rule 1.1), Diligence (DLRPC Rule 1.3), and Communication (DLRPC Rule 1.4).**

i. **Rule 1.1 (Competence):** A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

1. Failure to file an opening brief on behalf of a client, resulting in the dismissal of the client's appeal, was a violation of this rule. *In re Sullivan*, 727 A.2d 832 (Del. 1999).

2. Finding that attorney violated Law. R. Prof. Conduct 1.1 was warranted where the attorney failed to probate the estate in a timely manner. *In re Wilson*, 900 A.2d 102 (Del. 2006).

3. Attorney whose multiple federal actions for assorted clients were dismissed due to failure to respond to dismissal or summary judgment motions violated Law. R. Prof. Conduct 1.1, 1.3, 1.4, 1.5, and 8.4, warranting a 2-year suspension from the practice of law, with conditions where: (1) the attorney had an unblemished record; (2) the attorney had undergone 2 eye surgeries; (3) the attorney had suffered the loss of a half-sibling; but (4) the conduct was deemed "knowing" and evidenced engagement in a pattern of misconduct. *In re Feuerhake*, 998 A.2d 850 (Del. 2010).

4. Where an attorney engaged in lateness or failure to appear at scheduled court appearances, tardy requests for postponements, failure to comply with court-imposed deadlines, "sloppy work and complete disregard to the Court's rules and procedure" and wasted judicial resources in 3 Delaware Courts, in addition to violating the duty of candor to the Supreme Court of Delaware, the attorney violated Law Prof. Conduct R. 1.1, 1.3, 3.3, 3.4 and 8.4. *In re: Poliquin*, 49 A.3d 1115 (Del. 2012).

5. Lawyer violated Law. Prof. Conduct R. 1.1 because the lawyer did not file a complaint or secure a tolling agreement to preserve the statute of limitations. *In re Wilks*, 99 A.3d 228 (Del. 2014).

ii. **Rule 1.3 (Diligence):** A lawyer shall act with reasonable diligence and promptness in representing a client.

1. **Comment [3]** Perhaps no professional shortcoming is more widely resented than procrastination. A client's interests often can be adversely affected by the passage of time or the change of conditions; in extreme instances, as when a lawyer overlooks a statute of limitations, the client's legal position may be destroyed. Even when the client's interests are not affected in substance, however, unreasonable delay can cause a client needless anxiety and undermine confidence in the lawyer's trustworthiness. A lawyer's duty to act with reasonable promptness, however, does not preclude the lawyer from agreeing to a reasonable request for a postponement that will not prejudice the lawyer's client.

2. Much of the case law cited under Rule 1.1 above also refers to Rule 1.3.

iii. **Rule 1.4 (Communication), provides that:**

(a) A lawyer shall:

1. promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0 (e), is required by these Rules;
2. reasonably consult with the client about the means by which the client's objectives are to be accomplished;
3. keep the client reasonably informed about the status of the matter;
4. promptly comply with reasonable requests for information; and

5. consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

b. <u>Conflicts: Rules 1.7 and 1.8:</u>

i. Rule 1.7 governs conflicts of interest with current clients and provides:

(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if: **(1)** the representation of one client will be directly adverse to another client; or **(2)** there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

(b) Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if: **(1)** the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client; **(2)** the representation is not prohibited by law; **(3)** the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and **(4)** each affected client gives informed consent, confirmed in writing.

ii. See also Rule 1.8 for more detailed rules for specific factual situations.

c. <u>Billing: (Rule 1.5 Fees):</u>

(a) A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses. The factors to be considered in determining the reasonableness of a fee include the following: **(1)** the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly; **(2)** the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer; **(3)** the fee customarily charged in the locality for similar legal services; **(4)** the amount involved and the results obtained; **(5)** the time limitations imposed by the client or by the circumstances; **(6)** the nature and length of the professional relationship with the client; **(7)** the experience, reputation, and ability of the lawyer or lawyers performing the services; and **(8)** whether the fee is fixed or contingent.

(b) The scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation, except when the lawyer will charge a regularly represented client on the same basis or rate. Any changes in the basis or rate of the fee or expenses shall also be communicated to the client.

PratcherKrayer
INJURY LAWYERS

RETAINER AGREEMENT

I ____________________ ("Client") hereby retain PRATCHER KRAYER LLC, ("Attorney") to bring suit upon and to represent me in the prosecution and recovery or settlement of my claim and cause of action against ___________________________________ and/or the insurance carrier, by reason of injuries sustained by me due to an incident that occurred on ________________. I hereby agree to pay said attorneys for services to be rendered pursuant to this retainer and employment a sum equal to thirty three and one-third percent (33 1/3%) of the total recovery on my said claim for which I shall receive in settlement thereof, whether the settlement be made by me direct or through said attorneys, or by any person or agencies whatsoever, together with all reasonable and necessary costs advanced incurred by said attorneys for me in connection with the preparation, prosecution and handling of said claim.

Any costs and expenses that are unpaid at the time of the settlement and/or recovery shall be deducted from the balance of such recovery remaining after the Attorney's fee has been deducted.

It is agreed and fully understood that neither Client nor Attorney shall settle any claims arising out of this matter without having first obtained the consent thereto of the other. Although client is not obligated to settle or terminate this matter upon Attorney's advice to do so, Client will not arbitrarily or unreasonably refuse such advice.

Client hereby agrees to abide by Attorney's reasonable instructions in all matters concerning Client's part in this case. Client shall not converse with any person, other than Attorney, regarding this matter without Attorney's instruction to do so.

To allow the Law Firm of PRATCHER KRAYER LLC to comply with all of the Delaware Rules of Professional Conduct, upon the receipt by the Firm of proceeds an account of any settlement or verdict on client's claim(s), the Firm is specifically authorized to take all steps necessary to immediately deposit such proceeds into the Law Firm's Client Trust Account for the exclusive benefit of Client, pending final distribution. The purpose of such deposit is to ensure that all funds paid on account of the client's claim clear the Law Firm's client escrow account in advance of final distribution of the settlement or verdict proceeds to the client in accordance with the Delaware Rule of Professional Conduct.

____
Printed Name

____
Signature

I HEREBY ACCEPT the above claim and cause of action and agree to prosecute the same to settlement or judgment, on the terms set forth above.

DATED: ______________

By: ______________________________
Samuel D. Pratcher, III, Esq.

West's Delaware Code Annotated
Delaware Rules of Court
the Delaware Lawyers' Rules of Professional Conduct

Rules of Prof.Conduct, Rule 5.1

RULE 5.1 RESPONSIBILITIES OF PARTNERS, MANAGERS, AND SUPERVISORY LAWYERS

Currentness

(a) A partner in a law firm, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm, shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the Rules of Professional Conduct.

(b) A lawyer having direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the Rules of Professional Conduct.

(c) A lawyer shall be responsible for another lawyer's violation of the Rules of Professional Conduct if:

(1) the lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved; or

(2) the lawyer is a partner or has comparable managerial authority in the law firm in which the other lawyer practices, or has direct supervisory authority over the other lawyer, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

Credits

[Amended effective July 1, 2003; January 7, 2008.]

Editors' Notes

COMMENT

[1] Paragraph (a) applies to lawyers who have managerial authority over the professional work of a firm. See Rule 1.0(c). This includes members of a partnership, the shareholders in a law firm organized as a professional corporation, and members of other associations authorized to practice law; lawyers having comparable managerial authority in a legal services organization or a law department of an enterprise or government agency; and lawyers who have intermediate managerial responsibilities in a firm. Paragraph (b) applies to lawyers who have supervisory authority over the work of other lawyers in a firm.

[2] Paragraph (a) requires lawyers with managerial authority within a firm to make reasonable efforts to establish internal policies and procedures designed to provide reasonable assurance that all lawyers in the firm will conform to the Rules of Professional Conduct. Such policies and procedures include those designed to detect and resolve conflicts of interest, identify dates by which actions must be taken in pending matters, account for client funds and property and ensure that inexperienced lawyers are properly supervised.

[3] Other measures that may be required to fulfill the responsibility prescribed in paragraph (a) can depend on the firm's structure and the nature of its practice. In a small firm of experienced lawyers, informal supervision and periodic review of compliance with the required systems ordinarily will suffice. In a large firm, or in practice situations in which difficult ethical problems frequently arise, more elaborate measures may be necessary. Some firms, for example, have a procedure whereby junior lawyers can make confidential referral of ethical problems directly to a designated senior partner or special committee. See Rule 5.2. Firms, whether large or small, may also rely on continuing legal education in professional ethics. In any event, the ethical atmosphere of a firm can influence the conduct of all its members and the partners may not assume that all lawyers associated with the firm will inevitably conform to the Rules.

[4] Paragraph (c) expresses a general principle of personal responsibility for acts of another. See also Rule 8.4(a).

[5] Paragraph (c)(2) defines the duty of a partner or other lawyer having comparable managerial authority in a law firm, as well as a lawyer who has direct supervisory authority over performance of specific legal work by another lawyer. Whether a lawyer has supervisory authority in particular circumstances is a question of fact. Partners and lawyers with comparable authority have at least indirect responsibility for all work being done by the firm, while a partner or manager in charge of a particular matter ordinarily also has supervisory responsibility for the work of other firm lawyers engaged in the matter. Appropriate remedial action by a partner or managing lawyer would depend on the immediacy of that lawyer's involvement and the seriousness of the misconduct. A supervisor is required to intervene to prevent avoidable consequences of misconduct if the supervisor knows that the misconduct occurred. Thus, if a supervising lawyer knows that a subordinate misrepresented a matter to an opposing party in negotiation, the supervisor as well as the subordinate has a duty to correct the resulting misapprehension.

[6] Professional misconduct by a lawyer under supervision could reveal a violation of paragraph (b) on the part of the supervisory lawyer even though it does not entail a violation of paragraph (c) because there was no direction, ratification or knowledge of the violation.

[7] Apart from this Rule and Rule 8.4(a), a lawyer does not have disciplinary liability for the conduct of a partner, associate or subordinate. Whether a lawyer may be liable civilly or criminally for another lawyer's conduct is a question of law beyond the scope of these Rules.

[8] The duties imposed by this Rule on managing and supervising lawyers do not alter the personal duty of each lawyer in a firm to abide by the Rules of Professional Conduct. See Rule 5.2(a).

Rules of Prof.Conduct, Rule 5.1, DE R RPC Rule 5.1

Delaware Uniform Rules of Evidence, Rules of the Supreme Court, Delaware Supreme Court Internal Operating Procedures, Chancery Court Rules, Superior Court Rules of Civil Procedure, Superior Court Rules of Criminal Procedure, and The Delaware Lawyers' Rules of Professional Conduct are current with amendments received through February 1, 2020. All other state and local court rules are current with amendments received through February 1, 2020.

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West's Delaware Code Annotated
Delaware Rules of Court
the Delaware Lawyers' Rules of Professional Conduct

Rules of Prof.Conduct, Rule 5.2

RULE 5.2 RESPONSIBILITIES OF A SUBORDINATE LAWYER

Currentness

(a) A lawyer is bound by the Rules of Professional Conduct notwithstanding that the lawyer acted at the direction of another person.

(b) A subordinate lawyer does not violate the Rules of Professional Conduct if that lawyer acts in accordance with a supervisory lawyer's reasonable resolution of an arguable question of professional duty.

Credits

[Amended effective July 1, 2003; January 7, 2008.]

Editors' Notes

COMMENT

[1] Although a lawyer is not relieved of responsibility for a violation by the fact that the lawyer acted at the direction of a supervisor, that fact may be relevant in determining whether a lawyer had the knowledge required to render conduct a violation of the Rules. For example, if a subordinate filed a frivolous pleading at the direction of a supervisor, the subordinate would not be guilty of a professional violation unless the subordinate knew of the document's frivolous character.

[2] When lawyers in a supervisor-subordinate relationship encounter a matter involving professional judgment as to ethical duty, the supervisor may assume responsibility for making the judgment. Otherwise a consistent course of action or position could not be taken. If the question can reasonably be answered only one way, the duty of both lawyers is clear and they are equally responsible for fulfilling it. However, if the question is reasonably arguable, someone has to decide upon the course of action. That authority ordinarily reposes in the supervisor, and a subordinate may be guided accordingly. For example, if a question arises whether the interests of two clients conflict under Rule 1.7, the supervisor's reasonable resolution of the question should protect the subordinate professionally if the resolution is subsequently challenged.

Rules of Prof.Conduct, Rule 5.2, DE R RPC Rule 5.2
Delaware Uniform Rules of Evidence, Rules of the Supreme Court, Delaware Supreme Court Internal Operating Procedures, Chancery Court Rules, Superior Court Rules of Civil Procedure, Superior Court Rules of Criminal Procedure, and The Delaware Lawyers' Rules of Professional Conduct are current with amendments received through February 1, 2020. All other state and local court rules are current with amendments received through February 1, 2020.

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West's Delaware Code Annotated
Delaware Rules of Court
the Delaware Lawyers' Rules of Professional Conduct

Rules of Prof.Conduct, Rule 5.3

RULE 5.3. RESPONSIBILITIES REGARDING NON-LAWYER ASSISTANCE

Currentness

With respect to a nonlawyer employed or retained by or associated with a lawyer:

(a) a partner in a law firm, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm, shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer;

(b) a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer; and

(c) a lawyer shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if:

(1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or

(2) the lawyer is a partner or has comparable managerial authority in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

Credits

[Amended effective July 1, 2003; January 7, 2008; March 1, 2013.]

Editors' Notes

COMMENT

[1] Paragraph (a) requires lawyers with managerial authority within a law firm to make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that nonlawyers in the firm and nonlawyers outside the firm who work on firm matters act in a way compatible with the professional obligations of the lawyer. See Comment [6] to Rule 1.1 (retaining lawyers outside the firm) and Comment [1] to Rule 5.1 (responsibilities with respect to lawyers within a firm). Paragraph (b) applies to lawyers who have supervisory authority over such nonlawyers within or outside the firm. Paragraph (c) specifies the circumstances in which a lawyer is responsible for the conduct of such nonlawyers within or outside the firm that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer.

[2] Lawyers generally employ assistants in their practice, including secretaries, investigators, law student interns, and paraprofessionals. Such assistants, whether employees or independent contractors, act for the lawyer in rendition of the lawyer's professional services. A lawyer must give such assistants appropriate instruction and supervision concerning the ethical aspects of their employment, particularly regarding the obligation not to disclose information relating to representation of the client, and should be responsible for their work product. The measures employed in supervising nonlawyers should take account of the fact that they do not have legal training and are not subject to professional discipline.

[3] *Nonlawyers outside the firm*. -- A lawyer may use nonlawyers outside the firm to assist the lawyer in rendering legal services to the client. Examples include the retention of an investigative or paraprofessional service, hiring a document management company to create and maintain a database for complex litigation, sending client documents to a third party for printing or scanning, and using an Internet-based service to store client information. When using such services outside the firm, a lawyer must make reasonable efforts to ensure that the services are provided in a manner that is compatible with the lawyer's professional obligations. The extent of this obligation will depend upon the circumstances, including the education, experience and reputation of the nonlawyer; the nature of the services involved; the terms of any arrangements concerning the protection of client information; and the legal and ethical environments of the jurisdictions in which the services will be performed, particularly with regard to confidentiality. See also Rules 1.1 (competence), 1.2 (allocation of authority), 1.4 (communication with client), 1.6 (confidentiality), 5.4(a) (professional independence of the lawyer), and 5.5(a) (unauthorized practice of law). When retaining or directing a nonlawyer outside the firm, a lawyer should communicate directions appropriate under the circumstances to give reasonable assurance that the nonlawyer's conduct is compatible with the professional obligations of the lawyer.

[4] Where the client directs the selection of a particular nonlawyer service provider outside the firm, the lawyer ordinarily should agree with the client concerning the allocation of responsibility for monitoring as between the client and the lawyer. See Rule 1.2. When making such an allocation in a matter pending before a tribunal, lawyers and parties may have additional obligations that are a matter of law beyond the scope of these Rules.

Rules of Prof.Conduct, Rule 5.3, DE R RPC Rule 5.3
Delaware Uniform Rules of Evidence, Rules of the Supreme Court, Delaware Supreme Court Internal Operating Procedures, Chancery Court Rules, Superior Court Rules of Civil Procedure, Superior Court Rules of Criminal Procedure, and The Delaware Lawyers' Rules of Professional Conduct are current with amendments received through February 1, 2020. All other state and local court rules are current with amendments received through February 1, 2020.

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Rule 1.15. Safekeeping property.

(a) A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. Funds shall be kept in a separate account maintained in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third person. Funds of the lawyer that are reasonably sufficient to pay bank charges may be deposited therein; however, such amount may not exceed $500 and must be separately stated and accounted for in the same manner as clients' funds deposited therein. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after the completion of the events that they record.

(b) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this Rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

(c) When in the course of representation a lawyer is in possession of property in which both the lawyer and another person claim interests, the property shall be kept separate by the lawyer until there is an accounting and severance of their interests. If a dispute arises concerning their respective interests, the portion in dispute shall be kept separate by the lawyer until the dispute is resolved.

(d) A lawyer engaged in the private practice of law must maintain financial books and records on a current basis, and shall preserve the books and records for at least five years following the completion of the year to which they relate, or, as to fiduciary books and records, five years following the completion of that fiduciary obligation. The maintenance of books and records must conform with the following provisions:

(1) All bank statements, cancelled checks, and duplicate deposit slips relating to fiduciary and non-fiduciary accounts must be preserved.

(2) Bank accounts and related statements, checks, deposit slips, and other documents maintained for fiduciary funds must be specifically designated as "Trust Account" or "Escrow Account," and must be used only for funds held in a fiduciary capacity.

(3) Bank accounts and related statements, checks, deposit slips, and other documents maintained for non-fiduciary funds must be specifically designated as "Attorney Business Account" or "Attorney Operating Account," and must be used only for funds held in a non-fiduciary capacity. A lawyer in the private practice of law shall maintain a non-fiduciary account for general operating purposes, and the account shall be separate from any of the lawyer's personal or other accounts.

(4) All records relating to property other than cash received by a lawyer in a fiduciary capacity shall be maintained and preserved. The records must describe with specificity the identity and location of such property.

(5) All billing records reflecting fees charged and other billings to clients or other parties must be maintained and preserved.

(6) Cash receipts and cash disbursement journals must be maintained and preserved for each bank account for the purpose of recording fiduciary and non-fiduciary transactions. A lawyer using a manual system for such purposes must total and balance the transaction columns on a monthly basis.

(7) A monthly reconciliation for each bank account, matching totals from the cash receipts and cash disbursement journals with the ending check register balance, must be performed. The reconciliation procedures, however, shall not be required for lawyers using a computer accounting system or a general ledger.

(8) The check register balance for each bank account must be reconciled monthly to the bank statement balance.

(9) With respect to all fiduciary accounts:

(A) A subsidiary ledger must be maintained and preserved with a separate account for each client or third party in which cash receipts and cash disbursement transactions and monthly balances are recorded.

(B) Monthly listings of client or third party balances must be prepared showing the name and balance of each client or third party, and the total of all balances.

(C) No funds disbursed for a client or third party must be in excess of funds received from that client or third party. If, however, through error funds disbursed for a client or third party exceed funds received from that client or third party, the lawyer shall transfer funds from the non-fiduciary account in a timely manner to cover the excess disbursement.

(D) The reconciled total cash balance must agree with the total of the client or third party balance listing. There shall be no unidentified client or third party funds. The bank reconciliation for a fiduciary account is not complete unless there is agreement with the total of client or third party accounts.

(E) No funds which should have been disbursed shall remain in the account, including, but not limited to, earned legal fees, which must be transferred to the lawyer's non-fiduciary account on a prompt and timely basis when earned.

(F) No funds of the lawyer shall be placed in or left in the account except as provided in Rule 1.15(a).

(G) When a separate real estate bank account is maintained for settlement transactions, and when client or third party funds are received but not yet disbursed, a listing must be prepared on a monthly basis showing the name of the client or third party, the balance due to each client or third party, and the total of all such balances. The total must agree with the reconciled cash balance.

(10) If a lawyer maintains financial books and records using a computer system, the lawyer must cause to be printed each month a hard copy of all monthly journals, ledgers, reports, and reconciliations, and must review and preserve the documents in the same manner as other financial records described in this Rule.

(e) A lawyer's financial books and records must be subject to examination by the auditor for the Lawyers' Fund for Client Protection, for the purpose of verifying the accuracy of a certificate of compliance filed each year by the lawyer pursuant to Supreme Court Rule 69. The examination must be conducted so as to preserve, insofar as is consistent with these Rules, the confidential nature of the lawyer's books and records. If the lawyer's books and records are not located in Delaware, the lawyer may have the option either to produce the books and records at the lawyer's office in Delaware or to produce the books and records at the location outside of Delaware where they are ordinarily located. If the production occurs outside of Delaware, the lawyer shall pay any additional expenses incurred by the auditor for the purposes of an examination.

(f) A lawyer holding client funds must initially and reasonably determine whether the funds should or should not be placed in an interest-bearing depository account for the benefit of the client. In making such a determination, the lawyer must consider the financial interests of the client, the costs of establishing and maintaining the account, any tax reporting procedures or requirements, the nature of the transaction involved, the likelihood of delay in the relevant proceedings, whether the funds are of a nominal amount, and whether the funds are expected to be held by the lawyer for a short period of time. A lawyer must at reasonable intervals consider whether changed circumstances would warrant a different determination with respect to the deposit of client funds. Except as provided in these Rules, interest earned on client funds placed into an interest-bearing depository account for the benefit of the client (less any deductions for service charges or other fees of the depository institution) shall belong to the client whose - funds are deposited, and the lawyer shall have no right or claim to such interest.

(g) A lawyer holding client funds who has reasonably determined, pursuant to subsection (f) of this Rule, that such funds need not be deposited into an interest-bearing depository account for the benefit of the client must maintain a pooled interest-bearing depository account for the deposit of the funds; provided, however, that this requirement shall not apply to a lawyer who either has obtained inactive status pursuant to Supreme Court Rule 69(d), or has obtained a Certificate of Retirement pursuant to Supreme Court Rule 69(f), or has formally elected to opt out of this requirement in accordance with the procedure set forth below in subparagraph (k).

(h) A lawyer who maintains such a pooled account shall comply with the following:

> (1) The account shall include only client's funds which are nominal amount or are expected to be held for a short period of time.
>
> (2) No interest from such an account shall be made available to a lawyer or law firm.
>
> (3) Lawyers or law firms depositing client funds in a pooled interest-bearing account under this paragraph (h) shall direct the depository institution:
>
> > (a) To remit interest, net any service charges or fees, as computed in accordance with the institution's standard accounting practice, at least quarterly, to the Delaware Bar Foundation; and
> >
> > (b) To transmit with each remittance to the Delaware Bar Foundation a statement showing the name of the lawyer or law firm on whose accounting remittance is sent and the rate of interest applied; with a copy of statement to be transmitted to the lawyer or law firm by the Delaware Bar Foundation.

(i) The funds transmitted to the Delaware Bar Foundation shall be available for distribution for the following purposes:

> (1) To improve the administration of justice;
>
> (2) To provide and to enhance the delivery of legal services to the poor;
>
> (3) To support law related education;
>
> (4) For each other purposes that serve the public interest.

The Delaware Bar Foundation shall recommend for the approval of the Supreme Court of the State of Delaware, such distributions as it may deem appropriate. Distributions shall be made only upon the Court's approval.

(j) Lawyers or law firms, depositing client funds in a pooled interest-bearing depository account under this paragraph shall not be required to advise the client of such deposit or of the purposes to which the interest accumulated by reason of such deposits is to be directed.

(k) The procedure available for opting out of the requirement to maintain pooled interest-bearing accounts are as follows:

(1) Prior to December 15, 1983, a lawyer wishing to decline to maintain a pooled interest-bearing account[s] described in this paragraph for any calendar year may do so by submitting a Notice of Declination in writing to the Clerk of the Supreme Court ab initio or before December 15 of the preceding calendar year. Any such submission shall remain effective, unless revoked and need not be renewed for any ensuing year.

(2) Any lawyer who has not filed a Notice of Declination on or before December 15, 1983, may elect not to maintain a pooled interest-bearing depository account for client funds as required and instead to maintain a pooled depository account for such funds that does not bear interest or that bears interest solely for the benefit of the clients who deposited the funds by certifying that the lawyer or law firm opts out of the obligation to comply with the requirements by timely submission of the Annual Registration Statement required by Supreme Court Rule 69(b)(i). Any such certification shall release the lawyer or law firm submitting it from participation effective as of the date that the certification is submitted and it shall remain effective until revoked as set forth below without need for renewal for any ensuing year.

(3) Notwithstanding the foregoing provisions of this subparagraph, any lawyer or law firm may petition the Court at any time and, for good cause shown, may be granted leave to opt out of the obligation to comply with the mandatory requirements of this paragraph.

(l) An election to opt out of the obligation to comply with paragraph (h) hereof may be revoked at any time upon the opening by a non-participating lawyer or law firm of a pooled interest-bearing account as previously described and due notification thereof to the Court Administrator of the Supreme Court pursuant to Supreme Court Rule 69(g).

(m) A lawyer should exercise good faith judgment in determining initially, whether funds of a client are of such nominal amount or are expected to be held by the lawyer for such a short period of time that the funds should not be placed in an interest-bearing depository account for the benefit of the client. The lawyer should also consider such other facts as:

(1) The cost of establishing and maintaining the account, service charges, accounting fees, and tax reporting procedures;

(2) The nature of the transactions(s) involved; and

(3) The likelihood of delay in the relevant proceedings.

A lawyer should review at reasonable intervals whether changed circumstances require further action respecting the deposit of client funds.

(n) A lawyer shall not disburse Fiduciary Funds from his or her attorney trust account(s) unless the funds deposited in the account to be disbursed are good funds as hereinafter defined. "Good funds" shall mean:

(1) cash;

(2) electronic fund ("wire") transfer;

(3) certified check;

(4) bank cashier's check or treasurer's check;

(5) U.S. Treasury or State of Delaware Treasury check;

(6) Check drawn on a separate trust or escrow account of an attorney engaged in the private practice of law in the State of Delaware held in a fiduciary capacity, including his or her client's funds;

(7) Check of an insurance company that is authorized by the Insurance Commissioner of Delaware to transact insurance business in Delaware;

(8) Check in an amount no greater than $10,000.00;
(9) Check greater than $10,000.00, which has been actually and finally collected and may be drawn against under federal or state banking regulations then in effect;
(10) Check drawn on an escrow account of a real estate broker licensed by the state of Delaware up to the limit of guarantee provided per transaction by statute.

Rule 1.15A. Trust account overdraft notification.

(a) Attorney accounts designated as "Trust Account" or "Escrow Account" pursuant to Rule 1.15(d)(2) shall be maintained only in financial institutions approved by the Lawyers' Fund for Client Protection (the "Fund"). A financial institution may not be approved as a depository for attorney trust and escrow accounts unless it shall have filed with the Fund an agreement, in a form provided by the Fund, to report to the Office of Disciplinary Counsel ("ODC") in the event any instrument in properly payable form is presented against an attorney trust or escrow account containing insufficient funds, irrespective of whether or not the instrument is honored.
(b) The Supreme Court may establish rules governing approval and termination of approved status for financial institutions and the Fund shall annually publish a list of approved financial institutions. No trust or escrow account shall be maintained in any financial institution that does not agree to make such reports. Any such agreement shall apply to all branches of the financial institution and shall not be canceled except upon thirty (30) days notice in writing to the Fund.
(c) The overdraft notification agreement shall provide that all reports made by the financial institution shall be in the following format:

> (1) In the case of a dishonored instrument, the report shall be identical to the overdraft notice customarily forwarded to the depositor, and shall include a copy of the dishonored instrument to the ODC no later than seven (7) calendar days following a request for the copy by the ODC.
> (2) In the case of instruments that are presented against insufficient funds, but which instruments are honored, the report shall identify the financial institution, the attorney or law firm, the account number, the date of presentation for payment, and the date paid, as well as the amount of the overdraft created thereby.

(d) Reports shall be made simultaneously with, and within the time provided by law for, notice of dishonor. If an instrument presented against insufficient funds is honored, then the report shall be made within seven (7) calendar days of the date of presentation for payment against insufficient funds.
(e) Every attorney practicing or admitted to practice in this jurisdiction shall, as a condition thereof, be conclusively deemed to have consented to the reporting and production requirements mandated by this rule.
(f) Nothing herein shall preclude a financial institution from charging a particular attorney or law firm for the reasonable costs of producing the reports and records required by this rule.
(g) The terms used in this section are defined as follows:

> (1) "Financial institution" includes banks, savings and loan associations, credit unions, savings banks and any other business or persons which accept for deposit funds held in trust by attorneys.
> (2) "Properly payable" refers to an instrument which, if presented in the normal course of business, is in a form requiring payment under the laws of Delaware.
> (3) "Notice of dishonor" refers to the notice which a financial institution is required to give, under the laws of Delaware, upon presentation of an instrument which the institution dishonors.

(h) Every attorney practicing or admitted to practice in this jurisdiction shall designate every account into which attorney trust or escrow funds are deposited either as a "Rule 1.15A Attorney Trust Account" or as a "Rule 1.15A Attorney Escrow Account".

Rule 7.2. Advertising.

(a) Subject to the requirements of Rules 7.1 and 7.3, a lawyer may advertise services through written, recorded or electronic communication, including public media.
(b) Except as permitted by Rule 1.5(e), a lawyer shall not give anything of value to a person for recommending the lawyer's services except that a lawyer may

> (1) pay the reasonable costs of advertisements or communications permitted by this Rule;
> (2) pay the usual charges of a legal service plan or a not-for-profit or qualified lawyer referral service. A qualified lawyer referral service is a lawyer referral service that has been approved by an appropriate regulatory authority; and
> (3) pay for a law practice in accordance with Rule 1.17.

(c) Any communication made pursuant to this rule shall include the name and office address of at least one lawyer or law firm responsible for its content.

Samuel D. Pratcher, III*
Nicholas M. Krayer

*Also Admitted in NJ

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Email:sdpratcher@pkinjury.com

NAME
DOA:
(WC or BI or UIM or PIP) SETTLEMENT SHEET

TOTAL AMOUNT OF SETTLEMENT: $ ____________
Attorney's Fees: (35%, 33 1/3% - reduced to 25% for minor)
Is there a referral fee? Check NN1 and the case screen
Sub-Total: $

COSTS: $ ____________
Sub-Total: $

LIENS: (List No Notice of Any Liens or Add Lien Info) $ ____________
You must check the Lien/LOP folder to confirm
Sub-Total: $

LOANS: (List No Notice of Any Loans or Add Loan Info) $ ____________
You must check the Lien/LOP folder to confirm
Sub-Total: $

MEDICAL BILLS: itemize the bills below and subtract them individually. $ ____________
If there are no bills above PIP, put "PIP Eligible" and list the amount of remaining PIP so attorney can explain to the client at settlement.
Sub-Total: $

HOLD IN ESCROW PENDING _______ SETTLEMENT: this will not apply $ ____________
to every settlement. You can delete this line if you don't need to hold anything in escrow.
Sub-Total: $

NET TO CLIENT: $

I, CLIENT'S NAME, hereby do approve the above settlement of fees and costs. It is my understanding that any additional medical expenses related to this accident are my responsibility and I agree to pay them directly. It is also my understanding that at the time of this settlement there are no health insurance liens asserted in relation to this accident and any liens that may be asserted in the future are my responsibility and I agree to pay them directly. I give to PRATCHER KRAYER LLC and/or ______________, a limited power of attorney to sign my name to the settlement draft in the amount of $_______________________[make sure this amount matches settlement amount above] so that this disbursement may be completed.

Date: ____________

____
CLIENT'S NAME

Reviewed by: SDP_______
Prepared by: _____________

MINOR SETTLEMENTS: if we are filing with the Court, you need to add $113.50 to the costs for filing fees. The petitioner or guardian will always sign on behalf of the minor. If we are not filing the minor settlement with the Court, there is no need to add these extra costs.

If it is a minor settlement without Court approval, add the following to the end of the last paragraph: "[attorney name] has informed me that I should open a guardianship account for_______________. I understand I have a fiduciary responsibility to open the guardianship account. Pratcher Krayer LLC nor my attorney [ ]is responsible for the funds or opening the guardianship account."

PK PratcherKrayer
INJURY LAWYERS

Samuel D. Pratcher, III*
Nicholas M. Krayer
William R. Stewart, III^
Christine Kane~

OFFICES
1300 N. Grant Ave., Suite 206, Wilmington, DE 19806
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*Also Admitted in NJ & PA
^Also Admitted in PA
~Also Admitted in PA, NY & NJ

ALL CORRESPONDENCE TO:
P.O. Box 591
Wilmington, DE 19899

Samuel D. Pratcher, III is a managing partner at Pratcher Krayer, LLC. Samuel was born in Wilmington, Delaware and graduated from Salesianum High School. He graduated *with honors* from Hampton University in 2005 with a Bachelor of Science degree in Political Science. In 2009, he received his law degree from Thomas M. Cooley School of Law. While in law school, Samuel served as judicial extern to the Honorable Joseph J. Farnan, Jr., in the United States District Court of Delaware. He gained valuable experience researching and writing court opinions on civil rights and employment law matters.

After law school, Samuel completed a year-long clerkship with The Honorable Charles H. Toliver, IV of the Superior Court of the State of Delaware. As a law clerk, he conducted research and assisted in writing court opinions in business litigation, personal injury and criminal law matters.

Attorney Pratcher has received recognition from his peers as a top personal injury lawyer in the State of Delaware (Delaware Today Magazine, Top Lawyer 2013, 2016, 2019-2025). Attorney Pratcher has gained national recognition from National Academy of Personal Injury Attorneys (NAOPIA) having been selected as a Top 10 personal injury attorney in Delaware in 2013, 2016 - 2024. Super Lawyers selected Mr. Pratcher as a 2017 and 2018 Rising Star in the practice of law for the State of Delaware. No more than 2.5% of Delaware attorneys are selected for this honor. Super Lawyers consecutively selected Mr. Pratcher as a top personal injury attorney from 2021 through 2026.

Mr. Pratcher is admitted to practice in Delaware, New Jersey, Pennsylvania, the United States District Court of Delaware, and the Supreme Court of the United States of America.

Past Employment Positions

The Honorable Charles H. Toliver, IV, Superior Court of the State of Delaware, Law Clerk

The Honorable Joseph J. Farnan, Jr., U.S. District Court of Delaware, Judicial Extern

Delaware Department of Justice, Law Clerk

Professional Associations and Memberships

- Alpha Phi Alpha Fraternity, Inc.
- Million Dollar Advocates Forum Member
- Delaware Trial Lawyers Association, Board of Directors 2015-Present and President (2021)
- Randy J. Holland Delaware Workers' Compensation American Inn of Court
- Torts and Insurance Section of Delaware State Bar Association, Chair 2013-2016
- The American Association of Justice, Leaders Forum
- Delaware State Bar Association, Multicultural Judges and Lawyers Section
- Vice President, New Castle County Small Firm & Solo Practitioner Chair, Executive Committee of DSBA (2016-21)
- Delaware Trial Lawyers Association, Minority Caucus Representative to The American Association of Justice
- Wilmington Country Club, Member

Recognition

- Best Lawyers in America, Delaware Personal Injury (2025)
- DSBA, Community Service Award 2020
- The National Black Lawyers, Top 40 Under 40 (2017-2022)
- The National Black Lawyers, Top 100 (2024- 2025)
- Super Lawyers, Rising Star Award (Delaware 2017, 2018)
- Super Lawyers, Super Lawyer (Delaware 2021 - 2025)
- 40 under 40 Award Winner, Chains, Inc. (2014)
- Delaware Today Magazine – Delaware Top Lawyers-Litigation (2013)
- Delaware Today Magazine – Delaware Top Lawyers-Torts and Insurance Practice (2013)
- Delaware Today Magazine – Delaware Top Lawyers – Personal Injury (2020 -2025)
- Top 10 Attorney, Under the age of 40, by National Academy of Personal Injury Attorneys (Delaware 2014-2022)
- Martindale-Hubbell, Client Distinction Award 2015

Classes/Seminars

- How to Manage a Law Firm and Excel in Your Own Practice, August 5, 2025
- Cyber Security in Law Firms and The Pitfalls of Social Media, February 13, 2018
- National Institute of Trial Advocacy (NITA), Faculty Member (2017)
- Delaware State Bar Assoc., Workers' Compensation Conference, Ethics, May 6, 2015
- Delaware State Bar Assoc., Workers' Compensation Conference, The "But For" Causation Standard, January 19, 2016
- The 21st Annual Rubenstein-Walsh Seminar on Ethics and Professionalism, Effective and Ethical Mediation Techniques, February 5, 2016
- Delaware Trial Lawyers Assoc., Worker's Compensation Claim with a Potential Third Party Claim, June 11, 2016
- Delaware Bench and Bar Conference, Civil Litigation, June 17, 2016

SOCIAL MEDIA WARNING

In this modern world, many of us communicate using the internet, email or other forms of digital communication. Now that you are pursuing a legal claim for monetary damages, it is critical that you understand that any communications you have with anybody (other than your attorney), may be subject to disclosure at some point in the process. **Any information you post to an internet website, write in an email or instant message, or otherwise transmit electronically may someday be requested by the other side as evidence in your case**. If you maintain an internet website or a space on internet portals such as Facebook, Twitter, Skype etc., there is nothing that prevents the other side from accessing those sites and obtaining all of the information you have placed there.

For these reasons, it is critical that from now until the time that your case is finally resolved, you refrain from communicating about your case, or disclosing any of the facts relating to your case on any internet website, email or other digital format. The only exception is that you may, of course, communicate with us using email if you so choose. Unlike other digital communications, anything you send us (so long as it is sent to us only and copied to no one else) is covered by the attorney/client privilege, and is therefore confidential.

You must be very careful about any other information you communicate through the internet or email, even if it is not specifically about the facts of your case. Even information relating to your personal interests, lifestyle choices, associations or other types of information will be accessible to the other side and available for them to use against you in the case. This does not mean that you should stop using the internet or email, or worry about shopping or providing basic information on commercial websites. What it does mean is that you should be very careful about what information, including **videotape, photographs, etc., you post on any online forum, blog or social networking website.** Moreover, you should be careful about what sort of information you place in e-mail. You do not want there to be embarrassing or profane materials that the other side can attempt to use to impeach your character.

In short, what we suggest is that you <u>use common sense and an abundance of caution between now and when your case is finally resolved</u>.

By signing below, you acknowledge that you have been advised by your attorney of the foregoing information.

____

Signature

Rule 12. Attorneys of record; withdrawal.

(a) Appearance and signing of papers. —

(i) Original signature by Delaware attorney. —Except in the case of a party appearing pro se, all papers filed with the Court shall be signed by an attorney who is an active member of the Bar of this Court and who maintains an office in Delaware for the practice of law. The attorney shall list the attorney's address, telephone number, and Supreme Court identification number on all papers filed with the Court. Such attorney or the attorney's partner or an associate of the attorney's firm must attend all proceedings. The attorney, if any, designated on the notice of appeal as the attorney below for the appellee shall be deemed to be the attorney for the appellee unless another attorney shall file a notice of appearance substantially in the form provided in Official Form E.

(ii) Original signature is certification. —The original signature of an attorney or party constitutes a certification by the attorney that the attorney has read the paper; that to the best of the attorney's knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay.

(b) Withdrawal. —Except as permitted by order of the Court, no attorney may withdraw and all appearing attorneys are required to continue as such and to perform the duties of counsel imposed by law, by The Delaware Lawyers' Rules of Professional Conduct, and these Rules. Withdrawal of an attorney ordinarily will not be considered as permissible ground for delay and relief under these Rules.

(c) Appearance pro se. —As a condition for a party appearing pro se, the party must designate a mailing address other than a post office box for the receipt of all notices, papers and orders filed in the case. If a pro se party's address is a post office box, the pro se party must provide the pro se party's street address to the Court.

(d) Office for the practice of law. —As used in these rules, an "office for the practice of law" means a bona fide office maintained in this State for the practice of law in which the attorney practices by being there a substantial and scheduled portion of time during ordinary business hours in the traditional work week. An attorney is deemed to be in an office even if temporarily absent from it if the duties of the law practice are actively conducted by the attorney from that office. An office must be a place where the attorney or a responsible person acting on the attorney’s behalf can be reached in person or by telephone during normal business hours and which has the customary facilities for engaging in the practice of law. A bona fide office is more than a mail drop, a summer home which is unattended during a substantial portion of the year or an answering, telephone forwarding, secretarial or similar service.

LISA M. GRUBB

SHAREHOLDER

AREAS OF PRACTICE

Health Care Liability
Long-Term Care Liability
General Liability
Premises & Retail Liability
Automobile Liability
Trucking & Transportation Liability
Personal Injury Protection (PIP) Litigation

CONTACT INFO

(302) 552-4339
LMGrubb@mdwcg.com

1 Righter Parkway
Suite 301
Wilmington, DE 19803

ADMISSIONS

Delaware
2008

EDUCATION

Widener University School of Law (J.D., 2005)

Elon University (B.A., 2002)

YEAR JOINED

2018

OVERVIEW

Lisa focuses her practice on the defense of medical malpractice cases, representing hospitals, physicians and long-term care facilities. Her experience also includes defending physicians before the Delaware State Examining Board of Medicine. Lisa has defended physicians in various practices including ophthalmology, wound care, dermatology, PT/chiropractic, and dentistry. She has also represented clients in surgical cases and failure to diagnose cases. In addition, Lisa is experienced in representing veterinarians in professional liability matters from case inception through resolution, including witness preparation, working with experts, and preparing for trial.

Lisa also handles general liability matters including premises liability and motor vehicle accidents as well as defense of commercial trucking cases. Additionally, Lisa assists clients in matters involving insurance coverage, PIP/first party contractual claims and Fraud/Special Investigation. She also has significant experience in products liability and toxic tort litigation.

Lisa graduated from Elon University and received her *juris doctor* from Widener University School of Law.

She is admitted to practice in Delaware.

THOUGHT LEADERSHIP

Delaware ‘Meet and Confer’ Rule Requires Human Contact??!

Wilmington
General Liability
June 1, 2023
Key Points: Defense Digest, Vol. 29, No.

Marshall Dennehey Announces 2022 New Shareholder Class -- With 10 women and 7 men, the class has one of the highest percentages of women in the firm’s 60-year history

January 3, 2022
Marshall Dennehey Warner Coleman & Goggin is pleased to announce that 17 attorneys, 10 women and 7 men, have been elevated to shareholder, effective January 1, 2022.
Read More

The New Superior Court Rule 16.1: The Revamping and Reviving of an Old 'Favorite'

Wilmington
General Liability
September 4, 2018
Key Points:

PUBLISHED WORKS

“The New Superior Court Rule 16.1: The Revamping and Reviving of an Old ‘Favorite’,” *Defense Digest*, September 2018, Vol. 24, No. 3

Rachel D. Allen is a partner at Nitsche & Fredricks LLC practicing in the areas of personal injury and workers' compensation. Before working at Nitsche & Fredricks, Rachel worked for a regional defense law firm. Prior to that she was a Judicial Law Clerk to the Honorable Robert B. Coonin and the Honorable Arlene Minus Coppadge of the Family Court of the State of Delaware. Rachel is the President of the Delaware Trial Lawyers Association and a past Revitalization Governor for the American Association of Justice.

CATHERINE M. CRAMER

PARTNER

PERSONAL INJURY LAW

- EMAIL: ccramer@bmbflaw.com
- PHONE: (302) 327-1100
- FAX: (443) 400-7493

Education

- FORDHAM UNIVERSITY, BA CUM LAUDE 2009
- TEMPLE UNIVERSITY BEASLEY SCHOOL OF LAW, JD CUM LAUDE 2013
- TRIAL ADVOCACY & LITIGATION, CERT. 2013

Practice Areas

- CIVIL LITIGATION
- PERSONAL INJURY
- EMPLOYMENT LAW
- MASS TORTS
- ENVIRONMENTAL LAW

EXPERIENCE

Catherine is an experienced and accomplished litigator with a passion for helping others. Catherine is part of the firm's Mass Tort & Environmental Litigation team and has assisted clients in class action litigation in obtaining favorable results to improve environmental conditions and health hazards in their communities as well as substantial compensation. Most recently, Catherine was part of the team that obtained a $205 million class action settlement in Millsboro, Delaware, for property damages, personal injuries, and environmental remediation related to air and groundwater contamination claims. Catherine was also part of the team that obtained a $103 million class action settlement in South Carolina for property damages, personal injuries, and environmental remediation related to air pollution claims. Catherine is presently litigating class action cases in Salisbury, Maryland, and in Elkton, Maryland, against companies for allegations of environmental contamination.

When Catherine is not working with the Mass Tort & Environmental Litigation Team, Catherine practices civil litigation representing her clients in a variety of civil matters, including personal injury, premises liability, property damage, medical negligence, nursing home abuse & neglect. She has been lead counsel in over 200 cases, and handled cases at all stages of litigation, from inception to resolution through settlement, arbitration, or at trial. Catherine has been first chair in multiple jury trials and in trials before the Court of Chancery. Catherine has a passion for survivors' advocacy and assisting individuals who are survivors of childhood or sexual abuse.

Catherine attended Fordham University and received her bachelor's degree, cum laude, in English and Communications in 2009. She studied law at Temple University Beasley School of Law where she obtained her J.D., cum laude, and a certificate in Trial Advocacy & Litigation in May 2013. While in law school, Catherine interned with the Honorable Anne E. Lazarus of the Superior Court of Pennsylvania and subsequently served as a law clerk to the Honorable L. Philippe Restrepo, in the Eastern District of Pennsylvania through the Federal Judicial Clerkship Honors Clinical program. Catherine also served as a certified legal intern in the Chester County District Attorney's Office, assisting crime victims in seeking justice. Catherine has focused her education and career on honing her skills as an advocate so that she can better serve her clients' needs. She was a member of the Temple National Trial Team, where she won the championship at the National Civil Rights Trial Tournament in 2012, won the Best Advocate Award at the American Association of Justice Trial Tournament in 2013, and was a finalist in the Fordham Law School Kelly Competition in 2011. Catherine also won the Barrister's Award for the best advocate in Trial Advocacy I, Trial Advocacy II, and Advanced Trial Advocacy. Upon graduation, Catherine received the Jerome M. Staller "Excellence in Litigation Award," presented to the school's most promising civil litigator. Catherine has taken that training to the courtroom and obtained favorable results for her clients in front of a jury at trial.

She was asked to return to Temple as an adjunct professor at Temple University Beasley School of Law in the Advanced Trial Advocacy Program, coaching Temple Law School's National Trial Team in 2014 at the National Civil Rights Trial Tournament, and most recently coached the team in the Capitol City Challenge in Washington D.C in 2018 where the team advanced to the semi-final round and took home the Professionalism Award. She served as a volunteer mock trial coach for Girard College from 2011-2017, and served as a volunteer mock trial coach for A.I. duPont High School in Wilmington, Delaware from 2018-2020.

AWARDS

- Delaware Business Times "40 under 40" 2025

- Lawdragon Green 500: Leaders In Environmental Law, 2025
- Lawdragon 500 X- The Next Generation Award, 2023, 2024, 2025
- Top Lawyer in Delaware Today for Tort, 2025
- Top Lawyer Delaware Today for Personal Injury, 2021, 2022, 2023 and 2024
- Super Lawyers Rising Stars, 2022, 2023
- National Civil Rights Trial Tournament Winner, 2012
- Best Advocate Award at the American Association of Justice Trial Tournament, 2013
- Barrister's Award for Best Advocate in Trial Advocacy I & II and Advanced Trial Advocacy
- Jerome M. Staller "Excellence in Litigation Award"

MEMBERSHIPS

- Delaware Trial Lawyers Association Board of Governors, New Castle County Member at Large
- Delaware State Bar Association
    - Health Law Section
    - Litigation Section
    - Torts Section, Vice-chair 2017-2018 and Co-chair 2018-2019
    - Women And The Law Section (Legislation And Advocacy Committee, 2019-present)
- Delaware Young Lawyers Distinguished Service Award Committee, 2018-present
- Profundo Bono- to benefit the Combined Campaign for Justice
- The Richard S. Rodney American Inn of Courts
- American Association of Justice

BAR ADMISSIONS

- State of Delaware
- United States District Court for the District of Delaware
- State of New Jersey

- Commonwealth of Pennsylvania

PRESENTATIONS/SEMINARS TAUGHT

- Speaker, Delaware State Bar Association- Fundamentals of Client Relationships, September 2022
- Speaker and Presenter, Delaware State Bar Association Personal Injury Arbitration Training and Certification, May 2022
- Speaker, Delaware State Bar Association Fundamentals of Client Relationships, March 2020
- Speaker, Delaware State Bar Association Tort's Section Deposition Tricks and Treats, October 2019
- Moderator and Speaker, Women and the Law Retreat Panel, March 2019
- Moderator and Speaker, Delaware State Bar Association Preparing and Giving Openings and Closings at Trial, March 2018

CERTIFICATIONS

- Certified Personal Injury Arbitrator – Delaware State Bar Association, 2022
- Certificate in Trial Advocacy & Litigation – Temple University Beasley School of Law, 2013

Morris James LLP

MICHAEL G. OWEN

PARTNER

Wilmington, Dover, Georgetown

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MIKE OWEN CHAIRS THE PERSONAL INJURY PRACTICE GROUP.

He represents plaintiffs in civil litigation and trials, focusing on catastrophic personal injury, maritime injury, products liability, and workers' compensation matters. He has achieved significant verdicts and settlements for his clients. Mike's legal approach focuses on leveraging his experience to determine the best legal strategies for each case and providing his clients with options to decide on. He is highly regarded by his clients and peers for his exceptional client service and results.

Mike has a wide array of experience handling matters through all stages of litigation, including trials before the state courts in Delaware, New Jersey, and the Commonwealth of Pennsylvania, as well as hearings before the Industrial Accident Board. He is also licensed to practice before the United States Supreme Court.

Mike has been selected by his peers as an arbitrator in personal injury matters and voted a top personal injury lawyer by Delaware Today since 2018, and Best Lawyers since 2021.

PROFESSIONAL BACKGROUND

- Before attending law school, Mike worked for Congressman Michael N. Castle (R-DE) as a constituent advocate. While in law school, Mike clerked for the State of Delaware Attorney General's Office handling both criminal and civil matters. Following law school, Mike worked for an insurance defense law firm defending personal injury and workers' compensation claims on behalf of an insurance company. This experience allows Mike to prepare his clients for insurance company defense tactics. Before joining Morris James, Mike worked for a personal injury firm located in Wilmington, Delaware representing injured persons.
- Mike served as the President of the Randy J. Holland Delaware Workers' Compensation Inn of Court. Mike is a member of the Delaware Trial Lawyers Association and is a past treasurer (2014-2018).

SERVICES

Personal Injury

Boating & Jet Ski Accidents

Camp Lejeune

Construction Accidents

Dog Bites / Attacks

Fibercel

Infant Formula

Mass Torts Litigation

Motorcycle Accidents

Product Liability

Rideshare Accidents

Catastrophic Accidents & Serious Injuries

Slip & Fall

Truck Accidents

Workers' Compensation

Car Accidents

Wrongful Death

Negligent Security

Aviation Accidents

Forklift & Aerial Lift Accidents

Work Injury

Structure Collapse

Ultra Processed Foods Lawsuits

ENGAGED IN THE COMMUNITY

- Boys & Girls Clubs of Delaware, Board of Trustees Member
- Boys & Girls Clubs, Greater Wilmington, President
  - Board Member, 2016 – present
  - Mentor, 2012 – 2018
  - Youth of the Year Presiding Judge, 2016
  - Unit Board Task Force, 2016
  - Youth of the Year Judge, 2015
- Big Brothers Big Sisters of Delaware, Mentor, 2012 – 2017
- Ducks Unlimited – New Castle County, Committee Member, 2013 – present
- Delaware Board of Canvassing, 2012, 2014, 2016

HONORS

- Best Lawyers, 2021-Present
- Delaware Today Top Lawyers, 2018 - Present, Personal Injury and Workers' Compensation for Employee

MARSHALL DENNEHEY

SARAH B. COLE

OFFICE MANAGING ATTORNEY
SHAREHOLDER

AREAS OF PRACTICE

Social Services & Human Services Liability
General Liability
Automobile Liability
Fraud/Special Investigation

CONTACT INFO

(302) 552-4364
SBCole@mdwcg.com

1 Righter Parkway
Suite 301
Wilmington, DE 19803

ADMISSIONS

Delaware
2005

U.S. District Court for the District of Delaware

EDUCATION

University of Maryland Francis King Carey School of Law (J.D., 2005)

Bryn Mawr College (B.A., 2001)

HONORS & AWARDS

The Best Lawyers in America®, Litigation - Insurance
2023-2026

Top Lawyer, Tort Law, Delaware Today
November 2024

OVERVIEW

Sarah is a member of the Casualty Department where she focuses her practice in the areas of general commercial liability, including premises liability and residential group home liability. As managing shareholder of the Wilmington office, Sarah oversees the day-to-day operations for the entire office, ensuring that client matters are handled promptly, professionally and effectively. She also serves on the firm's Board of Directors.

For the past decade, Sarah has defended hundreds of clients in the defense of personal injury litigation in the Delaware courts, with many cases tried successfully to verdict. In addition, she has defended clients in insurance coverage disputes as well as property damage litigation.

As a member of the Fraud/Special Investigative Unit (SIU) Litigation Practice Group, Sarah continues to develop her skills litigating and investigating claims of insurance fraud. She also has experience handling PIP disputes throughout the state of Delaware on behalf of our clients.

Sarah graduated from Bryn Mawr College in 2001 with a Bachelor of Arts in Political Science. She received her *juris doctorate* from the University of Maryland in 2005. During law school, Sarah was an intern with the Delaware Court of Chancery. After graduation, Sarah served as a law clerk to the Honorable Arlene Minus Coppadge and the Honorable Robert B. Coonin.

After her clerkship, Sarah went into private practice at a civil defense litigation firm where she successfully defended individuals and businesses in many jury trials in the Delaware Superior Court.

Sarah is active with local animal welfare organizations in Delaware, including the Delaware Humane Association and Faithful Friends Animal Society.

ASSOCIATIONS & MEMBERSHIPS

American Board of Trial Advocates, 2026

Delaware State Bar Association

YEAR JOINED

2014

THOUGHT LEADERSHIP

Sarah B. Cole Elected to Membership in The American Board of Trial Advocates

February 5, 2026
Sarah B. Cole, Shareholder and Managing Attorney of Marshall Dennehey's Wilmington office, has been elected to membership in the American Board of Trial Advocates (ABOTA).
Read More

98 Marshall Dennehey Attorneys Recognized in the 2026 Editions of The Best Lawyers in America® and the Best Lawyers: Ones to Watch® in America

August 20, 2025
Marshall Dennehey is proud to highlight the firm's 98 attorneys who have been recognized in the 2026 editions of The Best Lawyers in America® and the Best Lawyers: Ones to Watch® in America. Less than 6% of all practicing lawyers in the U.S.
Read More

Sarah B. Cole Elected to Marshall Dennehey's Board of Directors

January 10, 2025
Sarah B.
Read More

Six Marshall Dennehey Attorneys Selected 2024 "Top Lawyers" By Delaware Today Magazine

Health Care Liability
Lawyers' Professional Liability
General Liability
November 1, 2024
Marshall Dennehey announced today that six attorneys from its Wilmington, Delaware office have been selected 2024 "Top Lawyers" by Delaware Today magazine.
Read More

On the Pulse…Working In the "First State" – Spotlight on Wilmington

Wilmington
March 1, 2024
Wilmington, Delaware, is small but mighty. It is a city on the upswing and a great place to practice law. Defense Digest, Vol. 30, No.

CLASSES/SEMINARS TAUGHT

New Jersey Contractual Indemnity and Additional Insured Issues, Zurich Insurance, April 2015

MEDIA COMMENTARY

"What Del.'s Legal Leaders Are Keeping an Eye on For '24," *Law360*, January 4, 2024

RESULTS

Defense Jury Verdict Obtained Before the Delaware Superior Court

General Liability
October 22, 2025
We received a defense jury verdict before the Delaware Superior Court, New Castle County. Although liability was undisputed at trial, damages were disputed. The plaintiff sought damages for head, neck, back and left shoulder injuries. He had $350,000 in future medical bills and $78,000 in past medical bills that he could board. The plaintiff also had a $5 million lost wage claim that we were able to get dismissed prior to trial on a motion in limine.

Marshall Dennehey Attorneys Successfully Argue Before the Delaware Supreme Court.

General Liability
May 11, 2018
Following oral argument heard *en banc*, the Delaware Supreme Court issued an opinion upholding the application of the Continuing Storm Doctrine, resulting in the affirmation of the lower court's decision to grant summary judgment to our client.

SIGNIFICANT REPRESENTATIVE MATTERS

Defense verdict in Delaware Superior Court in a personal injury lawsuit arising out of a slip and fall at a commercial shopping center where liability and significant damages were in dispute.

Successful defense of a residential group home in relation to personal injury claims resulting in efficient and well-informed settlement of all claims prior to the filing of suit.

Defense verdict in Delaware Superior Court in a personal injury lawsuit arising out of a motor vehicle accident. Damages and liability were in dispute. The strategic defense theory presented at trial resulted in the jury awarding a sum that was vastly below the plaintiff's pre-trial demand. Thereafter, the defense successfully argued in opposition to motions for additur and for a new trial.

Defended a first-party lawsuit for underinsured motorist coverage before a jury in Delaware Superior Court. Received a defense verdict when the jury awarded damages that equated to less than what the plaintiff received from the underlying tortfeasor. Thereafter, the defense successfully argued in opposition to motions for additur and for a new trial.

Defended a hotel owner in a premises liability claim brought in Delaware Superior Court with alleged damages approaching nearly $1 million. Through the course of discovery, it was demonstrated that the hotel owner had significant defenses to the plaintiff's claims. Settled the case for a fraction of the original demand.

Defense verdict in Delaware Superior Court in a personal injury lawsuit arising out of a motor vehicle accident. After extensive expert and lay witness testimony, the jury found in favor of the defense on liability. Thereafter, the defense successfully argued in opposition to motions for additur and for a new trial. Jury's verdict upheld in both Delaware Superior Court and the Delaware Supreme Court.

James “Jim” Deel, has served as Executive Director of the Delaware Lawyers Assistance Program (DE-LAP) since March 3, 2025. In this role, he leads efforts to address the growing mental health and substance use crisis within the legal profession. DE-LAP offers confidential assistance, advocacy, and active engagement to reduce stigma and provide meaningful pathways to recovery for attorneys and judges facing challenges such as mental health issues, addiction, and grief—helping them improve both their personal well-being and professional performance.

A U.S. Marine Corps veteran with over 20 years of experience across the criminal justice, behavioral health, and public safety systems, Jim brings a trauma-informed, multi-disciplinary approach to LAP services. As an embedded clinician with two Delaware municipal police departments, he co-responded to mental health and substance-related crises—strengthening trust between law enforcement, communities, and behavioral health resources. His work emphasizes pre- and post-arrest diversion, connecting individuals to care and reducing reliance on the justice system.

Jim has responded to high-stakes incidents, including the Delaware Department of Corrections hostage crisis and the line-of-duty death of a state trooper, underscoring his commitment to supporting professionals and families affected by trauma. He is a certified Crisis Intervention and Veterans Response Team member, a Grief Recovery Specialist, and an affiliate Chaplain with the First Responder Chaplain Corps. Alongside his therapy dog, Zoey, he deploys with Crisis Response Canines to provide animal-assisted support following traumatic events.

Jim has dedicated his career to bridging the legal, law enforcement, and clinical fields. He serves on advisory boards for Delaware Council on Gambling Problems, Wilmington University’s Human Trafficking and Behavioral Science programs and continues to train professionals statewide in disaster mental health, de-escalation, and crisis intervention.