

## JOSH J.T. BYRNE

CO-CHAIR, DISCIPLINARY BOARD REPRESENTATION PRACTICE GROUP  
SHAREHOLDER



### AREAS OF PRACTICE

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

### CONTACT INFO

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Philadelphia, PA 19103

### ADMISSIONS

New Jersey  
1998

Pennsylvania  
2000

U.S. District Court 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

### EDUCATION

Rutgers University, Camden, NJ  
(J.D., 1997)

Earlham College (B.A., 1992)

### OVERVIEW

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.

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## HONORS & AWARDS

AV® Preeminent™ by Martindale-Hubbell®

The Best Lawyers in America®, Professional Malpractice Law - Defendants  
2024-2025

Pennsylvania Super Lawyers Rising Star  
2008

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## 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, Board of Governors, 2023 - present; Co-Chair, Professional Responsibility Committee, 2022 - present; former Co-Chair of the Philadelphia Bar Association's Professional Guidance Committee

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## YEAR JOINED

2021

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## THOUGHT LEADERSHIP

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

Philadelphia - Headquarters  
Lawyers' Professional Liability  
September 18, 2024

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

Philadelphia - Headquarters  
Lawyers' Professional Liability  
July 15, 2024

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

Philadelphia - Headquarters  
Disciplinary Board Representation  
June 1, 2024

While everyone likes surprises, not all surprises are well-liked, and this is especially true if you receive notification from a state disciplinary board that your actions have been reported as violating the code of conduct governing your profession. Defense Digest, Vol. 30, No.

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

Philadelphia - Headquarters  
Lawyers' Professional Liability  
Disciplinary Board Representation  
May 15, 2024

### Law Firm Breakups

Philadelphia - Headquarters  
Disciplinary Board Representation  
Lawyers' Professional Liability  
May 1, 2024

Law firm breakups are fraught with the potential for attorney misconduct. Attorneys who determine they can no longer work together will often take the additional step of accusing one another of inappropriate conduct. Legal Update for Lawyers' Professional Liability – May 2024 is prepared by Marshall Dennehey to provide information on recent legal developments of in

## **SPEAKING ENGAGEMENTS**

*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

***Legal Malpractice Avoidance, Monroe County Bar Association, June 16, 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**

"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**

"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

## RESULTS

### Successful representation of attorney in Disciplinary Board matter.

#### **Disciplinary Board Representation**

**April 11, 2023**

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.

#### **Disciplinary Board Representation**

**January 30, 2023**

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

#### **Disciplinary Board Representation**

**November 10, 2022**

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.

#### **Disciplinary Board Representation**

**February 16, 2022**

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.

#### **Lawyers' Professional Liability**

**September 28, 2021**

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.

## RESULTS

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.