



NEW JERSEY STATE BAR ASSOCIATION

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Hon. Glenn A. Grant
Administrative Director of the Courts
Comments on Report of the Special Committee
on the Duration of Disbarment for Knowing
Misappropriation (Wade Committee)
Hughes Justice Complex
P.O. Box 037
Trenton, NJ 08625-0037

RE: Comments on Report of the Special Committee
on the Duration of Disbarment for Knowing Misappropriation
(Wade Committee)

Dear Judge Grant:

Thank you for the opportunity to comment on the report and recommendations of the Supreme Court Special Committee on the Duration of Disbarment for Knowing Misappropriation. The New Jersey State Bar Association (NJSBA) applauds the members of the Committee for their extraordinary time and effort in comprehensively considering a potential readmission process after disbarment. We urge the Court to adopt the Committee's recommendations, with one amendment.

The NJSBA has long advocated for reconsidering permanent disbarment in New Jersey under certain circumstances. Appearing as *amicus curiae* in *In re Greenberg*, 155 N.J. 138 (1998), the NJSBA advocated for leniency in the face of extraordinary circumstances, such as an identifiable illness that caused impaired judgment for which the attorney has successfully sought treatment. Similarly, in *In re Wade*, 250 N.J. 581 (2022) and *In re Lucid*, 248 N.J. 514 (2021), the NJSBA advocated for a clarification of the *Wilson* rule to ensure its application only to situations where there is a clear intent to steal or defraud clients. The NJSBA noted that, in New Jersey, disbarment is a harsh and permanent end to an individual's legal career.

The potential path to reinstatement outlined in the Committee's report represents a thoughtful and reasonable approach to giving disbarred attorneys a second chance. It achieves the stated purpose of lawyer discipline as not to punish, but to protect the public's confidence in the legal system. We believe that the factors cited by the Committee to gain reinstatement will provide the necessary guardrails to ensure only those individuals who exhibit the necessary character and commitment will be able to regain admission to the practice. Importantly, the recommendations provide uniform standards for readmission, while allowing flexibility for the Court to impose any additional requirements it considers necessary to ensure the continued integrity of the profession and ensure the public is properly protected.

The one area where the NJSBA believes a slight modification is appropriate is in connection with recommendation #7 in the Committee's report. That provision requires full reimbursement of any funds paid by the Lawyers Fund for Client Protection in connection with the disbarred attorney's disciplinary matter before reinstatement can be considered. The NJSBA notes this may preclude economically disadvantaged individuals who do not have access to excess resources yet who are otherwise qualified to be reinstated. Establishing a repayment plan and diligently keeping current with that plan despite potential hardships could allow the attorney to demonstrate the important character and commitment necessary for reinstatement. For this reason, the NJSBA suggests that an individual who is current in their repayment plan and meets the other criteria noted in the Committee's report should be considered for reinstatement. Remaining current in the payment plan until all funds are fully repaid can be a condition of reinstatement the Court could deem necessary.

Again, the NJSBA thanks the Judiciary for the opportunity to comment on these important recommendations. We urge the Court to follow the path of the vast majority of other states and adopt a reinstatement policy, as the Committee notes, that reflects the contemporary notions of redemption, reconciliation and restorative justice. As the Committee observed in its report, with the proper vetting of lawyers seeking readmission, both the public and the reputation of the bar can be protected and perhaps even better served.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tim McGoughran". The signature is fluid and cursive, with a large, stylized "S" at the end.

Timothy F. McGoughran, Esq.
President

cc: William H. Mergner Jr., Esq., NJSBA President-Elect
Angela C. Scheck, NJSBA Executive Director