

**IN THE SUPREME COURT OF PENNSYLVANIA**

OFFICE OF DISCIPLINARY COUNSEL, : No. 2606 Disciplinary Docket No. 3  
: :  
Petitioner : No. 175 DB 2018  
: :  
v. : Attorney Registration No. 73120  
: :  
PETER P. BARNETT, : (Philadelphia)  
: :  
Respondent :

**ORDER**

**PER CURIAM**

**AND NOW**, this 20<sup>th</sup> day of May, 2019, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board, the Joint Petition in Support of Discipline on Consent is granted, and Peter P. Barnett is suspended on consent from the Bar of this Commonwealth for a period of two years. Respondent shall comply with all the provisions of Pa.R.D.E. 217 and pay costs to the Disciplinary Board pursuant to Pa.R.D.E. 208(g).

A True Copy Patricia Nicola  
As Of 05/20/2019

Attest:   
Chief Clerk  
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :  
Petitioner :  
: No. 175 DB 2018  
v. :  
: Atty. Reg. No. 73120  
PETER P. BARNETT, :  
Respondent : (Philadelphia County)

**JOINT PETITION IN SUPPORT OF DISCIPLINE**  
**ON CONSENT UNDER Pa.R.D.E. 215(d)**

Petitioner, Office of Disciplinary Counsel ("ODC"), by Paul J. Killion, Chief Disciplinary Counsel, and Gloria Randall Ammons, Disciplinary Counsel, and Respondent, Peter P. Barnett, and Samuel C. Stretton, Counsel for Respondent, file this Joint Petition In Support of Discipline on Consent under Pennsylvania Rule of Disciplinary Enforcement (Pa.R.D.E.) 215(d) ("Joint Petition"), and respectfully represent that:

1. Petitioner, whose principal office is located at Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, P.O. Box 62485, Harrisburg, Pennsylvania, is invested, pursuant to Pa.R.D.E. 207, with the power 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 various provisions of said Rules of Disciplinary Enforcement.

FILED  
03/29/2019  
The Disciplinary Board of the  
Supreme Court of Pennsylvania

2. Respondent, Peter P. Barnett, was born on April 15, 1953, and was admitted to practice law in the Commonwealth on November 11, 1994. His registered mailing address is 1518 Walnut Street, Suite 200, Philadelphia, PA 19102.

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

**SPECIFIC FACTUAL ADMISSIONS AND RULES VIOLATED**

4. Respondent stipulates that the following factual allegations contained within the Joint Petition are true and correct, and stipulates that he has violated the Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement set forth in ¶¶ 12 and 38, *infra*.

**Charge I**

5. By Order dated July 29, 2003, effective immediately, the Supreme Court of Pennsylvania transferred Respondent to disability inactive status pursuant to Rule 301 of the Pa.R.D.E.

6. By letter to Respondent dated July 30, 2003, then Secretary of the Disciplinary Board Elaine M. Bixler informed Respondent, *inter alia*, that he was required to comply with Rule 217 of the Pa.R.D.E.

7. Respondent continues to be ineligible to practice law in the Commonwealth of Pennsylvania.

8. At some point, Respondent became employed with the Law Offices of Neil Gelb ("the Gelb firm") as "Litigation Manager."

9. On the Gelb firm website:

- a. Respondent is identified as "Peter P. Barnett, J.D"; and
- b. Respondent's Curriculum Vitae description is as follows: "Mr. Barnett, Neil R. Gelb, P.C.'s litigation manager, joined the firm offering over 33 years of experience in settling all types of personal injury claims. Mr. Barnett is the former Claims Manager and past President of the Philadelphia Claims Managers Council. Mr. Barnett is also a certified insurance expert in both state and federal courts. In fact, Mr. Barnett served as a plaintiff's bad faith expert in the largest bad faith verdict in Pennsylvania history, *Hollock v. Erie Ins. Exchange*, 588 Pa. 231, 903 A.2d 1185 (2006). Mr. Barnett is a graduate of Boston College and Temple University School of Law."

10. Rule 217(j) (5) of the Pa.R.D.E. states that a formerly admitted attorney may not engage in any form of law-

related activities in this Commonwealth except in accordance with the following requirement:

- a. the supervising attorney and the formerly admitted attorney shall file with the Disciplinary Board a notice of engagement, identifying the supervising attorney and certifying that the formerly admitted attorney's activities will be monitored for compliance with this subdivision (j).

11. Respondent failed to file a notice of engagement with the Disciplinary Board at the time he began his employment with the Gelb firm.

- a. Mr. Gelb also did not file a notice of engagement at the time of Respondent's employment as required by Pa.R.D.E 217(j) (5).

12. By his conduct as alleged in Paragraphs 5 through 11 above, Respondent violated the following Pennsylvania Rules of Disciplinary Enforcement:

- a. Pa.R.D.E. 217(j) (5).

#### CHARGE II

13. On December 1, 2015, David Wyche, Sr., passed away.

14. Davida A. Wyche-Davis, Mr. Wyche's daughter, was appointed administratrix of her father's estate.

15. In December of 2015, the Gelb firm was retained by Ms. Wyche-Davis, to represent her, in her capacity as

administratrix of the Wyche estate, in pursuing claims against Genesis Health Care t/a Somerton Center ("Genesis Health Care").

16. By email to Maria Lynch, a Genesis Health Care Claims Specialist, dated February 22, 2016, Respondent:

- a. stated that "our firm represents the Estate of David Wyche for medical malpractice pertaining to his treatment while a patient at Somerton Center";
- b. confirmed that Ms. Lynch would have the Somerton records sent to Respondent's office for review; and
- c. attached a signed HIPPA form and Letter of Administration from the Philadelphia Register of Wills.

17. Respondent failed to advise Ms. Lynch that he is ineligible to practice law in the Commonwealth.

18. Thereafter, Respondent communicated for several months with Ms. Lynch, during which time Respondent exchanged pertinent information in order for Ms. Lynch to evaluate the claim.

19. Each time Respondent communicated with Ms. Lynch, Respondent failed to advise her that he was ineligible to practice law.

20. By email to Ms. Lynch dated October 27, 2016, Respondent stated that:

- a. he had "discussed the case for hours" with Ms. Wyche-Davis; and
- b. Ms. Wyche-Davis "will not take anything less than \$100,000.00."

21. By email to Respondent dated October 30, 2016, Ms. Lynch:

- a. expressed her belief that the case is defensible;
- b. extended their willingness to increase their offer to \$60,000;
- c. advised that if a settlement was reached, Genesis would establish a payment plan wherein they would pay \$25,000 monthly; and
- d. advised that if a settlement was reached, the first payment would be sent in February 2017.

22. By email to Ms. Lynch dated November 10, 2016, Respondent stated:

- a. "I can get the claim settled at \$75,000.00";
- b. "you can do the three \$25,000.00 payments"; and
- c. "Please let me know."

23. By email to Respondent dated November 11, 2016, Ms. Lynch stated:

- a. "[W]e will resolve this case for \$75,000";
- b. "First payment of \$25,000 will be made at the end of February 2017"; and
- c. "I'll prepare the release and get it over to you."

24. By email to Respondent dated November 11, 2016, Ms. Lynch requested "a copy of the Estate paperwork and [Respondent's] firm's W-9."

25. By email to Ms. Lynch dated November 14, 2016, Respondent:

- a. requested that she send the release; and
- b. attached the estate's Letters of Administration and the W-9.

26. By email to Respondent dated November 15, 2016, Ms. Lynch:

- a. attached the release; and
- b. requested that Respondent contact her if Respondent had any questions.

27. After Ms. Lynch's November 15, 2016 email, Respondent did not have any further communications with her.

28. Neither Respondent nor Mr. Gelb obtained Ms. Wyche-Davis' consent to settle the claim for \$75,000.

29. By email to Ms. Wyche-Davis dated November 16, 2016, Respondent:



- a. attached the settlement release for \$75,000 and statement of distribution; and
- b. requested that Ms. Wyche-Davis sign both documents and fax them back to "our office."

30. By email dated to Respondent and Mr. Gelb dated December 5, 2016, Ms. Wyche-Davis:

- a. declined to sign the release; and
- b. requested that the Gelb firm proceed with the case.

31. By letter to Ms. Wyche-Davis dated January 5, 2017, Respondent:

- a. advised her that Respondent and Mr. Gelb had spoken with Norman Perlberger, Esquire;
- b. stated that Mr. Perlberger had agreed to take her case; and
- c. enclosed a Verification that Mr. Perlberger needed her to sign

32. After Mr. Gelb advised Ms. Wyche-Davis that she was required to sign the Verification in order for Mr. Perlberger to represent her in her matter, she signed the Verification.

33. In January 2017, Mr. Perlberger filed a civil action on behalf of Ms. Wyche-Davis in the Court of Common Pleas of Philadelphia County, case caption **Wyche-Davis v. Genesis Health Care**, No. 170103232.

34. On February 17, 2017, Genesis Health filed a Motion to Enforce Settlement.

35. By Order dated March 27, 2017, the Court granted Genesis Health's motion.

36. To date, Ms. Wyche-Davis has not signed the Release.

37. During Respondent's employment with the Gelb firm, Respondent has held himself out as an attorney eligible to practice law in regard to the following client matters:

- a. Wendell Sizer;
- b. Earl Woods; and
- c. Roy Stanford.

38. In all three of the client matters in ¶ 37, Respondent:

- a. had contacts with the clients that were not limited to ministerial matters such as scheduling, billing, updates, confirmation of receipt or sending of correspondence and messages;
- b. failed to identify himself as a legal assistant; and
- c. represented himself as a lawyer or a person of similar status.

39. By his conduct as alleged in Paragraphs 13 through 38 above, Respondent violated the following Rules of

Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement:

- a. RPC 5.5(a), which states that a lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so;
- b. RPC 8.4(b), which states that it is professional misconduct for a lawyer to commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;
- c. RPC 8.4(c), which states that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- d. RPC 8.4(d), which states that it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice;
- e. Pa.R.D.E. 203(b)(3) via:
  1. Pa.R.D.E. 217(j)(2)(i), which states, in pertinent part, that for purposes of this subdivision (j), the only law-related activities that may be conducted by a

formerly admitted attorney is legal work of a preparatory nature, such as legal research, assembly of data and other necessary information, and drafting of transactional documents, pleadings, briefs, and other similar documents;

2. Pa.R.D.E. 217(j)(2)(ii), which states, in pertinent part, that for purposes of this subdivision (j), the only law-related activities that may be conducted by a formerly admitted attorney is the direct communication with the client or third parties to the extent permitted by paragraph (3);
3. Pa.R.D.E. 217(j)(3), which states that a formerly admitted attorney may have direct communication with a client or third party regarding a matter being handled by the attorney, organization or firm for which the formerly admitted attorney works only if the communication is limited to ministerial matters such as scheduling, billing, updates, confirmation of receipt or sending of correspondence and messages. The

formerly admitted attorney shall clearly indicate in any such communication that he or she is a legal assistant and identify the supervising attorney;

4. Pa.R.D.E. 217(j)(4)(ii), which states, in pertinent part, that a formerly admitted attorney is specifically prohibited from performing any law-related services from an office that is not staffed by a supervising attorney on a full time basis;
5. Pa.R.D.E. 217(j)(4)(iv), which states, in pertinent part, that a formerly admitted attorney is specifically prohibited from representing himself as a lawyer or a person of similar status;
6. Pa.R.D.E. 217(j)(4)(v), which states, in pertinent part, that a formerly admitted attorney is specifically prohibited from having any client contact except on ministerial matters and while under the supervision of an attorney;
7. Pa.R.D.E. 217(j)(4)(vi), which states, in pertinent part, that a formerly admitted attorney is specifically prohibited from

rendering legal consultation or advice to a client; and

8. Pa.R.D.E. 217(j)(4)(ix), which states, in pertinent part, that a formerly admitted attorney is specifically prohibited from negotiating or transacting any matter for or on behalf of a client with third parties or having any contact with third parties regarding such a negotiation or transaction.

**SPECIFIC JOINT RECOMMENDATION FOR DISCIPLINE**

40. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent's admitted misconduct is a suspension of two years.

41. Respondent hereby consents to that discipline being imposed upon him. Attached to this Petition is Respondent's executed Affidavit required by Rule 215(d), Pa.R.D.E., stating that he consents to the recommended discipline, including the mandatory acknowledgements contained in Rule 215(d)(1) through (4), Pa.R.D.E.

42. In support of Petitioner and Respondent's joint recommendation, it is respectfully submitted that there are several mitigating circumstances:

- a. Respondent has admitted engaging in misconduct and violating the charged Rules of

Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement;

- b. Respondent has cooperated with Petitioner, as is evidenced by Respondent's admissions herein and Respondent's consent to receiving a suspension of two years; and
- c. Respondent is remorseful for his misconduct and understands he should be disciplined, as is evidenced by his consent to receiving a suspension of two years.

43. Respondent does not have a record of discipline, which may be a mitigating factor; however, in 2003, Respondent was transferred to disability inactive status pursuant to Rule 301 of the Pa.R.D.E. In his May 15, 2003 Certificate of Disability, Respondent stated that he is suffering from a disabling condition - namely, a drug addiction, which made it impossible for him as the respondent to prepare an adequate defense against the charges of professional misconduct.

44. Petitioner and Respondent agree that Respondent's current disability status does not prevent him from entering into this discipline on consent agreement.

45. Although there is no *per se* rule for discipline for attorneys who engaged in the unauthorized practice of law, a

suspension of two years is within the range of discipline the Board has recommended and the Court has imposed.

In *Office of Disciplinary Counsel v. Daniel Joseph D'Antonio*, No. 177 DB 2017 (S.Ct. Order 3/1/2018), the Court suspended respondent on consent for two years for the unauthorized practice of law after he was transferred to administrative suspension for failing to comply with his continuing legal education requirements and to pay his annual attorney registration fee. Respondent D'Antonio also engaged in neglect in two client matters, and failed to advise his clients and his supervising attorney that he was ineligible to practice law in the Commonwealth.

In two other recent cases the Court imposed a two-year suspension for the unauthorized practice of law. However, these two cases are clearly distinguishable from Respondent Barnett's matter. In *Office of Disciplinary Counsel v. Keith Hall Barkley*, No. 144 DB 2016 (D.Bd. Rpt. 9/13/2017) (S.Ct. Order 11/14/2017), respondent was suspended for two years for the unauthorized practice of law in Utah. Respondent also engaged in neglect, made misrepresentations to clients, and failed to refund unearned fees. Respondent Barkley failed to participate in the disciplinary proceedings, which was a significant aggravating factor.

In *Office of Disciplinary Counsel v. John Joseph Garagozzo*, No. 158 DB 2016 (D.Bd. Rpt. 8/8/17) (S.Ct. Order 10/6/2017), the



Court suspended respondent for two years for the unauthorized practice of law in four matters after he was transferred to administrative suspension. Respondent failed to appear for the prehearing conference and the disciplinary hearing, which aggravated the discipline.

Unlike Barkley and Garagozzo, Respondent Barnett is remorseful and has accepted responsibility for his misconduct as evidenced by his consent to a two-year suspension and his cooperation with Petitioner.


WHEREFORE, Petitioner and Respondent respectfully request that pursuant to Pa.R.D.E. 215(e) and 215(g), a three member panel of the Disciplinary Board review and approve the Joint Petition in Support of Discipline on Consent and file a

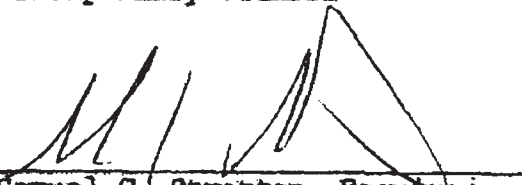
recommendation with the Supreme Court of Pennsylvania that  
Respondent be suspended for two years

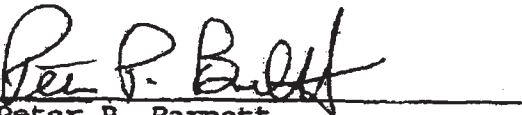
Respectfully and jointly submitted,

OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION  
CHIEF DISCIPLINARY COUNSEL

By   
Gloria Randall Ammons  
Disciplinary Counsel

By   
Samuel C. Stretton, Esquire  
Counsel for Respondent

By   
Peter P. Barnett  
Respondent

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, ;  
Petitioner :  
: No. 175 DB 2018  
v. :  
: Atty. Reg. No. 73126  
PETER P. BARNETT, :  
Respondent : (Philadelphia County)

VERIFICATION

The statements contained in the foregoing Joint  
Petition In Support of Discipline on Consent Under Rule  
215(d), Pa.R.D.E., are true and correct to the best of our  
knowledge or information and belief and are made subject to  
the penalties of 18 Pa.C.S. § 4904, relating to unsworn  
falsification to authorities.

3/29/19  
Date

Gloria Randall Ammons  
Gloria Randall Ammons  
Disciplinary Counsel

3/25/19  
Date

Samuel C. Stretton  
Samuel C. Stretton, Esquire  
Counsel for Respondent

3/24/19  
Date

Peter P. Barnett  
Peter P. Barnett  
Respondent

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :  
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Respondent : (Philadelphia County)

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

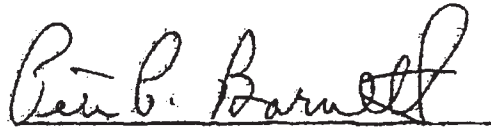
Respondent, Peter P. Barnett, hereby states that he consents to the imposition of a suspension of one year and one day as set forth in the Joint Petition, as jointly recommended by the Petitioner and Respondent in the Joint Petition in Support of Discipline on Consent, and further states that:

1. His consent is freely and voluntarily rendered; he is not being subjected to coercion or duress; he is fully aware of the implications of submitting the consent; and he has consulted with counsel in connection with the decision to consent to discipline;

2. He is aware that there is presently pending a proceeding at No. 175 DB 2018 involving allegations that he has been guilty of misconduct as set forth in the Joint Petition;

3. He acknowledges that the material facts set forth in the Joint Petition are true; and

4. He consents because he knows that if the charges against him continue to be prosecuted in the pending proceeding, he could not successfully defend against them.

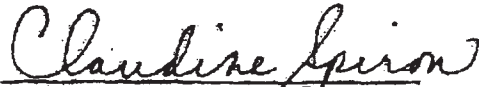


Peter P. Barnett  
Respondent

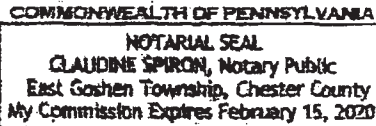
Sworn to and subscribed

before me this 25<sup>th</sup>

day of MARCH, 2019.



Claudine Spiron  
Notary Public



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: Gloria Randall Ammons

Name: Gloria Randall Ammons

Attorney No. (if applicable): 57701

BEFORE THE DISCIPLINARY BOARD OF THE  
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AFFIDAVIT UNDER RULE 215(d), Pa.R.D.E.

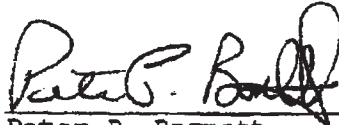
Respondent, Peter P. Barnett, hereby states that he consents to the imposition of a suspension of two years as set forth in the Joint Petition, as jointly recommended by the Petitioner and Respondent in the Joint Petition in Support of Discipline on Consent, and further states that:

1. His consent is freely and voluntarily rendered; he is not being subjected to coercion or duress; he is fully aware of the implications of submitting the consent; and he has consulted with counsel in connection with the decision to consent to discipline;

2. He is aware that there is presently pending a proceeding at No. 175 DB 2018 involving allegations that he has been guilty of misconduct as set forth in the Joint Petition;

3. He acknowledges that the material facts set forth in the Joint Petition are true; and

4. He consents because he knows that if the charges against him continue to be prosecuted in the pending proceeding, he could not successfully defend against them.



Peter P. Barnett  
Respondent

Sworn to and subscribed  
before me this 1<sup>st</sup>  
day of May, 2019.

  
Notary Public