

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ORDER AMENDING RULE 66 OF §
THE RULES OF THE SUPREME §
COURT OF DELAWARE §
§

Before **SEITZ**, Chief Justice, **VALIHURA**, **VAUGHN**, **TRAYNOR**, and **MONTGOMERY-REEVES**, Justices, constituting the Court *en banc*.

ORDER

This 18th day of January 2023, it appears to the Court that it is desirable to amend Supreme Court Rule 66, which governs the Lawyers’ Fund for Client Protection, and the Rules of the Trustees of the Lawyers’ Fund for Client Protection of the Supreme Court of Delaware (“Lawyers’ Fund Rules”). These amendments are effective immediately.

(1) Rule 66(a) is amended to add the underlined text and to delete the strikethrough text:

(a) Operation and purpose of trust fund.

(i) Operation. The trust fund, known as the “Lawyers’ Fund for Client Protection” (hereinafter referred to as “the trust fund”), shall be operated and administered in accordance with this rule by ~~9~~ 12 trustees, appointed as hereinafter provided. The trustees shall be known as the “Trustees of the Lawyers’ Fund for Client Protection.”

(ii) Purpose. The purpose of the trust fund shall be to establish, as far as practicable, the collective responsibility of the profession in respect to losses caused to the public by defalcations of members of the Bar, acting either as attorneys or

as fiduciaries (except to the extent to which they are bonded, or to the extent such losses are otherwise covered).

(2) Rule 66(b) is amended to add the underlined text and to delete

the strikethrough text:

(b) Appointment and ~~compensation of trustees, officers, and associate trustees and~~ term of trustees.

~~(i) Members. The trustees shall be appointed by this Court and shall consist of 7 persons who shall be members of the Bar and 2 persons who shall be public members who are not members of the Delaware Bar.~~

(i) Members and Terms. The Court shall appoint 12 trustees to the Board. Three of the trustees shall be public members who live in Delaware and have not attended law school. Nine of the trustees shall be members of the Delaware Bar in good standing, and include at least one lawyer who resides in each county. The trustees shall severally hold office until the expiration of their respective terms and until their successors shall be appointed. The Court shall from time to time select a Chair, Vice Chair, and such other officers as it deems necessary and appropriate. Each trustee shall be appointed for a term of 3 years except the Court may appoint for shorter terms to stagger expirations. No trustee shall be appointed for more than 2 consecutive terms unless the trustee is appointed Chair. Appointment as Chair shall trigger a new 3-year term regardless of prior service.

~~(ii) Terms. Each of the counties shall be represented on the trust fund. The term of appointment shall be 4 years, provided however that no trustee shall be appointed for more than 2 consecutive terms.~~

~~(iii) Officers. The Court shall from time to time select a Chair, a Treasurer, and such other officers as it deems necessary or appropriate.~~

(~~ii~~) Removal. A trustee may be removed by the Court at any time in its discretion.

(~~iii~~) Vacancy. Vacancies shall be filled by appointment by the Court for the unexpired term.

(~~iv~~) Expenses only. The trustees ~~and the associate trustees~~ shall serve without compensation, but shall be entitled to reimbursement from the trust fund, if no other source of funds is available, for their expenses reasonably incurred in performance of their duties as trustees, including transportation costs.

~~(vii) Associate Trustees. The Court shall appoint five Associate Trustees to assist the Trustees in performing their duties. The Associate Trustees shall be appointed for a term of four years, unless sooner removed by the Court. There shall be at least one Associate Trustee from each county. Associate Trustees may not vote on any determination or decision by the Trustees.~~

(3) Rule 66(c)(i)(11) is deleted:

~~(11) Delegate powers to associate trustees. To delegate to associate trustees such duties and functions as the trustees may prescribe.~~

(4) Rule 66(d)(ii) is amended to add the underlined text and to delete the strikethrough text:

(ii) Quorum. Seven~~Five~~ trustees shall constitute a quorum. A majority of the trustees present at a duly constituted meeting may exercise any powers held by the trustees, except to the extent that this rule provides otherwise.

(5) Rule 66(g)(i) is amended to add the underlined text and to delete the strikethrough text:

(i) Determination of merits. The trustees are invested with the power, which they shall exercise at their sole discretion, to determine whether a claim merits reimbursement from the trust fund, and, if so, the amount of such reimbursement, the

time, place and manner of its payment, the conditions upon which payment shall be made, and the order in which payments shall be made. The trustees' powers under this rule may be exercised only by the affirmative vote of at least ~~5~~7 trustees.

(6) Rule 1(2) of the Lawyers' Fund Rules is amended to add the underlined text and to delete the strikethrough text:

2. ~~Five~~Seven Trustees shall constitute a quorum. A majority of the Trustees present at a duly constituted meeting may exercise any powers held by the Trustees, except to the extent that Rule 66 of the Supreme Court provides otherwise.

(7) Rule 2(1) of the Lawyers' Fund Rules is amended to add the underlined text and to delete the strikethrough text:

1. The Chairperson of the Trustees shall preside at all meetings of the Trustees at which the Chairperson shall be present. In the absence of the Chairperson from any meeting, the Vice Chair shall ~~Trustees present shall elect 1 of their members to~~ preside at that meeting.

(8) Rule 4(7) of the Lawyers' Fund Rules is amended to add the underlined text and to delete the strikethrough text:

7. No claim shall be allowed except upon the affirmative vote of a majority of 5 Trustees present at a duly constituted meeting. The determination of any claim shall lie in the sole discretion of the Trustees, as contemplated by paragraph (g) of Rule 66 of the Supreme Court.

(9) The Clerk of this Court is directed to transmit a certified copy of the Order to the clerk for each trial court in each county.

BY THE COURT:

/s/ Collins J. Seitz, Jr.
Chief Justice