

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL : No. 129 DB 2022
Petitioner :
v. : Attorney Registration No. 59284
JAMES J. RUGGIERO, JR. :
Respondent : (Chester County)

ORDER

AND NOW, this 22nd day of September, 2022, in accordance with Rule 215(g), Pa.R.D.E., the three-member Panel of the Disciplinary Board having reviewed and approved the Joint Petition in Support of Discipline on Consent filed in the above captioned matter; it is

ORDERED that JAMES J. RUGGIERO, JR. be subjected to a **PUBLIC REPRIMAND** by the Disciplinary Board of the Supreme Court of Pennsylvania as provided in Rule 204(a) and Rule 205(c)(9) of the Pennsylvania Rules of Disciplinary Enforcement.

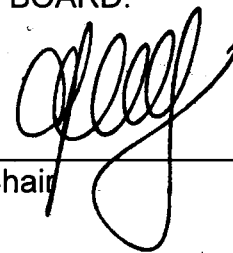
BY THE BOARD:

Board Chair

TRUE COPY FROM RECORD
Attest:



Marcee D. Sloan
Board Prothonotary
The Disciplinary Board of the
Supreme Court of Pennsylvania



and duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the provisions of the Enforcement Rules.

2. Respondent was born on September 5, 1964, and was admitted to the Bar of the Commonwealth of Pennsylvania on December 3, 1990. Respondent is on active status in Pennsylvania, and his registered address is Ruggiero Law Offices, LLC, 16 Industrial Boulevard, Paoli, PA 19301. Respondent is represented in this matter by his counsel, James C. Schwartzman, Esquire.

3. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court.

SPECIFIC FACTUAL ALLEGATIONS ADMITTED

4. Respondent's affidavit stating, *inter alia*, his consent to the recommended discipline is attached as Exhibit A.

Complaint of Judith E. Beadle (C2-20-207)

5. Following an initial consultation that occurred on January 23, 2018, Complainant retained Respondent and his law firm on or about February 1, 2018, for assistance with various elder law matters on behalf of Complainant's elderly mother, Ms. Elizabeth A. Toner, to include asset protection planning; review of Sunrise Senior Living contract; application for Veteran's Administration ("VA") benefits; and creation and funding of an

irrevocable burial trust. Respondent provided Complainant a written *Legal Representation Agreement* and charged her a flat fee of \$7,500.00 for his services.

6. Between February 1, 2018, and October 30, 2018, Respondent, his associates, and/or other persons employed by his law firm failed to diligently attend to Complainant's legal matters. Most significantly, Respondent and/or others under his supervision failed to timely prepare and file an application for VA benefits for Ms. Toner. Respondent and/or others under his supervision also failed to adequately communicate with Complainant and keep her reasonably informed regarding the status of her mother's legal matter, and often failed to timely reply to Complainant's emails, letters and telephone messages requesting information and updates.

7. By letter dated October 10, 2018, addressed to Respondent and mailed to his law office, Complainant expressed her "disappointment and disheartenment with the lack of responsiveness and services provided by [Respondent's] law firm."

8. It was not until October 30, 2018, that Respondent and/or others under his supervision submitted an initial application for VA benefits to the Veteran's Administration. However, the application was incomplete and failed to include required information regarding Ms. Toner's net worth, source of income and

her marital status—information that Complainant had previously provided to Respondent's law firm. As a result, the VA application was not accepted or approved and had to be resubmitted.

9. Respondent and/or others under his supervision did not resubmit the VA application until February 14, 2019. However, the revised VA application was still incomplete and missing necessary information required for final approval. Eventually, Complainant enlisted the intervention and assistance of United States Representative Chrissy Houlihan's office in order to complete the VA application process and commence Ms. Toner's benefits.

10. Between October 30, 2018, and December 19, 2019, Respondent and/or others under his supervision failed to maintain consistent communication with Complainant and would often fail to timely respond to her requests for information, requiring Complainant to repeatedly contact Respondent or his law firm and request updates regarding the status of Ms. Toner's legal matter.

11. Due to the lack of diligence on the part of Respondent and/or others under his supervision, Ms. Toner was not approved for VA benefits until December 2019, and received her one and only VA benefit payment on December 31, 2019. Ms. Toner died shortly thereafter on January 30, 2020.

12. By letter dated October 28, 2020, ODC provided Respondent a *DB-7 Request for Statement of Respondent's Position*

letter setting forth the factual averments regarding his alleged misconduct and violations of the Rules of Professional Conduct.

13. By *Statement of Position in Response to DB-7 Request* letter dated January 7, 2021, Respondent wrote that he:

acknowledges that his office failed to diligently prepare and file the VA Application on behalf of Elizabeth A. Toner, deceased. Respondent further acknowledges that he did not promptly respond to numerous status update requests from Ms. Toner's daughter, Judith E. Beadle, the Complainant herein. Respondent is remorseful for and apologizes for not adhering to the diligence and communication requirements mandated by the Pennsylvania Rules of Professional Conduct. Respondent compounded these problems by failing to sufficiently supervise and monitor work performed by his associates and/or staff members. These shortcomings culminated in the VA Application's untimely filing for which Respondent is extremely sorrowful. Respondent apologizes for any frustration, confusion or anguish the Complainant or her family endured during his representation. Going forward, Respondent will use his best efforts to ensure that an incident of this nature will not occur.

14. ODC apprised Complainant of Respondent's response as set forth above, and in a written reply Complainant replied that: "respondent's admissions, apology and remorse are acknowledged and appreciated. His commitment to ensure that an incident of this nature will not occur again is what's most important."

15. Respondent accepts full responsibility for his lack of diligence, failure to maintain adequate communication with the client, and failure to properly supervise his associates and other employees of his firm who were tasked with working on Complainant's legal matter. Respondent is remorseful and regrets his misconduct.

16. Respondent took remedial action and issued Complainant a full refund of his entire attorney's fee (\$7,500.00 flat fee + \$350.00 consultation fee).

Complaint of David Finkelman (C2-21-1101)

17. Following an initial online consultation via Zoom on January 7, 2021, on or about January 13, 2021, Mr. David Finkelman and his wife, Ms. Lois Stover (hereinafter collectively referred to as "Complainants") retained Respondent and his law firm for assistance with various estate planning matters, to include preparation on behalf of both clients of a last will and testament; living trust agreement; retirement plan trust; health care treatment instructions (living will); general durable power of attorney; durable health care power of attorney; and authorization

for release of protected health information (HIPPA release) (hereinafter collectively referred to as "the estate planning documents"). Respondent provided Complainants a written *Representation and Fee Agreement*, and charged them a fixed, flat fee of \$3,500.00 for his services.

18. Pursuant to the fee agreement, Complainants paid Respondent one-half of his fee, \$1,750.00. Complainants also provided Respondent with copies of their previous wills and living trust agreement, and completed a comprehensive worksheet that Respondent had given to them that provided detailed information regarding their financial assets, instructions concerning the disposition of their assets, identified their beneficiaries, and described their estate planning needs, goals and objectives.

19. On or about March 3, 2021, Respondent prepared and provided Complainants with initial drafts of the estate planning documents for review. However, the documents contained several errors and mistakes, including incorrect identification of the beneficiaries and the share of the estate each was to receive, and Mr. Finkelman's last name was misspelled on some of the paperwork. The estate planning documents also failed to fully include or describe all of the Complainants' expressed goals, desires and wishes regarding their estate planning objectives.

20. By email dated March 12, 2021, Complainants provided Respondent with a corrected version of the estate planning documents and requested he incorporate their corrections, revisions and additions. Respondent acknowledged receipt and promised Complainants he would "get replies back to [them] this coming week." However, Respondent failed to keep his promise to timely amend, correct and provide revised estate planning documents that incorporated Complainants' requested changes within the stated time frame.

21. On April 5, 2021, Respondent met with Complainants online via Zoom and discussed further revisions, corrections and additions. Shortly thereafter, Respondent provided Complainants with revised drafts of estate planning documents for their review. However, the revised estate planning documents failed to include specific bequests of gifts to individuals that Complainants had requested; contained misspellings of Ms. Stover's daughter's name; misidentified a beneficiary as the daughter of Mr. Finkelman; and failed to include dispositions to the Complainants' living trust.

22. By email to Respondent dated May 5, 2021, Complainants brought the above-referenced issues to Respondent's attention, and requested additional revisions regarding their estate planning objectives, administration of their respective estates and trusts,

and distribution of assets that fully effectuated their wishes and objectives.

23. On May 18, 2021, Respondent met with Complainants online via Zoom to address Complainants' concerns and any issues regarding the estate planning process and the preparation of estate planning documents that would fully and completely address their goals and objectives.

24. On or about June 23, 2021, Respondent provided Complainants with new, further revised estate planning documents. However, Complainants' believed the documents were still inadequate and failed to comport with the changes Complainants had requested, and did not fully and completely reflect their stated desires, wishes and intentions as had been communicated by them to Respondent. Further, some of the documents still contained a misspelling of Mr. Finkelman's last name.

25. By email to Respondent dated July 8, 2021, Complainants expressed their frustration and disappointment with Respondent's handling of their legal matter, and wrote, *inter alia*, "We have lost considerable confidence in your ability to draft documents that reflect our wishes. Nevertheless, we are willing to give you one more opportunity, if you want it, to draft a set of documents that accurately reflect our desires and intentions....If this is acceptable to you then please provide us with a set of such

documents. If it is not acceptable, then perhaps the best course of action would be for us to terminate our professional relationship with you and seek legal assistance elsewhere.”

26. Respondent failed to respond to Complainants’ July 8, 2021 email, or provide any additional estate planning documents to Complainants. Respondent also failed to respond to Complainants’ July 30, 2021, follow up email that resent their prior email referenced above and requested Respondent’s reply.

27. By email to Respondent dated August 16, 2021, Complainants notified Respondent that they were terminating his representation. By email dated August 18, 2021, Respondent acknowledged receipt of Complainants’ notice of termination.

28. By letter dated March 25, 2022, ODC provided Respondent a *DB-7 Request for Statement of Respondent’s Position* letter setting forth the factual averments regarding his alleged misconduct and the relevant violations of the Rules of Professional Conduct.

29. By *Statement of Position in Response to DB-7 Request* letter dated May 25, 2022, Respondent explained, *inter alia*, that he “spent much time and effort in drafting the estate planning documents...[but]...recognizes that the version of the documents referenced herein did not comport with each change Mr. Finkelman highlighted in his May 5, 2021, email...[and that]...[h]aving

recognized Mr. Finkelman's and Ms. Stover's dissatisfaction, [he had] refunded all fees paid...."

Respondent also admitted that he failed to respond to Complainants' July 8, 2021, email, and wrote that he:

acknowledges that he should have responded but neglected to do so. By way of explanation, and not by way of excuse, after reviewing Mr. Finkelman's July 8, 2021, email, it was apparent to Respondent that his professional relationship with Mr. Finkelman/Ms. Stover had deteriorated to such a degree that continued representation would not be feasible. At that point, Respondent should have expressed his understanding to Mr. Finkelman and Ms. Stover. Respondent apologizes and is remorseful for not doing so.

30. Respondent took remedial action and issued Complainants a full refund of his attorney's fee (\$1,750.00 initial deposit + \$350.00 consultation fee).

SPECIFIC RULES OF PROFESSIONAL MISCONDUCT VIOLATED

31. By his conduct as set forth in paragraphs 6 through 31 above, Respondent acknowledges he violated the following Rules of Professional Conduct:

- a. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;
- b. RPC 1.4(a)(2), which states that a lawyer shall reasonably consult with the client about the means by which the client's objectives are to be accomplished;
- c. RPC 1.4(a)(3), which states that a lawyer shall keep the client reasonably informed about the status of the matter;
- d. RPC 1.4(a)(4), which requires a lawyer to promptly comply with reasonable requests for information from the client;
- e. RPC 5.1(a), which states, in part, that a lawyer who possesses managerial authority in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the Rules of Professional Conduct;
and
- f. RPC 5.3, which states, in part, that a lawyer who possesses managerial authority in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that with respect to a nonlawyer employed or retained by or associated with the lawyer that the person's conduct is compatible with the professional obligations of the lawyer.

JOINT RECOMMENDATION FOR DISCIPLINE

32. ODC and Respondent jointly submit that Respondent is a suitable candidate to receive public discipline in the form of a public reprimand before the Disciplinary Board.

33. Respondent hereby consents to the discipline being imposed upon him by the Disciplinary Board of the Supreme Court of Pennsylvania. Attached to this Petition as Exhibit A is Respondent's executed Affidavit required by Pa.R.D.E. 215(d)(1) through (4).

34. Respondent's prior history of private discipline in the form of a summary informal admonition administered in January 2017 for similar misconduct in three separate client matters involving a lack of diligence, failure to communicate, and failure to properly supervise other individuals in his firm in their handling of client legal matters is an aggravating factor warranting public discipline in this matter.

ODC's investigation revealed, however, that Respondent did not completely neglect, ignore or abandon his clients' legal matters. In fact, to a large extent in the Finkelman case and to a lesser degree in the Beadle case, it appeared Respondent performed a significant amount of work and prepared a substantial amount of testamentary and other legal documents during the representation of his clients. In the Finkelman case, Respondent

provided ODC with voluminous documentation reflecting his preparation and drafting of multiple estate planning documents on behalf of his clients. In the Beadle case, Respondent revised and resubmitted the voluminous VA application twice in an effort to obtain benefits on behalf of Ms. Toner. However, Respondent's work product was often deficient in some respects, or was not completed to the client's satisfaction, and as a result multiple revisions were required. Further, it appeared that Respondent may not have personally handled all of the work performed for the clients, but rather delegated much of the work to associates and other employees in his firm, and then failed to properly supervise their work product or ensure that the clients' legal matters were diligently attended to by those individuals.

Similarly, Respondent did not completely ignore or neglect his clients' requests for information; however, his communication was spotty and sporadic at times. On many occasions the clients needed to make several requests for updates before receiving a response.

In addition, there is significant mitigation present. Respondent's acknowledgement of wrongdoing and willingness to accept public discipline, expressions of remorse and regret, remedial action in issuing a full refund to his clients of all attorney's fees, and cooperation with disciplinary authorities

militate against the imposition of more severe discipline, such as a suspension. **See Office of Disciplinary Counsel v. Michael S. Geisler**, 614 A.2d 1134, 1136 (Pa. 1992) (acknowledgement of responsibility and remorse, and cooperation with Disciplinary Counsel recognized as mitigating factors); **Office of Disciplinary Counsel v. Lawrence L. Rubin**, 90 DB 2010 (D.Bd. Rpt. Oct 11, 2011) (S.Ct. Order 2/6/12) (respondent's remorse and cooperation with disciplinary proceedings are mitigating factors); **see also Office of Disciplinary Counsel v. John William Eddy**, 143 DB 2019 (D.Bd Rpt. 3/24/21) (S.Ct. Order 6/4/21) (respondent's payment of restitution and the fact that "clients were made whole" is a mitigating factor); and **Office of Disciplinary Counsel v. Anthony Charles Mengine**, 66 DB 2017 (D.Bd. Rpt. 9/24/2019 at p. 55-56) (S. Ct. Order 11/26/20190) (restitution to clients "may properly be considered as mitigation").

Precedent supports the imposition of a public reprimand for a lawyer with a prior record of either public or private discipline whose present misconduct arises out of general neglect, deficient representation and failure to communicate in client matters. **See Office of Disciplinary Counsel v. Kenneth Scott Saffren**, 168 DB 2021, (D.Bd. Order 1/24/22) (public reprimand imposed for respondent with a prior record of public discipline (censure) who engaged in incompetence, neglect, and failure to communicate in a

client's matter); **Office of Disciplinary Counsel v. John Joseph Grenko, 81 DB 2020**, (D.Bd. Order 10/9/20) (public reprimand imposed on consent for respondent with prior record of private discipline (informal admonition) who engaged in neglect and failure to communicate in two client matters); **Office of Disciplinary Counsel v. Qawi Abdul-Rahman, 57 DB 2020**, (D.Bd. Order 4/23/20) (public reprimand imposed for respondent with a prior record of private discipline (informal admonition) who neglected a client's civil case, failed to communicate, and misrepresented the status of the case to the client); and **Office of Disciplinary Counsel v. Jeffrey Dean Servin, 106 DB 2012**, (public reprimand administered 11/16/12) (public reprimand imposed for respondent with a prior record of both public and private discipline (public reprimand and two informal admonitions) who, *inter alia*, failed to competently represent or communicate with his client, or obtain the client's consent to settle the case and/or decline prosecution of the claims).

Under the totality of circumstances, it is respectfully submitted that progressive discipline in the form of a public reprimand will adequately address the main issues at the heart of Respondent's misconduct: namely, Respondent's lack of competence, lack of diligence, failure to reasonably communicate with his clients, and failure to properly supervise others in his law firm.

35. Based on the factual circumstances presented, Respondent's prior history of discipline, mitigating factors and precedent it is jointly recommended to the Disciplinary Board that Respondent receive a Public Reprimand. This resolution will serve to protect the public and maintain the interests of the legal profession and the Bar of the Commonwealth of Pennsylvania.

WHEREFORE, Petitioner and Respondent respectfully request, pursuant to Pennsylvania Rules of Disciplinary Enforcement 215(e) and 215(g), that a three member panel of the Disciplinary Board review and approve the Joint Petition in Support of Discipline on Consent and Order that Respondent receive a public reprimand.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

THOMAS J. FARRELL
Chief Disciplinary Counsel
Attorney Registration Number 48976

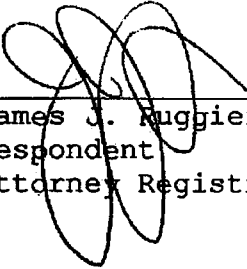
9/15/22

DATE



Mark Gilson
Disciplinary Counsel
Attorney Registration Number 46400
Office of Disciplinary Counsel
District I Office
1601 Market Street
Philadelphia, PA 19103

9/14/2022
DATE


James J. Ruggiero, Jr., Esquire
Respondent
Attorney Registration Number 59284

DATE

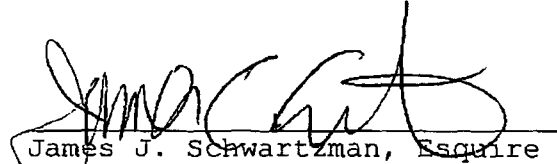
James J. Schwartzman, Esquire
Counsel for Respondent
Attorney Registration Number 16199

DATE

9/15/22

DATE

James J. Ruggiero, Jr., Esquire
Respondent
Attorney Registration Number 59284



James J. Schwartzman, Esquire
Counsel for Respondent
Attorney Registration Number 16199

EXHIBIT A

**BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA**

OFFICE OF DISCIPLINARY COUNSEL,	:	No.	DB
Petitioner	:		
	:		
	:		
v.	:		
	:		
	:		
	:		
	:		
	:	Attorney Reg. No. 59284	
JAMES J. RUGGIERO, JR.,	:		
Respondent	:	(Chester County)	

AFFIDAVIT UNDER RULE 215(d), Pa.R.D.E.

JAMES J. RUGGIERO, being duly sworn according to law, deposes and submits this affidavit consenting to the recommendation of a public reprimand in conformity with Pa.R.D.E. 215(d), and further states as follows:

1. He is an attorney admitted to the Bar of the Commonwealth of Pennsylvania on or about December 3, 1990.

2. He desires to submit a Joint Petition in Support of Discipline on Consent Pursuant to Pa.R.D.E. 215(d).

3. His consent is freely and voluntarily rendered; he is not being subjected to coercion or duress, and he is fully aware of the implications of submitting this affidavit.

4. He is aware that there is presently pending a proceeding regarding allegations that he has been guilty of misconduct as set forth in the Joint Petition in Support of Discipline on Consent

Pursuant to Pa.R.D.E. 215(d) to which this affidavit is attached.

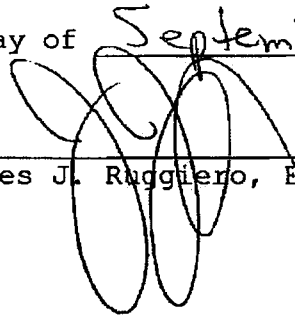
5. He acknowledges that the material facts set forth in the Joint Petition are true.

6. He submits this affidavit because he knows that if charges predicated upon the matter under investigation were filed, or continued to be prosecuted in the pending proceeding, he could not successfully defend against them.

7. He acknowledges that he is fully aware of his right to consult and employ counsel to represent him in the instant proceeding. He has retained, consulted, and acted upon the advice of James C. Schwartzman, Esquire, in connection with his decision to execute the Joint Petition.

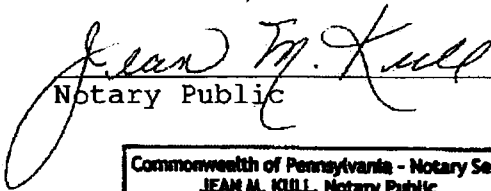
It is understood that the statements made herein are subject to the penalties of 18 Pa.C.S.A. §4904 (relating to unsworn falsification to authorities).

Signed this 14th day of September, 2022.

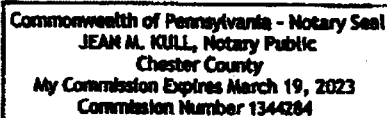


James J. Ruggiero, Esquire

Sworn to and subscribed
Before me on this 14th
day of September, 2022



Notary Public

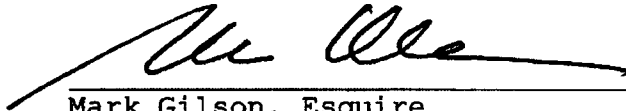


VERIFICATION

The statements contained in the foregoing *Joint Petition In Support of Discipline on Consent* are true and correct to the best of my knowledge or information and belief and are made subject to the penalties of 18 Pa.C.S.A. §4904, relating to unsworn falsification to authorities.

9/15/22

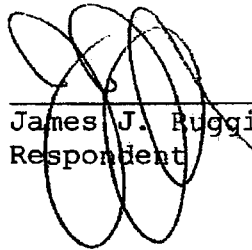
DATE



Mark Gilson, Esquire
Disciplinary Counsel

9/14/2022

DATE



James J. Ruggiero, Jr., Esquire
Respondent

DATE

James C. Schwartzman, Esquire
Counsel for Respondent

VERIFICATION

The statements contained in the foregoing *Joint Petition in Support of Discipline on Consent* are true and correct to the best of my knowledge or information and belief and are made subject to the penalties of 18 Pa.C.S.A. §4904, relating to unsworn falsification to authorities.

DATE

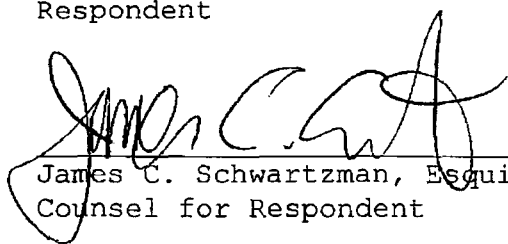
Mark Gilson, Esquire
Disciplinary Counsel

DATE

James J. Ruggiero, Jr., Esquire
Respondent

9/15/22

DATE



James C. Schwartzman, Esquire
Counsel for Respondent

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. DB
Petitioner :
 :
 :
v. :
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 :
 :
 :
 : Attorney Reg. No. 59284
JAMES J. RUGGIERO, JR., :
Respondent : (Chester County)

CERTIFICATE OF SERVICE


I hereby certify that I am this day serving the foregoing document upon all parties of record in this proceeding in accordance with the requirements of 204 Pa. Code §89.22 (relating to service by a participant).

First Class Mail and Email, as follows:

James J. Ruggiero, Jr., Esquire
c/o James C. Schwartzman, Esquire
Stevens & Lee
1500 Market Street, East Tower, Suite 1800
Philadelphia, PA 19102
james.schwartzman@stevenslee.com

Dated: _____

9/15/22



MARK GILSON
Disciplinary Counsel
Office of Disciplinary Counsel
District I Office
1601 Market Street
Philadelphia, PA 19103
(215) 560-6296

CERTIFICATE OF COMPLIANCE

I certify that this pleading complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Office of Disciplinary Counsel

Signature:



Name: Mark F. Gilson

Attorney No. (if applicable): 46400