FILED

October 14, 2016

released at 3:00 p.m. RORY L. PERRY II, CLERK SUPREME COURT OF APPEALS OF WEST VIRGINIA

BENJAMIN, Justice, concurring:

I fully concur in the majority's opinion and write separately to suggest

additional sanctions should have been imposed upon Mr. McCloskey.

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The first of these sanctions would be that Mr. McCloskey's actions be

referred to the appropriate county prosecutors' offices for investigation of Mr.

McCloskey's unauthorized practice of law and perpetration of fraud upon our courts. As

the majority opinion notes, Mr. McCloskey filed pleadings in West Virginia courts

representing that he was admitted to the West Virginia State Bar, sometimes using a bar

identification number of 11529. That number was assigned to another attorney who was

without knowledge of Mr. McCloskey's use of the number. On another occasion, Mr.

McCloskey used his Pennsylvania bar identification number when signing pleadings.

Mr. McCloskey's actions may well constitute fraud and misrepresentation, as well as the

unauthorized practice of law.

I also believe that this opinion should be forwarded to the Disciplinary

Board of the Supreme Court of Pennsylvania, which had previously issued sanctions for

Mr. McCloskey's unauthorized practice in that State prior to being admitted to the

Pennsylvania bar.

For these reasons, I respectfully concur.