

Josh J.T. Byrne

Co-Chair, Disciplinary Board Representation Practice Group

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Josh J.T. Byrne is Co-Chair of the firm's Disciplinary Board Representation Practice and concentrates his practice on representing and defending professionals in a variety of professional liability matters. Josh regularly represents attorneys in legal malpractice, wrongful use of civil proceedings and disciplinary matters. He also represents many other types of professionals, including those in the health care field, in the federal and state courts in Pennsylvania and New Jersey and before disciplinary boards.

Josh has devoted his legal career to the protection of professionals and is highly regarded in this arena throughout the state. He is the former Chair of the Pennsylvania Bar Association's Professional Liability Committee; Co-Chair of the Amicus Curiae Brief Committee; and an active member of the Ethics Committee. He is also Co-Chair of the Philadelphia Bar Association's Professional Responsibility Committee, the former Co-Chair of the Philadelphia Bar Association's Professional Guidance Committee and is a former Hearing Committee Member serving the Disciplinary Board of the Supreme Court of Pennsylvania. He serves as a Zone One delegate to the Pennsylvania Bar Association's House of Delegates and as a Judge Pro Temp for the Philadelphia Court of Common Pleas.

A prolific writer, Josh publishes extensively on malpractice avoidance and authors a recurring column in *The Legal Intelligencer* on professional liability topics. Josh frequently presents to legal and business organizations throughout Pennsylvania on professional liability themes.

Josh graduated with a dual major in Political Science and Japanese Studies From Earlham College in Richmond, Indiana. After college, he worked for two years as a coordinator for international relations in Chiba, Japan. He then obtained his *juris doctor* from Rutgers University School of Law. He is rated AV-Preeminent by Martindale-Hubbell, the highest rating for professional competence.

Practices

- Disciplinary Board Representation
- Miscellaneous Professional Liability
- Lawyers' Professional Liability
- Commercial Litigation

Education

- Rutgers Law School (J.D., 1997)
- Earlham College (B.A., 1992)

Admissions

- New Jersey, 1998
- Pennsylvania, 2000
- U.S. District Court District of New Jersey
- U.S. District Court Eastern District of Pennsylvania
- U.S. District Court Middle District of Pennsylvania
- U.S. Court of Appeals 3rd Circuit

Honors & Awards

- AV® Preeminent™ by Martindale-Hubbell®
- The Best Lawyers in America®, Professional Malpractice Law - Defendants (2024-2026)
- Pennsylvania Super Lawyers Rising Star (2008)
- Pennsylvania Super Lawyers (2025-2026)

Associations & Memberships

- Pennsylvania Bar Association, former Chair, Professional Liability Committee; Co-Chair, Amicus Curiae Brief Committee; Ethics Committee; Zone One Delegate, House of Delegates
- Philadelphia Bar Association, Assistant Treasurer, 2026 - present, Board of Governors, 2023 - 2025, Co-Chair, Professional Responsibility Committee, 2022 - present; former Co-Chair of the Philadelphia Bar Association's Professional Guidance Committee

Speaking Engagements

- *Ethics Hotline and Special Ethical Considerations for Prosecutors*, Philadelphia Bar Association, District Attorney's Office August CLE Program, August 21, 2025
- *Ethics and Legal Malpractice Avoidance*, Philadelphia Bar Association, CLE Webinar, August 19, 2025
- *The New Administration's Chilling Effect on Attorney Representation*, Pennsylvania Bar Institute, CLE Webinar, April 22, 2025
- *How to Use Artificial Intelligence Ethically in Your Law Practice*, Villanova University Charles Widger School of Law Minority Alumni Society Virtual CLE, February 26, 2025
- *Recent Ethics Developments 2024*, Philadelphia Bar Association CLE, January 16, 2025
- *Dealing with Difficult Opposing Counsel 2025*, Pennsylvania Bar Institute CLE, January 10, 2025
- *Legal Malpractice Avoidance*, Dauphin County Bar Association, CLE Webinar, December 18, 2024
- *Suicide Prevention and the 302 Process: Training for Family Law Practitioners*, Philadelphia Bar Association, Live Webcast CLE, August 5, 2024

- *Socially Responsible: How to Ethically Use Social Media in Your Practice*, Attorney Protective, CLE Webinar, May 22, 2024
- *Communications with Unrepresented Parties*, Lawyers' Club of Philadelphia, May 20, 2024
- *Avoiding Legal Malpractice*, Pennsylvania Bar Association, May 8, 2024
- *Avoiding Legal Malpractice*, Pennsylvania Bar Institute, November 29, 2023
- *Legal Malpractice Avoidance*, Monroe County Bar Association, June 15, 2023
- *Cyber Exposures: Best Practices for Protecting Against, Preparing for & Responding to Cyber-Attacks*, Lackawanna Bench Bar Conference, October 22, 2021
- *Attorney Wellness & Well-Being*, Pennsylvania Bar Association Large Law Firm Committee and Pennsylvania Bar Institute, October 6, 2021
- *Avoiding Legal Malpractice*, Pennsylvania Bar Institute, June 9, 2021
- *Legal Malpractice Avoidance in the Pandemic*, Dauphin County Bar Association, April 7, 2021
- Pennsylvania Bar Association Conference of County Bar Leaders 2021, February 25, 2021
- Midyear Meeting 2021, Pennsylvania Bar Association, January 27, 2021
- *Ethics and Malpractice Avoidance*, November 23, 2020
- *Avoiding Legal Malpractice Training 2020*, Pennsylvania Bar Association, June 9, 2020
- *Avoiding Malpractice*, May 12, 2020
- *Avoiding Legal Malpractice*, Conference of County Bar Leaders, February 26, 2020
- *Essential Ethics 2019*, Conference of County Bar Leaders, December 19, 2019
- *Ethics and Malpractice Avoidance*, November 19, 2019
- *Avoiding Legal Malpractice*, October 21, 2019
- *Malpractice Seminar: It's 5 O'clock Somewhere*, September 12, 2019
- *Ethics You Can Use - Lessons From Immigration Malpractice and Discipline Cases*, September 11, 2019
- *Ethics and Malpractice Avoidance*, July 23, 2019
- *Avoiding Legal Malpractice*, May 22, 2019
- *Civil Litigation Section Retreat, Pennsylvania Bar Association*, May 3, 2019
- *Malpractice Avoidance Seminars 2019*, Pennsylvania Bar Association, April 9, 2019
- *Ethics and Malpractice Avoidance*, March 28, 2019
- *Valuing Antiques and Collectibles 2019*, March 19, 2019
- *Avoiding Legal Malpractice*, March 12, 2019
- *Avoiding Legal Malpractice*, Conference of County Bar Leaders, February 25, 2019
- *The Use of Technology in Your Law Practice: Know Your Ethical Obligations*, February 13, 2019

Published Works

- "What's the Gist of the Gist of the Action in Pennsylvania?" *The Legal Intelligencer*, May 14, 2026
- "The Distinction Between Abuse of Process and Wrongful Use of Civil Proceedings." *The Legal Intelligencer*, March 16, 2026
- "Your Engagement Agreement as a Defense Against Fee Disputes." *The Legal Intelligencer*, November 17, 2025
- "The Barrier to Legal Malpractice Cases Arising Out of Class Action Settlements." *The Legal Intelligencer*, May 19, 2025

- ["Clear and Convincing' Is the New Standard for Attorney Disciplinary Matters"](#) *The Legal Intelligencer*, March 17, 2025
- ["What Are Forbidden Sexual Relations With Clients?"](#) *The Legal Intelligencer*, November 18, 2024
- ["Socially Responsible Lawyers: Why You Need to Understand Social Media to Competently Represent Your Clients \(Part 1\)."](#) *The Legal Intelligencer*, September 18, 2024
- ["'But I Could Have Gotten More!' Damages Speculation in Legal Malpractice Cases,"](#) *The Legal Intelligencer*, July 15, 2024
- ["Your Well-Being Matters: Attorney Mental Health and Professional Competence,"](#) *The Legal Intelligencer*, May 15, 2024
- ["Restricting Restrictions: When Attorney Employment Agreements Run Afoul of the Rules of Professional Conduct,"](#) *The Legal Intelligencer*, March 21, 2024
- ["Risk Management in the Practice of Law,"](#) *AttPro Ally*, Attorney Protective newsletter, February 27, 2024
- ["You Diligently Protect Your Clients; What About You? Part 2 \(The Middle and the End\),"](#) *The Legal Intelligencer*, September 15, 2023
- ["You Diligently Protect Your Clients; What About You? Part 1 \(The Beginning\),"](#) *The Legal Intelligencer*, July 14, 2023
- ["Why Your Mental Health Matters to the Disciplinary Board,"](#) *The Legal Intelligencer*, May 16, 2023
- ["When Disciplinary Counsel Knocks on Your Door, How Do You Respond?"](#) *The Legal Intelligencer*, March 20, 2023
- ["Settle and Sue Your Lawyer: The Muhammad Doctrine Under Fire,"](#) *Pennsylvania Bar Association Quarterly*, January 2023
- ["What to Think About When Deciding on Legal Malpractice Insurance,"](#) *PLUS Blog*, September 12, 2022
- ["Legal Malpractice: Taking a Mistake and Making It a Fiasco,"](#) *The Legal Intelligencer*, May 17, 2022
- ["Sometimes You Have to Fire Your Client to Avoid Issues,"](#) *The Legal Intelligencer*, March 18, 2022
- ["Remorse and Acceptance, Lessons From the Disbarments and Suspensions of 2021,"](#) *The Legal Intelligencer*, November 19, 2021
- ["Employing a Formerly Admitted Attorney,"](#) *PLUS Blog*, November 1, 2021
- ["Considerations in Purchasing Legal Malpractice Insurance, Part II: Coverages,"](#) *The Legal Intelligencer*, September 20, 2021
- ["Preparing for the Worst: Considerations in Purchasing Legal Malpractice Insurance—Part I,"](#) *The Legal Intelligencer*, July 19, 2021
- ["How Are You Incorrectly Using Your IOLTA Account \(Part II\)?"](#) *The Legal Intelligencer*, May 18, 2021
- ["Pa. Supreme Court Issues Two Major Professional Liability Opinions,"](#) *The Legal Intelligencer*, March 22, 2021
- ["How Are You Incorrectly Using Your IOLTA Account \(Part I\)?"](#) *The Legal Intelligencer*, November 20, 2020
- ["Honesty and Mental Health in Disciplinary Actions,"](#) *The Legal Intelligencer*, September 18, 2020
- ["Settlement Bar to Legal Malpractice Claims Affirmed,"](#) *The Legal Intelligencer*, July 17, 2020
- ["The Dragonetti Act Is Not a Loser Pays Rule,"](#) *The Legal Intelligencer*, June 25, 2020
- ["Legal Malpractice and COVID-19: The Devil Is in the Details and Follow the Money,"](#)

The Legal Intelligencer, March 27, 2020

- ["Judicial, Judicious, Judgmental—Misconduct Makes Headlines,"](#) *The Legal Intelligencer*, November 22, 2019
- ["Statute of Limitations in Legal Malpractice Actions,"](#) *The Legal Intelligencer*, September 20, 2019
- ["Employment of a Formerly Admitted Attorney: Potential Pitfalls,"](#) *The Legal Intelligencer*, July 19, 2019
- ["A String of Big Names on Disciplinary Dockets This Spring,"](#) *The Legal Intelligencer*, May 21, 2019
- ["A Big Year \(Already!\) for the Dragonetti Act,"](#) *The Legal Intelligencer*, March 26, 2019
- ["The Gist of the Gist Doctrine in Legal Malpractice Actions,"](#) *The Legal Intelligencer*, November 23, 2018
- ["A Look at Recent Pennsylvania Legal Malpractice Cases,"](#) *The Legal Intelligencer*, July 20, 2018
- ["Free Resources for Attorneys Looking for Ethical Guidance,"](#) *The Legal Intelligencer*, May 24, 2018
- ["Getting In and Out of Trouble With the Disciplinary Board,"](#) *The Legal Intelligencer*, March 23, 2018
- ["Probable Cause as a Matter of Law in Dragonetti Cases,"](#) *The Legal Intelligencer*, November 17, 2023

Media Commentary

- ["Public Access Push Cited for Spike in Pa. Attorney Ethics Cases,"](#) *Law360*, April 3, 2026
- ["Pa. High Court Rules in Favor of Higher Standard For Proving Attorney Misconduct,"](#) *The Legal Intelligencer*, February 26, 2025
- ["'Not Just Mere Money': Pa. Justices Suggest Higher Standard for Proving Lawyer Misconduct,"](#) *The Legal Intelligencer*, April 11, 2024
- ["Judicial Conduct Complaints Spiked Across the Country in 2022,"](#) *The Legal Intelligencer*, May 22, 2023
- ["'They'll Get Theirs': Attorneys Strategize When Depositions Get Heated,"](#) *The Legal Intelligencer*, January 13, 2023
- ["You Have to Battle When it Should be a Walk in the Park: Ethics Lawyers Say Attorney Discipline has Gotten Tougher,"](#) *The Legal Intelligencer*, September 1, 2022
- ["Three Takeaways From Pa. High Court Decision on Dragonetti Act,"](#) *Law360*, February 1, 2021

Significant Representative Matters

- Received a unanimous decision from the Supreme Court of Delaware affirming the trial court decision dismissing a legal malpractice case arising out of an underlying class action settlement. The Supreme Court agreed with the arguments made on behalf of the defense that the court's approval of the claim's administrator process, and finding that the class representation was adequate, both preclude a legal malpractice claim arising out of client dissatisfaction with the settlement and claims process.
- Obtained a verdict for the defense following trial on a wrongful use of civil proceedings (Dragonetti Act) claim in the Court of Common Pleas, Philadelphia County. The action arose out of an underlying FDCPA claim.
- Assisted an attorney and his zoning board clients in having sanctions imposed by a

trial court judge vacated. I helped the attorney in obtaining pre-claim assistance coverage from his insurance carrier and then worked with him to author an appellate brief challenging the sanctions. In an unpublished opinion, the judge writing for the Commonwealth Court agreed with the arguments presented by myself and the client. The Commonwealth Court found that the trial court had no jurisdiction to issue sanctions under Section 2503 of the Judicial Code. The Commonwealth Court also found there was no basis to sanction the attorney or his clients under Rule of Civil Procedure 1701, and that the trial court did not provide appropriate due process before making a finding of contempt. The trial court's order for sanctions was vacated.

- Obtained a judgment for defense on a legal malpractice claim in Dauphin County after a bench trial. Plaintiff asserted the defendant did not properly represent him in an estate matter against his sister which caused him to be evicted from his mother's house after she passed away. Successfully argued plaintiff could not establish the client ever agreed to represent plaintiff in the estate litigation and performed all of the duties she was retained for.
 - Obtained summary judgment in a wrongful use of civil proceedings case in the Eastern District Court of Pennsylvania. Successfully argued that client's defense of probate action was not a "proceeding" as defined by the Dragonetti Act.
 - Obtained summary judgment in a legal malpractice action in the Eastern District Court of Pennsylvania. Successfully argued that plaintiff could not prove that he would have succeeded in the underlying action without respect for the alleged negligence of clients. Plaintiff's claim that, had the clients conducted additional discovery, they would have succeeded on the underlying case was belied by plaintiff's inability to present additional evidence to support the underlying claims during the legal malpractice action. The court reiterated the position that an increased risk of harm does not apply to legal malpractice actions.
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Results

Civil Rights Claims Dismissed Against Attorney Client in Federal Court

Obtained dismissal of claims in a civil rights action brought against their attorney client in the Middle District of Pennsylvania. The plaintiff brought claims for Deprivation of Rights (42 U.S.C. § 1983), Conspiracy Against Rights (42 U.S.C. § 1985), and Civil Conspiracy against their client. Jake and Josh filed a motion to dismiss pursuant to F.R.C.P. 12(b)(6), arguing that the plaintiff had failed to state a claim upon which relief could be granted. The Magistrate Judge agreed, issuing a report and recommendation for the claims to be dismissed, which the District Judge then adopted as the Court's decision. No timely appeal was taken.

Unanimous Decision Received from the Supreme Court of Pennsylvania

We received a unanimous decision from the Supreme Court of Pennsylvania. This decision both limits the use of offensive collateral estoppel in disciplinary matters and establishes that the standard of proof for disciplinary matters in Pennsylvania is clear and convincing evidence. The Office of Disciplinary Counsel had sought to utilize non-mutual offensive collateral estoppel to preclude the respondent from disputing fact determinations by a bankruptcy judge when she sanctioned the respondent and his client. The Supreme Court determined that the burden of proof for the judge in issuing

sanctions was something less than clear and convincing evidence and, therefore, collateral estoppel did not apply. In making its decision, the Supreme Court noted that the previously expressed standard of “preponderance of clear and satisfactory evidence” was confusing and archaic but is the functional equivalent of “clear and convincing.”

Successful Representation of Attorney in Disciplinary Board Matter

We achieved an informal admonition, the lowest form of discipline which is non-public, for a lawyer client in a matter that involved alleged failures to appropriately represent clients and timely file appeals in six different criminal matters.

Dismissal of Disciplinary Complaint Involving IOLTA Funds

We achieved dismissal of a disciplinary complaint brought against our attorney client who was the victim of a sophisticated scam and sent IOLTA (Interest on Lawyers’ Trust Accounts) funds belonging to another client out of the country.

Client Privacy Maintained in Disciplinary Board Matter

In a highly unusual move in a case with potential national implications, the Office of Disciplinary Counsel filed a petition for allowance of appeal seeking to have the decision of the Disciplinary Board changed from a private reprimand to a public reprimand. The defense successfully defeated this petition, thus maintaining the client’s privacy.

Private Reprimand for Client in a Disciplinary Board Matter

This case had potential national implications where the allegations by Disciplinary Counsel included 93 paragraphs and alleged violations of multiple Rules of Professional Conduct.

Declaratory Judgment Lawsuit Against Licensed Property Location Service

Dismissed

We obtained a dismissal of a declaratory judgment action against our clients, a national firm and its principal, who specialize in identifying and reclaiming lost property for consumers, who do not realize such lost property exists. Plaintiff brought this declaratory judgment action on the heels of plaintiff’s having suffered a smarting defeat in an attempted class action lawsuit against our clients. In that underlying litigation, the lower court dismissed plaintiff’s lawsuit twice and the Third Circuit affirmed the lower court’s dismissal. Plaintiff brought this action to preempt any attempts by our clients to someday bring a *Dragonetti* claim against plaintiff for filing the class action lawsuit in the underlying litigation without probable cause. We filed a motion to dismiss plaintiff’s declaratory judgment action, asserting that Plaintiff’s lawsuit was improper because it was asking the Court to make a decision on an issue that had not yet arisen. The Court granted our motion and soundly rejected Plaintiff’s claims, issuing an opinion that decisively stated “no amendment would save [plaintiff’s] Amended Complaint.” The lawsuit against our clients was dismissed with prejudice.

Trial Court’s Sanctions Against Attorney and His Zoning Board Clients Vacated

We assisted an attorney and his zoning board clients in having sanctions that had been imposed by a trial court judge vacated. We helped the attorney in obtaining pre-claim assistance coverage from his insurance carrier, and then worked with him to author an

appellate brief challenging the sanctions. In an unpublished opinion, the judge writing for the Commonwealth Court agreed with the arguments presented by our team and the client. The Commonwealth Court found that the trial court had no jurisdiction to issue sanctions under Section 2503 of the Judicial Code. The Commonwealth Court also found there was no basis to sanction the attorney or his clients under Rule of Civil Procedure 1701, and that the trial court did not provide appropriate due process prior to making a finding of contempt. The trial court's order for sanctions was vacated.

Thought Leadership

May 14, 2026

What's the Gist of the Gist of the Action in Pennsylvania?

March 16, 2026

The Distinction Between Abuse of Process and Wrongful Use of Civil Proceedings

November 17, 2025

Your Engagement Agreement as a Defense Against Fee Disputes

September 19, 2025

Status of 'Gist of the Action' in Legal Malpractice Claims Following 'Swatt v. Nottingham Village'

July 21, 2025

Socially Responsible Lawyers: Why You Need to Understand Social Media to Competently Represent Your Clients, Part 2

May 19, 2025

The Barrier to Legal Malpractice Cases Arising Out of Class Action Settlements

March 17, 2025

'Clear and Convincing' Is the New Standard for Attorney Disciplinary Matters

November 18, 2024

What Are Forbidden Sexual Relations with Clients?

September 18, 2024

Socially Responsible Lawyers: Why You Need to Understand Social Media to Competently Represent Your Clients (Part 1)

July 15, 2024

'But I Could Have Gotten More!'—Damages Speculation in Legal Malpractice Cases

June 1, 2024

On the Pulse...Disciplinary Board Representation Practice Group: Trust the Process

May 15, 2024

Your Well-Being Matters: Attorney Mental Health and Professional Competence

May 1, 2024

Law Firm Breakups

March 21, 2024

Restricting Restrictions: When Attorney Employment Agreements Run Afoul of the Rules of Professional Conduct

February 27, 2024

Risk Management in the Practice of Law