

ADMINISTRATIVE DIRECTIVE No. 188

This 1st day of June, 2020:

WHEREAS, disciplinary counsel in most states provide some form of guidance to lawyers seeking to comply with local rules of professional conduct; and

WHEREAS, the Preamble/Scope to the Delaware Lawyers' Rules of Professional Conduct (the "DLRPC") provides that compliance with the DLRPC depends primarily upon voluntary compliance, secondarily upon reinforcement by peers and finally, when necessary, upon enforcement through disciplinary proceedings; and

WHEREAS, the Office of Disciplinary Counsel ("ODC") has over the years offered ethics guidance on an *ad hoc* basis, and formalizing the process for seeking advice is more likely to generate compliance inquiries from members of the Delaware Bar,

NOW, THEREFORE, IT IS DIRECTED, with the unanimous approval of the members of the Supreme Court, under Del. Constr. Art. IV, §13(1) that:

Pursuant to Supreme Court Rule 64(e), the powers and duties of disciplinary counsel shall also include the provision of informal, non-binding, confidential guidance for contemplated, prospective conduct and/or decisions of lawyers seeking to comply with the DLRPC; provided, however, that such guidance shall not create an attorney-client relationship with disciplinary counsel. ODC shall take appropriate steps to maintain the confidentiality of such guidance. A lawyer who sought or received guidance from disciplinary counsel may waive such confidentiality in any subsequent, related disciplinary proceeding in which that lawyer is a respondent.

BY THE COURT:

/s/ Collins J. Seitz, Jr.
Chief Justice