

Attorney Ethics & Professional Misconduct

As any professional knows, dedication to one's practice and clients is not always enough to avoid investigation for professional misconduct or unethical behavior. Occasionally, miscommunication or mismanaged client expectations motivate a client to file a grievance that turns out to be unfounded. Even when a complaint or grievance is found to be without basis, responding to allegations is disruptive to professional life and practice.

Our attorneys are earnest in their observance of the rules of professional conduct and in upholding the highest ethical standards. As a result, many of the firm's attorneys have served on Bergen County's and other regional ethics committees.

Our adherence to a strict code of professional ethics and our experience within New Jersey's attorney disciplinary system position us to astutely represent attorneys facing disciplinary charges before district ethics committees, special ethics masters, the Disciplinary Review Board, and the Supreme Court of New Jersey. The firm also represents other professionals before various governing or disciplinary bodies, including the New Jersey State Board of Medical Examiners, and represents professionals in defending against civil allegations of misconduct.

Many of our attorneys have actively served on numerous bar association and Supreme Court-appointed committees, including the Supreme Court Committee on Judicial Performance, the Disciplinary Review Board, the Bergen County Fee Arbitration Committee, the Civil Practice Rules Committee, the Supreme Court Committee on Complementary Dispute Resolution, the Judicial and Prosecutorial Appointments Committee, and the Professional Responsibility Rules Committee.

In light of our exceptional and long-standing reputation for the highest ethical standards, our attorneys are also retained as expert witnesses and consultants in matters of legal ethics.

Representative Matters

- Representing two attorneys brought up on ethics charges by the New Jersey Office of Attorney Ethics (OAE) for allegedly instructing a paralegal to "friend" a represented adversary on Facebook in an underlying personal injury case, the first time that any New Jersey court has opined on issues pertaining to the application of our rules of ethics to the social media.

The adversary in that matter filed charges against the attorneys before the District II-B Ethics Committee (DEC), who reviewed the grievance, and determined that the attorneys' conduct did not amount to a violation of the Rules of Professional Responsibility. After the DEC dismissed the grievance, the adversary's attorney demanded that the OAE review and reverse the DEC's decision. The OAE docketed and investigated the matter and filed charges against the attorneys. Following a five-year litigation, from the trial court to the Supreme Court, to resolve a novel procedural

issue concerning the scope of the OAE's authority to investigate and prosecute attorney grievances, the matter was ultimately remanded for an ethics hearing. The case proceeded to an ethics hearing before a Special Master, during which the OAE voluntarily dismissed the case against one of the attorneys. Following a complete trial as to the second attorney, the Special Master issued a decision dismissing all charges in their entirety, holding that the OAE failed to establish by clear and convincing evidence any violation of the RPCs. The OAE has appealed the Special Master's decision to the Disciplinary Review Board (DRB). Following briefing and oral argument, a four-member majority of the DRB reversed the Special Master's decision, finding that the attorney's conduct violated the RPCs and imposed an admonition. That decision was not unanimous, as five DRB members dissented in three separate opinions. On behalf of the client, Pashman Stein filed a Petition for Review with the Supreme Court. The Supreme Court reversed the DRB's plurality decision, held that the Office of Attorney Ethics failed to establish by clear and convincing evidence that Respondent violated the RPCs, and dismissed the disciplinary charges against him. The Court credited the Special Master's findings concerning Respondent's good faith misunderstanding regarding the nature of Facebook, noting the infancy of Facebook when the conduct occurred in 2008, but otherwise held that in today's world, attorneys have a duty to acquaint themselves with social media platforms to ensure permissible uses of online research.

- Regularly represent attorneys and law firms seeking assistance in navigating conflicts of interest.
- Regularly work on behalf of attorneys with serious bookkeeping errors to ensure that any audits and ensuing ethics proceedings are professionally handled and any discipline mitigated.
- Achieved dismissal of an ethics proceeding against a lawyer charged with allegedly directing payments to him of additional compensation from his law firm without his partners' knowledge.
- In an ethics proceeding where the client was charged with knowing misappropriation of funds and disbarment was sought, achieved dismissal of the most serious charges on the eve of the hearing and a stipulation for a reprimand.
- Represented a lawyer in an ethics proceeding involving an alleged forgery of a document submitted in connection with a legal representation. The matter resulted in a reprimand.
- Represented a prominent nationally recognized trial law firm in a fee dispute with another law firm. Arbitration resulted in a mutually agreeable confidential resolution.
- Obtained a successful settlement on behalf of a prestigious New Jersey law firm in a fee dispute in which that firm's client refused to pay its contingency fee after a decade-long legal battle.
- In a case of first impression, successfully obtained from the New Jersey Supreme Court an order reinstating the license of a previously disbarred attorney two years after the court found the attorney had knowingly misappropriated funds from an elderly client.