

Pennsylvania

Lawyers

Fund

for

Client

Security

2001 Membership:

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

Staff:

Kathryn J. Peifer, *Executive Director*
Paul J. Killion, Esq., *Counsel*
Arthur R. Littleton, Esq., *Counsel Emeritus**
Susan L. Erdman, *Administrative Assistant*

* Died 7-23-02

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.

2001 Claims Statistics

Statistics for the 2001-02 fiscal year can be found in Table 3.15.1.

The fund received 197 claims alleging a loss of \$7,998,583 during FY 2001-02. Chart 3.15.2 on page 100 is a breakdown of amounts claimed by category. Chart 3.15.3 on page 101 gives comparisons of claims awarded versus claims rejected, both in terms of numbers and dollar amounts. Chart 3.15.4 on page 102 is a comparison of claims awarded, rejected and discontinued, both cumulatively and in 2001-02.

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 2001-02 cost the fund \$685,503, or 58.64%, of its total award dollars, settling 38 claims.

| <u>Claims</u> | <u>No.</u> | <u>Amount</u> |
|---------------|------------|--------------------|
| 2001-02 | | |
| Awarded | 96 | \$1,168,973 |
| Rejected | 47 | 4,870,666 |
| Discontinued | 8 | 1,2738 |
| Total | 151 | \$6,052,377 |
| Pending | 128 | \$8,079,683 |

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 \$250,375 to 18 claimants fitting this category were made in 2001-02, 21.42% of the total dollars awarded.

Fraud and deceit - The conversion of funds through fraudulent representations or activities by the attorney represented the third highest payment category in 2001-02 with awards to three claimants totaling \$160,000, or 13.69% of the total dollars awarded.

Claims involving fraud and deceit often occur where an attorney requests a loan from a client or agrees to hold and invest settlement funds on behalf of the client, then converts the funds for personal use. The types of claims which typically fall into this category are those where a long-standing attorney/client relationship has existed. They tend to be the most difficult to evaluate.

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

2001 Activities

The board met in Harrisburg, Pittsburgh and Mechanicsburg in FY 2001-02. 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 \$89,208 in subrogation and restitution payments during FY 2000-01.

Mandatory Overdraft Notification

Pennsylvania Rules of Disciplinary Enforcement 221 requires financial institutions to report to the fund all checks drawn on attorney fiduciary accounts which contain insufficient funds. In 2001-02 the fund received 252 overdraft notices, 226 of which were reviewed and dismissed and 20 of which were referred to the Office of Disciplinary Counsel (ODC). Six 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, 2000-02)
 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)
 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)

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 2001-02 \$150,000 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 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.

Contact Person

The contact person for the fund is executive director, Kathryn J. Peifer. She may be reached in care of the fund at 4909 Louise Drive, Suite 101; Mechanicsburg, PA 17055; (800) 962-4618 or (717) 691-7503. **AOPC**

Categories of Claims

Amounts Awarded - 2001-02

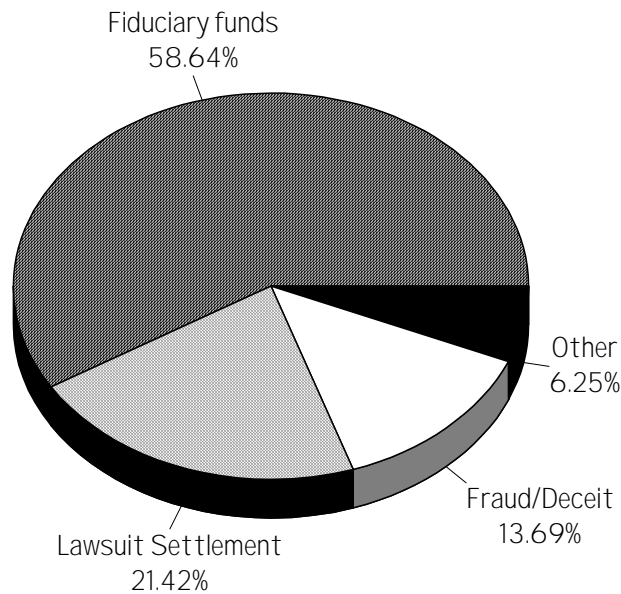


Table 3.15.2

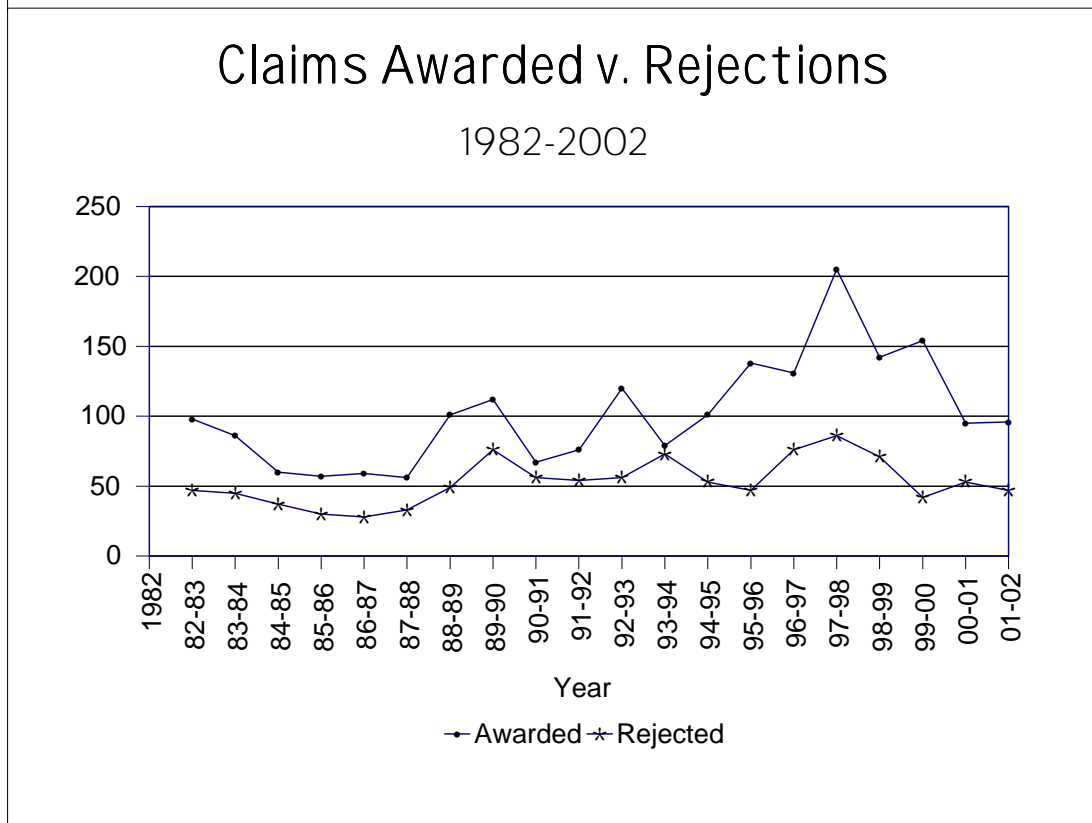
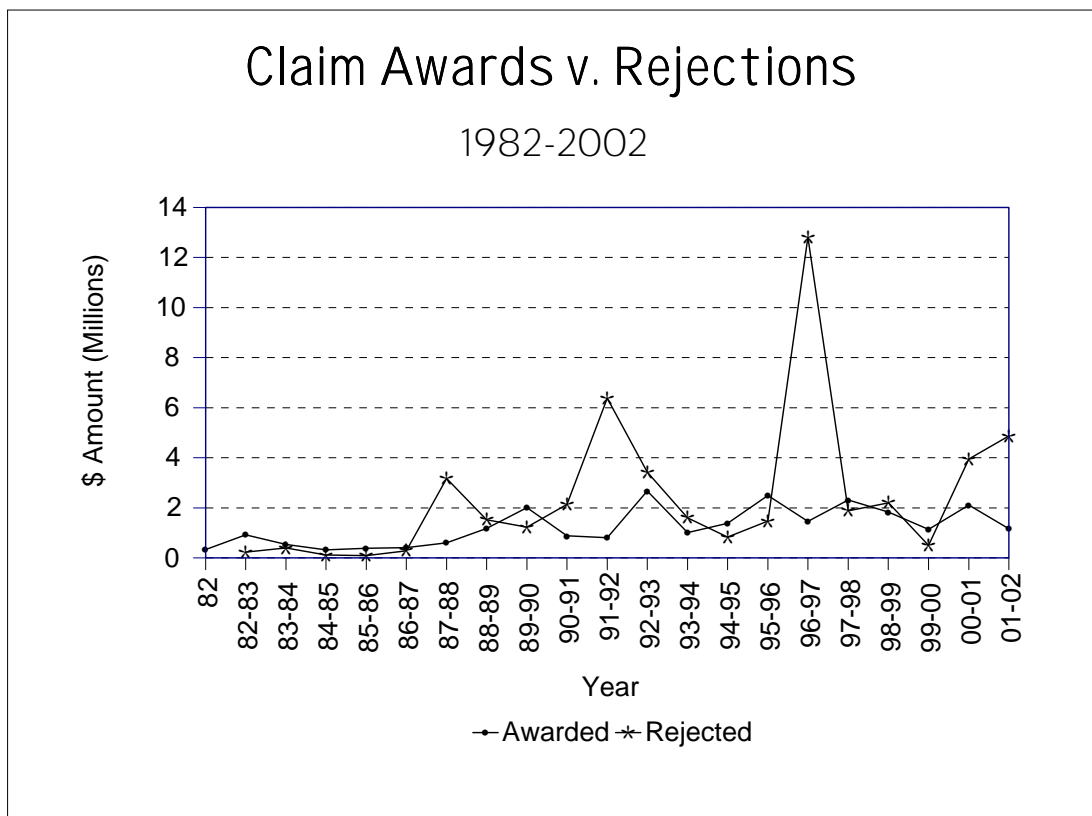
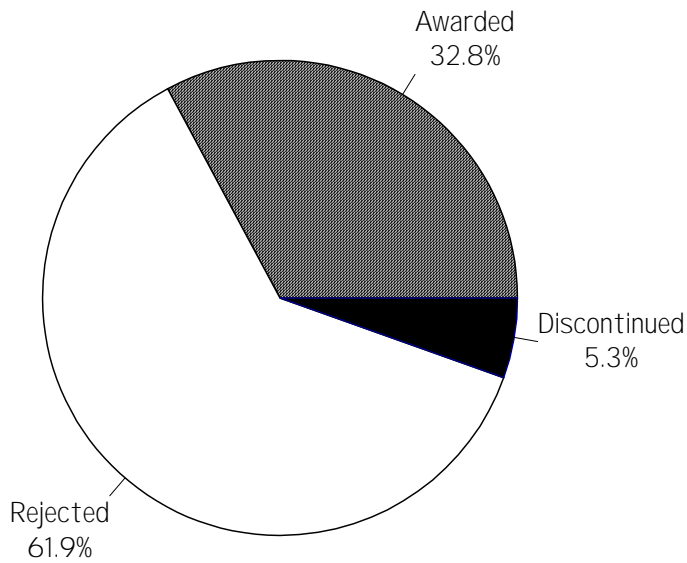


Table 3.15.3

Comparison of Claim Dispositions Cumulative



2002

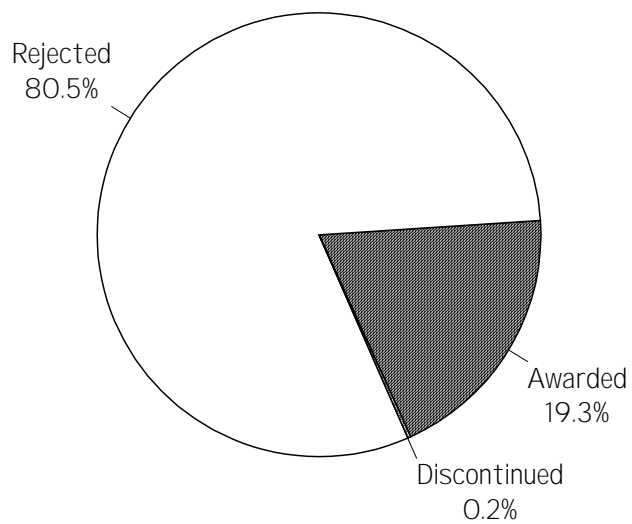


Table 3.15.4