

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 5 DB 2018
Petitioner :
 : File Nos. C3-17-605
v. :
 : Attorney Registration No. 83826
CYNTHIA LYNN POLLICK :
Respondent : (Luzerne County)

ORDER

AND NOW, this 8th day of February, 2018, in accordance with Rule 208(a)(5), Pa.R.D.E., the determination by a Review Panel of the Disciplinary Board of the above captioned matter is accepted; and it is

ORDERED that the said Cynthia Lynn Pollick be subjected to a **PUBLIC REPRIMAND** by the Disciplinary Board of the Supreme Court of Pennsylvania as provided in Rule 204(a)(5) and Rule 205(c)(8) of the Pennsylvania Rules of Disciplinary Enforcement.

Costs shall be paid by the Respondent.

BY THE BOARD:



Board Chair

TRUE COPY FROM RECORD

Attest:



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

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CYNTHIA LYNN POLLICK	:	
Respondent	:	(Luzerne County)

PUBLIC REPRIMAND

Cynthia Lynn Pollick, you stand before the Disciplinary Board, your professional peers and members of the public for the imposition of a Public Reprimand. It is an unpleasant task to publicly reprimand one who has been granted the privilege of membership in the bar of this Commonwealth. Yet as repugnant as this task may be, it has been deemed necessary that you receive this public discipline.

Ms. Pollick, this matter concerns your submission of a \$727,000.00 fee petition in a federal civil rights litigation that the Court deemed excessive, resulting in denial of the fee petition and the imposition of a \$25,000.00 sanction against you.

The record indicates that you were counsel of record for Plaintiff in civil litigation docketed at: ***Meagan Young v. Bruce Smith, Jr.***, in the Middle District of Pennsylvania. In May 2007, you filed a civil action on your client's behalf alleging a 42 U.S.C. §1983 equal protection claim against Defendant Smith, and a First Amendment retaliation claim against Pleasant Valley School District, Principal John Gress, and Superintendent Dr. Frank Pullo for allegedly retaliating against your client after she complained. In August 2011, the matter was tried and the jury awarded your client \$200,000.00 in compensatory damages from Pleasant Valley, \$25,000.00 in compensatory damages from Smith, and \$100,000.00 in punitive damages from Smith.

Thereafter, Defendants filed motions for judgment as a matter of law, or in the alternative, a new trial, alleging that your conduct warranted a mistrial. By Memorandum Opinion dated May 18, 2012, Chief Judge Yvette Kane granted a new trial and vacated the damages award. The Court determined that you engaged in improper conduct during the course of the trial, including but not limited to mischaracterizing evidence, expressing personal outrage, and attempting to inflame the jury.

A second trial was held in July 2013 before Judge Matthew Brann, with only Pleasant Valley and Principal Gress left as defendants, as Defendant Smith was dismissed after a motion for summary judgment. The jury found in favor of the Defendant on all other claims. You filed an appeal to the United States Third Circuit Court of Appeals challenging the District Court's grant of a new trial and grant of summary judgment as to Smith.

By Memorandum Opinion dated February 4, 2015, Circuit Judge Jordan Fisher affirmed the District Court's grant of a new trial, but reversed and remanded on the grant of summary judgment as to Smith. In discussing the grant of a new trial, Judge Fisher noted that Judge Kane had cataloged an extensive record of your misconduct throughout the first trial.

Prior to the third trial on remand against Smith, a settlement was effected. Thereafter, you submitted a fee petition to the Court in the amount of \$727,000.00. By Memorandum Opinion dated September 6, 2017, Judge Brann denied your petition and imposed sanctions against you in the amount of \$25,000.00. Specifically, your fee petition was denied based on the Court's determination that: (1) you billed for time necessitated by your own "vexatious and obstreperous conduct," which resulted in a new trial and unnecessarily prolonged resolution of the action; and (2) your fee petition was full of entries that lacked specificity, were excessive, and/or related to unsuccessful

claims. With regard to your requested \$400.00/hour rate, the Court noted that the amount was inflated, unreasonable, not reflective of your performance, and “called [your] entire bill into question from the outset.”

The Court sharply criticized your fee petition, characterizing it as “mind-boggling,” “outrageously excessive,” and stating that it “felt more like an attempted bank robbery than a genuine effort to recover a reasonable fee bill.”

In summary, the Court denied your fee petition in full based on its determination that the amount of \$727,000.00 was unreasonable in light of the outcome you achieved on your client’s behalf, was excessive and wholly unsupported by the billing records and the applicable law, and vexatiously multiplied the proceedings. The Court noted that the imposition of sanctions was the bare minimum appropriate remedial measure based on the fact that your conduct followed a number of detailed decisions in your other cases that instructed you to cease filing such excessive fee petitions.

Despite numerous federal court opinions criticizing and reducing your fee petitions, you continued to submit fee petitions containing entries the exact language of which had previously been found improper, and requesting an hourly rate that had repeatedly been deemed excessive. You have displayed disregard for your responsibility to prepare and submit appropriate fee petitions, and you have not displayed remorse for your actions.

As a result of your conduct, you have violated the following Rules of Professional Conduct (“RPC”):

1. RPC 1.1 and 3.1, in that you submitted a fee petition to the Federal Court that contained a plethora of entries, the same type of which had been deemed insufficient in your prior cases, and requested a fee rate that had been deemed excessive in your prior cases.

2. RPC 1.5(a), in that the fee petition you submitted to the Federal Court sought a grossly excessive fee.
3. RPC 3.2 and 8.4(d), in that you submitted a fee petition that you should have known would be deemed excessive and would require substantial revision by opposing counsel and/or the Federal Court and potentially additional proceedings.
4. RPC 4.4(a), in that you submitted a fee petition that, based on your prior cases, you should have known would require opposing counsel to file objections.

It is my duty to reprimand you for your misconduct. Please be aware that any subsequent violations on your part can only result in further discipline and perhaps more severe sanctions. We sincerely hope that you will conduct yourself in such a manner that future disciplinary action will be unnecessary.

Ms. Pollick, your conduct in this matter is now fully public. This Public Reprimand is a matter of public record.

As you stand before the Board today, we remind you that you have a continuing obligation to abide by the Rules of Professional Conduct and Rules of Disciplinary Enforcement. This Public Reprimand is proof that Pennsylvania lawyers will not be permitted to engage in conduct that falls below professional standards. Be mindful that any future dereliction will subject you to disciplinary action.

This Public Reprimand shall be posted on the Disciplinary Board's website at www.padisciplinaryboard.org



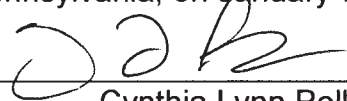
Designated Member

The Disciplinary Board of the
Supreme Court of Pennsylvania

Administered by a designated panel of three Members of The Disciplinary Board of the Supreme Court of Pennsylvania, at Philadelphia, Pennsylvania, on January 7, 2019.

ACKNOWLEDGMENT

The undersigned, Respondent in the above proceeding, herewith acknowledges that the above Public Reprimand was administered in her presence and in the presence of the designated panel of The Disciplinary Board at the Board offices located at 1601 Market Street, Suite 3320, Philadelphia, Pennsylvania, on January 7, 2019.



Cynthia Lynn Pollick