

Pennsylvania

Lawyers

Fund

for

Client

Security

2002 Membership:

William H. Lamb, Esq., *Board Chair**
Paul S. Diamond, Esq., *Board Chair***
Carl D. Buchholz, III, Esq., *Board Vice Chair+*
Zygmunt R. Bialkowski, Jr.
Derek C. Hathaway
Joseph H. Jacovini, Esq.
Beth Lang
Kelly Beaudin Stapleton, Esq.

Staff:

Kathryn J. Peifer, *Executive Director*
Lisa A. Watkins, Esq., *Counsel*
Susan L. Erdman, *Administrative Assistant*

* Appointed to the Supreme Court 1-27-03

** Appointed chair effective 2-03

+ Appointed vice chair effective 2-03

Legal Authorization:

Pa. Constitution, Article V, § 12
Pennsylvania Rules of Disciplinary Enforcement, §501 *et seq.*

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History/Background

Originally known as the Pennsylvania Client Security Fund, the Pennsylvania Lawyers Fund for Client Security was established by the Pennsylvania Supreme Court on April 30, 1982, as a means of helping clients recover some or all losses of money and/or property stolen from them by their attorneys. It is funded by a special annual assessment paid by any attorney admitted to practice law in Pennsylvania. Clients may receive up to \$75,000 for any claim.

The fund is supervised by the Pennsylvania Lawyers Fund for Client Security Board. This board includes five members of the bar of the Supreme Court and two non-lawyer public members. Each member's term is three years in length, and a member may serve a maximum of two consecutive terms. Approximately one-third of the terms expire each year.

2002 Claims Statistics

Statistics for the 2002-03 fiscal year can be found in Table 3.15.1.

The fund received 297 claims alleging a loss of \$5,089,790 during FY 2002-03. Chart 3.15.2 on page 102 is a breakdown of amounts claimed by category. Chart 3.15.3 on page 103 gives comparisons of claims awarded versus claims rejected, both in terms of numbers and dollar amounts. Chart 3.15.4 on page 104 is a comparison of claims awarded, rejected and discontinued, both cumulatively and in 2002-03.

Claims Categories

Fiduciary funds - Theft of estate funds and trust/escrow funds consistently tops the list of claims filed against attorneys. Combined, these two types of theft during FY 2002-03 cost the fund \$2,504,378, or 86.25%, of its total award dollars, settling 74 claims. Of this amount \$1,332,525 went to 31 former clients of one attorney.

<u>Claims</u>	<u>No.</u>	<u>Amount</u>
2002-03		
Awarded	171	\$2,903,591
Rejected	45	3,517,544
Discontinued	<u>16</u>	<u>212,075</u>
Total	151	\$6,633,210
Pending	214	\$4,209,163

Table 3.15.1

Lawsuit Settlement Proceeds - Claims of misappropriation of settlement proceeds often occur when an attorney settles a lawsuit without the knowledge or consent of the client. The attorney receives the funds and fails to remit them to the client. Also included in this category are claims involving attorneys who withhold funds from settlement proceeds to pay clients' medical providers and fail to make the payment/s. Payments of \$206,468 to 19 claimants fitting this category were made in 2002-03, 7.11% of the total dollars awarded. Of this, \$128,500 were paid to 14 former clients of one attorney.

Non-performance - The acceptance of unearned fees or retainers represented the third highest payment category in 2002-03 with awards to 77 claimants totaling \$117,745, 4.06% of the total dollars awarded. Of this amount, 41 former clients of one attorney received \$53,087.

Since the fund does not arbitrate fee disputes, for an award to be considered when the attorney performed any services of value, the claimant typically must first file a complaint with the local bar association's fee dispute committee. If the committee determines that all or a portion of the fees or retainer paid were not earned, and the attorney does not return the fee, the board will consider this type of claim and categorize the award as non-performance by the attorney.

Notwithstanding the award amounts reported, it should be noted that claims are filed against less than one percent of all Pennsylvania licensed attorneys.

2002 Activities

The board met in St. Davids, Pittsburgh and Philadelphia in FY 2002-03. It continued to make educating the legal community and Pennsylvania's citizens about the fund a high priority. This included hosting dinners on the eves of board meetings for the judiciary, bar leaders and prominent local citizens from in and around the counties in which the board meets.

Restitution and Subrogation Efforts

The fund received \$112,018 in restitution payments during FY 2002-03.

Mandatory Overdraft Notification

Pennsylvania Rule of Disciplinary Enforcement 221 requires financial institutions to report to the fund all checks drawn on attorney fiduciary accounts which contain insufficient funds. In 2002-03 the fund received 313 overdraft notices, 280 of which were reviewed and dismissed and 39 of which were referred to the Office of Disciplinary Counsel. No notices remained pending at the end of the fiscal year.

County Bench, Bar Meetings

The board has been holding meetings and dinners with leaders of the county benches and bars in conjunction with the board's quarterly business meetings since 1989. These meetings keep the county bench and bar leaders informed about the fund's activities, both statewide and regionally, and request the assistance of the bench and bar in carrying out the fund's mission.

To date, the fund has met with the following counties:

Allegheny County (1983, 1986-89, 1991, 1993-1998, 2000-03)
Cambria County (1998)

Centre County (1995)
Chester County (1990, 1998)
Cumberland County (1998, 2002)
Dauphin County (1984, 1985, 1989, 1991, 1993, 1996, 1997, 1999, 2001)
Delaware County (1994, 1997, 2002)
Erie County (1989, 1992, 1994, 2000)
Fayette County (1992)
Lackawanna County (1990, 1999)
Lancaster County (1990, 2000)
Lehigh County (1989)
Luzerne County (1996)
Monroe County (1992)
Montgomery County (1999)
Northampton County (1994)
Philadelphia County (1982-88, 1990-93, 1995, 1996, 1998, 2001, 2003)

Lawyers Concerned for Lawyers

With prior approval of the Supreme Court, the Pennsylvania Lawyers Fund for Client Security may provide funding to non-profit organizations that assist Pennsylvania lawyers and judges who are impaired by alcohol or drugs. In accordance with this rule, during FY 2002-03 \$240,000 of funding was given to the organization known as Lawyers Concerned for Lawyers. Such assistance complements the fund's mission to ameliorate losses resulting from attorney dishonesty as oftentimes when an attorney converts client funds, the conduct is related to substance abuse. The financial support for Lawyers Concerned for Lawyers helps to mitigate the losses by providing a resource for impaired attorneys.

National Ranking

The Pennsylvania Lawyers Fund for Client Security ranked among the top five funds in the United States in terms of claims received and processed, as determined by the American Bar Association Survey of Client Protection Funds for the years 1999-2001. The funds in California, Florida, New York and New Jersey are the other most active organizations.

Contact Person

The contact person for the fund is executive director, Kathryn J. Peifer, Esq. She

may be reached at 4909 Louise Drive, Suite 101; Mechanicsburg, PA 17055; (800) 962-4618 or (717) 691-7503. **AOPC**

Categories of Claims

Amounts Awarded - 2002-03

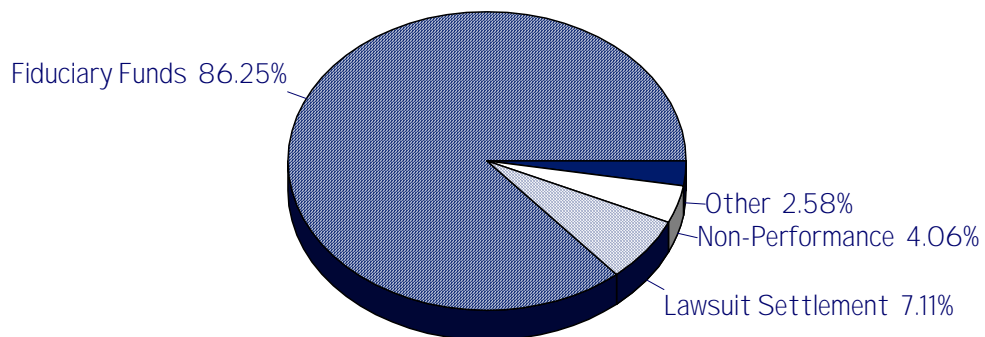


Table 3.15.2

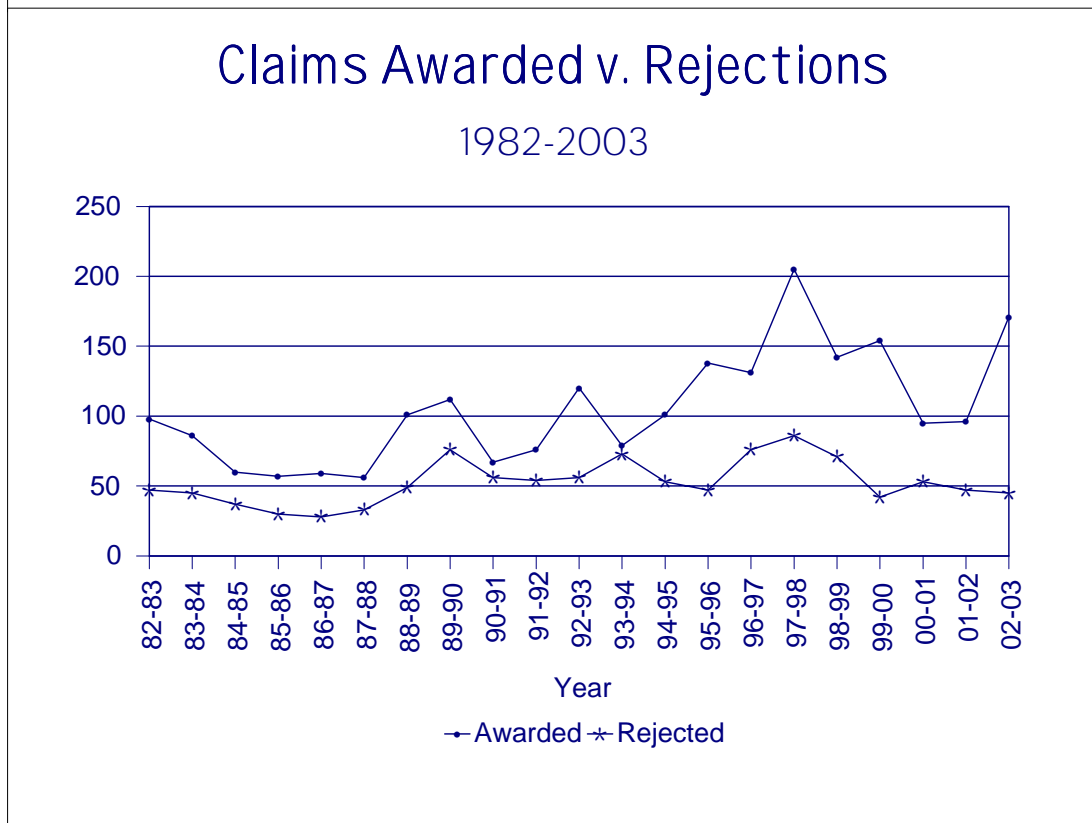
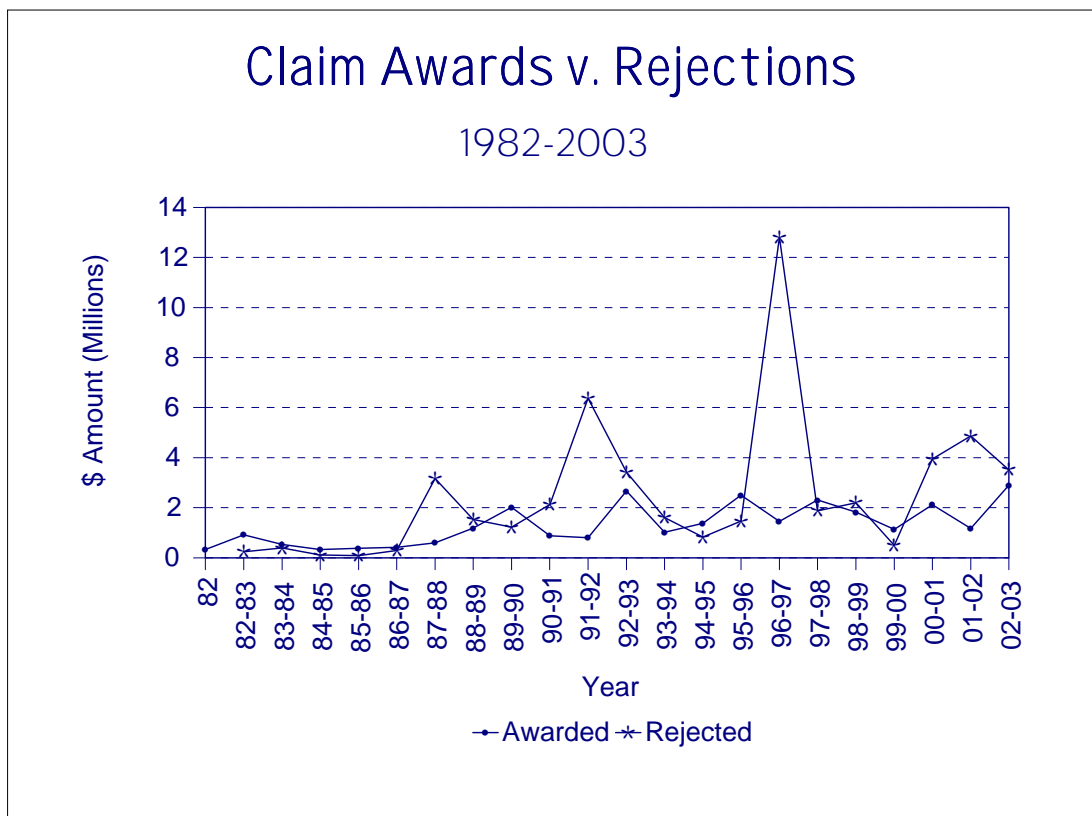
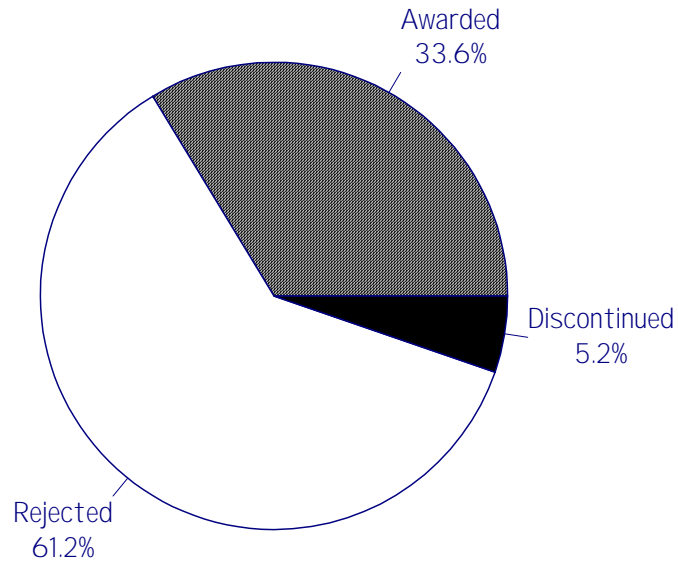


Table 3.15.3

Comparison of Claim Dispositions

Cumulative



2003

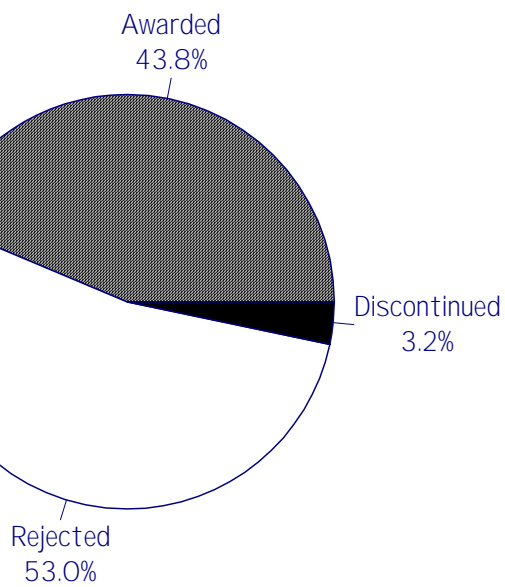


Table 3.15.4