

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2602 Disciplinary Docket No. 3  
: :  
Petitioner : No. 35 DB 2019  
: :  
v. : Attorney Registration No. 48490  
: :  
KEVIN MARK KALLENBACH, : (Erie County)  
: :  
Respondent :

**ORDER**

**PER CURIAM**

**AND NOW**, this 23<sup>rd</sup> day of April, 2019, upon consideration of the Verified Statement of Resignation, Kevin Mark Kallenbach is disbarred on consent from the Bar of this Commonwealth, see Pa.R.D.E. 215, and he shall comply with the provisions of Pa.R.D.E. 217. Respondent shall pay costs to the Disciplinary Board pursuant to Pa.R.D.E. 208(g).

A True Copy Patricia Nicola  
As Of 04/23/2019

Attest:   
Chief Clerk  
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :  
:  
Petitioner : No. 35 DB 2019  
:  
v. :  
:  
KEVIN MARK KALLENBACH, : Attorney Registration No. 48490  
:  
Respondent : (Erie County)

RESIGNATION  
UNDER Pa.R.D.E. 215

Kevin Mark Kallenbach, Esquire, hereby tenders his unconditional resignation from the practice of law in the Commonwealth of Pennsylvania in conformity with Pa.R.D.E. 215 ("Enforcement Rules") and further states as follows:

1. He is a formerly-admitted attorney in the Commonwealth of Pennsylvania, having been admitted to the bar on or about December 31, 1986. He is currently suspended from the practice of law. His attorney registration number is 48490.

2. He desires to submit his resignation as a member of said bar.

3. His resignation 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 resignation.

4. He acknowledges that he is fully aware of his right to consult and employ counsel to represent him in the instant proceeding. He has not retained, consulted with and acted upon the

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The Disciplinary Board of the  
Supreme Court of Pennsylvania

advice of counsel in connection with his decision to execute the within resignation.

5. He is aware that there is presently pending an investigation into allegations that he has been guilty of misconduct, the nature of which allegations have been made known to him by a Petition for Discipline, filed February 22, 2019, a true and correct copy of which is attached hereto, made a part hereof and marked Exhibit "A."

6. He acknowledges that the material facts upon which the complaint is predicated contained in Exhibit "A" are true.

7. He submits the within resignation because he knows that he could not successfully defend himself against the charges of professional misconduct set forth in the attached exhibit.

8. He is fully aware that the submission of this Resignation Statement is irrevocable and that he can only apply for reinstatement to the practice of law pursuant to the provisions of Enforcement Rule 218(b) and (c).

9. He is aware that pursuant to Enforcement Rule 215(c) the fact that he has tendered his resignation shall become a matter of public record immediately upon delivery of the resignation statement to Disciplinary Counsel or the Secretary of the Board.

10. Upon entry of the order disbaring him on consent, he will promptly comply with the notice, withdrawal, resignation, trust account, and cease-and-desist provisions of Enforcement Rule

217 (a), (b), (c) and (d).

11. After entry of the order disbaring him on consent, he will file a verified statement of compliance as required by Enforcement Rule 217(e) (1).

12. He is aware that the waiting period for eligibility to apply for reinstatement to the practice of law under Enforcement Rule 218(b) shall not begin until he files the verified statement of compliance required by Enforcement Rule 217(e) (1), and if the order of disbarment contains a provision that makes the disbarment retroactive to an earlier date, then the waiting period will be deemed to have begun on that earlier date.

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

Signed this 5<sup>th</sup> day of April, 2019.

  
\_\_\_\_\_  
Kevin Mark Kallenbach

WITNESS: 

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :  
: Petitioner : No. 35 DB 2019  
: v. :  
: KEVIN MARK KALLENBACH, : Attorney Registration No. 48490  
: Respondent : (Erie County)

PETITION FOR DISCIPLINE

**NOTICE TO PLEAD**

To: KEVIN MARK KALLENBACH

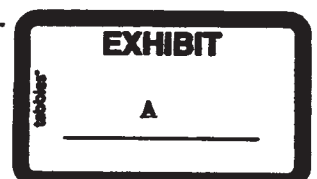
Rule 208(b)(3) of the Pennsylvania Rules of Disciplinary Enforcement provides: Within twenty (20) days of the service of a petition for discipline, the respondent-attorney shall serve an answer upon Disciplinary Counsel and file the original thereof with the Disciplinary Board. Any factual allegation that is not timely answered shall be deemed admitted.

Rule 208(b)(4) provides: Following the service of the answer, if there are any issues raised by the pleadings or if the respondent-attorney requests the opportunity to be heard in mitigation, the matter shall be assigned to a hearing committee or a special master. No evidence with respect to factual allegations of the complaint that have been deemed or expressly admitted may be presented at any hearing on the matter, absent good cause shown.

\* \* \* \* \*

A copy of your answer should be served upon Disciplinary Counsel at the District IV Office of Disciplinary Counsel, Suite 1300, Frick Building, 437 Grant Street, Pittsburgh, PA 15219-6100, and the original and three (3) conformed copies filed with the Disciplinary Board Executive Office, Pennsylvania Judicial Center, 601 Commonwealth Ave., Ste. 5600, P. O. Box 62625, Harrisburg, PA 17106-2625. [Disciplinary Board Rule §89.3(a)(1)]

Further, pursuant to Disciplinary Board Rule §85.13, your answer, if it contains an averment of fact not appearing of record or a denial of fact, shall contain or be accompanied by a verified-statement signed by you that the averment or denial is true based upon your personal knowledge or information and belief.



BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :  
: Petitioner : No.35 DB 2019  
: v. :  
: KEVIN MARK KALLENBACH, : Attorney Registration No. 48490  
: Respondent : (Erie County)

PETITION FOR DISCIPLINE

Petitioner, Office of Disciplinary Counsel, by Paul J. Killion, Chief Disciplinary Counsel, and Samuel F. Napoli, Disciplinary Counsel, files the within Petition for Discipline, and charges Respondent Kevin Mark Kallenbach with professional misconduct in violation of the Rules of Professional Conduct and the Pennsylvania Rules of Disciplinary Enforcement as follows:

1. Petitioner, whose principal office is located at Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, P.O. Box 62485, Harrisburg, PA 17106-2485, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement (hereafter "Pa.R.D.E."), with the power and the duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute

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Supreme Court of Pennsylvania

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all disciplinary proceedings brought in accordance with the various provisions of the aforesaid Rules.

2. Respondent, Kevin Mark Kallenbach, was born in 1959. He was admitted to practice law in the Commonwealth of Pennsylvania on December 31, 1986. Respondent's attorney registration mailing address is 460 Godfrey Road, Lake City, PA 16423. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. By Order dated April 27, 2017, Respondent was suspended from the practice of law in Pennsylvania for a period of three months, which suspension was to be followed by a twenty-one month period of probation.

4. Respondent has not taken appropriate action for reinstatement to practice law in Pennsylvania, and remains suspended therefrom.

CHARGE

5. By Order of the Supreme Court of Pennsylvania dated May 11, 2015, Respondent was suspended from the practice of law for a period of one year and one day, the suspension was stayed in its

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entirety, and he was placed on probation for a period of two years, subject to conditions.

6. On April 25, 2017, Respondent filed a Complaint in Divorce in the Court of Common Pleas of Erie County on behalf of Paul Salyers, which matter was docketed at number 2017-11186.

7. By Order dated April 27, 2017, pursuant to an Order entered by the Supreme Court of Pennsylvania on February 23, 2017, directing Respondent to show cause why the stayed suspension should not be modified, and upon consideration of the responses filed, Respondent was directed to serve a three-month suspension, followed by a twenty-one month period of probation, subject to the same conditions imposed by the May 11, 2015 Order.

8. The April 27, 2017 Order of the Supreme Court of Pennsylvania suspending Respondent from practice for three months became effective on May 27, 2017.

9. Respondent did not inform Mr. Salyers, the Court, or opposing counsel, William A. Holmes, Esquire, of his suspension from the practice of law.



10. Despite Respondent's suspension from the practice of law, he did not withdraw as counsel for Mr. Salyers.

11. Throughout the months of May and June of 2017, Respondent participated in multiple telephone conversations with Mr. Holmes regarding the Salyers case.

12. On or about July 31, 2017, after he received no response to an informal request for discovery which he made to Respondent on behalf of his client, Cheryl Salyers, Mr. Holmes served a set of interrogatories and request for production of documents upon Respondent in his capacity as attorney of record for Mr. Salyers.

13. During the first week of September 2017, Respondent made partial responses to discovery requests on behalf of Mr. Salyers.

14. On September 5, 2017, pursuant to a Petition for Spousal Support/Alimony Pendente Lite which Mr. Holmes filed on behalf of Ms. Salyers, both Mr. Holmes and Respondent appeared at a support conference on behalf of their respective clients.

15. By letters dated September 8 and September 15, 2017, both of which were on letterhead identifying Respondent as "Kevin M.

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Kallenbach, Attorney at Law," he communicated with Mr. Holmes concerning the matter.

16. The signature lines on the September 8, 2017 and September 15, 2017 letters identify Respondent as "Kevin M. Kallenbach, Esquire."

17. Pursuant to an agreement between Respondent and Mr. Holmes, the matter was continued and additional conferences were held on September 29, 2017 and November 1, 2017, at which times both Respondent and Mr. Holmes appeared for the purpose of representing their respective clients.

18. At the November 1, 2017 settlement conference, Mr. Salyers, represented by Respondent, and Ms. Salyers, represented by Mr. Holmes, entered into a Consent Order which resulted in Ms. Salyers' Petition for Spousal Support/Alimony Pendente Lite being withdrawn.

19. On January 24, 2018, pursuant to his suspension, Respondent filed a Statement of Compliance with the Disciplinary Board of the Supreme Court of Pennsylvania, as required by Rule 217(e)(i), Pa.R.D.E.

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20. In his Statement of Compliance, Respondent represented that, at the time of his suspension, he had no clients, and that there were no others whom he was required to notify of his suspension.

21. Given Respondent's participation in the Salyers matter, his representations in his Statement of Compliance were false.

22. Although the Supreme Court entered an Order dated February 12, 2018, reinstating Respondent to practice, he did not file his 2017-2018 PA Attorney's Annual Fee Form, as required and, as a result, he remains suspended from the practice of law.

23. Respondent did not file either his 2017-2018 Annual Fee Form, nor his 2018-2019 Annual Fee Form.

24. Although Respondent signed the return receipt for the certified mailing of Petitioner's April 18, 2018 letter of inquiry (which does not reflect a date of delivery) he did not respond to that letter of inquiry within 30 days.

25. Respondent did not reply to Petitioner's May 30, 2018 supplemental letter of inquiry which, as is reflected on the return receipt, he received on June 2, 2018.

26. By his conduct as alleged in Paragraphs 5 through 25 above, Respondent violated the following Rules of Professional Conduct and Rules of Disciplinary Enforcement:

(a) Rule of Professional Conduct 8.1(b) - An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6;

(b) Rule of Professional Conduct 8.4(b) - 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) Rule of Professional conduct 8.4(c) - It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

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(d) Rule of Professional Conduct 8.4(d) - It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice;

(e) Pennsylvania Rule of Disciplinary Enforcement 203(b)(7) - The following shall also be grounds for discipline. Failure by a respondent-attorney without good cause to respond to Disciplinary Counsel's request or supplemental request under Disciplinary Board Rules, § 87.7(b) for a statement of the respondent-attorney's position;

(f) Pennsylvania Rule of Disciplinary Enforcement 217(b) - A formerly admitted attorney shall promptly notify, or cause to be promptly notified, all clients who are involved in pending litigation or administrative proceedings, and the attorney or attorneys for each adverse party in such matter or proceeding, of the disbarment, suspension, administrative suspension or transfer to inactive status and consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status.

(g) Pennsylvania Rule of Disciplinary Enforcement 217(c)(2) - A formerly admitted attorney shall promptly notify, or cause to be promptly notified, of the disbarment, suspension, administrative suspension or transfer to inactive status all other persons with whom the formerly admitted attorney may at any time expect to have professional contacts under circumstances where there is a reasonable probability that they may infer that he or she continues as an attorney in good standing;

(h) Pennsylvania Rule of Disciplinary Enforcement 217(c)(3) - A formerly admitted attorney shall promptly notify, or cause to be promptly notified, of the disbarment, suspension, administrative suspension or transfer to inactive status any other tribunal, court, agency or jurisdiction in which the attorney is admitted to practice;

(i) Pennsylvania Rule of Disciplinary Enforcement 217(d)(2) - In addition to the steps that a formerly admitted attorney must promptly take under other provisions of this Rule to disengage from the practice of law, a formerly admitted attorney shall promptly cease

and desist from using all forms of communication that expressly or implicitly convey eligibility to practice law in the state courts of Pennsylvania, including but not limited to professional titles, letterhead, business cards, signage, websites, and references to admission to the Pennsylvania Bar;

(j) Pennsylvania Rule of Disciplinary Enforcement 217(e)(1) - Within ten days after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status order, the formerly admitted attorney shall file with the Secretary of the Board a verified statement and serve a copy on Disciplinary Counsel; and,

(k) Pennsylvania Rule of Disciplinary Enforcement 217(j) - A formerly admitted attorney may not engage in any form of law-related activities in this Commonwealth, including but not limited to those law-related activities set forth in:

(i) Subsection (4)(iii) thereof, concerning law-related services for any client who in the

past was represented by the formerly admitted attorney;

(ii) Subsection (4)(iv) thereof, concerning a formerly admitted attorney representing himself or herself as a lawyer or person of similar status;

(iii) Subsection (4)(vii) thereof, concerning a formerly admitted attorney appearing on behalf of a client in any proceeding or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, hearing officer or any other adjudicative person or body; and,

(iv) Subsection (4)(ix) thereof, concerning 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.

WHEREFORE, Petitioner prays that your Honorable Board appoint, pursuant to Rule 205, Pa.R.D.E., a Hearing Committee to hear



testimony and receive evidence in support of the foregoing charge(s) and upon completion of said hearing to make such findings of fact, conclusions of law, and recommendations for disciplinary action as it may deem appropriate.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION  
CHIEF DISCIPLINARY COUNSEL

By Samuel F. Napoli  
Samuel F. Napoli  
Disciplinary Counsel  
Attorney Registration No. 35303  
The Disciplinary Board of the  
Supreme Court of Pennsylvania  
Suite 1300, Frick Building  
437 Grant Street  
Pittsburgh, PA 15219  
Telephone: (412) 565-3173

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :  
: Petitioner : No. *35* DB 2019  
: v. :  
: KEVIN MARK KALLENBACH, : Attorney Registration No. 48490  
: Respondent : (Erie County)

VERIFICATION

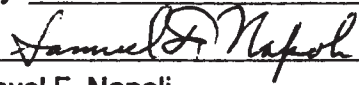
The statements contained in the foregoing Petition for Discipline are true and correct to the best of my knowledge or information and belief and are made subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsification to authorities.

2/22/19  
Date

Samuel F. Napoli  
Samuel F. Napoli  
Disciplinary Counsel

**CERTIFICATE OF COMPLIANCE**

I certify that this filing 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: Samuel F. Napoli  
Signature:   
Name: Samuel F. Napoli  
Attorney No. (if applicable): 35303