



2013
Lawyer Discipline System
Annual Report

Washington State Bar Association

The Washington State Bar Association may . . .

*Administer an effective system of discipline of its members,
including receiving and investigating complaints of lawyer
misconduct, taking and recommending appropriate punitive and
remedial measures, and diverting less serious misconduct to
alternatives outside the formal discipline system.*

GR 12.1(b)(6).

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Senior Disciplinary Counsel Randy Beitel, Editor

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INTRODUCTION

We are pleased to present the 2013 Lawyer Discipline System Annual Report. We make this report available to all, with the intent to increase publicly available information about the operations of lawyer discipline in Washington.

The Washington Supreme Court's exclusive responsibility to administer the lawyer discipline and disability system is delegated by court rule to the Washington State Bar Association (WSBA, the Bar, the Association). These functions are discharged primarily through the Office of Disciplinary Counsel, the Disciplinary Board, and hearing officers. The duties and responsibilities of administering the discipline system are numerous and complex, and many departments of the Bar Association are involved. Key components include:

- Reviewing and investigating allegations of lawyer misconduct and disability;
- Prosecuting violations of the Rules of Professional Conduct;
- Seeking the transfer of impaired lawyers to disability inactive status;
- Diverting less serious matters into the Diversion Program;
- Informing the public about lawyers, the legal system, and ways of handling difficulties involving lawyers;
- Mediating client-lawyer communication issues and file disputes;
- Administering the Lawyers' Fund for Client Protection;
- Educating members of the Bar about the discipline system and their ethics responsibilities;
- Participating in the development and improvement of the law of ethics and lawyer discipline.

This report summarizes the Washington State Bar Association's efforts in these areas and highlights some of our accomplishments from calendar year 2013.

The Discipline System

In Washington, the discipline system for lawyers is composed of a number of entities within the Washington State Bar Association that operate as part of the judicial branch of government under the jurisdiction of the Washington Supreme Court. These include the Office of Disciplinary Counsel, the Disciplinary Board, hearing officers, the Lawyers' Fund for Client Protection, and the WSBA Audit Program.

How the Discipline System Works

Authority and Purpose. The Washington Supreme Court has exclusive jurisdiction within Washington State for the administration of the lawyer discipline system governing Washington lawyers. The Supreme Court has delegated the administration and operation of that system to the Washington State Bar Association (the Bar), although it has reserved to itself the ultimate authority to suspend or disbar lawyers from the practice of law. With a few exceptions, lawyers practicing law in the State of Washington must be members of the Bar and are subject to WSBA's disciplinary authority.

The lawyer discipline system protects the public by holding lawyers accountable for their unethical conduct. The system is complementary to, and not a substitute for, any civil right of action that a consumer might have against a lawyer, and any criminal cause of action that might accrue because of the lawyer's conduct.

Structure and Funding. Although the Washington Supreme Court has delegated the responsibility for operating the lawyer discipline system to the Bar, the court retains authority over and supervises that system. The Bar fulfills its duty to oversee and operate the system through various boards, committees and staff. The Bar's Board of Governors oversees the general functioning of other participants in the system, provides resources to operate the system, and appoints and removes certain staff and volunteers in the lawyer discipline system. Neither the Board of Governors nor the Executive Director of the Bar are involved in individual investigative or adjudicative decisions.

The Bar funds the lawyer discipline system through Bar members' annual licensing fees, about 42% of which are applied to the costs of that system. In FY 2013 the Bar spent **\$4,823,371** on lawyer discipline. No public tax revenues or other public funds are spent on lawyer discipline. In addition, the Bar operates a Lawyer's Fund for Client Protection, funded by annual assessments on each lawyer, which makes gifts (\$423,508 in 2013) to client applicants who have been damaged by their lawyers' dishonesty or failure to properly account for money or property entrusted to them.

Separation of Investigative/Prosecutorial and Adjudicative Functions. Although the lawyer discipline system is operated within the Bar, the Bar has clearly separated the investigative and prosecutorial functions from the adjudicative functions.

i) Investigative and Prosecutorial Functions. The Bar's Office of Disciplinary Counsel (ODC) receives, investigates and prosecutes allegations of unethical conduct ("grievances")

against Washington lawyers to determine whether the alleged misconduct should have an impact on the lawyer's license to practice law. In effect, the ODC is the state-wide complaint bureau and prosecutor for ethical complaints against Washington lawyers.

In receiving grievances about lawyers, the ODC's role is that of an impartial investigator. At the same time, it seeks to educate consumers and lawyers on the ethical duties of lawyers and, where possible, to resolve informally possible disagreements as to those duties. The Consumer Affairs team of the ODC annually handles thousands of telephone calls, emails, letters, and in-person visits, suggesting possible ways to resolve the problem informally, explaining the Bar's disciplinary jurisdiction and grievance procedures, and suggesting other resources or services that may be helpful in resolving the matter.

Those matters that cannot be informally resolved are investigated and, when warranted, prosecuted by teams of professional investigators and disciplinary counsel with a support staff of paralegals and administrative assistants. Disciplinary counsel determines whether grievances should be dismissed or whether they should be reported to a Review Committee of the Disciplinary Board, which can issue advisory letters, impose admonitions, or order matters to public hearing for consideration of more serious disciplinary action. When matters are ordered to hearing, disciplinary counsel prosecutes the case at a public hearing. If a hearing-level decision is appealed, disciplinary counsel briefs and argues the appeal to the Disciplinary Board and, in some cases, to the Supreme Court.

ii) Adjudicative Functions. The final adjudicative authority in the lawyer discipline system is the Washington Supreme Court. Other persons and entities involved as adjudicators in the system include hearing officers, the Disciplinary Board, and the Review Committees that are composed of members of the Disciplinary Board.

The hearing officers are volunteer lawyers with substantial experience who are appointed by the Supreme Court to preside over the public hearings. They enter findings of fact and conclusions of law following a hearing, together with their recommendation as to the discipline to be imposed, if any. They also are authorized to resolve cases by approving stipulations to disciplinary action not involving suspension or disbarment. They are supervised by a Chief Hearing Officer who assigns cases to the hearing officers, provides training for the hearing officers, and monitors their performance. A WSBA Assistant General Counsel provides staff support to the hearing officers.

The Disciplinary Board is made up of fourteen members, ten lawyers and four non-lawyers appointed by the Supreme Court. Two of the lawyers serve as chair and vice-chair, respectively, of the Disciplinary Board; the other twelve members convene periodically in four Review Committees, each consisting of two lawyers and one non-lawyer.

The four three-person Review Committees serve as gatekeepers to public disciplinary hearings in the lawyer discipline system, first to consider appeals by grievants of grievances dismissed by disciplinary counsel, and second to consider recommendations by disciplinary counsel for public hearings of lawyer discipline matters.

The Disciplinary Board is assisted by Bar staff (independent from the ODC staff), including a WSBA Assistant General Counsel who serves as Counsel to the Disciplinary Board and a Clerk to the Disciplinary Board.

The Disciplinary Board itself serves primarily as an appellate court in the lawyer disciplinary system, hearing appeals of hearing officer decisions, reviewing all hearing officer recommendations for suspension or disbarment, and approving or disapproving proposed stipulations to resolve disciplinary proceedings by suspension or disbarment.

If the Disciplinary Board determines a lawyer is to be suspended or disbarred, the determination must be reviewed by the Washington Supreme Court; the Court may also, in its discretion, accept review of other actions of the Disciplinary Board. Disciplinary cases appealed to the Supreme Court proceed in a fashion similar to other Supreme Court appeals, with briefing by the parties and then oral argument, followed by a written opinion by the Court.

Disciplinary Actions/Sanctions/Stipulations. Disciplinary “actions” include both disciplinary “sanctions” and admonitions. Disciplinary action results in a permanent public disciplinary record.

Disciplinary sanctions are, in order of increasing severity, reprimands, suspensions, and disbarments. A suspension from the practice of law may be for any period of time not to exceed three years, and may include conditions to be fulfilled by the lawyer. A disbarment revokes the lawyer’s license to practice law, with a disbarred lawyer not being able to seek readmission to the Bar sooner than five years after being disbarred. Only the Supreme Court may order a lawyer suspended or disbarred.

In addition to disciplinary action, a lawyer may be ordered to pay restitution to victims, and may be placed on probation for up to two years during which the lawyer must comply with specified conditions in order to remain in practice.

An alternative to formal discipline may be available if the alleged misconduct is “less serious misconduct,” that is, conduct not involving misappropriation of client money, dishonesty, fraud, deceit or misrepresentation, or serious injury to clients, or conduct of the same type for which the lawyer has previously been disciplined. ODC may divert such cases out of the formal discipline system into various alternatives. For this to happen, the lawyer must admit to the misconduct and sign a contract to do certain things outside the formal discipline system to address the misconduct. The agreement may require, for example, the lawyer to agree to implement better office procedures, agree to arbitrate or mediate fee or other disputes, obtain counseling or treatment, take educational courses, or make restitution for injuries the lawyer has caused. If the lawyer satisfies the diversion contract, the disciplinary grievance is dismissed; if the lawyer does not satisfy the contract, the grievance is reinstated.

Occasionally a lawyer with a pending disciplinary investigation or proceeding will seek to resign from the Bar rather than go through the disciplinary process. The only resignation

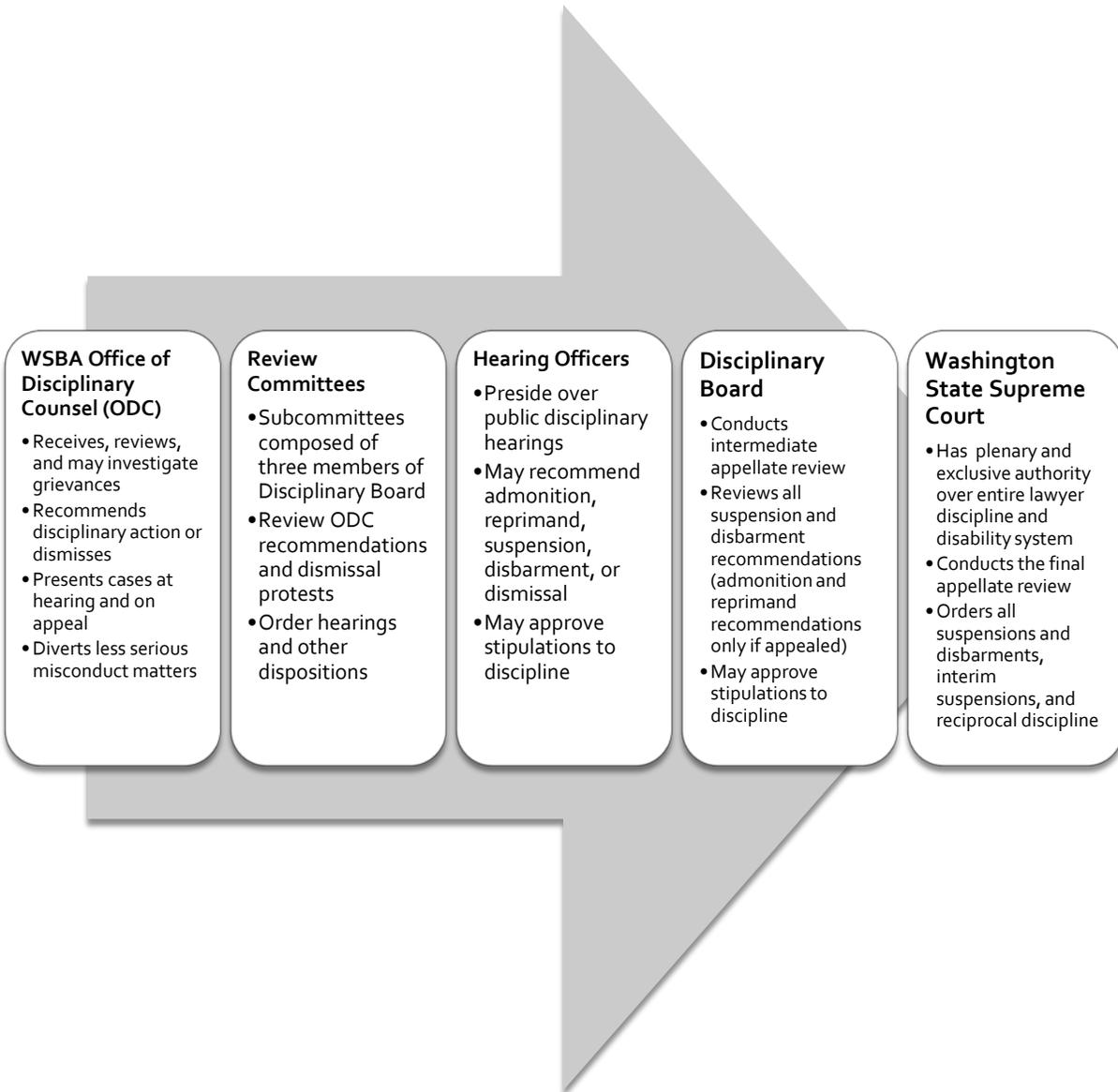
alternative in this situation is for the lawyer to enter into a resignation in lieu of discipline, a status from which reinstatement may not be sought.

Disability Matters. Special procedures apply when there is cause to believe that a lawyer is incapable of properly defending a discipline proceeding, or incapable of practicing law, because of mental or physical incapacity. Such matters are investigated and heard within the existing discipline-system structures, but under a distinct set of procedural rules. In some cases, counsel must be appointed for the respondent lawyer at WSBA expense. In disability cases, upon a determination that the respondent lawyer does not have the capacity to practice law, there is a transfer to disability inactive status. Petitions for reinstatement from disability inactive status are also governed by discipline-system procedures.

Reviewing and Improving the Discipline System. In 2010, the WSBA Board of Governors and the Washington Supreme Court jointly convened a Disciplinary Advisory Round Table for a two-year pilot period. The Round Table served as a forum for discussion of disciplinary issues and prepared annual reports on the state of lawyer discipline for the Supreme Court and the WSBA Board of Governors. The reports can be found on www.wsba.org. The Disciplinary Advisory Round Table was reauthorized by the Supreme Court in 2013 for another two-year period.

Disciplinary Advisory Round Table Roster
Supreme Court Justice Charles Wiggins, Chair
Andrew Bohrsen, WSBA Member
Andrew Carrington, Disciplinary Board Chair (2013-2014)
Clyde Cramer, Non-lawyer Member
Doug Ende, WSBA Chief Disciplinary Counsel
Bradford Furlong, WSBA Board of Governors
Jennifer Gill, Non-lawyer Member
Nancy Ivarinen, WSBA Disciplinary Board Chair (2012-2013)
W. Larry Jefferson, Minority Bar Association
Paula Littlewood, WSBA Executive Director
Joseph Nappi Jr., WSBA Chief Hearing Officer
Leland Ripley, Respondent's Counsel
Julie Shankland, WSBA Assistant General Counsel
Dayna E. Underhill, Respondent's Counsel
Darlene Neumann, WSBA Staff Liaison

Flow Chart of Discipline System



Members of the Disciplinary Board and Hearing Officers are appointed by the Supreme Court.

The Office of Disciplinary Counsel

The Office of Disciplinary Counsel (ODC) is managed by Chief Disciplinary Counsel and Director Douglas J. Ende and consists of 17 lawyers and 20 non-lawyers:

Lawyer Staff

Joanne S. Abelson, Sr. Disciplinary Counsel
Kevin M. Bank, Sr. Disciplinary Counsel
Randy Beitel, Sr. Disciplinary Counsel
Craig Bray, Disciplinary Counsel
Jonathan H. Burke, Sr. Disciplinary Counsel
Scott Busby, Disciplinary Counsel
Felice P. Congalton, Associate Director
Francesca D'Angelo, Disciplinary Counsel
Linda B. Eide, Sr. Disciplinary Counsel
Douglas J. Ende, Chief Disciplinary Counsel
Christine Gray, Associate Director
Marsha Matsumoto, Sr. Disciplinary Counsel
Bruce C. Redman, Disciplinary Counsel
Natalea Skvir, Disciplinary Counsel
Debra Slater, Disciplinary Counsel
Sachia Stonefeld Powell, Disciplinary Counsel
Erica Temple, Disciplinary Counsel

Non-lawyer Staff

Rachel Agent, Discipline Systems Analyst
Benjamin Attanasio, Department Administrator
Natasha Averill, Investigator
Leslie Berg, Administrative Assistant
Colleen Biel, Administrative Assistant
Jesse Burnham, Investigator
Marina Busse, Consumer Affairs Assistant
Celeste M. Fujii, Investigator
Matthew Gallagher, Paralegal
Christopher Hitzfeld, Paralegal
Cheryl Heuett, Senior Auditor
Cynthia A. Jacques, Department Administrator
Narette Lim, Paralegal
Eden Marsicek, Administrative Assistant
Brian McCarthy, Investigator
Vanessa Norman, Investigator
Scott O'Neal, Investigative Manager
Katie Spangler, Consumer Affairs Assistant
Rita Swanson, Audit Manager
Martina Wong, Administrative Assistant

The staff is organized into an Intake Team, three Investigation/Prosecution Teams, and 2 Department Administrators.

Administrative Assistant Katherine Bockmon left ODC in 2013.

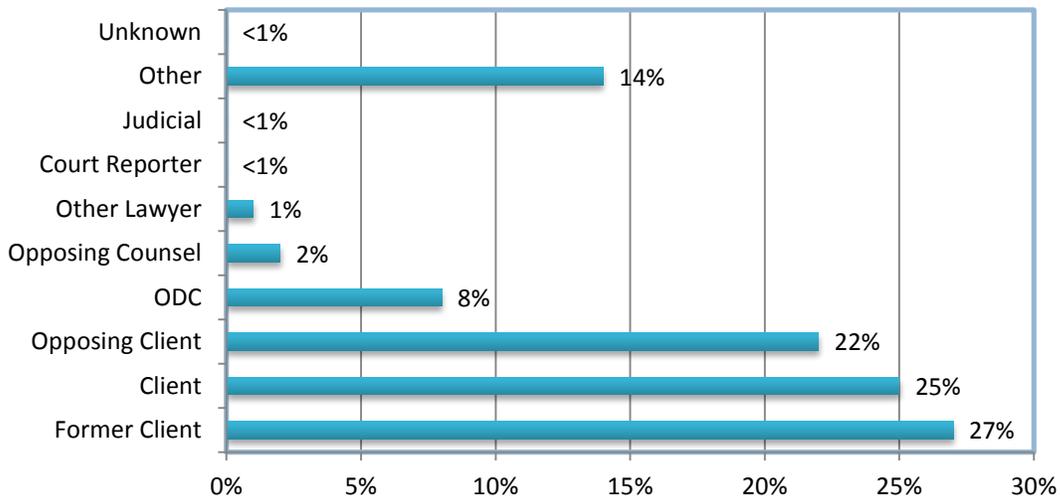
Intake Staff. Managed by Associate Director Felice P. Congalton, the four-person Intake Team is responsible for fielding inquiries from the public and the initial processing of about 2,000 written grievances filed each year. In addition to the heavy load of phone calls and other inquiries (approximately 8,000 in 2013), the Intake Team mediates matters where the lawyer is not communicating (109 in 2013) and where there is a dispute in obtaining the client's file (63 in 2013). The Intake Team determines whether grievances should be referred to an Investigation/Prosecution Team for investigation, referred to a more appropriate agency, or dismissed.

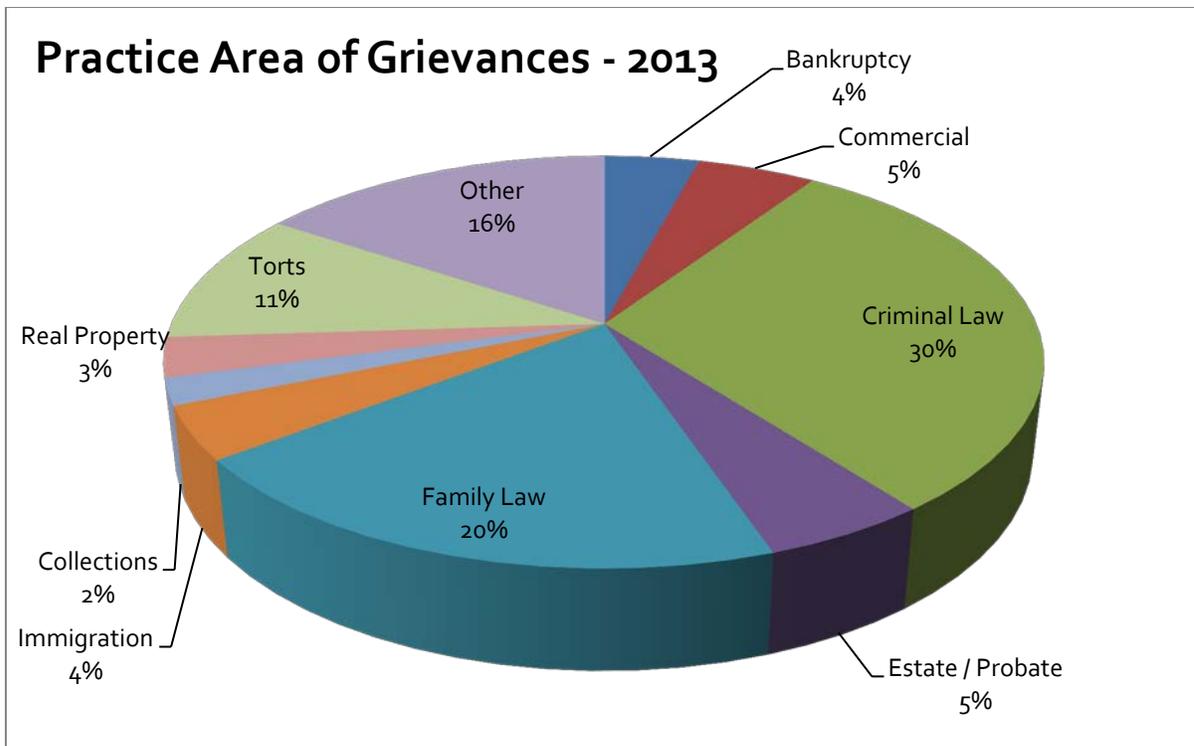
Grievances at a Glance – 2013

***Disciplinary Grievances, Mediated Matters,
and Consumer Affairs Contacts***

	2011	2012	2013
New Disciplinary Grievances Received During Year	2,156	2,329	2,229
Disciplinary Grievances Resolved During Year	2,179	2,426	2,336
Non-Communication Matters Mediated	123	62	109
File Dispute Mediations	146	58	63
Consumer Affairs Phone Calls, emails and Interviews	6,140	4,977	8,331

Sources of Grievances Filed - 2013





Investigation / Prosecution Staff. Investigation and Prosecution functions are overseen by Associate Director for Litigation, Christine Gray. Thirteen disciplinary counsel are divided into three investigation / prosecution teams, managed by three of the senior disciplinary counsel: Joanne Abelson, Randy Beitel, and Linda Eide. During 2013, each team had a paralegal and an administrative assistant. A team of five professional investigators are managed by Investigative Manager, Scott O'Neal. In addition, an office administrator reports to the Associate Director for Litigation. ODC has assembled a dedicated staff. The disciplinary counsel are highly experienced, averaging 27 years in practice, with an average of 12 years' experience in lawyer discipline.

Volunteers. A number of lawyers and legal professionals assisted the WSBA in 2013 in volunteer capacities. These included Jeffrey Tilden, Leslie Weatherhead, Rebecca Graham, Dean Brett, and Jeffrey Beaver, who were assigned matters as Adjunct Investigative Counsel; Mark Honeywell, Christopher Keay, Colin Folawn, Peter Ehrlichman, Amy Sterner and Thomas Frey, who served as Special Disciplinary Counsel, and John Strait, G. Lee Raaen, Ann Guinn, and Arthur Lachman, who served as Ethics School presenters.

Interns and Externs. ODC was also assisted in 2013 by law student Eryne Richards from the University of Washington Law School.

Other Activities. In addition to the investigation and prosecution of grievances, ODC performs a number of other functions consistent with our role in the regulation of the profession:

- Overdrafts on lawyer trust accounts are reported directly to ODC by banks and other financial institutions, and Senior Disciplinary Counsel Marsha Matsumoto directs the investigation of those matters by the Bar auditor. In 2013, 103 such matters required investigation by the Bar auditor.
- Lawyers who are applying for admission to other bars or seeking new jobs or judicial endorsements need written summaries of their discipline history. Disciplinary Counsel Bruce Redman supervises the research and preparation of those summaries, of which there were 582 in 2013.
- Disciplinary Counsel make frequent presentations at continuing legal education (CLE) and other programs relating to lawyer ethics, discipline, and professionalism. There were 36 such presentations in 2013.
- Disciplinary Counsel often provide drafting and staffing for committees proposing that the Supreme Court adopt rules relating to discipline and ethics. In 2013, Randy Beitel was a member of the LLLT Board's RPC subcommittee; Randy Beitel and Rita Swanson served on the IOLTA Workgroup of the LLLT Board; and Doug Ende served as Staff Liaison to the WSBA Immigration Advisory Work Group and as co-staff liaison to the RPC Committee Review Work Group.
- ODC is an active participant in the National Organization of Bar Counsel (NOBC), the professional organization of disciplinary counsel. In August 2013, Chief Disciplinary Counsel Doug Ende was elected to a two-year term as an At-Large Director on the NOBC Board of Directors.
- ODC is an active participant in the Organization of Bar Investigators (OBI), the professional organization of disciplinary investigators. In 2013, Investigative Manager Scott O'Neal served as Immediate Past President of OBI.
- ODC works closely with the Bar Association's Lawyers Assistance Program, which administers the Diversion Program. When it appears that a lawyer facing discipline for less serious misconduct could benefit from being diverted from discipline, disciplinary counsel refers the lawyer for evaluation to Dan Crystal, Psy.D., the Lawyer Services Department psychologist who is the Diversion Administrator. Upon a lawyer being diverted, disciplinary counsel continues to work with Dr. Crystal regarding the lawyer's compliance with the terms of diversion.
- Washington lawyers who are also licensed to practice law in other jurisdictions are sometimes disciplined by those other jurisdictions. When that happens, ODC pursues a reciprocal discipline proceeding to determine whether the same disciplinary action should be imposed in Washington. In 2013, 10 reciprocal discipline matters were completed.
- ODC conducts an Ethics School twice a year. It is attended by lawyers who are participating in the Diversion Program and other lawyers who have agreed to Ethics School as part of a stipulated resolution of a matter. The day-long Ethics School focuses on a range of ethics and professionalism topics and is taught by a mix of disciplinary counsel, Bar staff, and lawyers from private practice. In 2013, 22 lawyers attended the Ethics School.

- ODC accepts written grievances both in paper format and electronically via a web-based grievance form available on www.wsba.org

Cost of the Discipline System

The Discipline System is funded solely by lawyers' licensing fees; there is no public funding of any sort. The total cost of the Discipline System for 2013 was \$4,823,371, representing 42% of member licensing fees. In fiscal year 2013, we collected \$99,486 from respondents. Below is a breakdown of all 2013 discipline system costs.

Expenditures

Funding the Discipline System (Fully funded by lawyers' license fees – no public funding)			
Discipline System Expenses:	FY 2011	FY 2012	FY 2013
Investigation/Prosecution (net of costs collected from respondents)	\$4,313,309	\$4,260,131	\$4,084,493
Trust Account Audits	\$320,881	\$362,882	\$274,325
Disciplinary Board Expenses	\$241,656	\$264,414	\$407,181
Hearing Officer Expenses	\$34,245	\$34,066	\$37,372
Total Discipline System Expenses	\$4,910,091	\$4,921,493	\$4,823,371
Percentage of Bar License Fees Spent on Discipline	36%	35%	42%

Costs Collected

Fiscal Year	Costs Collected
FY 2011	\$50,975
FY 2012	\$58,898
FY 2013	\$99,486

The Disciplinary Board

The Disciplinary Board has 14 members, of which 10 are lawyers and four are non-lawyers, all appointed by the Washington Supreme Court. Each member has an equal vote, regardless of whether the member is a lawyer. The Disciplinary Board is staffed by the Clerk to the Disciplinary Board, Allison Sato, and Counsel to the Disciplinary Board, Julie Shankland.

The Disciplinary Board meets as an appellate body six times a year. At those meetings, the Board reviews the record in all cases in which the respondent lawyer or disciplinary counsel has filed an appeal from the hearing officer's recommendation in a disciplinary matter. The Board also reviews all suspension and disbarment recommendations and appeals from lawyer disability cases. If requested, the Board hears oral argument on the cases, much like an appellate court. The Board then issues its decision, and has broad discretion to modify the legal conclusions and disciplinary recommendation of the hearing officer.

In addition to hearing appeals, the Disciplinary Board reviews stipulations that the parties submit, which, if approved, will resolve the disciplinary proceeding without a hearing. While hearing officers can approve a stipulation not involving suspension or disbarment (usually to an admonition or reprimand), only the Disciplinary Board can approve a stipulation for suspension or disbarment (and those must ultimately be approved by the Supreme Court).

Also, with the exception of the two lawyers who serve as chair and vice-chair of the Disciplinary Board, the other 12 members convene periodically in groups, with each group comprising a Review Committee, each consisting of two lawyers and one non-lawyer. The four three-person Review Committees meet three times a year and serve as gatekeepers to public disciplinary hearings in the lawyer discipline system. Review Committees consider appeals by grievants of grievances dismissed by disciplinary counsel and consider recommendations by disciplinary counsel that advisory letters or admonitions be issued, or that a public hearing be held to consider imposing more substantial lawyer discipline. One of the Review Committees meets each month. On average, the Review Committee system considers 51 or more matters each month. During 2013, Review Committees considered 619 matters.

Disciplinary Board Members¹

Andrew Carrington – [Chair, 2013-2014] Private Practice, Seattle [Lawyer Member, term 2010-2014].

Jennifer Teppner Dremousis – [Vice Chair, 2013-2014] Private Practice, Seattle [Lawyer Member, term 2012-2015].

Kathryn Berger – Private Practice, Bellingham [Lawyer Member, term 2013 -2016]

Stephanie Bloomfield – Private Practice, Tacoma [Lawyer Member, term 2013-2016]

David Broom – Private Practice, Spokane [Lawyer Member, term 2011-2013].

Kristi Coy – Bellingham, [Non-Lawyer Member, term 2012 - 2013].

William E. Davis – Kennewick [Non-Lawyer Member, term 2013-2016]

Connie Egeler – Vancouver [Non-Lawyer Member, term 2013-2016]

David Evans – Private Practice, Vancouver [Lawyer Member, term 2011-2014].

Marcia Fischer – Kenmore, [Non-Lawyer Member, term 2013-2016]

Barbara McInville – Private Practice, Tacoma [Lawyer Member, term 2012-2015].

Barry Mesher – Private Practice, Spokane [Lawyer Member, term 2013 - 2015]

Pandora Neiland – Enumclaw [Non-lawyer Member, term 2011-2014].

Hon. Jane Smith – Coulee Dam [Non-Lawyer Member, term 2013-2016]

¹ Terms on the Disciplinary Board are for three years and correspond with the fiscal year, beginning in October and ending in September. This list includes members who served during FY 2013.

Hearing Officers

Hearings for disciplinary and disability cases are presided over by volunteer hearing officers. The Supreme Court has appointed 41 experienced lawyers to serve as hearing officers. One hearing officer serves as chief hearing officer: Spokane lawyer Joe Nappi, Jr. The Chief Hearing Officer assigns a hearing officer to each discipline or disability case and monitors the progress of the hearings.

Most disciplinary hearings are open to the public. In a proceeding similar to a civil bench trial, disciplinary counsel prosecutes the matters. At the conclusion of the hearing, the hearing officer prepares written findings of fact, conclusions of law, and, if violations are found, makes a recommendation as to the disciplinary action. The hearing officer has discretion to dismiss or to recommend an admonition, a reprimand, a suspension of up to three years, or disbarment. In addition, the hearing officer can recommend a probationary period with conditions that can be placed on the lawyer's continued practice, and can recommend the lawyer pay restitution to persons financially injured by the lawyer's conduct.

If a hearing officer recommends an admonition or a reprimand, the matter is concluded unless either party appeals to the Disciplinary Board. If the hearing officer recommends a suspension or disbarment, the matter is reviewed by the Disciplinary Board and ultimately by the Washington Supreme Court. During 2013, the hearing officers and the Chief Hearing Officer were assisted by Assistant General Counsel Elizabeth Turner.

FY 2013 Hearing Officers		
William Bailey, Seattle	Kelby Fletcher, Seattle	Anthony A. Russo, Seattle
Erik S. Bakke, Yakima	Deidre P. Glynn Levin, Seattle	Terence M. Ryan, Spokane
Craig Beles, Seattle	Octavia Y. Hathaway, Tacoma	David M. Schoeggl, Seattle
Daniel Brown, Seattle	James Horne, Seattle	Nadine Scott, Seattle
Carl Carlson, Seattle	Dana Laverty, Covington	Edward Shea, Jr., Pasco
Donald Carter, Everett	Amanda Lee, Seattle	Andrekita Silva, Seattle
David B. Condon, Tacoma	John Loeffler, Spokane	David Thorner, Yakima
James Craven, Spokane	Joseph Nappi Jr., Spokane	John Tollefsen, Lynnwood
James M. Danielson, Wenatchee	Linda O'Dell, Spokane	Douglas Vanscoy, Tacoma
Julian "Pete" Dewell, Seattle	Carl Oreskovich, Spokane	Gregory J. Wall, Port Orchard
Malcolm Edwards, Seattle	Timothy Parker, Seattle	Renee Walls, Tukwila
Scott Ellerby, Seattle	Randolph O. Petgrave III, Seattle	Lish Whitson, Seattle
Bertha Fitzer, University Place	Jane Bremner Risley, Asotin	David W. Wiley, Seattle
William Fitzharris Jr., Seattle	Sidney Stillerman Royer, Seattle	

The Lawyers' Fund for Client Protection

The Lawyers' Fund for Client Protection (Fund) was established by the Washington State Supreme Court in 1994 at the request of the WSBA by the adoption of Rule 15 of the Admission to Practice Rules (APR). Prior to the adoption of that rule, the Bar had, since 1960, voluntarily maintained a clients' security or indemnity fund out of the Bar's general fund, having been one of the first states to do so. Since that time, the lawyers of this state have compensated the victims of the few dishonest lawyers who misappropriate or fail to account for client funds or property in an amount totaling over \$7 million dollars. Gifts from the Fund are financed solely by payments from lawyers; no public funds are involved. Pursuant to APR 15, the Fund is maintained by a \$30-per-active-lawyer annual assessment. Effective January 1, 2013, the assessment is also paid *by pro hac vice* and in-house counsel.

The Fund is governed by APR 15 and Procedural Rules adopted by the Board of Governors and approved by the Supreme Court, available at www.wsba.org. The Fund is managed by Trustees who are the members of the Board of Governors of the WSBA. The Trustees appoint and oversee the Fund Board, the group of lawyers and non-lawyers who administer the Fund. The WSBA General Counsel acts as staff liaison to the Trustees and Fund Board.

Unless the lawyer is deceased or disbarred, all applicants to the Fund must also file disciplinary grievances with ODC. In order to be eligible for payment, an applicant must show by a clear preponderance of the evidence that he or she has suffered a loss of money or property through the dishonest acts of, or failure to account by, a Washington lawyer. Dishonesty includes, in addition to theft, embezzlement, and conversion, the refusal to return unearned fees as required by Rule 1.16 of the RPC.

The Fund is not available to resolve or compensate in matters of lawyer malpractice or professional negligence. It also cannot compensate for loan, investment, or other business transactions unrelated to the lawyer's practice of law.

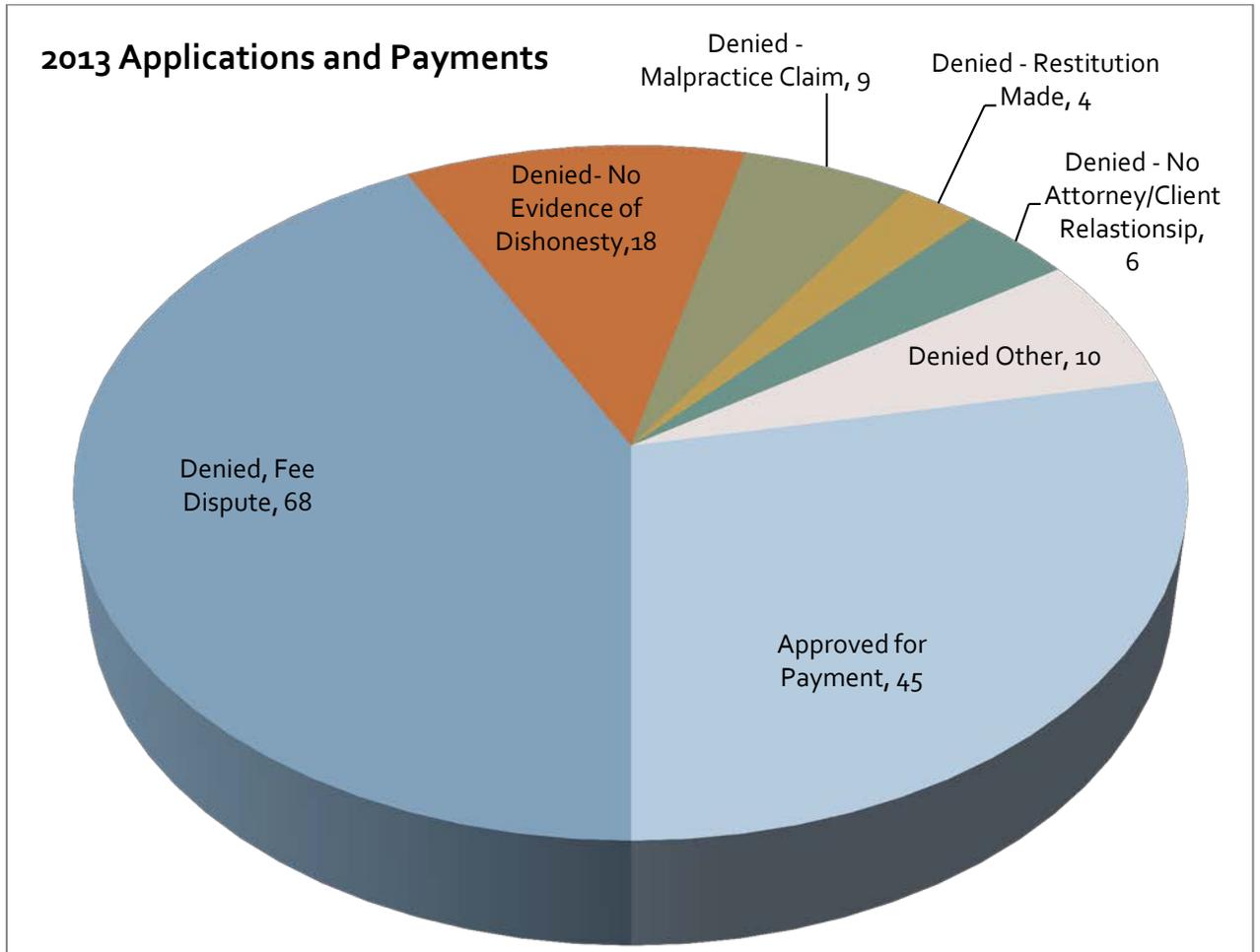
If the application appears eligible for payment, the Fund staff investigates the application. Because most applications also involve disciplinary grievances and proceedings, action on Fund applications normally awaits resolution of the disciplinary process. Finally, a report and recommendation is prepared for the Fund Board.

In exchange for a gift from the Fund, an applicant is required to sign a subrogation agreement for the amount of the gift. The Fund attempts to recover its payments from the lawyers or former lawyers on whose behalf gifts are made, when possible. Recovery is generally successful only when it is a condition of a criminal sentencing, or when a lawyer petitions for reinstatement to the Bar after disbarment.

Public Information. The Lawyers' Fund for Client Protection maintains information on the WSBA website at www.wsba.org that provides details about the Fund, its procedures, and

an application form that can be downloaded. The Fund information and procedures are also available in Spanish.

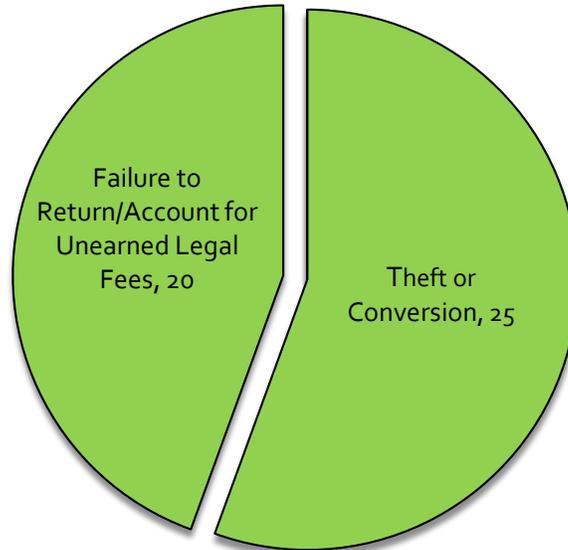
2013 Applications and Payments. For Fiscal Year 2013, the Board and Trustees acted on 160 applications. The total amount in approved payments was \$423,508. A summary of Fund Board actions is shown below. Complete summaries of all approved applications are available on the Fund’s Annual Report at the above website.



The “other” reasons for denial included: the applicant failed to exhaust available remedies; the application was ineligible for recovery; there was inadequate documentation; and payment would be unjust enrichment.

Approved Applications

The 45 approved applications involved the following:



Lawyers' Fund for Client Protection Applications Received and Payments Made in Recent Years

FISCAL YEAR	APPLICATIONS RECEIVED	APPLICATIONS APPROVED ¹	LAWYERS APPROVED	AMOUNT PAID
2006	139	66	26	\$468,696
2007	69	34	16	\$539,789
2008	125	54 ²	18	\$899,672 ³
2009	80	33	13	\$449,050
2010	161	78	23	\$554,270
2011	179	72 ⁴	15	\$1,003,458 ⁵
2012	137	39	17	\$378,574
2013	130	45	18	\$423,508

¹ Multiple applications concerning a single lawyer may have been approved in more than one year.

² One lawyer was responsible for 24 approved applications totaling \$695,409 in 2008.

³ Denotes prorated payment amounts actually paid, which is less than amount approved.

⁴ One lawyer was responsible for 25 approved applications totaling \$1,092,222 in 2011.

⁵ Denotes prorated payment amounts actually paid, which is less than amount approved.

**Washington State Bar Association
LAWYERS' FUND FOR CLIENT PROTECTION
2012-2013**

BOARD OF TRUSTEES	
Michele Radosevich, President	Seattle
James Armstrong, Jr.	Kent
Philip Buri	Bellingham
Tracy S. Flood	Port Orchard
Dan Ford	Seattle
Vern W. Harkins	Tacoma
Robin Haynes	Spokane
Brian J. Kelly	Chehalis
Susan Machler, Board Liaison	Seattle
Ken Masters	Bainbridge Island
Judy Massong	Seattle
Jerry J. Moberg	Ephrata
Barb Rhoads-Weaver	Vashon
Wilton S. "Bill" Viall, III	Seattle

FUND BOARD	
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Kathryn Herrmann	Tacoma
Matthew Honeywell	Seattle
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Rich Meyer	Bothell
Gloria Ochoa	Spokane
Mary Wilson (non-lawyer)	Federal Way

STAFF	
Jean McElroy	General Counsel and Staff Liaison
Elizabeth Turner	Assistant General Counsel
Brenda Jackson	Administrative Assistant

WSBA Audit Program

Audit Staff. The Bar has two auditors: Rita Swanson, Audit Manager and Cheryl Heuett, Senior Auditor. They operate four programs designed to protect clients from financial loss and assist lawyers with proper accounting for client funds.

Random Audits. The auditors select lawyers at random for examination of the books and records of the lawyer to assure that the lawyer is complying with all trust account rules. In FY 2013, 16 random audits were performed. These 16 audits involved firms with a total of 109 lawyers. Following the audit, the Bar auditor prepares a report noting whether the lawyer's books and records are in compliance with the trust account rules and provides the report to the Chair of the Disciplinary Board, who can accept the audit, order a re-examination of the lawyer's books and records at a later date to follow up on any problems that were noted, or order that the matter be referred to ODC for investigation.

Trust Account Overdraft Notification. Whenever an overdraft occurs on a lawyer trust account, the bank automatically sends a notification to ODC, where Senior Disciplinary Counsel Marsha Matsumoto directs the overdraft investigation, which is conducted by the Bar auditors. An overdraft on a trust account is an indication that something is amiss. While some overdrafts caused by bank error are quickly dismissed, others are an indication of problems with the lawyer's trust accounting, and on occasion are the harbinger of serious trust account misconduct. In 2013, 103 trust account overdrafts were investigated and dismissed by the Bar audit staff.

For Cause Audits. The Bar audit staff assist disciplinary counsel in the investigation of trust account disciplinary cases. This often entails forensic reconstruction of trust account records that were either not kept by the lawyer or have not been made available to disciplinary counsel. These are often serious and very time-consuming investigations. In 2013, there were 32 audits for cause.

Audit Education. The Bar auditors are frequent speakers at CLE programs on the trust account rules. They are available to answer questions from lawyers regarding trust accounting and publish a booklet, "Managing Client Trust Accounts, Rules Regulations and Common Sense," which is available for free, as well as available at www.wsba.org.

Audit Staff Activity

<i>Audit Staff Activity</i>	2011*	2012*	2013*
<i>*Fiscal Year</i>			
Investigatory "For Cause" Audits	32	36	32
Trust Account Overdraft Investigations	100	134	103
Random Audits of Law Firms/ Number of Lawyers	45/486	20/555	16/109

Conflicts Review System

From time to time, grievances will be filed against lawyers who are themselves serving in some capacity in the lawyer disciplinary system. ELC 2.7 provides that when grievances are filed against members of the Disciplinary Board, Board of Governors, or Supreme Court, or against disciplinary counsel or other lawyers employed by the Association, the grievances are reviewed by Conflicts Review Officers, who are appointed by the Supreme Court and act independently of ODC. If further investigation or prosecution is required, this is handled by independent Special Disciplinary Counsel. In 2013, 19 matters were referred for review by Conflicts Review Officers.

Conflicts Review Officers. Serving as Conflicts Review Officers in 2013 were Henry Edward Stiles II and Ronald Theodore Schaps.

Discipline Statistics

Disciplinary action in Washington is public. Here is the statistical data on the disciplinary actions for 2013, followed by discussions of each of the Washington Supreme Court's opinions, and a brief summary of each of the disciplinary actions imposed in 2013.

Statistical Summary

Disciplinary Actions

Disciplinary Actions	2008	2009	2010	2011	2012	2013
Disbarments	15	13	21	19	26	29
Resignation in Lieu of Disbarment	3	3	5	9	6	3
Suspensions	26	20	24	18	21	31
Reprimands	21	16	32	18	22	26
Admonitions	16	10	11	10	10	6
<u>Total Disciplinary Actions</u>	81	62	93	74	85	95
Matters Diverted from Discipline	43	22	38	42	34	33
Transferred to Disability Inactive* *Non-disciplinary action, based on incapacity to practice law	1	0	6	4	3	10

<i>Ethical Violations with Disciplinary Actions Imposed in 2013</i>							
Violation	Disbarments	Resignations in Lieu of Disbarment	Suspensions	Reprimands	Admonitions	TOTAL	% of TOTAL
Client Confidences	0	0	0	0	0	0	0%
Conflicts			2	3		5	5%
Criminal Conduct	3		2			5	5%
Diligence / Competence / Communication	1		6	5	2	14	15%
Dishonesty	10		7	3		20	21%
Fees	1		2		1	4	4%
Litigation Misconduct	2		3	4	1	10	12%
Non-Cooperation	1					1	1%
Practice While Suspended				1		1	1%
Theft / Trust Account	11	3	9	10	2	35	36%
TOTAL	29	3	31	26	6	95	100%

<i>Practice Areas of Disciplinary Actions and Diversions in 2013</i>								
Area of Practice	Disbarments	Resignations in Lieu of Disbarment	Suspensions	Reprimands	Admonitions	Diversions	TOTAL	% of TOTAL
Administrative			1				1	1%
Bankruptcy	2		1	1		3	7	5%
Commercial			3	1		3	7	5%
Corp./Banking			1				1	1%
Criminal Law	6		6		1	10	23	18%
Estate/Probate	2			5		1	8	6%
Family Law	5	1	4	7	3	6	26	21%
Immigration	3		1	3	1	4	12	9%
Intellectual Property	0	0	0	0	0	0	0	0%
Juvenile	0	0	0	0	0	0	0	0%
Labor Law	2		1			1	4	3%
Real Property	1	1	4	1			7	5%
Taxation	0	0	0	0	0	0	0	0%
Torts	2	1	5	1			9	8%
Other	6		4	7	1	5	23	18%
TOTAL	29	3	31	26	6	33	128	100%

Supreme Court Disciplinary Opinions

In re Disciplinary Proceeding Against Sanai, 177 Wn.2d 743, 302 P.3d 864 (2013)

The Supreme Court disbarred McMinnville, Oregon lawyer Fredric Sanai (Bar No. 32347) for filing multiple frivolous motions and claims for the purpose of harassment and delay, repeatedly and willfully disobeying court orders, and bringing frivolous suits against judges who ruled against him.

Sanai represented his mother in her divorce from his father. A dissolution decree was entered in Snohomish County Superior Court on April 15, 2002, finalizing the divorce. The decree ordered the sale of the family home and a vacant lot. Many years of acrimonious litigation followed.

Between 2001 and 2004, Sanai sued his father twice in state court and three times in federal court for alleged wiretapping. He also represented his mother in post-dissolution proceedings, where his motions resulted in sanctions by the trial court, Court of Appeals, and Supreme Court. After failing to obtain the relief he sought in state court, Sanai sued the judges who ruled against him in federal court. Sanai repeatedly violated court orders and rules. He used eight separate lawsuits to harass his father and others and as vehicles to try to block the sale of the real estate ordered sold under the dissolution decree.

Beginning in April 2003, Sanai filed a series of motions in the Court of Appeals and Supreme Court, seeking review of a Snohomish County Superior Court order directing his mother to vacate the family home. The Supreme Court's commissioner ruled that the submissions would not be considered, denied the original motion for review, and dismissed the proceedings. Sanai continued to file motions in the Supreme Court. In response, the Chief Justice denied all pending motions and imposed \$1,000 in sanctions. The Supreme Court forwarded the matter to the Office of Disciplinary Counsel (ODC).

In 2004, ODC initiated disciplinary proceedings against Sanai. After several delays, in 2007, the hearing officer rejected Sanai's request for a continuance of the disciplinary hearing based on his claim of physical incapacity because the hearing officer did not believe Sanai's doctor's note was credible. The hearing officer held a full hearing in Sanai's absence and recommended disbarment. A unanimous Disciplinary Board adopted the officer's recommendation. The Supreme Court reversed and granted Sanai a new hearing, holding that the hearing officer abused his discretion by failing to grant Sanai a continuance. In re Disciplinary Proceeding Against Sanai, 167 Wn.2d 740, 225 P.3d 203 (2009).

After a lengthy hearing at which Sanai was present and testified, the hearing officer found that Sanai violated Rules of Professional Conduct (RPC) 3.1, 3.2, 3.4(c), 4.4, 8.4(a), 8.4(d), 8.4(j), 8.4(l), and 8.4(n). The presumptive sanction was disbarment. The hearing officer found six aggravating factors: prior disciplinary offense (Sanai was admonished by the Oregon State Bar in 2002), dishonest or selfish motive, a pattern of misconduct, multiple offenses, bad faith obstruction of the disciplinary proceeding, and refusal to acknowledge

wrongful nature of conduct. The hearing office found one mitigating factor: remoteness of prior offense. The hearing officer recommended disbarment.

The Disciplinary Board adopted the hearing officer's recommendation.

The Supreme Court unanimously upheld the recommendation of disbarment. Sanai assigned error to approximately 180 of the hearing officer's 229 findings of fact and conclusions of law. The Court held that Sanai failed to meet his burden of proof with respect to each of the assignments of error.

The Court also found Sanai's myriad constitutional and evidentiary claims to be without merit. The Court upheld the hearing officer's decision to quash subpoenas issued to the judges whose orders, rulings, and opinions were admitted into evidence at the disciplinary proceedings. Sanai challenged the admission of these judicial decisions under the Sixth Amendment's confrontation clause because he did not have the opportunity to cross-examine the judges who authored the documents. However, Sanai did not preserve this issue for most of the admitted orders and rulings and raised it for the first time on appeal. Although RAP 2.5(a)(3) allows a party to raise a "manifest error affecting a constitutional right" for the first time on appeal, that rule was inapplicable here because the Court has never extended Sixth Amendment confrontation clause rights to lawyer discipline proceedings. Instead, the Sixth Amendment applies explicitly to criminal prosecutions. 177 Wn.2d at 762-63.

In re Disciplinary Proceeding Against McGrath, 178 Wn.2d 280, 308 P.3d 615 (2013)

The Supreme Court disbarred Bellevue lawyer Thomas McGrath (Bar No. 1313) for filing a false claim in a bankruptcy proceeding, fraudulently concealing bankruptcy assets, depositing personal and marital funds into his trust account, and using his trust account to shield his clients' assets from creditors.

McGrath was disbarred in 1980 following a criminal conviction for second degree assault. In re Disciplinary Proceeding Against McGrath, 98 Wn.2d 337, 655 P.2d 232 (1982). He was reinstated in 1989 but did not resume active status until 1993.

McGrath represented his wife, Melinda Maxwell, and her business, Chiropractic Wellness Center (CWC), in litigation against a former CWC employee, Kathrine Ellison. Ellison was awarded \$500,000 in damages against Maxwell, CWC, and the McGrath/Maxwell marital community. McGrath was suspended from the practice of law for 18 months for his conduct during the CWC litigation, which included multiple discovery violations, improper ex parte contact with a judge, and conduct manifesting prejudice or bias on the basis of national origin. In re Disciplinary Proceedings Against McGrath, 174 Wn.2d 813, 280 P.3d 1091 (2012).

The instant case involved McGrath's attempts to avoid Ellison's judgment. McGrath shifted personal and marital community funds into his trust account. He also placed fraudulent encumbrances on property owned by CWC and the marital community. Ellison garnished bank accounts owned by Maxwell, CWC, McGrath, and McGrath's law firm. However, Ellison did not garnish McGrath's trust account. As a result, McGrath and Maxwell began using McGrath's trust account as a personal and corporate account.

McGrath obtained an automatic stay of Ellison's collection efforts by filing for chapter 7 bankruptcy for Maxwell and chapter 11 bankruptcy for CWC. The bankruptcy filings contained numerous misstatements and omissions. As a result, the bankruptcy estate appeared to have limited assets that were either exempt or fully encumbered. McGrath was sanctioned for bad faith in the bankruptcy proceedings for failing to produce requested documents and instructing Maxwell to leave an examination while being questioned. The trustee eventually recaptured some of the bankruptcy assets. However, Ellison received just \$150,000 of her \$500,000 judgment. Also, during the bankruptcy proceedings, McGrath attempted ex parte contact with the bankruptcy court judge after he was removed as counsel for being an "insider" to both bankruptcies, and had multiple conflicts of interest.

The Office of Disciplinary Counsel charged McGrath with nine counts of misconduct. The hearing officer found each of the counts proven and that McGrath violated RPC 1.15A(h)(1), 1.15A(h)(2), 1.15A(h)(5), 1.15A(h)(6), 1.15A(h)(9), 1.15B(a)(1), 1.15B(a)(2), 1.15B(a)(8), 3.3(a), 3.5(b), 4.1, 8.4(a), 8.4(b), 8.4(c), and 8.4(d). The presumptive sanction was disbarment. The hearing officer found six aggravating factors: prior disciplinary offense, dishonest and selfish motive, pattern of misconduct, multiple offenses, refusal to acknowledge wrongful nature of the misconduct, and substantial experience in the practice of law. The hearing officer found no mitigating factors. The hearing officer recommended disbarment.

The Disciplinary Board adopted the hearing officer's recommendation.

The Supreme Court unanimously affirmed the Board's recommendation and disbarred McGrath, declining to disturb the hearing officer's evidentiary rulings. With respect to commingling, the Court rejected McGrath's argument that, under the RPC, clients are entitled to deposit any of their funds into the lawyer's trust account to hold indefinitely to meet client expenses. To the contrary, the RPC permit lawyers to deposit client funds into trust only when the funds are related to the representation and require lawyers to promptly deliver to the clients the funds they are entitled to receive. The Court rejected any reading of the trust account rules "that would transform trust accounts into ordinary bank accounts managed by the lawyer." 178 Wn.2d at 302.

In re Disciplinary Proceeding Against Wickersham, 178 Wn.2d 653, 310 P.3d 1237(2013)

The Supreme Court suspended Sedro Woolley lawyer Joe Wickersham (Bar No. 18816) for three years for abandoning his practice. Wickersham missed numerous court appearances, knowingly closed his office, and fled Washington without providing contact information or filing notices of withdrawal. The events leading to Wickersham's discipline center around two clients: Walter Zimcosky and Jonathan Griffin.

Wickersham represented Zimcosky in Auburn Municipal Court on a charge of driving under the influence. Zimcosky's wife hired Wickersham and paid him \$3,500. The night before a June 14, 2010 hearing on Zimcosky's case, Wickersham called the court to say he was ill and could not attend. He apparently did not tell Zimcosky, who appeared at the hearing. At the continued hearing, Wickersham exhibited exceedingly odd behavior, including shadow boxing and pacing around the courtroom. He also yelled "touchdown Washington," showed prosecutors the inside of his mouth, and asked nonsensical questions, among other things. The prosecutor moved to disqualify Wickersham but the court declined to do so because it was unsure of the proper standard for the issue.

On July 22, 2010, Wickersham was taken by police for a mental health evaluation and diagnosed with a substance-induced psychosis. Wickersham subsequently left several phone messages for the Auburn City Attorney in which he stated his belief that individuals in local government were involved in a cover-up or conspiracy against him.

On the morning of July 30, 2010, Wickersham left a message with the WSBA stating that he was not going to attend an upcoming hearing on Zimcosky's matter. Wickersham took no further action on behalf of Zimcosky. Thereafter, Zimcosky represented himself and pleaded guilty to reckless driving.

Wickersham represented Griffin in Cowlitz County Superior Court on a felony charge with a firearm enhancement, in addition to several unrelated city and municipal matters. Wickersham went to court with Griffin on two occasions in spring 2010 and filed a motion to suppress in June 2010.

Wickersham failed to appear for a motion hearing on August 19, 2010. He apparently notified Griffin that he would not be present, but he did not notify the court or the prosecutor. Griffin confirmed that Wickersham would appear at a hearing on August 26, 2010. However, Wickersham did not appear at the hearing, and Griffin was unable to contact him. The court set the matter over to September 8, 2010. Again, Griffin appeared on September 8, 2010, but Wickersham did not. Wickersham had no further contact with the court and never filed a notice of withdrawal. Griffin hired a new lawyer, and his case ultimately was dismissed as part of a plea agreement.

On August 23, 2010, based on his belief that he was the target of a conspiracy, Wickersham packed up his car and, with his 16-year-old son, fled Washington. He was incommunicado and his office was closed for several months following his departure.

The Office of Disciplinary Counsel (ODC) charged Wickersham with seven counts of misconduct. The hearing officer found all counts proven and that Wickersham violated RPC 1.1, 1.3, 1.4(b), 1.5(a), 1.16(d), 8.4(d), and 8.4(n). The presumptive sanction for Wickersham's unfitness to practice law in violation of 8.4(n) was disbarment. The hearing officer found four aggravating factors: prior disciplinary offense, pattern of misconduct, multiple offenses, and substantial experience in the practice of law. The hearing officer found no mitigating factors. The hearing officer recommended disbarment and ordered that reinstatement be conditioned on a mental health examination.

The Disciplinary Board dismissed one count of the complaint and related findings that pertained to a client who did not appear at hearing. The Board amended the hearing officer's decision to include the mitigating factor of personal or emotional problems based on evidence in the record of Wickersham's mental health issues. The Board also struck one of the aggravating factors, a pattern of misconduct. The Board assigned great weight to the mitigating factor of personal or emotional problems and unanimously reduced the presumptive sanction of disbarment to a three-year suspension. The Board adopted the hearing officer's other recommendations regarding reinstatement.

By a 6-3 vote, the Supreme Court adopted the Board's recommendations and imposed a three-year suspension. In addition to the mitigating factor of personal or emotional problems, the Court applied the additional mitigating factors of absence of dishonest motive and remorse. The Court acknowledged that Wickersham's conduct and mental illness presented a difficult case for discipline, but concluded that "Wickersham's condition prevented him from competently practicing law, with potentially serious injury to his clients. Wickersham failed to establish at his hearing that he was ready to return to the practice of law." 178 Wn.2d at 679. The dissenters opined that the majority decision was a "punitive response to a mental health issue." *Id.* at 685. They would have preferred a shorter suspension with a very long probation period, but recognized that the ELC do not allow for this. As a result, the dissenters would have imposed a suspension of up to two years with two years of probation. *Id.*

In re Disciplinary Proceeding Against Kamb, 177 Wn.2d 851, 305 P.3d 1091 (2013)

The Supreme Court disbarred Mount Vernon lawyer Thomas Kamb (Bar No. 16944) for misrepresenting the existence of a court order to a tribunal and then altering a filed court order to conceal his lie.

Kamb represented a client facing criminal charges and revocation of her driver's license for driving under the influence. A hearing on the matter was set before Judge David Svaren in Skagit County District Court. Prior to the hearing, the prosecutor faxed Kamb a plea offer that would permit Kamb's client to plead guilty to a lesser charge. At the hearing, Kamb proposed an order consistent with the offer. Judge Svaren approved and signed the order. The order did not suppress or otherwise address the client's breath test results.

Later that day, Kamb represented the client in a telephonic hearing before Department of Licensing (DOL) Hearing Officer Lori Provoe. During the hearing, Kamb stated that he had a signed order from the District Court suppressing his client's breath test. Hearing Officer Provoe requested that Kamb send her the order. A suppression order may have precluded the DOL from suspending Kamb's client's license.

After the DOL hearing, Kamb went to the Skagit County District Court clerk's office, requested his client's file, and wrote "BAC suppressed not a knowing & voluntary decision to take test" on the order Judge Svaren approved. Kamb returned the file to the clerk and asked for a copy of the order. Having seen Kamb alter the order, the clerk refused and contacted the prosecutor, who asked Kamb to come to his office. Kamb asked the prosecutor to stipulate to suppression of the breath results. The prosecutor agreed and emailed the clerk, authorizing her to give Kamb a copy of the order. But, based on his discussions with Kamb, the prosecutor believed that the DOL hearing had not yet occurred and did not know that Kamb had already altered the order.

When Kamb returned to the clerk, the clerk referred him to Judge Svaren. Kamb told Judge Svaren that he had intended to take the altered order to the prosecutor and then to him for approval and that he did not intend to do anything underhanded. He admitted he made a mistake and apologized.

Kamb did not advise Hearing Officer Provoe that the client's breath test was not suppressed for about a month. After Kamb revealed the truth, Hearing Officer Provoe suspended the client's license for 90 days.

The Office of Disciplinary Counsel (ODC) filed a formal complaint against Kamb, charging him with three counts of misconduct. The hearing officer concluded that all counts were proven and that Kamb violated RPC 1.3, 3.3(a)(1), 8.4(b), 8.4(c), and 8.4(d). The presumptive sanction was disbarment. The hearing officer found six aggravating factors: prior disciplinary offense (Kamb entered into a stipulation for admonition arising from his failure to attend felony hearings, just two months prior to the events leading to this disciplinary matter), dishonest or selfish motive, pattern of misconduct, substantial experience in the practice of law (over twenty-one years), refusal to acknowledge wrongful nature of conduct, and illegal conduct. The hearing officer found no mitigating factors. The hearing officer recommended disbarment for Kamb's RPC 3.3(a)(1) and 8.4 violations.

The Disciplinary Board adopted the hearing officer's decision.

The Supreme Court unanimously upheld the recommendation of disbarment. However, the Court declined to apply the aggravating factor of pattern of misconduct, holding that "Kamb's misconduct centers around one incident and his attempts to rectify it. Because this misconduct is substantially different from his prior failure to attend hearings, his misconduct is not part of a pattern." 177 Wn.2d at 867. The Court rejected Kamb's argument that disbarment was disproportional to other similar cases and declined to consider a proportionality case raised by Kamb for the first time in his reply brief. *Id.* at 870 n.3.

In re Disciplinary Proceeding Against Starczewski, 177 Wn.2d 771, 306 P.3d 905 (2013)

The Supreme Court suspended Wenatchee lawyer Marja M. Starczewski (Bar No. 26111) for 24 months for failing to represent her client with reasonable diligence, failing to inform her client of the status of her case, and failing to honestly inform her client of the reason for the case's dismissal, which was Starczewski's noncompliance with deadlines in the case scheduling order.

A commercial vehicle swerved to avoid a stalled passenger car and hit Rajinder Singh's taxi. Starczewski began representing Singh with respect to this incident in December 2005. Starczewski obtained a \$15,000 settlement offer from the driver's insurance company, which Singh rejected. On the day before the statute of limitations would have run, Starczewski filed suit against the driver and others in King County Superior Court on behalf of Singh. The court issued a scheduling order, directing Starczewski to file a confirmation of joinder by October 2007. At or around this time, Starczewski experienced financial problems and moved to East Wenatchee.

Between the issuance of the scheduling order and the deadline of the confirmation of joinder, Starczewski received a settlement offer of \$20,000. She did not convey the offer to Singh or respond to it. In October 2007, Starczewski failed to timely serve a confirmation of joinder. In response, the court ordered a show cause hearing on why it should not dismiss the case and order \$250 in sanctions. Starczewski did not inform Singh of the hearing or appear at it herself, which caused the court to issue sanctions. The court continued the hearing to January 2008, but it indicated that it would strike the hearing if Starczewski filed a timely confirmation of joinder. Starczewski did not inform Singh of the hearing or the sanctions. When Starczewski failed to file the confirmation of joinder by January 2008, the court dismissed Singh's case on procedural grounds.

In February 2008, Starczewski moved to vacate the dismissal. The court, after oral argument, conditioned vacating its dismissal on Starczewski paying \$250 in sanctions, complying with the scheduling order, and filing a confirmation of joinder. Starczewski paid the sanctions but again failed to timely file a confirmation of joinder. In May 2008, the court

issued a second and final order of dismissal. The day after the order was issued the statute of limitations ran on Singh's claim.

Singh did not learn that his case had been dismissed until a year later, when he contacted Starczewski. Starczewski did not give him an honest account, instead telling him that his case had been dismissed because the court found the other side's argument persuasive. In a letter to Singh, Starczewski included portions of the other side's response to her motion to vacate, making it appear as if the case had been dismissed on the merits. Although Starczewski included a copy of the dismissal order in her letter, it only served to confuse Singh because she did not explain the order and Singh is not fluent in English.

The Office of Disciplinary Counsel charged Starczewski with three counts of misconduct. The hearing officer found all counts proven and that Starczewski violated RPC 1.3, 1.4(a), 1.4(b), 3.2 and 8.4(c). The presumptive sanction was suspension. The hearing officer applied six aggravating factors: dishonest or selfish motive, pattern of misconduct, multiple offenses, refusal to acknowledge wrongful nature of conduct, substantial experience in the practice of law (Starczewski was admitted to practice in October 1996), and indifference to making restitution. The hearing officer applied one mitigating factor: personal problems (relating to Starczewski's financial issues). The hearing officer recommended a 24-month suspension, 18 months of practice monitoring, and restitution of \$15,000,

The Disciplinary Board affirmed the hearing officer's decision but increased the duration of practice monitoring from 18 to 24 months.

The Supreme Court unanimously affirmed the Disciplinary Board's decision and suspended Starczewski for 24 months. It rejected her many procedural challenges and claims that the factual findings were not supported by the evidence. It also dismissed her suggestion that her due process rights were violated because the special disciplinary counsel who tried the case had been involved in a civil action in which she was sanctioned. The Court noted that the special disciplinary counsel was not personally involved in the civil action but, even if he were, his involvement in both proceedings would not violate due process: "[A]ppearance of impropriety is not a serious consideration in attorney discipline cases where the general public has little, if any, direct interest in the process. Unlike a public prosecutor, [disciplinary] counsel's actions affect only attorneys who have voluntarily subjected themselves to regulation by this court." *Id.* at 785 (quotation omitted).

Finally, the Court upheld the hearing officer's award of restitution, which was based on the client's lost opportunity to accept the settlement offer that Starczewski failed to communicate to him. The ELC provide that lawyers may be ordered to pay restitution to persons injured financially by the lawyer's misconduct. "Given that Singh would have accepted the offer, that injury—the lost opportunity to accept the offer—is financial," *id.* at 796, and the restitution award was proper.

In re Disciplinary Proceeding Against Rodriguez, 177 Wn.2d 872, 306 P.3d 893 (2013)

The Supreme Court disbarred Seattle lawyer Rosaura Del Carmen Rodriguez (Bar No. 34334) for submitting documents containing forged signatures to the Board of Immigration Appeals (BIA) and making materially false statements under oath at a deposition during the disciplinary proceedings.

Rodriguez's client's previous lawyer failed to timely file an appeal on the client's behalf. As a result, the client was detained by Immigration and Customs Enforcement (ICE). After the client was detained, the client's former lawyer contacted Rodriguez's law firm. Rodriguez's supervisor asked her to handle the matter.

Rodriguez was under pressure to act quickly because the client's deportation was imminent. Rodriguez prepared a motion to the BIA requesting leave to file a late notice of appeal based on ineffective assistance of counsel. In support of the motion, Rodriguez attached a declaration of the client. She also filed a notice of appearance. Both the declaration and the notice of appearance purported to contain the client's signature. However, Rodriguez never met the client or otherwise obtained his signatures.

The BIA granted Rodriguez's motion to file a late appeal. Rodriguez timely filed the appeal but she never consulted with the client. The appeal was eventually denied. The client then hired a different lawyer, who contacted Rodriguez because she was investigating possible ineffective assistance of counsel. When new counsel asked Rodriguez about the signatures, Rodriguez gave conflicting stories about how they were obtained.

The new lawyer filed a grievance with the Office of Disciplinary Counsel (ODC). When disciplinary counsel deposed Rodriguez during the disciplinary investigation, she testified that she visited the client at the ICE detention center. ICE had no record of the meeting.

At Rodriguez's disciplinary hearing, the client testified that he never met Rodriguez and did not sign the documents.

The hearing officer found ODC proved four of the five charges filed against Rodriguez and that she violated RPC 1.3, 1.4(a)(2), 1.4(b), 3.3(a)(1), 3.3(a)(4), 8.4(b), 8.4(c), 8.4(d), 8.4(i), 8.4(l). The presumptive sanction was disbarment. The hearing officer found two aggravating factors: multiple offenses and dishonest or selfish motive (as to the false statements during the disciplinary investigation). The hearing officer found three mitigating factors: lack of a disciplinary record, inexperience in the practice of law, and good character or reputation. Based on the mitigating factors of inexperience and lack of prior discipline, the hearing officer recommended that the presumptive sanction be mitigated to a two year suspension.

The Disciplinary Board increased the recommended sanction to disbarment. The Board found that the mitigating factors did not outweigh the aggravating factors, and the presumptive sanction of disbarment was appropriate.

By an 8-to-1 vote, the Supreme Court affirmed the Board's recommendation and disbarred Rodriguez. The Court rejected Rodriguez's challenges to the findings of fact, which would have required the Court to reverse the hearing officer's credibility determinations. With respect to the misconduct, the Court found that the mitigating factors did not outweigh Rodriguez's dishonesty, which was not limited to the period in time where she was addressing with her client's exigent circumstances but continued years later when she repeatedly testified falsely under oath. 177 Wn.2d at 889. The dissent would have suspended Rodriguez from the practice of law for three years based on her inexperience and her motive to assist a client in need of swift legal assistance. Id. at 896-97.

Discipline Summaries

Below are very brief summaries for each of the 95 disciplinary actions in 2013. For additional information, see the notices published in the *NWLawyer*, which may be viewed at www.wsba.org by going to the Lawyer Directory, entering the lawyer's name or bar number, and then clicking on the "Discipline/Admonition Notice" button at the bottom of the lawyer's listing. More complete information, including the Notice of Discipline, together with the operative disciplinary documents, is available from the Clerk to the Disciplinary Board [(206) 733-5926] for inspection and copying.

Disbarments

Stephen T. Araki [WSBA No. 6428] Bellevue lawyer, disbarred for violating the following RPCs: 1.15A (Safeguarding Property), 1.15B (Required Trust Account Records), 5.3 (Responsibilities Regarding Non-lawyer Assistants), 5.8 (Misconduct Involving Disbarred, Suspended, Resigned, and Inactive Lawyers), and 8.4(l) (Violate Duties Under Rules for Enforcement of Lawyer Conduct.).

Belinda Armijo [WSBA No. 32362] Tacoma lawyer, disbarred for violating the following RPCs: 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), 8.1 (Bar Admission and Disciplinary Matters), 8.4(c) (Dishonesty, Fraud, Deceit or Misrepresentation), 1.15A (Safeguarding Property) and 1.15B (Required Trust Account Records).

Mark D. Bantz [WSBA No. 7790] Sterling, AK lawyer, disbarred for violating RPC

8.4(l) (Violate Duties Under Rules for Enforcement of Lawyer Conduct).

Edward J. Callow [WSBA No. 41966] Seattle lawyer, disbarred for violating the following RPCs: 1.4 (Communication), 1.15A (Safeguarding Property), 1.15B (Required Trust Account Records), 1.16 (Declining or Terminating Representation), 5.3 (Responsibilities Regarding Non-lawyer Assistants), 7.3 (Direct Contact With Prospective Clients), 8.4(c) (Dishonesty, Fraud, Deceit or Misrepresentation), and 8.4(d) (Conduct Prejudicial to the Administration of Justice).

Sarah Campbell [WSBA No. 36189] Marysville lawyer, disbarred for violating the following RPCs: 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), 5.3 (Responsibilities Regarding Non-lawyer Assistants), 8.4(b) (Commission of Criminal Act), 8.4(c) (Dishonesty, Fraud, Deceit or Misrepresentation), 8.4(i) (Moral Turpitude), 1.15A (Safeguarding Property), 1.15B (Required Trust Account Records).

Stephen L. Conroy [WSBA No. 5074] Lynnwood lawyer, disbarred for violating the following RPCs: 1.5 (Fees), 8.4(b) (Commission of Criminal Act), 8.4(c) (Dishonesty, Fraud, Deceit or Misrepresentation), 8.4(d) (Conduct Prejudicial to the Administration of Justice), and 8.4(i) (Moral Turpitude, Assault, or Disrespect for Rule of Law).

Magor J. Denes [WSBA No. 37505] Mill Creek lawyer, disbarred for violating the following RPCs: 1.2(a) (Abiding Client's Directions), 1.4 (Communication), 3.3 (Candor Toward the Tribunal), 8.4(b) (Commission of Criminal Act), 8.4(c) (Dishonesty, Fraud, Deceit or Misrepresenta-

tion), 8.4(d) (Conduct Prejudicial to the Administration of Justice), 1.15A (Safeguarding Property), and 1.15B (Required Trust Account Records).

Jonathan A. Elgart [WSBA No. 29454] Scottsdale, AZ lawyer, disbarred by order of the Washington Supreme Court imposing reciprocal discipline in accordance with an order of the Supreme Court of Arizona.

Janyce Fink [WSBA No. 24894] Seattle lawyer, disbarred for violating RPC 1.15A (Safeguarding Property).

David R. Fox [WSBA No. 24317] Port Angeles lawyer, disbarred for violating the following RPCs: 1.7 (Conflict of Interest – Current Client), 8.1 (Bar Admission and Disciplinary Matters), 8.4(b) (Commission of a Criminal Act), 8.4(c) (Dishonesty, Fraud, Deceit, or Misrepresentation), 8.4(d) (Conduct Prejudicial to the Administration of Justice), 8.4(i) (Moral Turpitude, Assault, or Disregard for Rule of Law), 8.4(l) (Violate Duties under Rules for Enforcement of Lawyer Conduct), 1.15A (Safeguarding Property), and 1.15B (Trust Account Records).

Kevin M. Healy [WSBA No. 21797] Santa Rosa, CA lawyer, disbarred by order of the Washington Supreme Court imposing reciprocal discipline in accordance with an order of the Supreme Court of California.

Bruce M. Hull [WSBA No. 18943] Bellevue lawyer, disbarred for violating the following RPCs: 1.4 (Communication), 1.5 (Fees), 1.15A (Safeguarding Property), 8.4(b) (Commission of a Criminal Act), 8.4(c) (Dishonesty, Fraud, Deceit, or Misrepresentation), 8.4(i) (Moral Turpitude, Assault or Disregard for Rule of Law), and

8.4(l) (Violate Duties under Rules for Enforcement of Lawyer Conduct).

Paul D. Jacobson [WSBA No. 26939] Issaquah lawyer, disbarred for violating the following RPCs: 1.3 (Diligence), 1.4 (Communication), 8.4(l) (Violated Duties under Rules for Enforcement of Lawyer Conduct), 1.15A (Safeguarding Property), and 1.16 (Declining or Terminating Representation).

Clarence C. Jones [WSBA No. 27678] Gig Harbor lawyer, disbarred for violating the following RPCs: 8.4(b) (Commission of Criminal Act), 8.4(g) (Discriminatory Acts Prohibited By State Law), and 8.4(i) (Moral Turpitude, Assault or Disregard for Rule of Law).

Thomas R. Kamb [WSBA No. 16944] Mt. Vernon lawyer disbarred for violating the following RPCs: 1.3 (Diligence), 3.3 (Candor Toward the Tribunal), 8.4(b) (Commission of a Criminal Act), 8.4(c) (Dishonesty, Fraud, Deceit, or Misrepresentation), and 8.4(d) (Conduct Prejudicial to the Administration of Justice).

David R. Kennedy [WSBA No. 30727] Everett lawyer disbarred for violating the following RPCs: 1.1 (Competence), 1.3 (Diligence), and RPC 1.4 (Communication).

Fiona A.C. Kennedy [WSBA No. 32385] Kirkland lawyer, disbarred for violating the following RPCs: 1.1 Competence), 1.3 (Diligence), 1.4 (Communication), 1.16 (Declining or Terminating Representation), 3.3 (Candor Toward the Tribunal), 8.4(c) (Dishonesty, Fraud, Deceit, or Misrepresentation), and 8.4(l) (Violate Duties under Rules for Enforcement of Lawyer Conduct).

Clayton Longacre [WSBA No. 21821] Port Orchard lawyer, disbarred for violating the following RPCs: 1.15A (Safeguarding Property), 1.15B (Required Trust Account Records), 1.16 (Declining or Terminating Representation), 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), 1.6 (Confidentiality of Information), 1.7 (Conflict of Interest: Current Client), 1.8(a) (Conflict of Interest: Business Transaction with Client), 3.2 (Expediting Litigation), 5.3 (Responsibilities Regarding Non-lawyer Assistants), 8.4(a) (Violate RPC Through Another; Attempt to Violate RPC), 8.4(c) (Dishonesty, Fraud, Deceit, or Misrepresentation), 8.4(d) (Conduct Prejudicial to the Administration of Justice), and 8.4(n) (Unfitness to Practice).

Thomas F. McGrath [WSBA No. 1313] Bellevue lawyer, disbarred for violating the following RPCs: 1.15A (Safeguard Property), 1.15B (Required Trust Account Records), 3.3 (Candor Toward the Tribunal), 3.5(a) (Prohibited Influencing of Judge, Juror, or Other Official), 4.1 (Truthfulness in Statements to Others), 8.4(a) (Violate RPC Through Another; Attempt to Violate RPC), 8.4(b) (Commission of a Criminal Act), 8.4(c) (Dishonesty, Fraud, Deceit, or Misrepresentation), and 8.4(d) (Conduct Prejudicial to the Administration of Justice).

Dennis K. Pflug [WSBA No. 11930] Seattle lawyer, disbarred for violating the following RPCs: 1.1 (Competence), 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), 1.16 (Declining or Terminating Representation), 5.3 (Responsibilities Regarding Non-lawyer Assistants), 5.5 (Unauthorized Practice of Law; Multijurisdictional Practice of Law), 5.8 (Misconduct Involving Disbarred, Suspended, Resigned and

Inactive Lawyers), RPC 8.4(c) (Dishonesty, Fraud, Deceit, or Misrepresentation), 8.4(i), Moral Turpitude, Assault or Disregard for Rule of Law), and 8.4(l) (Violate Duties under Rules For Enforcement of Lawyer Conduct).

Jeffery F. Renshaw [WSBA No. 31124] Portland, OR lawyer, disbarred by order of the Washington Supreme Court imposing reciprocal discipline in accordance with an order of the Supreme Court of Oregon.

Rosaura Del Carmen Rodriguez [WSBA No. 34334] Issaquah lawyer, disbarred for violating the following RPCs: 1.3 (Diligence), 1.4 (Communication), 3.3 (Candor Toward Tribunal), 8.4(b) (Commission of a Criminal Act), 8.4(c) (Dishonesty, Fraud, Deceit, or Misrepresentation), 8.4(d) (Conduct Prejudicial to the Administration of Justice), and 8.4(l) (Violate Duties under Rules for Enforcement of Lawyer Conduct).

Douglas A. Saar [WSBA No. 28221] Oak Harbor lawyer, disbarred for violating RPC 8.4(b) (Commission of Criminal Act).

Fredric Sanai [WSBA No. 32347] McMinnville, OR lawyer, disbarred for violating the following RPCs: 3.1 (Meritorious Claims and Contentions), 3.2 (Expediting Litigation), 3.4 (Fairness to Opposing Party and Counsel) 4.4 (Respect for Rights of Third Persons), 8.4(a) (Violate RPC Through Another, Attempt to Violate RPC), 8.4(d) (Conduct Prejudicial to Administration of Justice), and 8.4(l) (Violate Duties under Rules for Enforcement of Lawyer Conduct).

John C. Siegel [WSBA No. 29866] Federal Way lawyer, disbarred for violating the following RPCs: 1.2(a) (Abiding Client's Directive), 1.5 (Fees), 1.15A (Safeguarding Property), 1.16 (Declining or Terminating Representation), 8.4(b) (Commission of Criminal Act), 8.4(d) (Conduct Prejudicial to Administration of Justice), 8.4(i) (Moral Turpitude, Assault, or Disregard for Rule of Law), and 8.4(j) (Disobey or Violate Court Order).

Mark Stansfield [WSBA No. 11356] Quincy lawyer, disbarred for violating RPC 8.4(b) (Commission of Criminal Act).

James R. Watt [WSBA No. 12177] Redmond lawyer, disbarred for violating the following RPCs: 1.5 (Fees), 1.7 (Conflict of Interest: Current Clients), 1.16 (Declining or Terminating Representation), 5.3 (Responsibilities Regarding Non-lawyer Assistants), 5.4(a) (Sharing Legal Fees With Non-lawyer), 7.2 (Advertising), and 8.4(l) (Violate Duties under Rules for Enforcement of Lawyer Conduct).

Vivian L. White [WSBA No. 23653] Mt. Vernon lawyer, disbarred for violating the following RPCs: 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), 1.8(h) (Conflict of Interest: Agreement Limiting Lawyer's Liability), 3.2 (Expediting Litigation), 1.15A (Safeguarding Property), 1.15B (Required Trust Account Records), 8.4(c) (Dishonesty, Fraud, Deceit or Misrepresentation), 8.4(d) Conduct Prejudicial to Administration of Justice, 8.4(i) (Moral Turpitude, Assault or Disregard for Rule of Law), and 8.4(l) (Violate Duties under Rules for Enforcement of Lawyer Conduct).

Phillip A. Zajdel [WSBA No. 29165] Bellevue lawyer, disbarred for violating the following RPCs: 1.3 (Diligence), 1.4 (Communication), 1.15A (Safeguarding Property), 1.16 (Declining or Terminating Representation), 5.3 (Responsibilities Regarding Non-lawyer Assistants), 8.4(c) (Dishonesty, Fraud, Deceit or Misrepresentation), and 8.4(l) (Violate Duties under Rules for Enforcement of Lawyer Conduct).

Resignation in Lieu

Brian K. Boddy [WSBA No. 26735] Kirkland lawyer, resigned in lieu of disbarment pending allegations involving violation of the following RPCs: 1.15A (Safeguarding Property), and 8.4(c) (Dishonesty, Fraud, Deceit or Misrepresentation).

Erasmus J. Compatore [WSBA No. 19376] Seattle lawyer, resigned in lieu of disbarment pending allegations involving violation of the following RPCs: 1.5 (Fees), 1.15A (Safeguarding Property), 1.16 (Declining or Terminating Representation), 8.1 (Bar Admission and Disciplinary Matters), 8.4(c) (Dishonesty, Fraud, Deceit or Misrepresentation), and 8.4(n) (Unfitness to Practice Law).

Shaunna H. Touchi [WSBA No. 36609] Seattle lawyer, resigned in lieu of disbarment pending allegations involving violation of the following RPCs: 5.4 (Professional Independence of a Lawyer), 7.1 (Communications Concerning a Lawyer's Services), and 8.4(c) (Dishonesty, Fraud, Deceit or Misrepresentation).

Suspensions

John J. Baker [WSBA No. 22951] Placitas, NM lawyer, suspended for 1 year for violating the following RPCs: 1.2(a) (Abiding Client's Direction), 1.3 (Diligence), 1.4 (Communication), and 8.4(l) (Violate Duties under Rules for Enforcement of Lawyer Conduct).

J. Craig Barrile [WSBA No. 22198] Deer Park lawyer, suspended for 24 months for violating the following RPCs: 1.4 (Communication), 1.5 (Fees), 2.1 (Advisor), 5.4(a) Sharing Legal Fees With Non-lawyer, 5.5 (Unauthorized Practice of Law; Multijurisdictional Practice of Law), and 8.4(c) (Dishonesty, Fraud, Deceit or Misrepresentation).

Diane Beall [WSBA No. 41091] Escondido, CA lawyer, suspended for 1 year for violating the following RPCs: 1.15A (Safeguarding Property), and 8.4(c) (Dishonesty, Fraud, Deceit or Misrepresentation).

Jeremy D. Benson [WSBA No. 41091] Spokane lawyer, suspended for 1 year for violating the following RPCs: 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), and 1.16 (Declining or Terminating Representation).

Clifford K. B'Hymer [WSBA No. 5544] Clarkson lawyer, suspended for 1 year for violating the following RPCs: 1.1 (Competence), 1.4 (Communication), 1.5 (Fees), 3.2 (Expediting Litigation), 5.3 (Responsibilities Regarding Non-lawyer Assistants), 8.4(d) (Conduct Prejudicial to Administration of Justice), and 8.4(l) (Violate Duties under Rules for Enforcement of Lawyer Conduct).

William R. Brendgard [WSBA No. 21254] Vancouver lawyer, suspended for 9 months for violating the following RPCs: 1.4 (Communication), 1.15A (Safeguarding Property), 1.15B (Trust Account Records), and 8.4(l) (Violate Duties under Rules for Enforcement of Lawyer Conduct).

Shari A. Brown [WSBA No. 32935] Seattle lawyer, suspended for 3 years for violating the following RPCs: 1.15A (Safeguarding Property) and 1.15B (Required Trust Account Records).

Matthew W. Butler [WSBA No. 27993] Vancouver lawyer, suspended for 6 months for violating the following RPCs: 1.1 (Competence), 1.2(a) (Abiding by Client's Direction), 1.4 (Communication), 1.15A (Safeguarding Property), 5.3 (Responsibilities Regarding Non-lawyer Assistants), and 8.4(l) (Violate Duties under Rules for Enforcement of Lawyer Conduct).

Carol V. Cornwall-Edson [WSBA No. 30255] La Conner lawyer, suspended for 3 years for violating the following RPCs: 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), 1.15A (Safeguarding Property), 1.16 (Declining or Terminating Representation), and 8.4(l) (Violate Duties Under Rules for Enforcement of Lawyer Conduct).

Michael J. Davis [WSBA No. 25846] Tacoma lawyer, suspended for 4 months for violating the following RPCs: 1.15A (Safeguarding Property), 1.15B (Required Trust Account Records), and 8.4(l) (Violate Duties Under Rules for Enforcement of Lawyer Conduct).

Philip A. Dunlap [WSBA No. 10636] Renton lawyer, suspended for 60 days for violating the following RPCs: 1.3 (Diligence) and 1.4 (Communication).

Eric J. Fjelstad [WSBA No. 19633] Gresham, OR lawyer, suspended for 30 days by order of the Washington Supreme Court imposing reciprocal discipline in accordance with an order of the Supreme Court of Oregon.

Alexander W. Gambrel [WSBA No. 24018] Belgrade, MT lawyer, suspended for 6 months for violating the following RPCs: 1.3 (Diligence), 1.4 (Communication), 1.16 (Declining or Terminating Representation), 3.2 (Expediting Litigation), 5.3 (Responsibilities Regarding Non-lawyer Assistants), 8.4(d) (Conduct Prejudicial to Administration of Justice), and 8.4(l) (Violate Duties Under Rules for Enforcement of Lawyer Conduct).

Alexander W. Gambrel [WSBA No. 24018] Belgrade, MT lawyer, suspended for 1 year for violating RPC 1.8(a) (Business Transaction with Client).

Kevin L. Gibbs [WSBA No. 23990] Bothell lawyer, suspended for 30 months for violating the following RPCs: 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), 1.15A (Safeguarding Property), 1.16 (Declining or Terminating Representation), and 8.4(l) (Violate Duties Under Rules for Enforcement of Lawyer Conduct).

Eric A. Jones [WSBA No. 31048] Seattle lawyer, suspended for 9 months for violating the following RPCs: 1.5 (Fees), 4.4 (Respect for Rights of Third Person), 1.15A (Safeguarding Property), 1.15B (Required Trust Account Records) and

1.16 (Declining or Terminating Representation).

Karl W. Kime [WSBA No. 41668] Couer d'Alene, ID lawyer, 1 year withheld suspension by order of the Washington Supreme Court imposing reciprocal discipline in accordance with an order of the Supreme Court of the State of Idaho.

Marianne Meeker [WSBA No. 29674] Federal Way lawyer, suspended for 9 months for violating the following RPCs: 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), 1.16 (Declining or Terminating Representation), 8.1 (Bar Admission and Disciplinary Matters), 8.4(c) (Dishonesty, Fraud, Deceit or Misrepresentation) and 8.4(l) (Violate Duties under Rules for Enforcement of Lawyer Conduct).

Drake D. Mesenbrink [WSBA No. 16711] Poulsbo lawyer, suspended for 3 years for violating the following RPCs: 8.1 (Bar Admission and Disciplinary Matters), 8.4(c) (Dishonesty, Fraud, Deceit or Misrepresentation), 8.4(d) (Conduct Prejudicial to Administration of Justice), and 8.4(l) (Violate Duties Under Rules for Enforcement of Lawyer Conduct).

Marion E. Morgenstern [WSBA No. 22466] Kent lawyer, suspended for 2 years for violating the following RPCs: 1.4 (Communication), 1.15A (Safeguarding Property), 1.15B (Required Trust Account Records), 8.1 (Bar Admission and Disciplinary Matters), and 8.4(l) (Violate Duties Under Rules for Enforcement of Lawyer Conduct).

Mark G. Obert [WSBA No. 27299] Salem, OR lawyer, suspended for 6 months by order of the Washington Supreme Court imposing reciprocal discipline in accordance with an order of the Oregon Supreme Court.

Scott R. Peterson [WSBA No. 22923] Conway lawyer, suspended for 18 months for violating the following RPCs: 3.1 (Meritorious Claims and Contentions), 8.4(c) (Dishonesty, Fraud, Deceit or Misrepresentation), and 8.4(d) (Conduct Prejudicial to Administration of Justice).

Kenneth B. Rice [WSBA No. 4973] Kennewick lawyer, suspended for 2 years for violating the following RPCs: 1.4 (Communication), 1.15A (Safeguarding Property), 1.16 (Declining or Terminating Representation), 8.4(c) (Dishonesty, Fraud, Deceit or Misrepresentation), and 8.4(l) (Violate Duties Under Rules for Enforcement of Lawyer Conduct).

James H. Robinson [WSBA No. 28282] Seattle lawyer, suspended for 6 months for violating the following RPCs: 1.5 (Fees), 1.15A (Safeguarding Property), and 8.4(l) (Violate Duties Under Rules for Enforcement of Lawyer Conduct).

James J. Rosenberger [WSBA No. 16043] Seattle lawyer, suspended for 9 months for violating the following RPCs: 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), 1.15A (Safeguarding Property), 1.15B (Required Trust Account Records), 3.2 (Expediting Litigation), 5.3 (Responsibilities Regarding Non-lawyer Assistants), and 8.4(l) (Violate Duties Under Rules for Enforcement of Lawyer Conduct).

Marja M. Starczewski [WSBA No. 26111] Wenatchee lawyer, suspended for 24

months for violating the following RPCs: 1.3 (Diligence), 1.4 (Communication), 3.2 (Expediting Litigation), and 8.4(c) (Dishonesty, Fraud, Deceit or Misrepresentation).

David A. Stirbis [WSBA No. 26037] Lakewood lawyer, suspended for 18 months for violating the following RPCs: 8.4(b) (Commission of Criminal Act), and 8.4(i) (Moral Turpitude, Assault or Disregard for Rule of Law).

Ronlon W. Sydow [WSBA No. 32929] Vancouver lawyer, suspended for 1 year for violating RPC 8.5 (Disciplinary Authority; Choice of Law).

Joe Wickersham [WSBA No. 18816] Sedro Woolley lawyer, suspended for 3 years for violating the following RPCs: 1.1 (Competence), 1.3 (Diligence), 1.4 (Communication), 1.16 (Declining or Terminating Representation), 8.4(d) (Conduct Prejudicial to the Administration of Justice), and 8.4(n) (Unfitness to Practice).

Andre S. Wooten [WSBA No. 6677] Honolulu, HI lawyer, suspended for 90 days by the Washington Supreme Court imposing reciprocal discipline in accordance with an order of the Supreme Court of the State of Hawaii.

Noura Samira Elise Yunker [WSBA No. 25835] Camas lawyer, suspended for 60 days for violating the following RPCs: 1.1 (Competence), 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), 1.15A (Safeguarding Property), and 1.16 (Declining or Terminating Representation).

Reprimands

David R. Ambrose [WSBA No. 13379] Portland, OR lawyer, reprimanded by order of the Washington Supreme Court imposing reciprocal discipline in accordance with an order of the Supreme Court of Oregon.

Sergio Armijo [WSBA No. 8663] Tacoma lawyer, reprimanded for violating the following RPCs: 1.3 (Diligence), 1.16 (Declining or Terminating Representation), and 8.4(d) (Conduct Prejudicial to the Administration of Justice).

Sergio Armijo [WSBA No. 8663] Tacoma lawyer, reprimanded for violating the following RPCs: 1.15A (Safeguarding Property), and 1.15B (Required Trust Account Records).

Matthew Aylworth [WSBA No. 37892] Eugene, OR lawyer, reprimanded for violating the following RPCs: 1.3 (Diligence), 3.3 (Candor Toward Tribunal), and 8.4(d) (Conduct Prejudicial to the Administration of Justice).

Matthew Aylworth [WSBA No. 37892] Eugene, OR lawyer, reprimanded for violating the following RPCs: 5.3 (Responsibilities Regarding Non-lawyer Assistants), and 8.4(d) (Conduct Prejudicial to the Administration of Justice).

Charles N. Berry III [WSBA No. 8851] Bellevue lawyer, reprimanded for violating the following RPCs: 4.4 (Respect for Rights of Third Person), and 8.4(c) (Dishonesty, Fraud, Deceit or Misrepresentation).

Tamara M. Chin [WSBA No. 23062] Lynnwood lawyer, reprimanded for vio-

lating the following RPCs: 1.6 (Confidentiality of Information), 1.15A (Safeguarding Property), and 1.15B (Required Trust Account Records).

Joseph C. Finley [WSBA No. 927] Bellevue lawyer, reprimanded for violating RPC 1.15A (Safeguarding Property).

John G. Gissberg [WSBA No. 19677] Seattle lawyer, reprimanded for violating RPC 1.15A (Safeguarding Property).

Andrew F. Hiblar [WSBA No. 7648] University Place lawyer, reprimanded for violating the following RPCs: 1.16 (Declining or Terminating Representation), 5.5 (Unauthorized Practice of Law; Multijurisdictional Practice of Law), 5.8 (Conduct Involving Disbarred, Suspended, Resigned, and Inactive Lawyers), 8.4(l) (Violate Duties Under Rules for Enforcement of Lawyer Conduct).

Suellen Howard [WSBA No. 20506] Renton lawyer, reprimanded for violating the following RPCs: 3.3 (Candor Toward the Tribunal), 8.4(c) (Dishonesty, Fraud, Deceit or Misrepresentation) and 8.4(d) (Conduct Prejudicial to Administration of Justice).

Grant Kinnear [WSBA No. 8935] Renton lawyer, reprimanded for violating the following RPCs: 8.4(c) (Dishonesty, Fraud, Deceit or Misrepresentation) and 8.4(d) (Conduct Prejudicial to Administration of Justice).

William D. McCool [WSBA No. 9605] Walla Walla lawyer, reprimanded for violating the following RPCs: 1.15A (Safeguarding Property) and 1.15B (Required Trust Account Records).

Michael J. McLaughlin [WSBA No. 13367] Newport lawyer, reprimanded for violating the following RPCs: 1.15A (Safeguarding Property) and 1.15B (Required Trust Account Records).

Molly M. McPherson [WSBA No. 23027] Coupeville lawyer, reprimanded for violating the following RPCs: 3.3 (Candor Toward the Tribunal), 5.3 (Responsibilities Regarding Non-lawyer Assistants), and 8.4(d) (Conduct Prejudicial to Administration of Justice).

Stephen D. Petersen [WSBA No. 32270] Rainier, OR lawyer, reprimanded by order of the Washington Supreme Court imposing reciprocal discipline in accordance with an order of the Supreme Court of Oregon.

Paul D. Pless [WSBA No. 34629] Normal, IL lawyer, reprimanded for violating the following RPCs: 5.3 (Responsibilities Regarding Non-lawyer Assistants), and 8.4(c) (Dishonesty, Fraud, Deceit or Misrepresentation).

Mark K. Plunkett [WSBA No. 16834] Seattle lawyer, reprimanded for violating RPC 1.4 (Communication).

Mark K. Plunkett [WSBA No. 16834] Seattle lawyer, reprimanded for violating RPC 1.7 (Conflict of Interest: Current Client).

Charles W. Rehm [WSBA No. 10708] Seattle lawyer, reprimanded for violating the following RPCs: 1.3 (Diligence), 1.4 (Communication), 1.15A (Safeguarding Property), 1.16 (Declining or Terminating Representation).

Kevin R. Richardson [WSBA No. 21125] Issaquah lawyer, reprimanded for violating the following RPCs: 1.3 (Diligence), 1.4 (Communication) and 1.15A (Safeguarding Property).

Charles S. Sprinkle [WSBA No. 16090] Libby, MT lawyer, reprimanded by order of the Washington Supreme Court imposing reciprocal discipline in accordance with an order of the Supreme Court of Montana.

Marlene K. Wenger [WSBA No. 35478] Winlock lawyer, reprimanded for violating the following RPCs: 1.3 (Diligence) and 1.15A (Safeguarding Property).

Mary T. Wynne [WSBA No. 12441] Winner, SD lawyer, reprimanded for violating RPC 1.15A (Safeguarding Property).

Mary T. Wynne [WSBA No. 12441] Winner, SD lawyer, reprimanded for violating RPC 8.4(d) (Conduct Prejudicial to Administration of Justice).

Tom Youngjohn [WSBA No. 24170] Federal Way lawyer, reprimanded for violating the following RPCs: 1.2(a) (Abiding by Client's Direction), 1.5 (Fees), 1.8h (Conflict of Interest: Agreement Limiting Lawyer's Liability) and 1.15A (Safeguarding Property).

Admonitions

Janis M. Dyer [WSBA No. 20355] Seattle lawyer, admonished for violating RPC 8.4(d) (Conduct Prejudicial to Administration of Justice).

Scott Etherton [WSBA No. 29904] Kennewick lawyer, admonished for violating the following RPCs: 1.3 (Diligence) and 1.16 (Declining or Terminating Representation).

Michael M. Gainer [WSBA No. 20219] Spokane lawyer, admonished for violating the following RPCs: 1.4 (Communication) and 1.15A (Safeguarding Property).

Theresa L. Griffin [WSBA No. 31203] Seattle lawyer, admonished for violating the following RPCs: 1.4 (Communication) and 1.5 (Fees).

Theresa L. Griffin [WSBA No. 31203] Seattle lawyer, admonished for violating RPC 1.3 (Diligence).

Peter B. Wilburn [WSBA No. 41049] Seattle lawyer, admonished for violating the following RPCs: 1.15A (Safeguarding Property) and 8.4(l) (Violate Duties under Rules for Enforcement of Lawyer Conduct).

Transfer to Disability Inactive

These are non-disciplinary actions based on incapacity to practice law. Under the ELC, there is no public information on these matters.

Belinda Armijo [WSBA No. 32362], Tacoma lawyer, transferred to disability inactive status.

Bennie W. Barnes [WSBA No. 20252], Hollywood, FL lawyer, transferred to disability inactive status.

Erasmus Compatore [WSBA No. 19376], Seattle lawyer, transferred to disability inactive status.

Krista Lee Fletcher [WSBA No. 24685], Phoenix, AZ lawyer, transferred to disability inactive status.

Ronald A. Gomes [WSBA No. 31074], Lacey lawyer, transferred to disability inactive status.

Johnnie R. Hynson [WSBA No. 23995], Bellevue lawyer, transferred to disability inactive status.

Ian Kanair [WSBA No. 28410], LaConner lawyer, transferred to disability inactive status.

John J. O'Donnell [WSBA No. 8968], Seattle lawyer, transferred to disability inactive status.

Timothy Schoenrock [WSBA No. 40029], Yakima lawyer, transferred to disability inactive status.

Kristine K. Smith [WSBA No. 23558], Coupeville lawyer, transferred to disability inactive status.

ACCESSING THE DISCIPLINE SYSTEM

The Rules. Two sets of rules govern lawyer discipline. The Rules of Professional Conduct (RPC) set forth the ethical duties with which all Washington lawyers must comply. The Rules for Enforcement of Lawyer Conduct (ELC) provide the procedural rules for the Lawyer Discipline System and describe how a grievance is investigated and prosecuted. These sets of rules are too voluminous to print in this report, but they are available in any Court Rules book and are available on the Washington Supreme Court’s website at http://www.courts.wa.gov/court_rules (click on Rules of General Application). Below, we set forth the table of contents of these two sets of rules:

Rules of Professional Conduct

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Lawyer Discipline in Washington

The Washington State Bar Association (WSBA) is the licensing organization for lawyers in Washington State. It is funded by fees its members pay. The Washington State Supreme Court regulates lawyer conduct and delegates authority to the WSBA's Office of Disciplinary Counsel to review complaints (grievances) against lawyers. Below are frequently asked questions about the grievance process. We answer additional questions on www.wsba.org.

What does it mean to file a grievance?

When you file a grievance, you are accusing a lawyer of unethical conduct. Before you file a grievance, try to resolve your dispute directly with the lawyer. If you are a client, a lawyer may refuse to continue to represent you after you file a grievance and you may need to find a new lawyer. We cannot represent you or give you legal advice.

How do I file a grievance?

All grievances must be in writing. We prefer that you use our grievance form, which contains additional instructions. You may submit your grievance online using our electronic grievance form; or mail, deliver or fax your grievance to us. We do not accept grievances over the phone. You may file a grievance at any time. There is no fee to file a grievance.

How can you help me file a grievance?

If you have a disability and need help writing your grievance, please call us and we will take reasonable steps to accommodate you. You must submit your grievance in English. We cannot help you decide whether you should file a grievance.

Will the lawyer know that I filed a grievance?

Yes. We will provide your grievance to the lawyer, and we may provide it to others if your grievance is investigated. Please call us before you file a grievance if you have a question about confidentiality.

Is a grievance public information?

Your grievance is not public information when you file it, but all information related to your grievance may become public. Please call us before you file a grievance if you have a question about confidentiality.

What happens after I file a grievance?

Disciplinary counsel reviews your grievance to decide what, if any, action to take. We will send you information after our initial review within two weeks of filing your grievance. If we review your grievance and decide to dismiss it, we will tell you why. If we ask the lawyer to respond to your grievance, generally you will receive a copy of the lawyer's response and have time to reply.

What are matters that disciplinary counsel might not investigate?

Here are some examples:

Errors in judgment: Disagreements about the way a case should be handled, or a mistake.

Rude behavior: Conduct that you think is rude or discourteous, or poor customer service.

Opposing lawyer: Conduct that has a negative impact on you but does not involve an ethical violation.

Personal matters: Disputes with neighbors, creditors, or spouses.

What can I do if my grievance is dismissed?

If your grievance is dismissed, you can request review by a review committee of the Disciplinary Board, which consists of both lawyers and non-lawyers. You must request review in writing, and mail or deliver your request to us within 45 days of the dismissal date. If your grievance is dismissed, we typically destroy the file three years after the original dismissal.

What happens if I request review of my dismissed grievance?

A review committee can consider disciplinary counsel's dismissal of a grievance and uphold the dismissal, order further investigation, or order other action. This process can take several months, but we encourage you to send us additional information promptly. A review committee makes a decision based on the documents submitted and then issues an order without a detailed explanation. Neither you nor the lawyer can attend a review committee meeting, and the review committee's deliberations are not public. The decision of a review committee cannot be appealed.

What happens if you investigate my grievance?

If we investigate your grievance, we gather additional information. We cannot predict how long it will take to complete the investigation. After investigation, disciplinary counsel may dismiss your grievance or recommend that a review committee of the Disciplinary Board order an admonition or hearing.

What is public discipline?

A final determination that a lawyer violated the Rules of Professional Conduct may lead to public discipline. Public discipline includes disciplinary sanctions and admonitions (which result in a permanent public disciplinary record). Disciplinary sanctions are reprimands, suspensions from the practice of law (up to three years), and disbarments. Only the Supreme Court can suspend or disbar a lawyer. A suspended or disbarred lawyer cannot practice law.

Grievance Against a Lawyer



**Office of Disciplinary Counsel
Washington State Bar Association
1325 Fourth Avenue, Suite 600
Seattle, WA 98101-2539**

GENERAL INSTRUCTIONS

- Read our information sheet *Lawyer Discipline in Washington* before you complete this form, particularly the section about consenting to disclosure of your grievance to the lawyer.
- If you have a disability or need assistance with filing a grievance, call us at (206) 727-8207. We will take reasonable steps to accommodate you.
- If you prefer to file online, visit <http://www.wsba.org>.

INFORMATION ABOUT YOU

INFORMATION ABOUT THE LAWYER

Last Name, First Name, Middle Initial

Last Name, First Name

Address

Address

City, State, and Zip Code

City, State, and Zip Code

Phone Number

Phone Number

Alternate Address, City, State, and Zip Code

Bar Number (if known)

Alternate Phone Number

Email Address

INFORMATION ABOUT YOUR GRIEVANCE

Describe **your** relationship to the lawyer who is the subject of your grievance:

- | | |
|---|--|
| <input type="checkbox"/> I am a client | <input type="checkbox"/> I am an opposing lawyer |
| <input type="checkbox"/> I am a former client | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> I am an opposing party | |

Is there a court case related to your grievance? _____ YES _____ NO

If yes, what is the case name and file number?

