

1999 Membership:

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Stuart D. Fiel, Esq.
Derek C. Hathaway
Evans Rose, Jr., Esq.
Barry M. Simpson, Esq.
Richard A. Zappala, Esq.*

Staff:

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

- * Term expired 4-1-99
- ** Effective 4-1-00
- + Appointed chairman 4-1-00

Legal Authorization:

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

Pennsylvania

Lawyers

Fund

for

Client

Security

5035 Ritter Road,
Suite 900
Mechanicsburg, PA 17055
(717) 691-7503
(800) 962-4618
fax (717) 691-9005

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.

1999 Claims Statistics

Statistics for the 1999-2000 fiscal year can be found in Table 3.14.1.

The fund received 166 claims alleging a loss of \$4,574,201 during FY 1999-2000. Chart 3.14.2 on page 104 is a breakdown of amounts claimed by category. Chart 3.14.3 on page 105 gives comparisons of claims awarded versus claims rejected, both in terms of numbers and dollar amounts. Chart 3.14.4 on page 106 is a comparison of claims awarded, rejected and discontinued, both cumulatively and in 1999-2000.

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 1999-2000 cost the fund \$516,721, or 45.54%, of its total award dollars, settling 38 claims.

<u>Claims</u>	<u>No.</u>	<u>Amount</u>
1999-2000		
Awarded	154	\$1,134,769
Rejected	42	498,136
Discontinued	14	43,600
Total	210	\$1,676,505
Pending	68	\$4,444,540

Table 3.14.1

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. Payment of \$273,949 to 22 claimants fitting this category were made in 1999-2000, 24.14% of the total dollars awarded.

Non-performance - The acceptance of unearned fees or retainers represented the third highest payment category in 1999-2000 with awards to 86 claimants totaling \$176,756, or 15.58% of the total dollars awarded.

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.

1999 Activities

The board met in West Conshohocken, Pittsburgh and Erie in FY 1999-2000. It continued to make educating the legal community 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 \$129,241 in subrogation and restitution payments during FY 1999-2000.

In FY 1998-99, the fund received \$600,000 in settlement of the fund's claim against a constructive trust pursuant to an orphans' court decision. This amount represented approximately one-half of the awards paid by the fund as a result of the covered attorney's actions.

Two other claimants in the constructive trust proceedings who were denied recovery by the orphans' court appealed to the Pennsylvania Superior Court. The Superior Court remanded the matter back to the orphans' court. The fund and other parties to the action appealed the decision of the Superior Court to the Supreme Court of Pennsylvania. This appeal was unsuccessful, which resulted in a settlement agreement among all claimants to the constructive trust. Under the terms of the settlement, the fund will be required to disgorge \$135,000 of the \$600,000. It is anticipated that the amount will be paid 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 1999-2000 the fund received 216

overdraft notices, 188 of which were reviewed and dismissed and 18 of which were referred to the Office of Disciplinary Counsel (ODC). Ten remained pending at the end of the fiscal year.

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 (1983, 1986-89, 1991, 1993-1998)
- Cambria County (1998)
- Centre County (1995)
- Chester County (1990, 1998)
- Cumberland County (1998)
- Dauphin County (1984-85, 1989, 1991, 1993, 1996, 1997, 1999)
- Delaware County (1994, 1997)
- Erie County (1989, 1992, 1994)
- Fayette County (1992)
- Lackawanna County (1990, 1999)
- Lancaster County (1990)
- Lehigh County (1989)
- Luzerne County (1996)
- Monroe County (1992)
- Montgomery County (1999)
- Northampton County (1994)
- Philadelphia County (1982-88, 1990-93, 1995-96, 1998)

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 1999-2000 \$99,440 of funding was given to the organization known as Lawyers Concerned for Lawyers.

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.

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 5035 Ritter Road, Suite 900; Mechanicsburg, PA 17055; (800) 962-4618 or (717) 691-7503. 

Categories of Claims

Amounts Awarded - 1999-2000

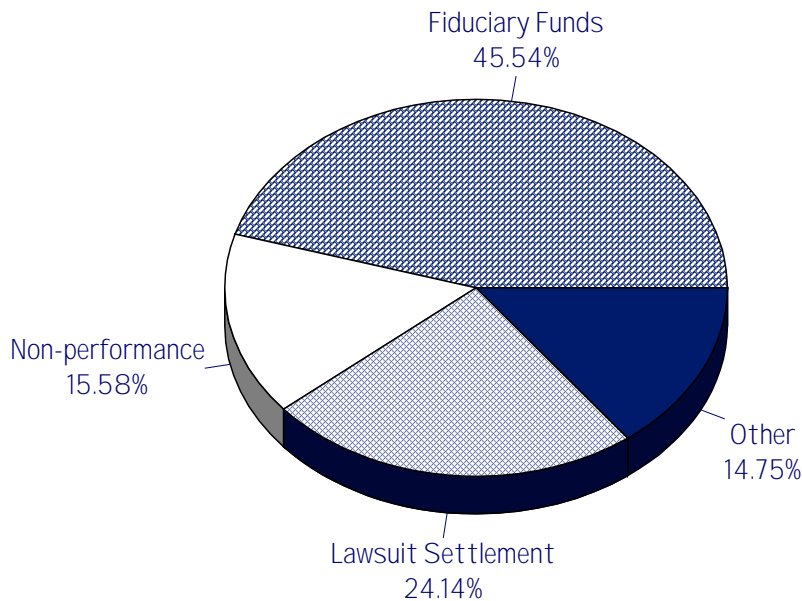
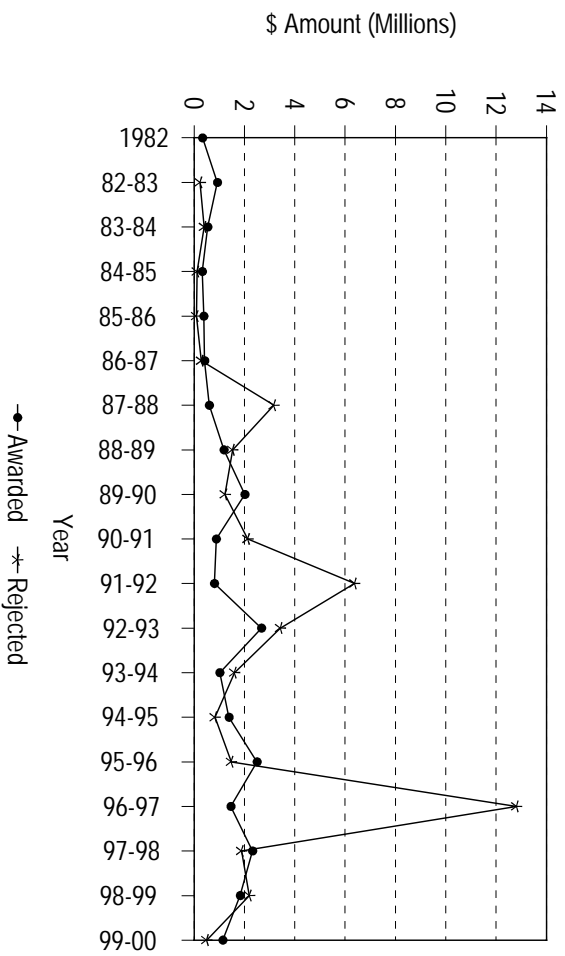


Table 3.14.2

Claim Awards v. Rejections

1982-2000



Claims Awarded v. Rejections

1982-2000

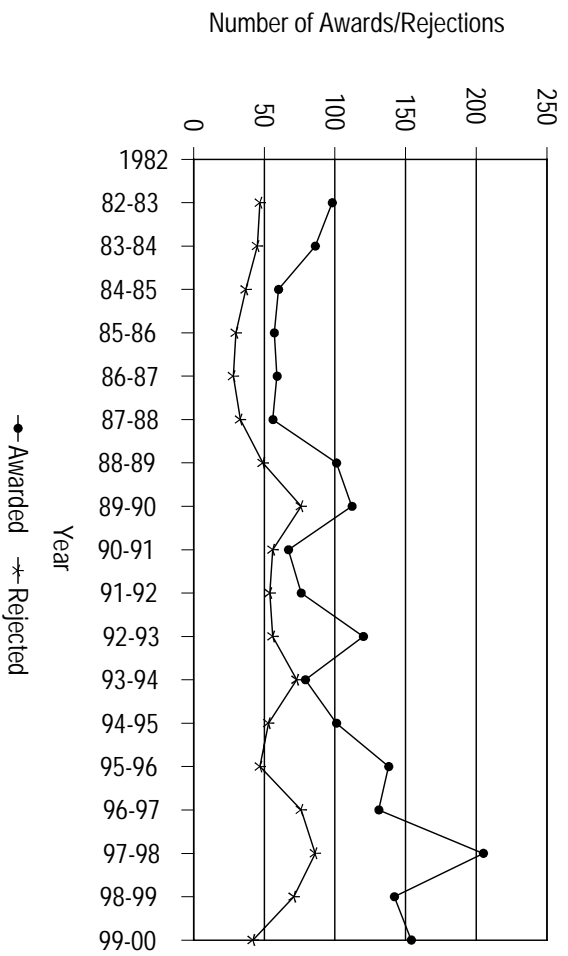
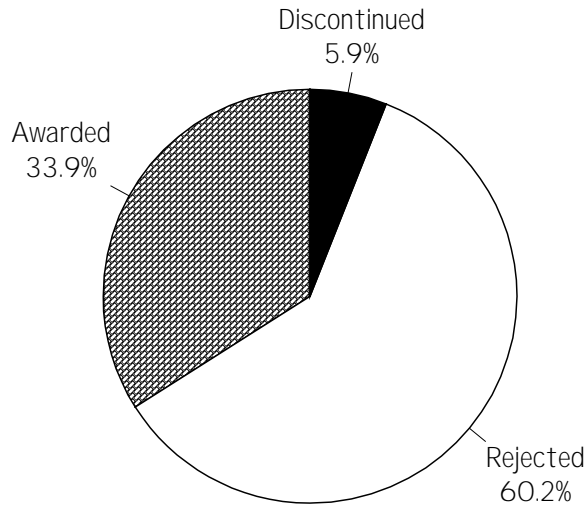


Table 3.14.3

Comparison of Claim Dispositions

Cumulative



1999-2000

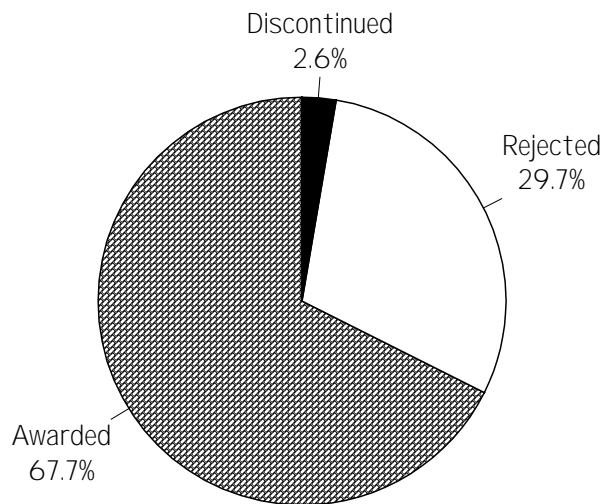


Table 3.14.4