

Pennsylvania

Lawyers

Fund

for

Client

Security

1996 Membership:

Evans Rose, Jr., Esq., *Chairman**
Richard A. Zappala, *Vice Chairman, Treasurer/Chairman***
Robert L. Capoferri, *Vice Chairman+*
Honorable Maxwell E. Davison
Jan R. Van Gorder, Esq.
Carl E. Esser, Esq.
George J. Amonitti, M.D.

Staff:

Arthur R. Littleton, Esq., *General Counsel*
Tricia W. Nagel, *Executive Director++*
Kathryn J. Peifer, *Executive Director#*
Susan Erdman, *Secretary*

- * Appointment as Chairman expired 4-15-97
- ** Appointed Chairman 4-16-97
- + Appointed Vice Chairman 5-15-97
- ++ Resigned 5-97
- # Effective 5-97

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 \$50,000 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.

1996 Claims Statistics

Although the board met only three times in the 1995-1996 fiscal year, it adjudicated the greatest number of claims ever for the fund. Statistics are as follows:

<u>Claims</u>	<u>No.</u>	<u>Amount</u>
Awarded	101	\$1,381,438
Rejected	53	1,472,905
Discontinued	20	239,783
TOTAL	174	3,094,126
Pending	94	

Table 3.12.1

The fund received 215 claims during fiscal year 1995-96, the second highest in its history. The highest ever received was 245 claims filed in 1994-95.

Chart 3.12.2 on page 90 is a breakdown

of amounts claimed by category. Charts 3.12.3 and 3.12.4 on page 91 give comparisons of claims awarded versus claims rejected, both in terms of numbers and dollar amounts. Chart 3.13.5 on page 92 is a comparison of claims awarded, rejected and discontinued, both cumulatively and in 1996.

The timely processing of claims filed against attorneys normally takes from six to nine months. With the sudden increase in the number of claims, however, this period has increased to nearly twelve months. The assistance provided by the Office of Disciplinary Counsel of the Disciplinary Board has been invaluable in keeping the fund board's response time as brief as possible.

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 the 1995-96 fiscal year cost the fund \$2,028,506.82, or 81.2%, of total award dollars. Eighty-five claims were paid alleging attorney theft from estate or trust/escrow monies.

Fraud and deceit - Although only five claims in this category were paid during 1995-96, the category ranks as the second highest in award dollars, with \$232,500, or 9%, of total dollars awarded.

Claims involving fraud and deceit often occur where an attorney induces a client to permit him/her to hold the client's monies for a certain period of time with the promise of interim interest payments and/or immediate access to the monies. Interest payments are then either not made and/or access is not provided when requested, or an attorney abuses the trust placed in him/her by obtaining a loan from a client, not repaying it and never intending to repay it.

Lawsuit Settlement Proceeds - The embezzlement of lawsuit settlement proceeds represents the third highest payment category with awards for ten claims totaling \$139,939.53, six percent of the fund's total dollar awards for the fiscal year. This figure is a significant reduction from the previous year's awards, which totaled 14.6% of client dollar losses.

1996 Activities

The board met in State College, Pittsburgh and Harrisburg in 1996. Because of the move of the fund's office from Philadelphia to Mechanicsburg in October 1995, along with adverse weather conditions, a fourth meeting was eliminated.

New Pennsylvania Rule of Disciplinary Enforcement (Pa. R.D.E.) 221, bringing mandatory overdraft notification to Pennsylvania, went into effect on March 1, 1996. The fund received 30 overdraft notices in the first year, which resulted in five attorneys receiving referrals to the Office of Disciplinary Counsel. The remaining 25 files were reviewed and the incidents dismissed as having satisfactory explanations.

The fund's subrogation efforts in its lawsuit against a financial institution in Delaware County resulted in a settlement recovery in the amount of \$450,000. Settlement was deemed appropriate in this matter by the board due to substantial difficulties which the fund would have had in successfully meeting its burden of proof at trial.

The fund is currently involved in no other major litigation in which it has chosen to exercise its subrogation rights, although it is considering litigation in one forgery matter involving \$45,000.

Finally, the board continued to make educating the legal community about the fund a high priority in 1996. This included hosting dinners on the eves of board meetings for the *PENNSYLVANIA LAWYERS FUND FOR CLIENT SECURITY*

judiciary and bar leaders in and around the counties in which the board meets.

County Bench, Bar Meetings

The board has been holding meetings 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 (1989, 1991-1996)
 Beaver County (1991)
 Berks County (1989)
 Bucks County (1990)
 Butler County (1991)
 Carbon County (1992)
 Chester County (1990, 1994)
 Dauphin County (1989, 1994, 1996)
 Delaware County (1990)
 Erie County (1989, 1992, 1994)
 Fayette County (1992)
 Greene County (1992)
 Lackawanna County (1990)
 Lancaster County (1990)
 Lebanon County (1989, 1990, 1996)
 Lehigh County (1989, 1994)
 Luzerne County (1990, 1992)
 Monroe County (1990, 1992)
 Montgomery County (1990)
 Northampton County (1989)
 Philadelphia County (1989-1993, 1995)
 Pike County (1990, 1992)
 Somerset County (1992)
 Susquehanna County (1990)
 Washington County (1990-1992)
 Wayne County (1990)
 Westmoreland County (1990, 1992)
 York County (1990)

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 the 1996 fiscal year, \$114,081 of funding was given to the organization known as Lawyers Concerned for Lawyers.


National Ranking

The Pennsylvania Lawyers Fund for Client Security continues to rank among the top four funds in the United States in terms of both awards made and claims processed, as determined through the most recent American

Bar Association Survey of Client Protection Funds. The funds in California, New York and New Jersey are the other most active organizations.

Pennsylvania attorneys should note the extent of their fund's operations and that it provides meaningful services to the profession in return for that portion of the annual lawyer assessment fee, which each active attorney contributes to its funding.

Contact Person

The contact person for the fund is executive director, Kathryn J. Peifer. She may be reached in care of the fund at 5035 Ritter Road, Suite 900; Mechanicsburg, PA 17055; (800) 962-4618 or (717) 691-7503. 

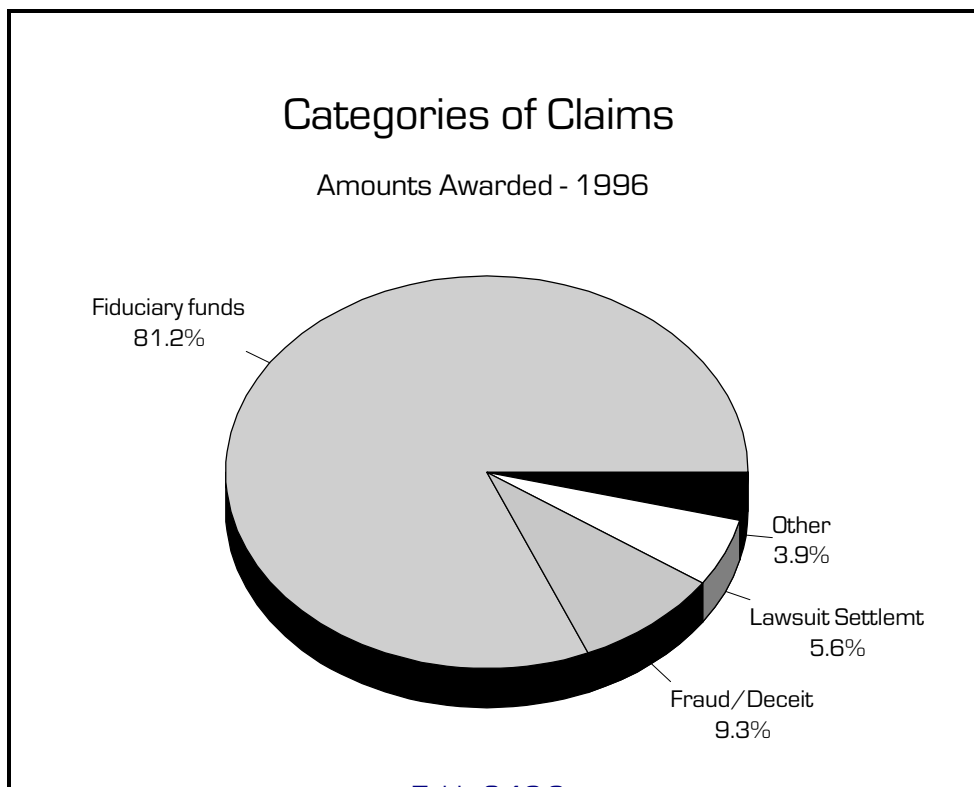


Table 3.12.2

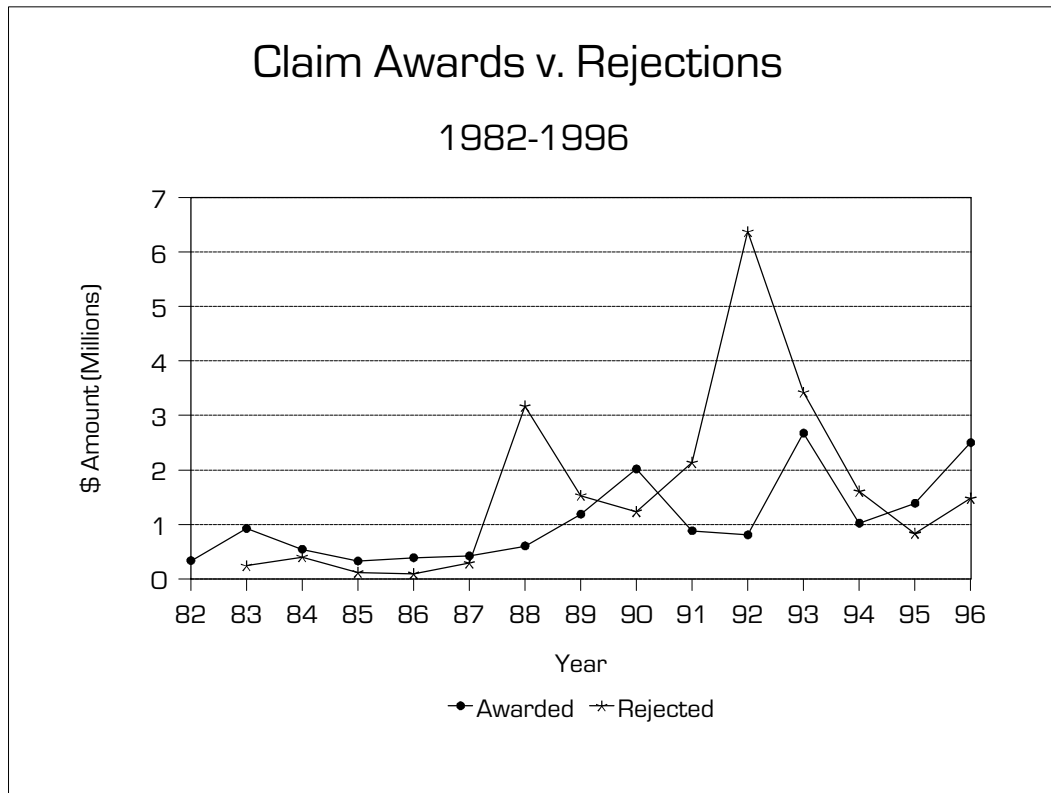


Chart 3.12.3

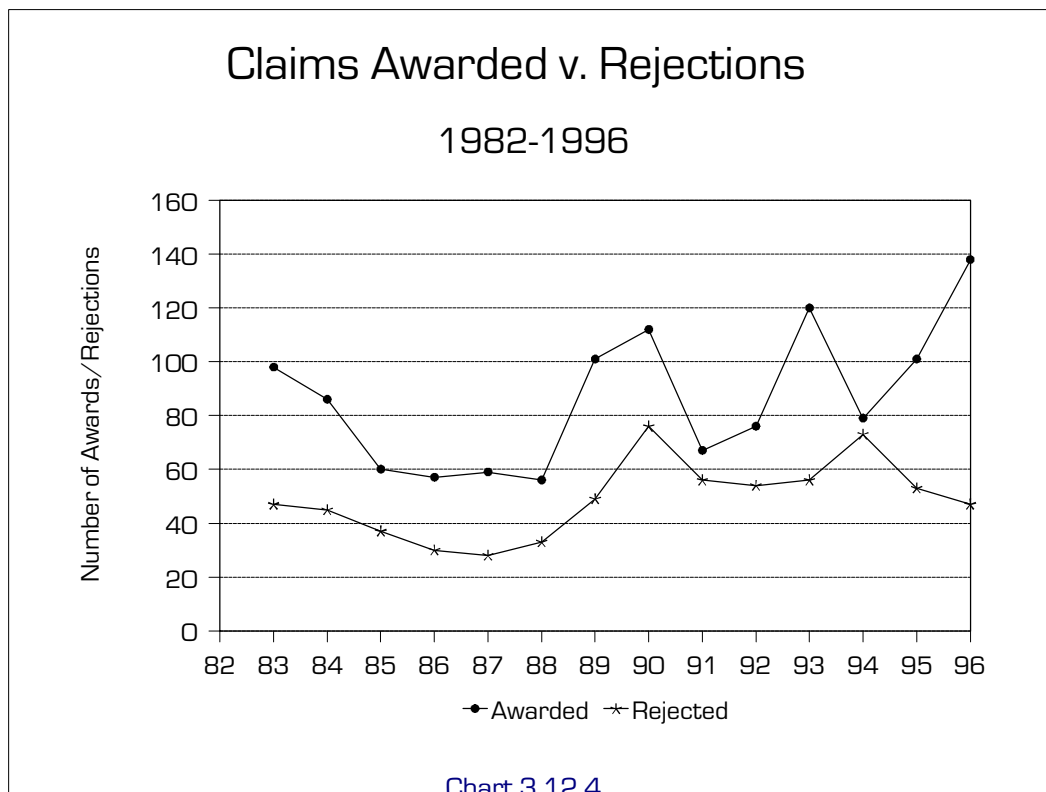
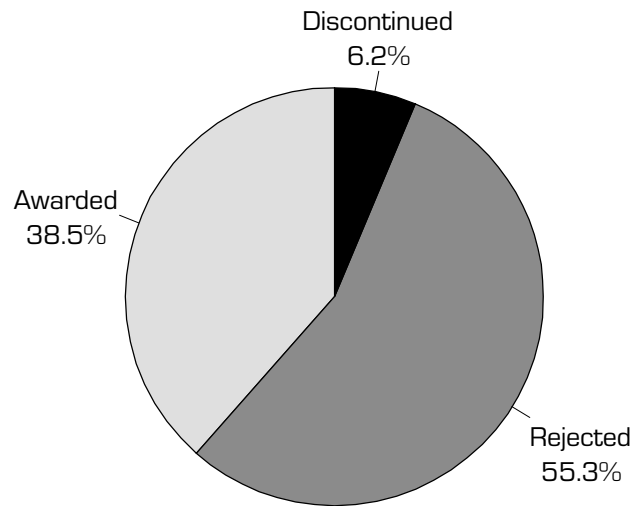


Chart 3.12.4

Comparison of Claim Dispositions

1982-1996



1996

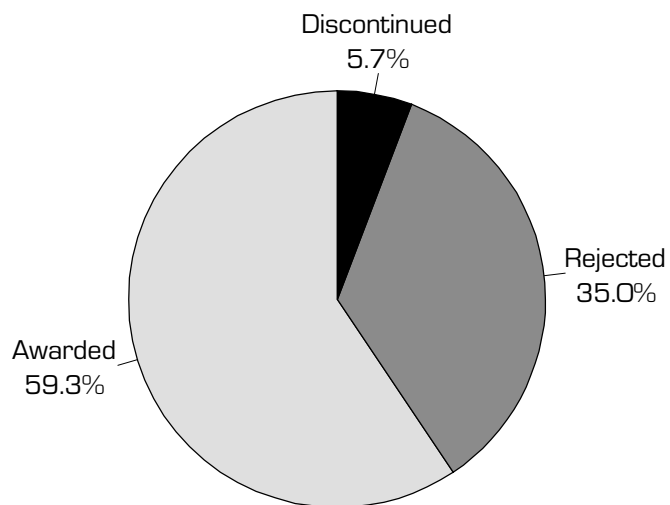


Table 3.12.5