



Ohio Board of Professional Conduct

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TO: Disciplinary Counsel, Bar Counsel, Certified Grievance Committees, and Respondents' Counsel

FROM: Rick Dove

DATE: April 2021

RE: Bimonthly Update

April Board Meeting

The Board of Professional Conduct met on April 9. The Board approved [nine case reports](#) that were filed with the Supreme Court and distributed to the parties the afternoon of April 9. The Board's next meeting is set for June 11.

The Board has just 32 pending cases, six of which have been heard. The Board has opened eight new cases thus far in 2021, compared to 19 cases at the same point in both 2019 and 2020.

Advisory Opinions

The Board approved two advisory opinions on April 9. [Adv. Op. 2021-2](#) replaces Adv. Op. 2001-3 and provides updated advice on securing a loan for litigation expenses. [Adv. Op. 2021-3](#) advises on the propriety of a lawyer representing a his closely-held corporation in a private arbitration.

Advisory Opinion Subscription Service

This month, the Board launched a new advisory opinion subscription service. This service automates the process of maintaining the advisory opinion distribution list and distributing advisory opinions. The Board will continue to distribute opinions to the organizations listed in Board Proc. Reg. 15; however, individuals who wish to receive new and reissued advisory opinions must subscribe via the Board's [advisory opinion page](#). Advisory opinions are typically released the week after the Board's bimonthly meeting.

Probable Cause Deadlines

The next two deadlines for the submission of probable cause materials are April 23 and May 28. These deadlines are established for the purposes of facilitating the submission of probable cause materials to the panels and allowing the panel members to set aside time, in advance, to conduct the probable cause reviews.

Stark County Bar Association v. Kelley

I rarely comment on disciplinary decisions outside of CLE presentations. However, I am making an exception regarding a recent decision from the Court in the case of [Stark County Bar Association v. Kelley](#) decided by the Supreme Court on March 16.

The respondent in *Kelley* was charged with multiple rule violations after he abandoned 15 clients as a result of his substance use and mental disorders. On their face, the allegations of misconduct suggested an actual suspension and perhaps even disbarment as the appropriate sanction. However, the respondent obtained medical and psychiatric assistance and presented significant mitigation evidence to the Board hearing panel. The result of the case was imposition of a fully stayed suspension with conditions to ensure the respondent's continued sobriety and recovery and his proper practice of law.

Most notable about this case is the intervention and action of the Stark County legal community. Upon learning of Kelley's abandonment of his clients, a local lawyer took possession of the respondent's client files and contacted several lawyers. These lawyers immediately assumed responsibility for the abandoned client matters and did so on a pro bono basis. Only after these lawyers took action to protect the interests of Kelley's clients did the Stark County grievance committee initiate an investigation that resulted in the filing of a formal complaint. The grievance committee and its bar counsel, Rich Milligan, worked collaboratively with the respondent to reach extensive stipulations, including the withdrawal of certain alleged rule violations, and the parties filed a joint post-hearing brief in support of the agreed sanction of a two-year, stayed suspension.

The actions of the Stark County lawyers, grievance committee, and bar counsel represent the very best of our profession and a salutary example of how the disciplinary process should work when the principles of public protection and redemption are placed at the forefront. Many lawyers stepped up to protect the interests of 15 abandoned clients and did so without any expectation of remuneration. Faced with facts that could have dictated a different approach and yielded a different outcome, the grievance committee and bar counsel acted with fairness and compassion and presented to the Board and Supreme Court a sanction recommendation that protects the public and encourages the respondent-attorney's continued commitment to recovery.

Kudos to Rich Milligan and his colleagues in Stark County for a job well done!