



# NEW JERSEY STATE BAR ASSOCIATION

JERALYN L. LAWRENCE, PRESIDENT  
Lawrence Law LLC  
776 Mountain Boulevard, Suite 202  
Watchung, NJ 07069  
908-645-1000 • FAX: 908-645-1001  
jlawrence@lawlawfirm.com

February 10, 2023

Johanna Barba Jones, Esq., Director  
Office of Attorney Ethics  
Richard J. Hughes Justice Complex  
P.O. Box 963  
Trenton, New Jersey 08625-0963

Dear Ms. Jones:

On behalf of the New Jersey State Bar Association (NJSBA), I write today to request information about the collection, storage and use of certain grievance data by the Office of Attorney Ethics (OAE).

It is generally understood in the legal community that if a grievance is filed that is determined to allege facts that, if true, would constitute unethical conduct, the grievance will be docketed, assigned for investigation, and a record kept of the proceedings. If, however, a grievance is declined because the facts, if true, would not constitute unethical conduct, it is generally believed that ends the grievance procedure, with no consequences and no lasting record.

A recent memo sent to District Ethics and Fee Arbitration Committees says otherwise and is what prompts this communication. That memo appears to direct District Ethics and Fee Arbitration Committee Secretaries to maintain declination data and documents in the OAE e-filing InfoShare system.

The memo does not address several issues that the NJSBA believes should be made transparent: There is no indication in the memo about how the declination information will be stored and for how long, how it will be used or who will have access to it. There is a reference to a need to protect attorneys from defending successive baseless grievances and fee arbitration cases, but there is no explanation about how the data will be accessed and used to accomplish that goal.

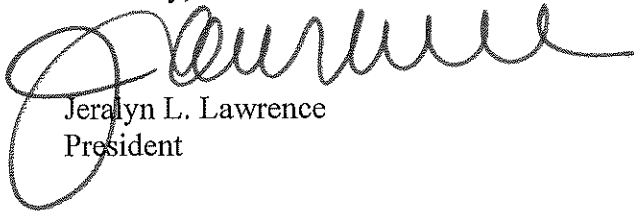
The NJSBA believes attorneys should be advised of this when they are told a grievance is declined. The filing of a grievance against an attorney has the potential to greatly impact their professional standing and reputation. Further, a filing often causes angst and anxiety for the attorney, even if the grievance is baseless and without merit. Just as attorneys are advised of what happens once a grievance is filed, the NJSBA believes they should also be provided with a full understanding of what happens once it is declined.

For that reason, the NJSBA requests information about the protocols surrounding the collection, storage and use of declination data and documents. What information is required to be conveyed by the District Ethics and Fee Arbitration Committee Secretaries? Where is it stored? How long will it be stored? Who can access it and for what purpose? What procedures and review processes are used to access the information? How is it protected? Under what circumstances if any, will it be referenced in the future or made public?

If records are being kept, even for grievances that are determined to be without merit, attorneys have the right to know the details of that recordkeeping, especially in an age where hackers have been known to infiltrate data storage of government agencies and businesses and make information public

Thank you for your anticipated response to this request. I look forward to any insight and information you can provide.

Sincerely,



Jeralyn L. Lawrence  
President

cc: Timothy McGoughran, Esq., NJSBA President-Elect  
Angela C. Scheck, NJSBA Executive Director