

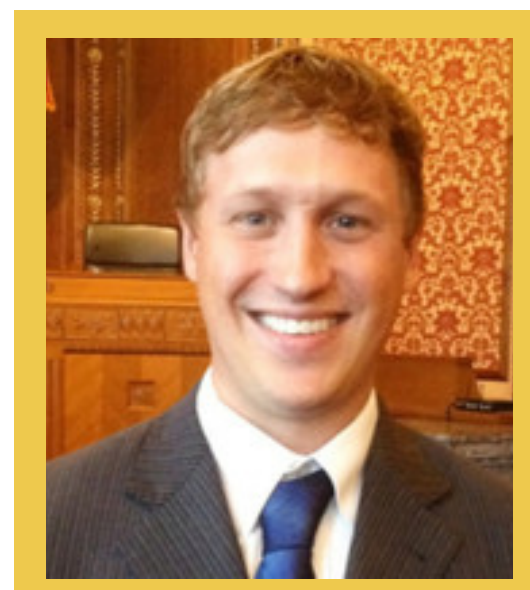


# Pennsylvania Creditors Bar Association

THE LATEST NEWS AND UPDATES REGARDING CREDIT AND COLLECTION  
AND THE FINANCIAL SERVICES INDUSTRIES

## WELCOME / A MESSAGE FROM THE PRESIDENT

*Robert Polas, Portfolio Recovery Associated, LLC PACBA President*



Greetings Members!

I hope that you are all having an enjoyable and safe summer. I am looking forward to our 2022 Seminar and Annual Meeting on October, 7th. Registration will be opening soon. I hope to see everyone then. Take care everybody!

You may now book your room for the 2022 Webinar and Annual Seminar. There is a block of rooms being held at \$149 per night until September 8, 2022 at The Desmond Hotel. Please see below for group code and booking instructions.



### BOOKING INSTRUCTIONS

Group Code: PCB

Reservation Link: [Click here](#)

Desmond Hotel ([www.desmondgv.com](http://www.desmondgv.com))

In-House Reservations: 610-296-9800 / 800-575-1776 (Mon-Fri, 8am-4pm)

[reservations@desmondgv.com](mailto:reservations@desmondgv.com)

Hilton Central Reservations: 1-855-610-TREE (7 days, 24 hours)\*

\*Guests may book through Hilton's Central Reservations but we recommend booking direct through the hotel's In-house Reservations (Mon-Fri, 8am-4pm) since our onsite agents are better equipped to answer property-specific questions and requests.

- The link will open up to our website where on the left-hand side you will see the "Make a Reservation box"
- Enter dates of stay and number of rooms needed.
- Then click on Special Rate Box & enter group code PCB
- Click the Check Rooms and Rates button. The group rate will populate and appear as an option.

F.3d \_\_\_\_, 2021 U.S. App. LEXIS 11648, 2021 WL 1556060 (11th Cir. 2021), which held that use of letter vendors by a debt collector violates the FDCPA's prohibition on third-party disclosures. In a real show of industry camaraderie, almost 20 amicus curiae briefs have been filed in support of Preferred's Petition for Rehearing *En Banc*. Those 20 briefs represent the interest of over 60 different amici. PACBA joined in with 18 other state creditors' bar associations to file a brief as well. **It is this type of advocacy that continue to make membership in PACBA important as PACBA continues to advocate for attorney's involved in creditors' rights law.**







## PROTECT YOUR CLIENTS' RIGHTS BY REVIVING THEIR JUDGEMENT *By: Kenneth S. Shapiro, Esq.*

In Pennsylvania, once a creditor obtains judgment in a court of competent jurisdiction against a debtor, the relationship between the parties changes. A “judgment creditor” assumes certain legal rights and remedies to collect money to satisfy the judgment against a “judgment debtor”.

However, the judgment creditor has no guarantees that payment will be received once a judgment has been obtained. Pennsylvania Rules of Civil Procedure (“P.R.C.P.”) prescribe certain requirements for reviving a judgment in order to ensure that the judgment creditor does not lose its rights as a judgment holder. See P.R.C.P. Rules 3025 – 3034 et. seq. A judgment issued by a Magisterial District Justice (“MDJ”) expires after five (5) years from the date of entry if nothing further is done. A judgment at the county Court of Common Pleas ceases to be effective after twenty (20) years and may be overtaken and lose its priority by someone else’s judgment after five (5) years of entry if not timely revived.

Reviving a judgment in Pennsylvania can be somewhat routine but there are some specific requirements that must be followed in order to ensure that the judgment and/or its lien priority status is not lost. P.R.C.P. Rule 3030(a) provides that a writ of revival shall be the equivalent of a complaint in a civil action. As such, the general rules relating to a civil action so far as applicable govern these further proceedings. Under current Pennsylvania Law, a judgment entered in the Court of Common Pleas may be revived every five years. It was been a popular belief that a failure to “revive” the lien before the five year date meant that the lien became invalid.

That belief is unfounded as confirmed by a decision from PA Superior Court. In the case of Valley Community Bank v. O’Malley, 105 A.3d 46 (Pa. Super. 2014), a judgment lien had been obtained against a debtor in 1994. The right to collect upon the judgment was sold to the plaintiff Bank in 2001. The Bank did not file the assignment of the lien rights and a revival of the judgment lien until 2008, i.e. 14 years after the original judgment lien was obtained.

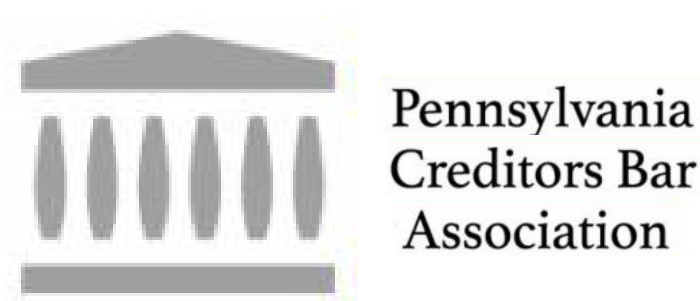
The Superior Court allowed the lien to be enforced with all 14 years of interest. The Court noted that the failure to revive a judgment lien does not invalidate the lien; it only means that I may lose priority over other intervening liens. The lesson learned in the Valley Community Bank case for both judgment creditors and judgment debtors is clear. Judgment Debtors should realize that just because a lien hasn’t been revived doesn’t mean it can’t be enforced. Judgment Creditors must be on notice that if they don’t timely revive their lien of judgment, other creditors may jump in front of and collect funds that would have been directed to the judgment creditor.

Within the past year, the PA Superior Court issued a non-precedential decision clarifying the proper procedures to follow when reviving a Common Pleas Court judgment to retain its priority lien status. See Stephen Fried and Diane Ayers v. Lisa Colton, No. 3499 EDA 2019 (PA. Superior Court Filed July 22, 2021.) As noted in Judge Lazarus’s memorandum decision, pursuant to Pa.R.C.P. 3025, the lien of a judgment may be revived by filing a praecipe for writ of revival with the prothonotary of the county in which the judgment has been entered. *Id.* There is no time limit for filing a writ of revival. Shearer v. Naftzinger, 747 A.2d 859, 861 (Pa. 2000). Justice Zappala clarified, in his concurring opinion in Shearer, that:

“A money judgment acts as a lien against real property, but only for five years. The lien must be continued (or revived) to maintain (or obtain a new) place of priority. However, properly speaking, it is the lien that is revived, not the judgment. There is no outer time limit to executing against real property to satisfy a judgment, but the proceeds of such a sale must be distributed according to the priority of liens. Thus [one] can revive the judgment lien as often as they wish and execute against any real property the [other party] might come to own in the future.”

Remember to diary your judgments forward to properly and timely revive their lien of judgment. Follow the rules prescribed by P.R.C.P. 3025 – 3034 and your judgment creditor clients will be rewarded by your efforts.





# GET INVOLVED!

## JOIN THE PACBA BOARD

### NOMINATION PROCESS

The nominating committee shall present a proposed slate of directors and officers to members of the Association at the annual meeting.

If you are interested in joining the board or would like to nominate a fellow member, please complete the nomination form and submit it to the committee for consideration **by September 2, 2022.**



### BOARD ROLE DESCRIPTIONS

The affairs of the association shall be managed by or under the direction of its **BOARD OF DIRECTORS**. The number of directors shall be nine. Each director shall hold office until the next meeting for the election of directors following his or her election and until his or her successor shall have been elected and qualified. The board of directors meets once a month via conference call to discuss association business. If needed, additional meetings and board votes are conducted as directed by the board President.

The **OFFICERS** of the association shall be the executive vice-president, one or more vice-presidents (the number thereof

to be determined by the Board of Directors), a treasurer, a secretary, and such other officers as may be elected or appointed by the Board of Directors; Officers whose authority and duties are not prescribed in these By-Laws have the authority to perform the duties prescribed, from time to time, by the Board of Directors. Any two or more offices may be held by the same person.

The **PRESIDENT** is the principal executive officer of the Association and is subject to the Bylaws. The President supervises the management of the Association affairs and presides at all meetings of the Association and the Board of Directors. The President performs all other duties ordinarily incident to such office.

[View Bylaws Here](#)

## BOARD ROLE DESCRIPTIONS

continued ...

The **EXECUTIVE VICE PRESIDENT** performs the duties of of the President during the absence or disability of the President. The VP assists the President in the performance of the President’s duties and per-forms other duties as may be assigned by the President or Board of Directors.

The **SECRETARY** keeps minutes of all the meetings of the Association and Board of Directors. The Secretary is the custodian of all such minutes, all minutes of committee meetings, and other records, documents and property of the Association and maintains a complete roll of members. The Secretary is responsible for the production/ dissemination of the PACBA Newsletter and has the option of appointing a sub-committee to assist in this duty.

The **SECRETARY** is responsible for sending notices of all Association and Board of Directors meetings and shall perform such other duties ordinarily incident to the Secretary’s office or as may be assigned by the President.

The **TREASURER** has custody of all monies of the Association and collects and, subject to the direction of the Board of Directors, disburse all funds of the Association. The Treasurer shall:

- (a) Maintain accurate accounts of all financial transactions;
- (b) Maintain the Association’s checking account records, including reconciling all monthly account statements;
- (c) Prepare for each Board of Directors meeting a monthly summary of all payments and receipts to the Association;
- (d) Prepare, at a minimum quarterly cumulative statements that summarize the amount and nature of the Association’s payments and receipts.

The **TREASURER** submits at each annual meeting of the Association a suitably classified, written annual report of the Association’s financial position including (1) all receipts and disbursements occurring during such period and (2) all obligations outstanding at the end of the period, with any comments as to current and prospective future financial position that the Treasurer may deem informative. The Treasurer shall make such additional Interim financial reports as the President or Board of Directors shall direct.

**CLICK HERE FOR NOMINATION FORM**





Pennsylvania  
Creditors Bar  
Association



## INTERESTED IN JOINING A PACBA COMMITTEE?

Join a committee to share your experiences and expertise, connect with fellow members and collaborate with your peers on programs and initiatives to advance our profession - all while developing skills that will benefit you both personally and professionally. If you are interested, please contact the listed committee chair.

*You must be a PACBA member to join a committee.*



## PACBA MEMBER COMMITTEES

### ADMINISTRATION COMMITTEE

**CONTACT [KEN SHAPIRO](#)**

The Administration Committee, under the direction of the Secretary of the Association, is the custodian of record of all minutes, records, documents, and property of the Association. The Committee maintains the active roll of members, and is responsible for filing any required reports with regulatory authorities on behalf of the membership.

### LEGISLATIVE COMMITTEE CONTACT [GREGG MORRIS](#)

The legislative committee monitors legislative changes and proposals. It suggests and drafts legislation or rules for the advancement of creditors' rights. The committee also assists other organizations /legislators that sponsor or promote creditors' rights or rule changes.

### COURTS COMMITTEE

**CONTACT [PACBA OFFICE](#)**

The courts committee acts as the liaison with courts and court clerks throughout the state and monitors court rules changes.

### EDUCATION COMMITTEE

**CONTACT [MATT URBAN](#)**

The education committee works to educate attorneys and judges of recent changes in the creditors' rights laws.

### MEMBERSHIP COMMITTEE

**CONTACT [KERI EBECK](#)**

The membership committee generates new membership and oversees current membership issues. It publicizes Pennsylvania Creditors Bar Association activities, announcements, and seminars, both to members and non-members.







Pennsylvania  
Creditors Bar  
Association

# PACBA BOARD

## OFFICERS

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<i>President</i>	Robert Polas, Portfolio Recovery Associates, LLC, <a href="mailto:Robert.Polas@portfoliorecovery.com">Robert.Polas@portfoliorecovery.com</a>
<i>Secretary</i>	Kenneth Shapiro, Shapiro Law Office, P.C., <a href="mailto:kshapiro@shapirolawpc.com">kshapiro@shapirolawpc.com</a>
<i>Treasurer</i>	Robert Morris, Morris & Adelman, P.C., <a href="mailto:rmmorris@morrisadelman.com">rmmorris@morrisadelman.com</a>
<i>VP of Membership</i>	Keri Ebeck, Berenstein-Burkley, P.C., <a href="mailto:ebeck@bernsteinlaw.com">ebeck@bernsteinlaw.com</a>
<i>VP of Education</i>	Vacant Position
<i>VP of Legislation</i>	Gregg Morris, Patenaude & Felix, APC, <a href="mailto:gmorris@pandf.us">gmorris@pandf.us</a>

## DIRECTORS

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- Scott Best, Weltman, Weinberg & Reis Co., LPA, [sjbest@weltman.com](mailto:sjbest@weltman.com)
- David Schattenstein, Kiefer Law Firm, LLC, [DSchattenstein@keiferlaw.com](mailto:DSchattenstein@keiferlaw.com)
- William Mozlcan, Weltman, Weinberg & Reis Co., LPA, [wmolczan@weltman.com](mailto:wmolczan@weltman.com)
- Michael McCrystal, McCrystal Law Office, [McCrystalLaw@gmail.com](mailto:McCrystalLaw@gmail.com)
- Mike Hynum, Hynum Law Services [mhynum@hynumpc.com](mailto:mhynum@hynumpc.com)
- Yale Weinstein, Burton Neil & Associates, P.C, [yale@burt-law.com](mailto:yale@burt-law.com)
- Kim Scian, Apothaker Scian PC., [kscian@apothaker.com](mailto:kscian@apothaker.com)
- Matt Urban, Weltman, Weinberg & Reis Co., LPA, [murban@weltman.com](mailto:murban@weltman.com)

### INTERESTED IN GETTING MORE INVOLVED?

If you are looking to grow your professional network, we invite you to get involved in PACBA. Opportunities include running for the board, participating in committee work, contributing to the newsletter or presenting at the Annual Meeting.

Please contact Association Manager, Shawn Jezak, to learn more.  
[PACBA@CorpEvent.com](mailto:PACBA@CorpEvent.com)