

Pennsylvania

Lawyers

Fund

for

Client

Security

2000 Membership:

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Robert L. Capoferri, *Chairman***
William V. Lamb, Esq., *Chairman++*
Paul S. Diamond, Esq., *Vice Chairman#*
Carl D. Buchholz, III
Stuart D. Fiel, Esq.+
Derek C. Hathaway
Joseph H. Jacovini, Esq.
Beth Lang
Barry M. Simpson, Esq.

Staff:

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

- * Term expired 4-1-00
- ** Appointed chairman 4-1-00; term expired 4-1-01
- + Died 7-00
- ++ Appointed chairman 4-1-01
- # Appointed vice chairman 4-1-01

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.

2000 Claims Statistics

Statistics for the 2000-01 fiscal year can be found in Table 3.14.1.

The fund received 143 claims alleging a loss of \$9,524,417 during FY 2000-01. Chart 3.14.2 on page 100 is a breakdown of amounts claimed by category. Chart 3.14.3 on page 101 gives comparisons of claims awarded versus claims rejected, both in terms of numbers and dollar amounts. Chart 3.14.4 on page 102 is a comparison of claims awarded, rejected and discontinued, both cumulatively and in 2000-01.

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 2000-01 cost the fund \$1,477,122, or 69.87%, of its total award dollars, settling 41 claims.

<u>Claims</u>	<u>No.</u>	<u>Amount</u>
2000-01		
Awarded	95	\$2,114,156
Rejected	53	3,953,732
Discontinued	17	269,600
Total	165	\$6,337,488
Pending	69	\$7,211,779

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 \$372,695 to 12 claimants fitting this category were made in 2000-01, 17.63% of the total dollars awarded.

Non-performance - The acceptance of unearned fees or retainers represented the third highest payment category in 2000-01 with awards to 33 claimants totaling \$190,121, or 8.99% 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.

2000 Activities

The board met in Lancaster, Pittsburgh and Philadelphia in FY 2000-01. 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 \$45,140 in subrogation and restitution payments during FY 2000-01.

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 was required to disgorge \$132,500 of the \$600,000. It did this in October 2000.

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 2000-01 the fund received 259 overdraft notices, 241 of which were reviewed

and dismissed and 28 of which were referred to the Office of Disciplinary Counsel (ODC). 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)
 Cambria County (1998)
 Centre County (1995)
 Chester County (1990, 1998)
 Cumberland County (1998)
 Dauphin County (1984, 1985, 1989, 1991, 1993, 1996, 1997, 1999)
 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)

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 2000-01 \$150,000 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 4909 Louise Drive, Suite 101; Mechanicsburg, PA 17055; (800) 962-4618 or (717) 691-7503. 

Categories of Claims

Amounts Awarded - 2000-01

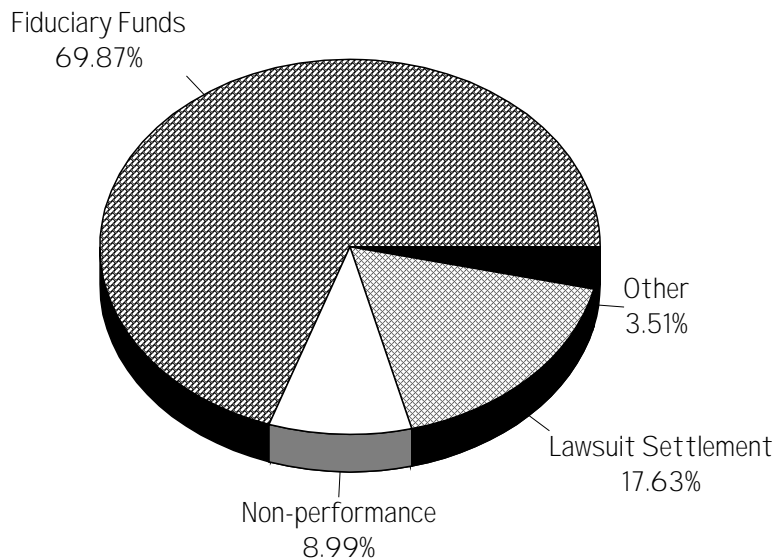


Table 3.14.2

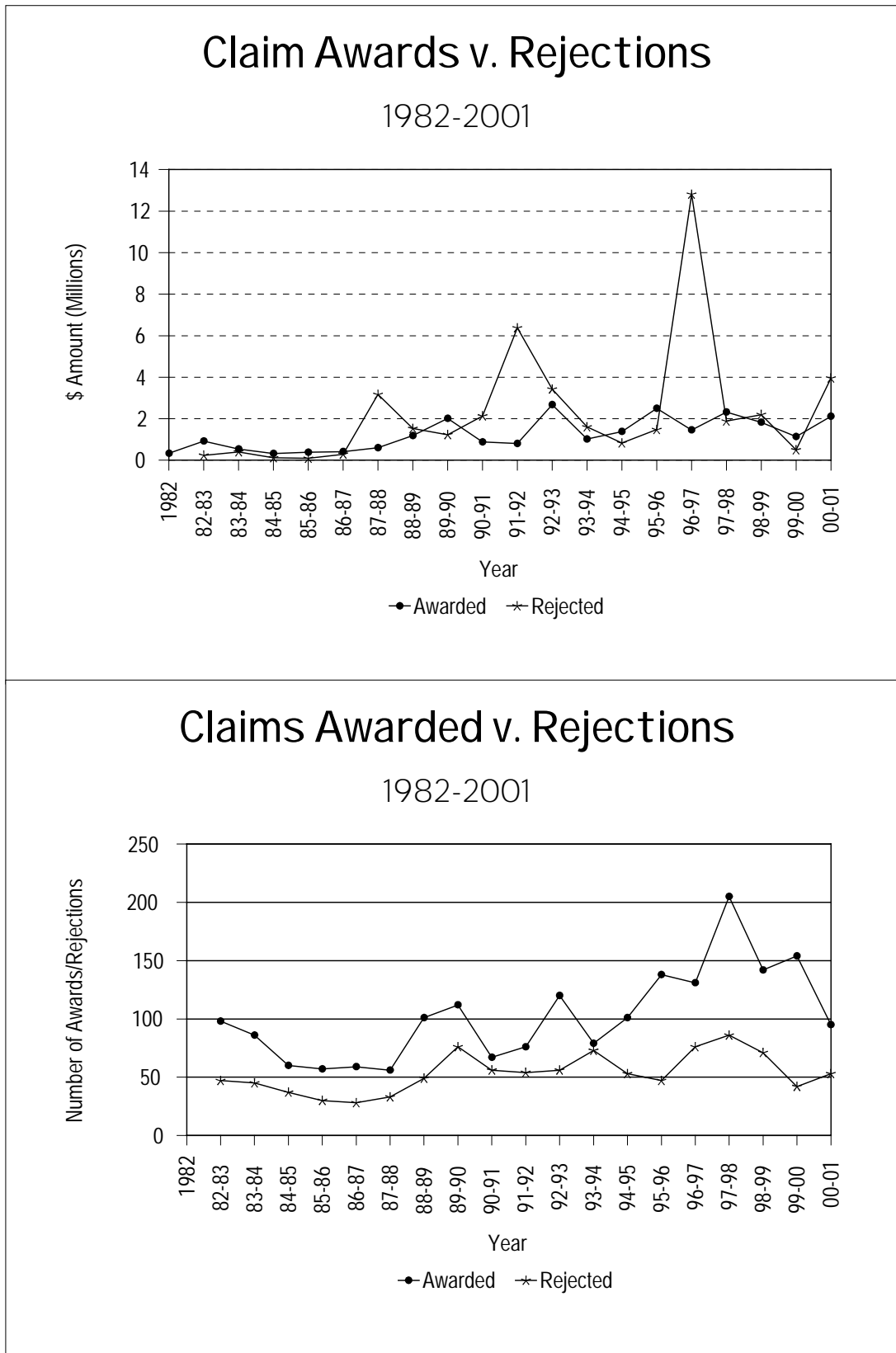
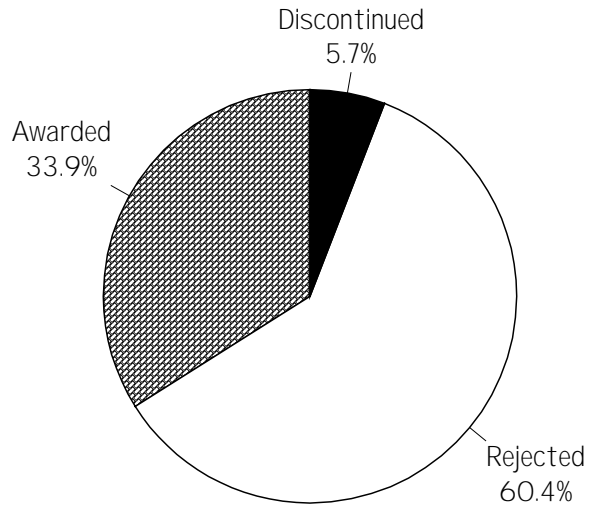


Table 3.14.3

Comparison of Claim Dispositions

Cumulative



2000-01

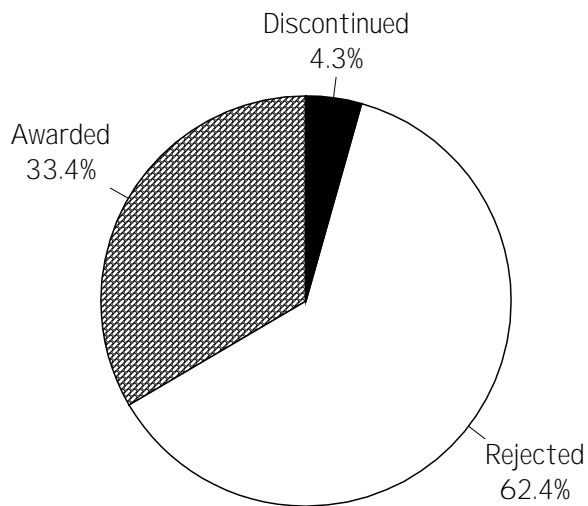


Table 3.14.4