In re Pamela D. Lucas
Petitioner

Supreme Court No. M.R. 30423
Commission No. 2020PR00040

Synopsis of Hearing Board Report and Recommendation
(January 2022)

Petitioner requested reinstatement to the practice of law after being suspended for three years and until further order of the Court in 2004 for settling a personal injury claim without authorization and converting $7,500 in settlement funds belonging to her client. Aggravating factors in that case included Petitioner's 2003 discipline for unauthorized practice of law, misrepresentation to a tribunal, and neglect of a client matter.

The Administrator filed objections to the Petition. After considering the factors set forth in Supreme Court Rule 767 to determine a Petitioner's rehabilitation, good character and current knowledge of the law, the Hearing Board determined that Petitioner engaged in serious misconduct at a time when she was an experienced and mature practitioner, she does not recognize the nature of her misconduct, and she was not completely candid in presenting her petition. Further, she did not establish her good character and current knowledge of the law by clear and convincing evidence. The Hearing Board recommends that Petitioner's request for reinstatement be denied.

BEFORE THE HEARING BOARD
OF THE
ILLINOIS ATTORNEY REGISTRATION
AND
DISCIPLINARY COMMISSION

In the Matter of:	
PAMELA D. LUCAS,	Supreme Court No. M.R. 30423
Petitioner,	Commission No. 2020PR00040
No. 6220599.	

REPORT AND RECOMMENDATION OF THE HEARING BOARD

SUMMARY OF THE REPORT

Petitioner requested reinstatement to the practice of law after being suspended for three years until further order of the Court. The Hearing Board recommends the petition be denied.

INTRODUCTION

A hearing on the Petition for Reinstatement of Pamela D. Lucas ("Petitioner") was held on August 3, 2021 by remote video conferencing before a panel consisting of Carol A. Hogan, Chair, Carol Anne Casey and Michael J. Friduss. Petitioner was represented by Michael J. Greco. The Administrator of the Attorney Registration and Disciplinary Commission ("ARDC") was represented by Matthew D. Lango, Peter L. Rotskoff and Evette Ocasio.*

PETITION AND OBJECTIONS

On September 24, 2004 Petitioner was suspended for three years and until further order of the Court. On June 4, 2020 she filed a petition requesting reinstatement to the practice of law. On January 14, 2021, the Administrator filed objections urging that the petition be denied.

EVIDENCE

Petitioner testified at hearing and called one witness. Petitioner's Exhibit 1 (with separately numbered parts 2-9) and Administrator's Exhibits 1-4, 6, 9-14 and 16 were admitted into evidence.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Petitioning attorneys seeking reinstatement to the practice of law have the burden of proving by clear and convincing evidence that they should be reinstated. In re Richman, 191 Ill. 2d 238, 730 N.E.2d 45 (2000). In considering a reinstatement petition, we focus on the attorney's rehabilitation, present good character, and current knowledge of the law, with rehabilitation being most important. In re Martinez-Fraticelli, 221 Ill. 2d 255, 850 N.E.2d 155 (2006). There is no presumption in favor of reinstatement. Richman, 191 Ill. 2d at 248.

Supreme Court Rule 767(f) sets forth the following factors to be considered in determining whether reinstatement is appropriate: (1) the nature of the misconduct for which the petitioner was disciplined; (2) the petitioner's maturity and experience at the time of discipline; (3) whether the petitioner recognizes the nature and seriousness of the misconduct; (4) whether restitution has been made; (5) the petitioner's conduct since discipline was imposed; and (6) the petitioner's candor and forthrightness in presenting evidence in support of the petition. Ill. S. Ct. R. 767(f).

Background

Petitioner was licensed to practice law in Illinois in 1994. Prior to and during law school, she worked full time at Chase Bank as a mortgage specialist and loan officer. Following law school, she briefly worked for another attorney and then started her own practice where she initially focused on personal injury and real estate before moving to bankruptcy cases. (Tr. 39-41, 78).

I. Nature of Misconduct for Which Petitioner was Disciplined

A. Evidence Considered

In 2004 the Administrator, with the consent of Petitioner, requested that the Supreme Court enter an order suspending Petitioner for three years and until further order of Court based on the following facts. In February 2000 Petitioner agreed to represent Patricia McCoy-Amos in a personal injury claim. In January 2001, McCoy-Amos hired a different attorney to handle the claim because she was not able to reach Petitioner. In February 2001, Petitioner received an offer of settlement from the defendant's insurer for $7,500 and had her assistant sign a release, without McCoy-Amos' consent, which Petitioner then sent to the insurer with an acceptance of the settlement. Thereafter, Petitioner received a settlement check for $7,500 from the insurer and on March 13, 2001, she endorsed and deposited the proceeds into her client trust account, which she also used for the deposit of personal funds. Within eight months, and prior to any payment to McCoy-Amos, Petitioner had overdrawn her client trust account and had used McCoy-Amos' funds for her own personal purposes. (Adm. Ex. 1).

The petition for consent cited mitigating circumstances consisting of Petitioner's cooperation in the disciplinary proceeding, her daily care of her mother who was suffering from Alzheimer's disease, and some pro bono and community service. Serious aggravating circumstances were also present, including four pending investigations for her failure to remit settlement funds on behalf of clients and her financial difficulties during the period of the conversion. In addition, Petitioner had been suspended for three months in 2003 for representing bankruptcy clients from 1994 to 2000 in the U.S. District Court for the Northern District of Illinois without being admitted to the general bar of that court; making a misrepresentation to a federal judge regarding the status of her admission to the federal bar; making misrepresentations in her application to the district court as to whether she had been investigated by the ARDC; and failing

to timely file a bankruptcy petition for a client. In re Lucas, 00 CH 38, M.R. 18545 (March 19, 2003). The three-month suspension was imposed by the Court after a hearing and findings rendered by the Hearing Board. (Adm. Exs. 1, 3, 4).

On September 24, 2004, the Supreme Court approved the petition for discipline on consent. In re Lucas, 03 CH 79, M.R. 19511 (Sept. 24, 2004). (Adm. Ex. 2).

B. Analysis and Conclusions

The severity of the misconduct leading to discipline is an important factor in determining whether reinstatement is warranted and cannot be minimized by subsequent exemplary conduct. Richman, 191 Ill. 2d at 245. Conversion of client funds is particularly egregious because it destroys the trust between an attorney and a client, and brings the legal profession into disrepute. See In re Polito, 132 Ill. 2d 297, 547 N.E.2d 465, 468 (1989). In assessing Petitioner's wrongdoing, we also consider her prior discipline for unauthorized practice in the bankruptcy court, misrepresentations to a court, and neglect. See Richman, 191 Ill. 2d at 246; In re Harrod, 96 SH 579, M.R. 12815 (March 23, 1998) (Hearing Bd. at 20) (in reinstatement proceeding prior discipline is relevant to overall character of the attorney and whether basis for discipline was isolated incident or pattern of misconduct). The fact Petitioner was not familiar with the rules of the court in which she had been practicing for a number of years was particularly troubling.

Petitioner's misconduct involved multiple rule violations, including dishonesty or misrepresentation in both cases, and occurred over a considerable period of time. Those circumstances compound the serious nature of the misconduct. We recognize, however, that other attorneys who have converted funds, or engaged in severe misconduct such as fraudulent schemes that led to criminal convictions, have been reinstated to the practice of law. See Martinez-Fraticelli, 221 Ill. 2d at 255 (attorney disbarred and imprisoned for defrauding taxpayers); In re Schmieder, 98 RT 3003, M.R. 15044 (Nov. 19, 1999) (attorney suspended until further order of

Court for helping insurance adjuster steal over $58,000 from insurance company). Moreover, Petitioner is well beyond the initial three-year suspension period ordered by the Court. In light of the foregoing cases and facts, we conclude that while the serious nature of Petitioner's misconduct weighs against her, it does not act as a total bar to reinstatement.

II. Petitioner's Maturity and Experience at Time of Misconduct

A. Evidence Considered

We consider the evidence in the foregoing sections, along with the following evidence.

At the time of Petitioner's misconduct in 2001, she was in her early 40s and had been practicing law since 1994. Her earlier misconduct occurred between 1994 and 2000. Prior to being licensed to practice law, Petitioner had spent a number of years working as a mortgage specialist and loan officer. (Tr. 39; Pet. Ex. 1).

B. Analysis and Conclusions

Youth or lack of experience is a relevant factor for consideration because either can explain an attorney's lack of judgment in a given situation. In re Juliano, 2011PR00032, M.R. 24589 (Sept. 12, 2013) (Hearing Bd. at 20). We find that Petitioner was a mature and experienced professional who, prior to her misconduct in 2001, had established a solid legal practice. Even as to her earlier misconduct, she had spent years servicing customers' needs in a professional financial setting. Therefore, neither youth nor inexperience provides an excuse for any of her misdeeds, including her failure to communicate with clients, her mishandling of funds, her dishonest acts, and her failure to apprise herself of admission requirements for courts in which she was practicing. While we again recognize that other attorneys who were mature and experienced at the time of their misconduct have been reinstated to practice, we find this factor weighs against Petitioner.

III. Petitioner's Recognition of the Nature and Seriousness of the Misconduct

A. Evidence Considered

We consider the evidence in the previous sections, along with the following evidence.

When Petitioner consented to discipline in 2004, she signed an affidavit stating that the assertions in the consent petition were true. She testified she signed the affidavit because she was not allowed to omit statements, she believed were untrue, and she could not afford to pay an attorney to proceed to a hearing. She disagreed then, and now, that she settled a case and signed her client's name without authorization. She does not blame her attorney for the fact she signed a false affidavit. (Tr. 50-54, 78-81, 104-106).

Petitioner agrees she commingled and converted funds. She testified she understands the seriousness of that conduct and takes full responsibility for not having things in order in her office. She feels she is a different person today, understands the gravity of her actions, and regrets her conduct. (Tr. 55-56, 79-81).

With respect to Petitioner's three-month suspension in 2003, she acknowledges practicing in bankruptcy court without being admitted to that court and making misrepresentations to a judge regarding her admission status. She denied her statements were knowingly false, however, and testified she may have been nervous or misunderstood the judge when he asked about her admission status. She realizes she should have known the rules regarding admission or told the judge she did not understand his question, and stated she accepts responsibility for her actions. As to her application for admission to the district court and her representation that no investigations of her conduct had occurred, Petitioner recognizes that the hearing board found otherwise. As to the finding she failed to diligently represent a client in a bankruptcy matter, she denied that conduct and noted no foreclosure of her clients' residence occurred and no financial loss was sustained. (Tr. 43-48, 54-55, 82-84).

B. Analysis and Conclusions

Expressions of remorse and acknowledgments of wrongdoing have been found to be indications that a petitioner recognizes the nature and seriousness of his misconduct. See Martinez-Fraticelli, 221 Ill. 2d at 276; In re Parker, 149 Ill. 2d 222, 235-36, 595 N.E.2d 549 (1992). Attempts to minimize, rationalize, or portray oneself as a victim are signs that an attorney does not appreciate the seriousness of his behavior. See In re Livingston, 133 Ill. 2d 140, 143, 549 N.E.2d 342 (1989); In re Gottlieb, 109 Ill. 2d 267, 270-71, 486 N.E.2d 921 (1985).

Petitioner admits that she engaged in commingling and conversion of her client's funds in 2001. We heard no explanation as to how or why that situation occurred or, most important, what Petitioner would do in the future to prevent it from occurring again. Her testimony that her office was not in order does nothing to assure us that she understands the proper methods to account for funds or the risks posed to her clients from a failure to do so.

Equally disturbing is Petitioner's current denial of other facts and misconduct (i.e. settling a case and signing her client's name without authorization) that were submitted to the Court with her agreement in 2004. While we adhere to the principle that a person who believes they are innocent should not have to profess guilt in order to be reinstated (In re Thomas, 76 Ill. 2d 185, 390 N.E.2d 890 (1979)), in this case Petitioner's denials are contrary to her prior admissions made under oath, via affidavit. Further, we are not persuaded that she had no choice but to agree to the charges. If she could not afford an attorney to represent her at hearing, she could have proceeded *pro se* before the hearing board, as many attorneys do.

As to the conduct that led to Petitioner's earlier suspension, her testimony was a mixture of acknowledgements and denials of that conduct, although she did state she was taking responsibility for her actions. With respect to her years of practice in bankruptcy court without being admitted, we are not convinced that she understands the importance of being familiar with

and following court procedures, both to ensure the efficient administration of justice and to protect her clients' interests. As to her failure to timely file a bankruptcy petition, she attempted to minimize her misconduct by claiming her clients did not suffer any damage. The Hearing Board specifically found the lack of harm was due to the client's action in hiring another attorney rather than to anything Petitioner did. Lucas, 00 CH 38 (Hearing Bd. at 37).

In our opinion, Petitioner does not appreciate the nature and severity of the misconduct that led to her discipline and instead has attempted to diminish or deny parts of it. Moreover, we are not satisfied that she appreciates the effect her actions had on her clients or that she has a plan to prevent similar misconduct in the future. We find this factor weighs against Petitioner.

IV. Payment of Restitution

A. Evidence Considered

As stated previously, in 2001 Petitioner received settlement proceeds of $7,500 which she then deposited into her client trust account and used for personal purposes. Petitioner returned that amount to the insurance company in April 2004. (Tr. 52, Adm. Ex. 1).

B. Analysis and Conclusions

Petitioner repaid the funds she converted, albeit belatedly, and the Administrator has not argued that she owes any amount to any person or entity. Accordingly, this factor weighs in Petitioner's favor.

V. Petitioner's Conduct Since Discipline was Imposed

A. Evidence Considered

We consider the evidence in the previous sections, in addition to the following evidence.

Employment

Following Petitioner's suspension in 2004, she worked as a mortgage consultant for Wells Fargo Bank, then as a loan originator for Chase Bank before returning to Wells Fargo Bank. She

also took on short term jobs for mortgage companies. From June 2011 to June 2013 she was largely unemployed, but volunteered with her husband's not-for-profit organization. Since June 2013 she has been employed by Fay Servicing and currently holds the position of bankruptcy account manager. Petitioner testified she has been handling customers' money, social security numbers, credit information and bank statements, and has not been accused of any fraudulent conduct. (Tr. 16-18, 55, 58, 70-73, 91; Pet. Ex. 1).

Petitioner acknowledged that when she applied for employment with Fay Servicing, she submitted a resumé that omitted her status as a suspended lawyer. Evann Johnson, Petitioner's daughter, testified she worked on her mother's resumé and advised her to limit it to one page and only include information relevant to the job she was seeking. Petitioner noted that when she was interviewed by the CEO of Fay Servicing prior to commencing her employment, she disclosed her suspension from the practice of law. (Tr. 68-71, 108-109).

Financial Circumstances

Petitioner testified that after losing her livelihood as an attorney, she suffered financial problems. She sought work in the area of mortgage loans but when the recession hit, she had difficulty earning a living in that field. In 2017 she filed for bankruptcy and her debts were discharged. An earlier bankruptcy petition was unsuccessful because no acceptable plan to repay the debt was reached. (Tr. 56, 66, 97-98; Pet. Ex. 1; Adm. Ex. 10).

Petitioner testified her financial recovery has taken several years but her job with Fay Servicing has provided financial stability, allowed her to improve her credit score, and placed her in a better position to handle her responsibilities. She has never had a bank account or financial account closed involuntarily. (Tr. 56-57, 76-77).

B. Analysis and Conclusions

When evaluating a petitioner's conduct since discipline was imposed, the Supreme Court has looked favorably upon evidence that petitioner was involved in community or charitable activities, held a position of trust or responsibility, and has behaved in an exemplary manner. See Martinez-Fraticelli, 221 Ill. 2d at 277.

Petitioner has been gainfully employed for most of the time since discipline was imposed. We view her long-term work for her current employer as evidence of her stability and determination to maintain a steady income. As for her financial difficulties, her employment and the discharge of her debts in 2017 seem to have resolved those problems and no current issues of indebtedness were raised.

We attribute no ill motive to Petitioner's failure to disclose her status as a suspended lawyer on her resume when seeking employment with Fay Services. Resumes, unlike form applications for employment, are generally recognized as a method to present an applicant in a positive light. When interviewed prior to beginning her employment, Petitioner disclosed her suspension.

Petitioner listed some volunteer community work in her petition. She did not specify the amount of time she devoted to various organizations, nor did we hear any details during her testimony, and therefore we cannot give significant weight to those efforts. Still, because Petitioner's conduct since discipline has been marked by steady employment and her resolution of financial difficulties, we consider this factor as favoring reinstatement.

VI. Petitioner's Candor in Presenting Petition

A. Evidence Considered

Petitioner reviewed and signed her Petition for Reinstatement under oath on May 26, 2020. She acknowledged at hearing that the petition contains inaccuracies and that certain required

information was omitted. She testified she wished she had given the petition more attention, but was working full time while preparing it. (Tr. 57, 60, 84).

Petitioner, in listing her employment since discipline, failed to include her work at two mortgage companies, a life insurance company, and only provided one of the two time periods she worked at Wells Fargo Bank. She testified the positions with the mortgage companies were very short-lived and further, she was relying on her resume, which did not include all her work history. (Tr. 58-60, 87, 89; Pet. Ex. 1; Adm. Ex. 6).

Petitioner stated in her petition that she left Wells Fargo Bank in 2011 to seek other employment. When questioned at hearing she clarified that the bank was requiring loan originators to be licensed, which was not possible for her due to the suspension of her law license. She was offered a clerical position at Wells Fargo, but it was not sufficient to pay her bills and she decided to look for other work. (Tr. 60-61).

Petitioner acknowledged her failure to list several civil suits to which she had been a party, one of which was a 2011 federal action in which she was one of five named plaintiffs seeking additional wages from Chase Bank. She testified she signed a Fair Labor Standards Act form consenting to the federal filing, but shortly thereafter withdrew from the case and forgot about it. She never attended any hearings, spoke to any attys, received any court filings, or realized any benefit from the case. (Tr. 62-65, 92-93; Adm. Ex. 9).

Petitioner also neglected to include four eviction cases filed against her between 2009 and 2016. Orders for possession were entered in three of the cases, but Petitioner testified the orders were never enforced against her personally and she made all payments owed. Further, she viewed the cases as part of her financial status that was disclosed in her bankruptcy petition. (Tr. 57, 64-65, 94-97, 102; Adm. Exs. 11-14).

Petitioner did not list her bankruptcy filings as civil actions to which she was a party, but she did disclose her 2017 bankruptcy in a section of her petition dealing with assets and financial obligations. She considered the bankruptcy filings as petitions for relief rather than civil actions brought by or against her. She agreed, however, that her earlier bankruptcy filing should have been included in the petition. (Tr. 66-68, 99; Pet. Ex. 1; Adm. Ex. 10).

Petitioner stated in her petition that she had not applied for any business or occupation related license or certificate other than her license to practice law. At hearing she admitted that she submitted an application to the Illinois Department of Insurance to be licensed as an insurance provider. She initially testified the application was submitted after her petition was filed, but when the effective date of the license was shown to be May 6, 2020, she admitted the application was submitted prior to the filing of her petition. She further testified she initially received a temporary license and did not receive her actual license until around July 2020. She denied any intent to conceal information from the ARDC. (Tr. 76, 85-89, 104; Adm. Ex. 16).

In addition to the omissions, Petitioner acknowledged her petition contained some inaccurate information. She misstated the dates of her employment with Chase Bank and Wells Fargo, which errors were then corrected by stipulation of the parties. She also admitted she incorrect listed all three of her adult children as dependents, but noted they were living in her house during her period of discipline. (Tr. 90, 102; Pet. Ex. 1).

B. Analysis and Conclusions

In presenting a petition for reinstatement, a petitioner is expected to act with a high level of care, candor, and judgment. In re Howard, 2010PR00067, M.R. 23910 , (Sept. 25, 2013). Not all discrepancies or omissions present an obstacle to reinstatement, however. In Parker, 149 111. 2d 222, the failure to list all assets, financial obligations and employment positions was found to be either an innocent oversight or an indication of how requests for information may be subject to

differing interpretations. Further, the omissions were insignificant because they would have in no way been harmful to petitioner and were not willful attempts to conceal anything. In In re Howard 2010PR00067, however, the Hearing and Review Boards were troubled by the petitioner's minimal disclosures regarding his financial affairs and a civil suit and, despite the fact he had no intent to deceive, found he did not meet his obligation of candor. (Hearing Bd. at 15). Likewise, in In re Juron, 01 RT 3002 (Dec. 20, 2002), the petitioner's failure to list three lawsuits to which he was a party and his failure to update his debt obligations after filing his petition was evidence of a lack of candor and contributed to the denial of his petition.

In our minds Petitioner's omissions and misstatements regarding her work history and her failure to disclose a failed petition for bankruptcy are not of consequence, other than as establishing a pattern of inattention to detail. We are more concerned with her failure to list civil actions to which she was a party and, in particular, the eviction actions. Since Petitioner converted funds at a time when she was experiencing financial difficulties, a complete picture of her financial history and status is essential for our consideration, which fact she should have recognized and taken pains to achieve. As to the federal lawsuit, we find it hard to conceive of her forgetting she was a named plaintiff in that action, especially since she had to formally consent to the filing.

Petitioner's failure to provide an accurate response to a question regarding applications for licenses or certification is also troubling because her application process was occurring as she was filing her petition and should have been at the forefront of her mind. While we do not necessarily conclude that Petitioner's errors or omissions were intentional, they do demonstrate a lack of care and thoroughness in compiling information that is necessary to our assessment of her rehabilitation. We regard her overall pattern of carelessness as weighing against her.

Evidence Pertaining to Petitioner's Character and Knowledge of Law

Petitioner testified she is not the person she once was. She is more mature, stable and passionate, is better at her work, feels worthy of being reinstated, and is able to manage her responsibilities. She has a passion for being an attorney and believes she can benefit people in her area of practice. (Tr. 56, 77).

Evann Johnson, Petitioner's daughter, testified she worked in Petitioner's office from 2000 to 2003 performing filing and cleaning duties. Johnson observed Petitioner interacting with clients and believes Petitioner was responsive to them. Johnson regards Petitioner as a pillar of the community. (Tr. 110-14).

Petitioner testified that since being employed by Fay Servicing, she has been required by that company to complete twenty hours per year of continuing education in the area of consumer debt and protection. In the past year she has taken courses in foreclosure, bankruptcy, banking and consumer protection. She also subscribes to the Law 360 publication. She testified that, as a bankruptcy account manager, she is familiar with the Illinois Mortgage Foreclosure Act as well as mortgage foreclosure acts in all other states. Petitioner acknowledged she has not submitted any certificates evidencing her completion of courses. (Tr. 71-75, 99-100).

RECOMMENDATION

Consideration of the foregoing factors is intended to aid in our determination of Petitioner's rehabilitation, present good character, and current knowledge of the law. Rehabilitation is a matter of one's return to a "beneficial, constructive and trustworthy role." In re Martinez-Fraticelli, 221 Ill. 2d 255, 270, 850 N.E.2d 155 (2006). As in disciplinary proceedings, our objective is to safeguard the public, maintain the integrity of the legal profession and protect the administration of justice from reproach. In re Berkley, 96 Ill. 2d 404, 410, 451 N.E.2d 848 (1983).

Petitioner engaged in a pattern of serious misconduct at a time when she was a mature and experienced practitioner. Those circumstances have been overcome in other cases where strong evidence of rehabilitation was present. That is not the case here. Other than Petitioner's consistent employment with Fay Servicing and her current financial stability, for which we give her credit, the necessary indicia of rehabilitation were not established.

Most damaging to Petitioner's case is our conclusion that she does not fully recognize the nature and seriousness of her misconduct. In addition, she has not demonstrated the level of candor, care and attention to detail that is required of a practicing attorney; she did not present testimony regarding her character (other than from her daughter) or contributions to society; she failed to submit any certificates to confirm her current legal knowledge; and she failed to articulate with any detail why she wanted to regain her license.

We find that Petitioner failed to prove by clear and convincing evidence that she should be reinstated to practice law in Illinois. We therefore recommend that her Petition for Reinstatement be denied.

Respectfully submitted,

Carol A. Hogan
Carol A. Casey
Michael J. Friduss

CERTIFICATION

I, Michelle M. Thome, Clerk of the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois and keeper of the records, hereby certifies that the foregoing is a true copy of the Report and Recommendation of the Hearing Board, approved by each Panel member, entered in the above entitled cause of record filed in my office on January 4, 2021.

/s/ Michelle M. Thome
Michelle M. Thome,
Clerk of the Attorney Registration and
Disciplinary Commission of the
Supreme Court of Illinois

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[*] Ms. Ocasio appeared as a licensed law student pursuant to Supreme Court Rule 711.