



**IN RE: PAUL J. PEZZA**

**NO. BD-2013-116**

**S.J.C. Judgment of Reinstatement entered by Justice Cordy on August 1, 2016.<sup>1</sup>**

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<sup>1</sup> The complete Order of the Court is available by contacting the Clerk of the Supreme Judicial Court for Suffolk County.

**COMMONWEALTH OF MASSACHUSETTS  
BOARD OF BAR OVERSEERS  
OF THE SUPREME JUDICIAL COURT**

**In the Matter of  
PAUL J. PEZZA,**

**SJC No. BD-2013-116**

**Petition for Reinstatement**

**HEARING PANEL REPORT**

**I. Introduction**

The petitioner, Paul J. Pezza, filed a petition for reinstatement with the Supreme Judicial Court on January 21, 2016, following a year-and-a-day suspension imposed on December 11, 2013. Matter of Pezza, 29 Mass. Att’y Disc. R. 535 (2013); Ex. 1 (PEZZA 17). A hearing was held on the petition on May 18, 2016. The petitioner, who was represented by counsel, testified on his own behalf and called two witnesses: Jenny L. Margeson, Esq., a former colleague; and Karen Rivas, a former client. Bar counsel called no witnesses. Fifteen exhibits, including the petitioner’s answers to the reinstatement questionnaire and its attachments, were admitted into evidence. Bar counsel does not object to reinstatement. After considering the testimony and other evidence, the panel recommends that the petition for reinstatement be allowed.<sup>1</sup>

**II. Standard**

A petitioner for reinstatement to the bar bears the burden of proving that he or she has satisfied the requirements for reinstatement set forth in S.J.C. Rule 4:01, § 18(5); namely that he or she possesses “the moral qualifications, competency and learning in law required for admission to practice law in this Commonwealth, and that his or her resumption of the practice

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<sup>1</sup> The hearing panel commends the legal work of the petitioner’s counsel, Justin Fabella, and of First Assistant Bar Counsel Dorothy Anderson, in presenting and advocating this case in a highly professional and effective manner.

of law will not be detrimental to the integrity and standing of the bar, the administration of justice, or to the public interest.” Matter of Weiss, 474 Mass. 1001, 1002 (2016).

In making these determinations, a panel considering a petition for reinstatement “looks to ‘(1) the nature of the original offense for which the petitioner was [suspended], (2) the petitioner’s character, maturity, and experience at the time of his [suspension], (3) the petitioner’s occupations and conduct in the time since his [suspension], (4) the time elapsed since the [suspension], and (5) the petitioner’s present competence in legal skills.’” Matter of Daniels, 442 Mass. 1037, 1038, 20 Mass. Att’y Disc. R. 120, 122-123 (2004) (rescript), quoting Matter of Prager, 422 Mass. 86, 92 (1996), and Matter of Hiss, 368 Mass. 447, 460, 1 Mass. Att’y Disc. R. 122, 133 (1975).

### **III. Disciplinary Background**

At the request of a former law school classmate (GL) who was suing, among others, the dean of their former law school, the petitioner signed an affidavit, knowing that it was to be filed in at least one court.<sup>2</sup> Ex. 1 (PEZZA 17). He attested in the affidavit that he had done an investigation and that the dean, who is African American, “has been described to me by Massachusetts licensed African American lawyers and other Massachusetts lawyers of Caribbean decent [sic] . . . to be ‘unprofessional, sophomoric, silly.’” Ex. 14, ¶¶ 5, 5F (PEZZA 253-254). He also attested that the dean ““was given a free house to live in Bristol County [sic] which is paid for by the law school and taxpayer dollars.”” Ex. 14, ¶ 5G (PEZZA 254). The affidavit was submitted in two superior court actions. Ex. 1 (PEZZA 17-18). The petitioner made the statements either knowing that they were false and/or deceptive and misleading, or with reckless

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<sup>2</sup> By the time the petitioner signed the affidavit, GL had already sued the law school in federal court for violation of the Americans with Disabilities Act (ADA); the case was resolved by a confidential settlement agreement. Ex. 1 (PEZZA 17). In 2008, he filed a lawsuit in Suffolk Superior Court alleging that the law school and dean had violated the settlement terms of the ADA suit. Id. In 2011, he filed two new actions in Middlesex Superior Court, one seeking a restraining order against the dean and the law school’s defense attorney, and the other seeking monetary damages and injunctive relief against the dean, law school and counsel. Id. The petitioner knew that GL intended to file the affidavit in court in connection with one or both Middlesex suits. Id.

disregard for their truth or falsity. Ex. 1 (PEZZA 18). The petitioner stipulated to the misconduct, which violated rules 8.4(c) and 8.4(d). See id.<sup>3</sup>

#### IV. **Findings**

##### A. **Moral Qualifications**

The conduct giving rise to the petitioner's suspension is affirmative proof that he lacks the moral qualifications to practice law. Matter of Sullivan, 25 Mass. Att'y Disc. R. 578, 580 (2009), citing Matter of Centracchio, 345 Mass. 342, 346 (1963). To gain reinstatement, the petitioner has the burden of proving that he has led "a sufficiently exemplary life to inspire public confidence once again, in spite of his previous actions." Matter of Prager, 422 Mass. at 92, quoting Matter of Hiss, 368 Mass. at 452, 1 Mass. Att'y Disc. R. at 126.

"The act of reinstating an attorney involves what amounts to a certification to the public that the attorney is a person worthy of trust." Matter of Daniels, 442 Mass. at 1038, 20 Mass. Att'y Disc. R. at 123; Matter of Centracchio, 345 Mass. at 348. In fact, "considerations of public welfare are dominant. The question is not whether the petitioner has been punished enough." Matter of Cappiello, 416 Mass. 340, 343, 9 Mass. Att'y Disc. R. 44, 47 (1993).

In his answers to Part I of the Amended Reinstatement Questionnaire, the petitioner admitted having made "certain statements . . . that were misleading and without a proper basis." Ex. 1 (PEZZA 2). He admitted that he had failed to properly verify the statements before signing the affidavit, and he took "full responsibility" for his actions. Id. He also described how, after he had submitted the affidavit, he learned during a deposition that GL had fraudulently added several pages to a second version of the affidavit, containing statements that the petitioner had not reviewed or approved. Id. The petitioner testified during the deposition that the affidavit he had signed contained misstatements, and further that he had not signed the second version. Id.

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<sup>3</sup> In at least four places in the affidavit, the petitioner made allegations of "criminal harassment" against the dean and his attorney. Ex. 14. While these allegations were not mentioned in the SJC's summary of the petitioner's misconduct (see Ex. 1 (PEZZA 17)), the petitioner admitted at the hearing that he could not substantiate these claims.

In her Memorandum of Decision and Order in the Suffolk County matter, referenced supra at n. 2, Judge Fahey wrote: “Pezza has admitted to signing this materially false affidavit even though in all reasonable likelihood he will face serious disciplinary action in both Rhode Island<sup>4</sup> and Massachusetts.” Ex. 1 (PEZZA 70).

At the reinstatement hearing, the petitioner explained the circumstances of the drafting of the affidavit and the nature of his misconduct. He admitted that the statement about free housing was hearsay and that it had been improper to include it. Tr. 29 (Petitioner). He also confessed that the “investigation” he had done was cursory, that he had spoken to only a few students, and that his statements begged the inference that he had interviewed many. Tr. 29-30 (Petitioner). We probed for details about the creation and editing of the affidavit. The petitioner admitted that GL sent him several drafts of what he wanted, and the petitioner rewrote one of the drafts. Tr. 101 (Petitioner). GL was not satisfied, and they “went back and forth a bunch of times before I got to the point where I was . . . comfortable with printing and signing the affidavit and sending it back to him.” Tr. 101-102 (Petitioner). He sees now, although he did not recognize then, “the effect every statement in a pleading can have in a case and the resulting trouble it could cause . . . .” Tr. 114 (Petitioner). He told us that it was his duty as an officer of the court to “ensure the utmost integrity in filing documents with the court,” and admitted he had breached it. Tr. 30 (Petitioner).

Although there was no finding to this effect in the SJC’s summary (Ex. 1 (PEZZA 17-18); 29 Mass. Att’y Disc. R. 535), the petitioner claimed in his reinstatement materials and many times at the hearing that he had felt pressure to sign the affidavit, and that it had been executed under duress. Ex. 1 (PEZZA 2); Tr. 26, 77-78, 107-109, 117 (Petitioner).<sup>5</sup> He described GL’s history of physically intimidating people, leading the petitioner to carry his firearm “much more

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<sup>4</sup> The petitioner was not admitted to the Rhode Island bar. Ex. 1 (PEZZA 1).

<sup>5</sup> We discuss this not by way of mitigation—which presumably was waived in the petitioner’s Answer and Stipulation—but to illuminate our conclusion that the petitioner has reformed and learned from his errors and is not likely to reoffend.

frequently” after he and GL had the falling out over the affidavits. Tr. 77-78 (Petitioner). He also explained his fear that if he did not comply with GL’s wishes, GL would file complaints against him or sue him “just to make my life miserable from that point forward.” Tr. 109 (Petitioner).<sup>6</sup> Further, GL in effect held hostage certain work he had performed for the petitioner, work for which the petitioner had prepaid. The petitioner needed the work for a client with an upcoming court date, and could not do it himself. Tr. 107, 117 (Petitioner). The lesson the petitioner has learned from this experience is to be considerably more discerning and discriminating when asked in the future to do something questionable, observing that “[b]ecause I allowed [GL] to talk me into submitting this affidavit, my life has been turned upside down.” Tr. 93 (Petitioner).

We have also considered the petitioner’s conduct in giving truthful testimony, against his own self-interest, at the deposition. As was true of the duress evidence, we consider this not as damage control or mitigation but as part of our analysis of the petitioner’s reform. He realized fairly quickly the gravity of his misconduct in signing a misleading affidavit and revealed it at his deposition, despite the fact that he was “pretty certain” that the presiding judge would report him to the BBO. Indeed, she did so. Tr. 31-32 (Petitioner). This shows us that, shortly after the misconduct, the petitioner recognized his error and, as his counsel put it, fell on his sword. Tr. 181. This is evidence of reform, and it supports the petitioner’s claim that although he strayed, his moral compass was “pointed in the right direction soon after the affidavit” and was reset once he gave truthful deposition testimony. See Tr. 182 (Argument of counsel).

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<sup>6</sup> The reinstatement materials reflect that GL has filed numerous lawsuits, to the point where he was enjoined in the Superior Court on September 20, 2012 from “filing any action at law or equity in any Massachusetts state court of original jurisdiction against any party’ without first . . . going through a prescreening hearing before a regional administrative justice.” Ex. 1 (PEZZA 46). This followed the Superior Court’s finding that GL had committed fraud on the court, and had lied under oath. Ex. 1 (PEZZA, 76, 81). GL was enjoined in Federal Court on September 30, 2013 from filing “any additional or new claims, cases, complaints, or other documents in the U.S. District Court for the District of Massachusetts . . . without first obtaining approval of a judge of this Court . . .” Ex. 1 (PEZZA 44). This was based at least in part on the magistrate’s desire to prevent GL “from continuing to abuse the judicial process, from wasting judicial resources, and from wasting the resources of parties who must respond to his frivolous lawsuits . . .” Ex. 1 (PEZZA 48).

In support of his moral reform, the petitioner submitted an affidavit of James Niles. Ex. 6. Niles, a disabled U.S. Army veteran, is the petitioner's neighbor; in his affidavit in support of reinstatement, he makes no mention of the suspension but rather details the petitioner's help to him and good reputation in the neighborhood, concluding that the petitioner's moral character "is rarely seen these days[; he] selflessly helps others and exhibits a neighborly attitude." Ex. 6 (PEZZA 227). The petitioner testified in some detail about the help he has given Niles and other neighbors, including cleaning gutters, mowing lawns, and mastering arcane aspects of his managed community's legal covenants. Tr. 63-67 (Petitioner).

The petitioner noted in his answers to the reinstatement questionnaire that he does fundraising for the Leukemia and Lymphoma Society. Ex. 1 (PEZZA 2).

A "fundamental precept of our system is that persons can be rehabilitated." Matter of Ellis, 457 Mass. 413, 414, 26 Mass. Att'y Disc. R. 162, 163 (2010). While we agree with bar counsel that we would have liked to have heard a "more fulsome description of what went wrong" (Tr. 175), we credit the petitioner's testimony that he understands the nature and seriousness of his misconduct and has gained the insight necessary for true reform. Having heard and considered all the evidence, we agree with the petitioner's counsel that the petitioner's submission of the misleading affidavit appears to have been a "one-time loss of his moral compass." We found the petitioner perceptive, chastened and contrite, and we do not believe he is likely to reoffend. Considering all the evidence with which we have been presented, we conclude that the petitioner has shown moral fitness sufficient to resume the practice of law.

#### **B. Learning in the Law**

S.J.C. Rule 4:01, § 18(5) requires that, in order to be reinstated, a petitioner demonstrate that he has the "competency and learning in law required for admission to practice law in this Commonwealth."

The petitioner graduated from law school in 1999.<sup>7</sup> He did not immediately practice law but instead held a series of jobs in the financial services industry: he worked as a mutual fund accountant, became a registered representative, worked as an investment advisor and finally as a compliance analyst for Investors Capital Corp. Tr. 8-10 (Petitioner). After that firm laid him off, he started his own law practice in 2009, handling Chapter 7 bankruptcies, misdemeanor criminal defense, some civil matters and real estate in “a busy practice.” Tr. 11-12 (Petitioner). The petitioner engaged the services of a marketing firm to bring clients in. Tr. 12 (Petitioner). His law firm routinely received high ratings from its clients; he made a point of being accessible and focused on customer service. Tr. 13-15 (Petitioner). He did arbitrations, mediations and a trial in Suffolk County. Tr. 15 (Petitioner).

The petitioner’s witnesses included a former colleague and a client. Jenny Margeson, Esq., testified about her close collaboration with him early in her career when, as a brand-new lawyer, she decided to hang out her own shingle despite her inexperience. Tr. 126-130 (Margeson). She described the petitioner as an “invaluable” mentor (Tr. 130), and explained how she would contact him on a regular basis for help and advice. Tr. 129-130 (Margeson). He talked things through with her and gave her suggestions for how to approach various problems. Id. She especially liked his “client-centered approach,” and to some extent has modeled her practice after his, making sure she is always reachable. Tr. 130 (Margeson). She described in some detail a mediation for a client who was claiming his broker had overtraded his assets “until they were completely diminished.” Tr. 134 (Margeson). The petitioner proved extremely skilled and knowledgeable about the subject matter, and together they achieved an excellent result for the client. Tr. 134-135 (Margeson).

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<sup>7</sup> Our research reflects that the petitioner was admitted to the bar on December 11, 2008. This conflicts with the date in the SJC’s summary, which is December 20, 1994. Matter of Pezza, 29 Mass. Att’y Disc. R. 535; Ex. 1 (PEZZA 17). Because the petitioner did not graduate from law school until 1999 (Tr. 8 (Petitioner)), the 1994 date is obviously an error. Having notified the parties of the error in the summary, we take administrative notice of the actual date. See G.L. c. 30A, § 11(5).

Karen Rivas, a former client, took time off from work to testify on the petitioner's behalf. Tr. 159 (Rivas). She engaged him after having had bad experiences with other lawyers who were venal and unresponsive. See Tr. 160 (Rivas). She had a number of seemingly intractable legal problems; he helped her with her divorce and, recognizing he was not competent in immigration matters, found her a lawyer to help with that. Tr. 161-162 (Rivas). Rivas believes that the petitioner "completely turned [her] life around." Tr. 163 (Rivas). She praised his competence, careful attention to detail and honesty, noting that he was scrupulous about billing and that he even did some work for her pro bono. Tr. 164-166 (Rivas).

Two others submitted affidavits. Thomas Vigil (Ex. 11) has known the petitioner since 2005, when they worked together, and describes him as a "great resource when providing sound advice in client matters concerning financial regulations, financial strategies and the ever-changing IRS rules and regulations." Ex. 11 (PEZZA 240). Vigil notes that since the petitioner's 2013 suspension, it has been difficult finding other resources with the same expertise. *Id.* The third affidavit is from a former divorce client, Laurie Clinton, who is effusive in her praise of the petitioner's responsiveness, supportiveness, and professional demeanor; she makes no reference to his suspension or the reasons for it. Ex. 12.

We found the testimony of the two witnesses, together with the three affidavits, to be pertinent and persuasive. They lent significant support to the petitioner's effort to demonstrate both the moral fitness and learning in the law required for reinstatement.

The petitioner moved to Virginia in February 2013 to work as a compliance officer for EXL Service Holdings, Inc., a position he has held since that time. Tr. 52, 60 (Petitioner). EXL is a global outsourcing company. Tr. 52 (Petitioner). His role is specific to life insurance and annuities. *Id.* His duties include "contract review and compliance, regulatory review and compliance, internal policy compliance, audit management and supervision of FINRA licensed representatives." Ex. 1 (PEZZA 2); see Ex. 5 (job description). A "good portion" of the petitioner's day is spent reviewing laws, and he stays abreast of the laws and regulations within

the financial services and insurance industries. Tr. 55, 57-58 (Petitioner). He gets emails daily from different law blogs. Tr. 55 (Petitioner). He has been called to act as liaison with the company's outside counsel because of his thorough knowledge of annuity products. Tr. 56 (Petitioner). He has reviewed the ABA Journal in the past, and he reviews ACLI, a subscription service for state regulations particular to financial services, as well as the legal blog JD Supra, for specific financial service and general legal information, and Compliance X, covering compliance matters in financial services. Tr. 58-59 (Petitioner).

In June 2014, the petitioner took the MCLE course "How to Make Money and Stay out of Trouble." Ex. 8. Also around that time he attended a three-day conference in Washington, D.C., sponsored by the Insured Retirement Institute, titled, "IRI Government, Legal and Regulatory Conference." Ex. 1 (PEZZA 3). If readmitted, the petitioner does not intend to practice law but plans to continue working in his current position. Ex. 1 (PEZZA 5). Most of his work experience lies in this industry. He may in the future have an opportunity to apply for an in-house counsel position, but he has no plans to return to the private practice of law. Id. In any in-house counsel role, he would be mentored and supervised by senior counsel and supervisors. Id.

In addition to concluding that the petitioner has kept current in laws and regulations concerning the financial services and insurance industries, we credit the testimony of his witnesses and affiants about his competence and dedication. We note that he has identified a Massachusetts lawyer, Justin P. Nadeau, Esq., as a senior attorney who had acted and would continue to act as a mentor. Ex. 1 (PEZZA 5-6). The petitioner has not undertaken efforts to be covered by professional liability insurance since he has no intention to return to private practice. Ex. 1 (PEZZA 6).

Based on the evidence we have summarized above, we find that the petitioner has suitable learning in law and competence to warrant reinstatement.

**C. Effect of Reinstatement on the Bar, the Administration of Justice and the Public Interest**

We also find that the petitioner has satisfied the “public interest” prong of the reinstatement test. “Consideration of the public welfare, not [a petitioner’s] private interest, dominates in considering the reinstatement of a [suspended] applicant.” Matter of Ellis, 457 Mass. at 414, 26 Mass. Att’y Disc. R. at 164. Further, the public’s perception of the legal profession as a result of the reinstatement and the effect on the bar must be considered. “In this inquiry we are concerned not only with the actuality of the petitioner’s morality and competence, but also [with] the reaction to his reinstatement by the bar and public.” Matter of Gordon, 385 Mass. 48, 52, 3 Mass. Att’y Disc. R. 69, 73 (1982). “The impact of a reinstatement on public confidence in the bar and in the administration of justice is a substantial concern.” Matter of Waitz, 416 Mass. 298, 307, 9 Mass. Att’y Disc. R. 336, 345 (1993).

We have reviewed, cited and summarized evidence adequate to convince us that the public interest will not be harmed by the petitioner’s reinstatement.

V. **Conclusions and Recommendation**

Based upon the petitioner's written submissions, his testimony and that of his witnesses, we recommend that the petition for reinstatement filed by Paul J. Pezza be allowed.

Respectfully submitted,  
By the Hearing Panel,

Thomas A. Kenefick, III / mtk  
Thomas A. Kenefick, III, Esq., Chair

David A. Rountree / mtk  
David A. Rountree, Member

Michael G. Tracy / mtk  
Michael G. Tracy, Esq., Member

Dated: June 8, 2016