

**LAWYERS' FUND FOR CLIENT
PROTECTION**

**2021
ANNUAL REPORT**

THE SUPREME COURT *of* OHIO

Lawyers Fund for Client Protection

Fiscal Year 2021

Annual Report

Maureen O'Connor

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R. Patrick DeWine

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Jennifer Brunner

JUSTICES

Stephanie E. Hess

INTERIM ADMINISTRATIVE DIRECTOR

Lawyers' Fund for Client Protection

Board of Commissioners

Monica Sansalone, *Chair*

Gregory Delev, *Vice Chair*

Hon. Cassandra Collier-Williams

Gregory Gilchrist

Pamela Leslie

Hon. Guy L. Reece II

Josué Vicente

MEMBERS

Janet Green Marbley

ADMINISTRATOR/BOARD SECRETARY

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INTRODUCTION

This Annual Report for the Lawyers' Fund for Client Protection is respectfully presented to Chief Justice Maureen O'Connor and Justices of the Supreme Court of Ohio.

For the past 36 years, the Court has provided financial reimbursement to law clients who sustain financial losses resulting from dishonest Ohio lawyers. The Court established the Lawyers' Fund for Client Protection to carry out this mission, thereby restoring public confidence in the legal profession. This mission is accomplished by the Court's allocation of funding from attorney registration fees. Since the establishment of the Lawyers' Fund in 1985, the Court has allocated more than \$25 million toward achieving the mission of promoting public confidence in the integrity of the legal profession.

Despite the challenges presented by the COVID-19 pandemic, the commissioners continued to meet, and the staff continued to perform their responsibilities using a virtual platform. This report includes a detailed review of reimbursements made during fiscal year 2021, including the types of claims reimbursed and the restitution collected from dishonest lawyers.

The legal profession is the only profession that reimburses losses caused by the dishonest conduct of its members. While the overwhelming majority of Ohio lawyers observe high standards of integrity and professionalism when entrusted with law-client money or property, the dishonest acts of a few can have a negative effect on the public's image of and confidence in the legal profession as a whole.

The Board of Commissioners, as well as the staff, commend the Supreme Court of Ohio for its continuing and unwavering support of the mission and purpose of the Fund.



Janet Green Marbley, Esq.

Administrator, Lawyers' Fund for Client Protection

CHAIR'S COMMENTS

On behalf of the Board of Commissioners of the Lawyers' Fund for Client Protection of Ohio, I am pleased to present this report to the Supreme Court of Ohio covering the work of the Fund during fiscal year 2021.

In fiscal year 2021, the Fund received 17 new applications for reimbursement. The Board reviewed 45 claims, determining 39 were eligible for reimbursement. The total reimbursement for eligible claims for fiscal year 2021 was \$373,548.74. One claimant received the maximum reimbursement of \$75,000.

The reimbursements made in fiscal year 2021 resulted from the dishonest conduct of 22 Ohio attorneys. As in previous years, this number represents less than one-tenth of 1% of all active Ohio attorneys.

Unearned-fee claims accounted for 33 of the 39 eligible claims and 32% of the total amount reimbursed by the Fund. By contrast, there were five claims involving theft by fiduciary, representing 66% of the total dollars reimbursed in fiscal year 2021.

During fiscal year 2021, the Court approved amendments to Gov.Bar. R. VIII, increasing the maximum award amount from \$75,000 to \$100,000 per claim and increasing the time within which a claim must be filed from one year to five years. These rule amendments became effective on Nov. 1, 2020.

I would like to express my sincere appreciation to the Commissioners with whom I serve for their hard work and dedication to the accomplishment of the Fund's mission. These individuals volunteer their time and expertise to help improve the image of the legal profession by helping those who have been harmed by the dishonest acts of a few.

I would like to thank the staff of the Fund whose responsibilities include, but are not limited to, investigation of claims, presentation of claims to the Board, and numerous other administrative tasks. Their contribution to the Fund's mission is invaluable.

I would also like to thank the Supreme Court of Ohio for its continued support of the Fund's mission and goals, and for the confidence placed in me by allowing me to chair this board.



Lawyers' Fund for Client Protection, Board of Commissioners

BOARD OF COMMISSIONERS

Gov.Bar R. VIII requires the establishment of a seven-member board of commissioners (Board) of the Lawyers' Fund for Client Protection (LFCP) to determine the eligibility of claims filed with the LFCP and to manage fund assets.

The current board includes three attorneys, one judge, one retired judge and two non-attorneys. Board members are appointed by the Supreme Court justices to three-year terms and are limited to two consecutive terms. They serve as volunteers and are compensated only for travel expenses.



TOP ROW, LEFT TO RIGHT: Monica Sansalone, Gregory Delev, Hon. Cassandra Collier-Williams
MIDDLE ROW, LEFT TO RIGHT: Gregory Gilcrest, Jack R. Kullman Jr., and Pamela Leslie
BOTTOM ROW, LEFT TO RIGHT: Sara A. Peller, Hon. Guy L. Reece II, and Josué Vicente

JACK R. KULLMAN JR. was appointed to the board in 2015, and was reappointed to his second term in 2018. He became chair of the board on Jan. 1, 2019 and served until Dec. 31, 2020. Kullman is the executive director of the Guardianship Service Board.

SARA L. PELLER was appointed to the board for a three-year term in 2015, and was reappointed to her second term in 2018. Peller served as vice chair until Dec. 31, 2020. Peller recently retired as the chief executive officer of the American Red Cross for the Greater Cincinnati/Dayton region.

GREGORY GILCHRIST was appointed to the board for a three-year term beginning Jan. 2, 2021. He is a law professor at the University of Toledo College of Law where he teaches and writes in the areas of criminal law, corporate law, criminal procedure, and white-collar crime.

HON. CASSANDRA COLLIER-WILLIAMS was appointed to the board for a three-year term beginning on Jan. 1, 2019. Judge Collier-Williams has served on the Cuyahoga County Common Pleas Court bench since January 2013.

GREGORY DELEV was appointed to the board for a three-year term beginning Jan. 1, 2017 and was reappointed in 2020. Delev currently serves as vice chair to the board and is a practicing attorney with Delev & Associates, LLC in Cincinnati.

PAMELA LESLIE was appointed to the board for a three-year term beginning Jan. 1, 2021. She is a mental-health therapist with Holistic Consultation LLC. Leslie is a former employee of the Supreme Court of Ohio.

HON. GUY L. REECE II was appointed to the board for a three-year term beginning on Jan. 1, 2019. Judge Reece retired from the Franklin County Common Pleas Court bench in January 2019 after having served since 2003. Judge Reece also served on the Franklin County Municipal Court from 1990-1992.

MONICA SANSALONE was appointed to the board for a three-year term beginning Jan. 1, 2016, and was reappointed to her second term in 2019. She became chair of the board in January 2021. She is a partner in the law firm of Gallagher Sharp in Cleveland.

JOSUÉ VICENTE was appointed to the board for a three-year term beginning Jan. 1, 2020. He is the executive director of the Ohio Hispanic Coalition.

ADMINISTRATOR & STAFF

The Supreme Court of Ohio appoints an administrator who serves at the pleasure of the Court and is responsible for managing the legal, fiscal, and administrative affairs of the office. The administrator also serves as secretary to the board of Commissioners. The administrator appoints, with the approval of the Court, staff to assist with the duties of the board.



JANET GREEN MARBLEY, the administrator and secretary to the board, was appointed by the Court in 1995. She is a graduate of the University of Cincinnati and Capital University Law School. She is the former president of the National Client Protection Organization and former chair of the American Bar Association's Standing Committee on Client Protection.



MELETHA DAWSON serves as administrative secretary and is responsible for processing all claims filed with the LFCP, maintaining the claims inventory, and providing clerical support to staff.



RIKKHYIA FAVOURS serves as fiscal coordinator and is responsible for the fiscal operations of the LFCP and the preparation of financial reports.



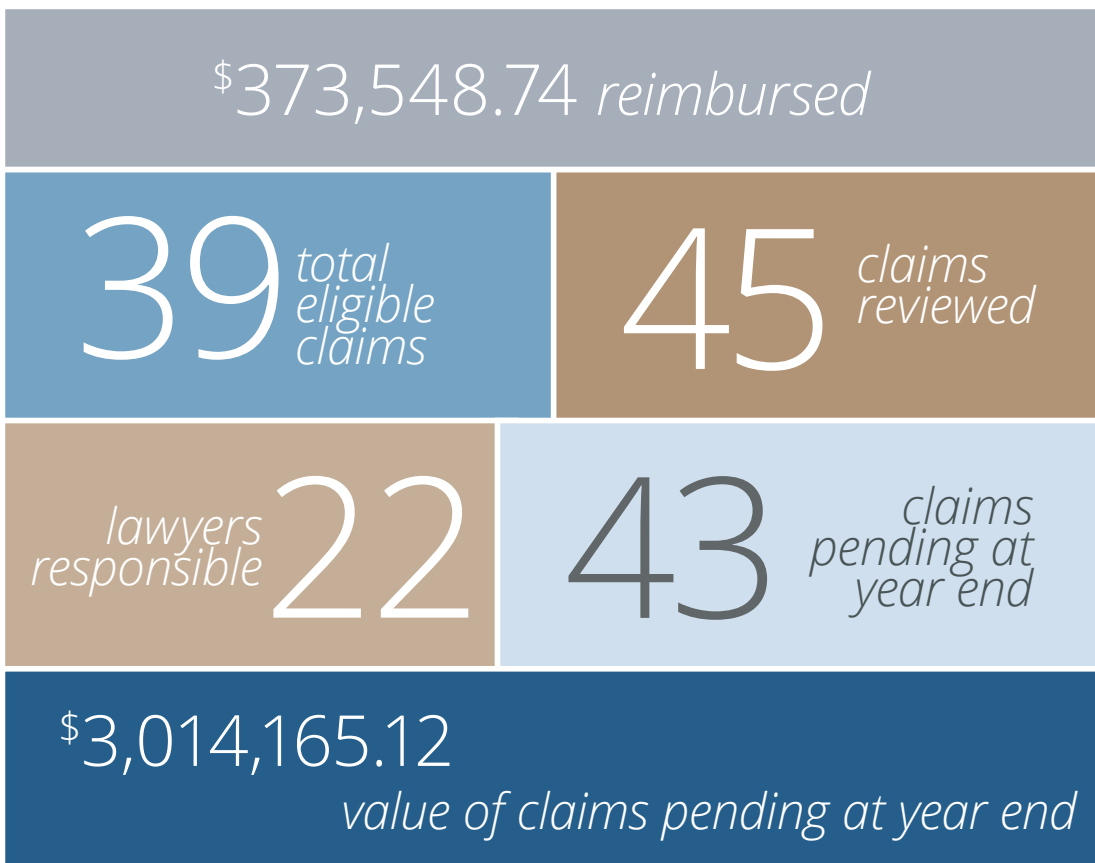
ABBY WILSON serves as claims analyst and investigates all claims filed with the LFCP to assist the administrator and the board in determining whether requirements for reimbursement have been met.

Fiscal Year 2021 Claim Determinations

The LFCP Board of Commissioners held four virtual quarterly meetings during fiscal year 2021. The board reviewed 45 claims, determining 39 claims eligible for reimbursement totaling \$373,548.74. One claimant received the maximum reimbursement amount of \$75,000. Twenty claimants received 100% reimbursement of their losses. The reimbursements resulted from the dishonest conduct of 19 Ohio attorneys and three deceased attorneys who failed to complete work and/or provide refunds for their clients prior to their death.

There were 33 losses resulting from unearned-fee claims, accounting for the largest number of eligible claims. By contrast, there was only one eligible claim resulting from settlement theft and five claims resulting from fiduciary theft.

Fiscal Year 2021 Significant Numbers



Fiscal Year 2021 Claim Determinations

| Category of Client Loss | Reimbursements | Total |
|-------------------------|----------------|----------------------|
| Escrow Thefts | 0 | \$ 0 |
| Estate Thefts | 0 | \$ 0 |
| Theft by Fiduciary | 5 | \$ 247,948.74 |
| Settlement Thefts | 1 | \$ 8,385.00 |
| Unearned Fees | 33 | \$ 117,215.00 |
| Other | 0 | \$ 0 |
| TOTAL | 39 | \$ 373,548.74 |



- Theft by Fiduciary (66%)
- Unearned Fees (32%)
- Settlement Thefts (2%)

Revenues

Attorney Registration Fees:

During fiscal year 2021 the Court allocated \$466,104 for the Fund’s operating expenses. A total of \$428,164, or 91.9% of the operating budget, was expended.

Based upon the funds in the trust account for the payment of claims, no additional funds were allocated to that account. A total of \$373,548.74 was expended from the trust account for the payment of claims. The trust account balance on June 30, 2021 was \$6,019,309.64.

Interest Income

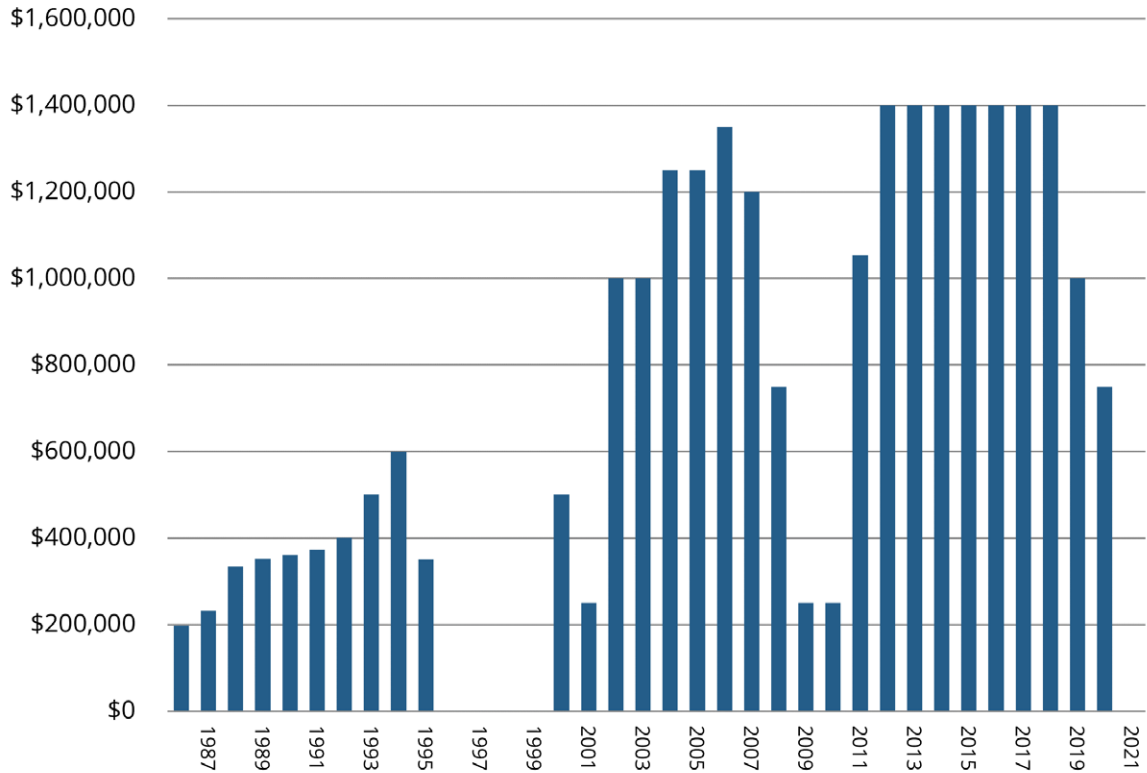
The trust account earned \$45,408.86 in interest income during fiscal year 2021.

Restitution

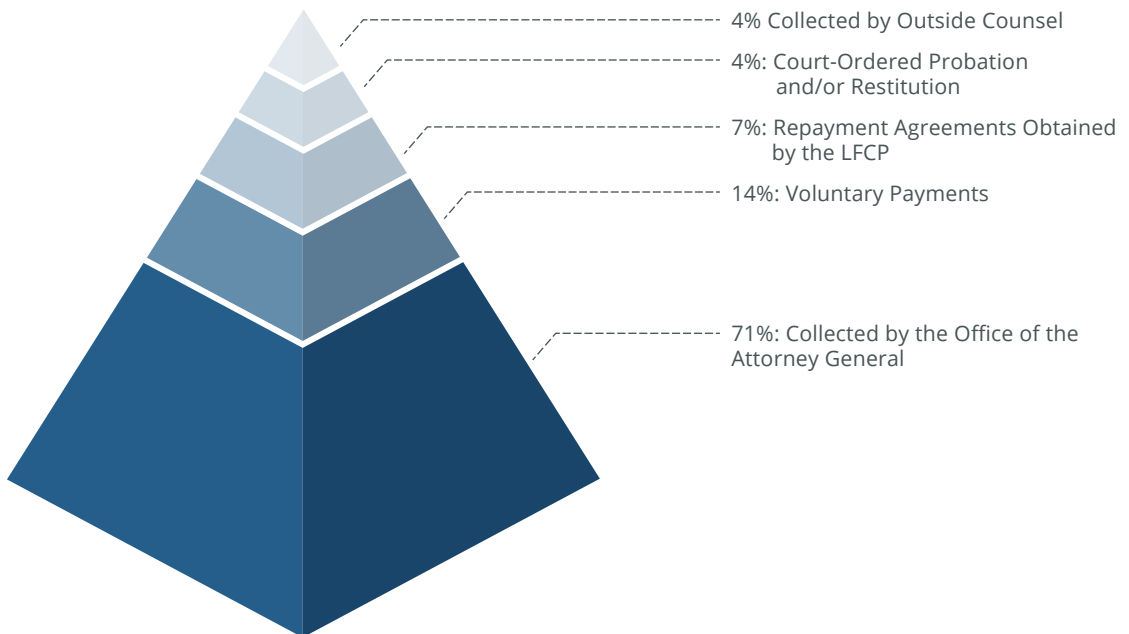
Restitution revenue for Fiscal Year 2021 totaled \$ \$59,546.02. Sources of restitution received by the Fund include:

- \$2,562.50 collected through court-ordered probation and/or restitution
- \$42,052.94 collected by the Office of the Attorney General
- \$2,232.00 collected by outside counsel (Weltman, Weinberg & Reis, Co., L.P.A.)
- \$4,345.00 collected through repayment agreements obtained by the LFCP
- \$8,353.58 collected through voluntary payments

Trust Fund Allocation



Restitution Proceeds



Attorneys Involved in Fiscal Year 2021 LFCP Claims

| Attorney | County | Awards | Theft Category | Awarded |
|-----------------------------|------------|------------------|------------------------|---------------------|
| Mark David Berling | Lucas | 8 | Unearned Fee | \$24,400.00 |
| Jeffrey Shane Brumbaugh | Miami | 1 | Fiduciary/Unearned Fee | \$75,000.00 |
| Austin Roan Buttars | Franklin | 1 | Fiduciary | \$66,174.30 |
| Michael Joseph Cheselka Jr. | Cuyahoga | 2 | Unearned Fee | \$9,500.00 |
| John Walter Gold | Cuyahoga | 1 | Unearned Fee | \$10,000.00 |
| Brian Wade Harter | Delaware | 1 | Fiduciary/Unearned Fee | \$3,500.00 |
| * Mary Jill Brewster Hugan | Hamilton | 3 | Unearned Fee | \$14,490.00 |
| Beth Ann Judge | Summit | 1 | Unearned Fee | \$9,875.00 |
| * Donald Patrick Leone | Mahoning | 5 | Fiduciary/Unearned Fee | \$107,674.44 |
| John Patrick Lutseck | Trumbull | 1 | Unearned Fee | \$1,076.00 |
| Thomas Jeremiah McGuire | Lorain | 1 | Unearned Fee | \$2,900.00 |
| John David Moore Jr. | Franklin | 3 | Unearned Fee | \$4,124.00 |
| Gabriel Phillip Moorman | Warren | 1 | Unearned Fee | \$1,350.00 |
| Albert Alex Palombaro | Mahoning | 1 | Settlement Theft | \$8,385.00 |
| Jennifer Dawn Petracci | Medina | 1 | Unearned Fee | \$1,200.00 |
| Joan Patricia Selby | Stark | 2 | Unearned Fee | \$3,550.00 |
| William Richard Sparks | Stark | 1 | Unearned Fee | \$5,000.00 |
| Derrick Anthony Strahorn | Montgomery | 1 | Unearned Fee | \$1,100.00 |
| William Matthew Tinch | Butler | 1 | Unearned Fee | \$1,000.00 |
| Jeffrey Hile Weir II | Lorain | 1 | Unearned Fee | \$5,000.00 |
| Jared Lee Wilson | Portage | 1 | Unearned Fee | \$500.00 |
| * Daniel Dickerson Wilt | Lake | 1 | Unearned Fee | \$17,750.00 |
| 22 Attorneys | | 39 Awards | | \$373,548.74 |

* Attorney was deceased at the time claim was filed and/or during claim process

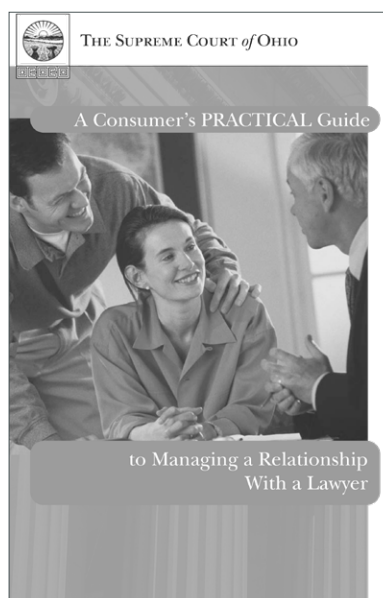
Public Information & Consumer Education

Referrals by disciplinary agencies continue to account for the largest category of claims filed with the Lawyers' Fund for Client Protection. The LFCP distributes applications and informational pamphlets to the Office of Disciplinary Counsel and Certified Grievance Committees to assist them with referrals.

The LFCP prepares and distributes public announcements as an additional means of informing the public about the fund. In addition to general information about the LFCP, the announcements contain information about claims determined by the board to be eligible for reimbursement. The Court's Office of Public Information assists with the preparation and distribution of the announcements.

The LFCP's presence on the internet is also a means of informing the public of the Fund's existence. The LFCP's webpage contains questions and answers about the Fund and the types of claims reimbursed. An application for reimbursement is available on the webpage, as well as an informational pamphlet. Both are available in English and Spanish.

In collaboration with the Court's Commission on Professionalism, the LFCP publishes "A Consumer's Practical Guide to Managing a Relationship with a Lawyer." The guide provides general information about the lawyer-client relationship, including how to find a lawyer, what to expect after hiring a lawyer, and how to avoid problems in the lawyer-client relationship. The consumer guide is distributed statewide to bar associations, public libraries, law firms, and other professional and governmental offices.



Lawyers' Fund for Client Protection

Former Commissioners

| | | | |
|----------------------------|-----------------------------|-------------------------|-----------------------------|
| Luis M. Alcalde | 2003 - 2008 | E. James Hopple | 1996 - 2001 |
| Benjamin F. Barrett Sr. | 1998 - 2000 | Donna James | 1991 - 1995 |
| Hon. Patricia Ann Blackmon | 2004 - 2009 | David Kamp | 1992 - 1997 |
| Kathleen Burke | 1985 - 1990 | Larry Johnson | 2011-2017 |
| David S. Bloomfield | 1990 - 1995 | Hon. Richard H. Koehler | 1985 - 1990 |
| John J. Chester Jr. | 1996 - 2001 | Dennis M. Lafferty | 2010 - 2012 |
| Anne L. Clark | 1998 - 2003 | David P. Lyons | 2002 - 2004 |
| Michael Colvin | 1992 - 1997 | Keith McNamara | 1985 - 1989 |
| Emily K. Cooper | 2000 - 2002 | Fred E. Morr | 1990 - 1995 |
| Sally W. Cuni | 2009 - 2014 | William S. Newcomb Jr. | 2002 - 2007 |
| Kenneth R. Donchatz | 2005 - 2010 | Jerome Phillips | 1998 - 2003; 2007 - 2012 |
| Robert W. Everett | 2003 - 2006; 2014 - 2019 | Gordon L. Rose | 1991 - 1996 |
| Mary Ellen Fairfield | 1990 - 1991 | Hon. John J. Russo | 2011-2018 |
| George Gerken | 1985 - 1991 | Brian G. Selden | 2003 - 2004 |
| Laneta Goings | 1995 - 1999 | Stephen R. Serraino | 2013-2018 |
| John J. Grady | 1985 - 1989 | Diane Smilanick | 2001 - 2006 |
| Hon. James E. Green | 2008 - 2013 | Howard A. Traul II | 2010 - 2015 |
| Edward G. Hack | 2004 - 2009 | Natalie Wester | 1997 - 2002 |
| Francis A. Herzog | 1985 - 1989 | Henry Young | 1985 - 1988 |
| Thomas A. Heydinger | 1989 - 1994 | John W. Zeiger | 1995 - 1997 |

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