

In the

SUPREME COURT OF MISSOURI

En Banc

May Session, 2017

**Report of the Office of the Chief Disciplinary Counsel for the year
2016 together with the Financial Report of the Treasurer of the
Advisory Committee Fund for 2016**

**ALAN D. PRATZEL
Chief Disciplinary Counsel**

IN THE
SUPREME COURT OF MISSOURI

EN BANC

MAY SESSION, 2017

REPORT OF THE OFFICE OF CHIEF DISCIPLINARY COUNSEL FOR THE YEAR
2016 TOGETHER WITH THE FINANCIAL REPORT OF THE TREASURER OF THE
ADVISORY COMMITTEE FUND FOR 2016

To the Honorable Judges of The Supreme Court:

Comes now the Office of Chief Disciplinary Counsel, and respectfully reports to
the Court on matters concluded during calendar year 2016 or pending on December 31,
2016.

I.

**THE FOLLOWING DISCIPLINARY ACTIONS WERE TAKEN BY
THE COURT DURING 2016 BASED ON PROCEEDINGS
PROSECUTED BY THE OFFICE OF
CHIEF DISCIPLINARY COUNSEL¹**

ALLEN JR., JIMMY EUGENE, Louisburg, KS, Missouri Bar #49439

Disbarment: Rule 5.20 (Reciprocal – Kansas); Violation of Rules 4-1.3, 4-1.4, 4-1.5, 4-1.15, 4-1.16, 4-8.1, and 4-8.4. Date of Order: March 2, 2016.

BARDING, JAMES DOUGLAS, Jefferson City, MO, Missouri Bar #46302

Disbarment: Rule 5.21 (Criminal Conviction). Date of Order: April 29, 2016.

BENSYL, SCOTT MASON, St. Joseph, MO, Missouri Bar #67436

Public Reprimand: Violation of Rules 4-8.4(a) and 4-8.4(b). Date of Order: November 22, 2016.

BERT, MICHAEL ALEXANDER, St. Louis, MO, Missouri Bar #49994

Default Disbarment: Violation of Rules 4-1.3, 4-1.4, 4-1.5, 4-1.16(d), 4-8.1(c), and 4-8.4(c). Date of Order: December 20, 2016.

BISGES, NOEL FRANCIS, Jefferson City, MO, Missouri Bar #42411

Suspension, suspension stayed, placed on probation for one year: Rule 5.20 (Reciprocal – United States District Court for the Western District of Missouri); Violation of Rules 4-3.3(a) and 4-8.4(c). Date of Order: October 18, 2016.

BLUM, MICHAEL WAYNE, Rolla, MO, Missouri Bar #47278

Disbarment: Violation of Rules 4-1.3, 4-1.15, 4-1.16, 4-8.1(c), and 4-8.4(c). Date of Order: October 18, 2016.

**BOHRER, DAVID NICHOLAS, St. Louis, MO, (now Cottleville, MO),
Missouri Bar #44901**

Public Reprimand: Violation of Rule 4-1.16(d). Date of Order: January 26, 2016.

BONNER, DENNIS JAMES, Lee's Summit, MO, Missouri Bar #49945

Interim suspension from the practice of law pursuant to provisions of Rule 5.24. Date of order: April 15, 2016.

¹ Often there are attorneys with the same or similar names. It is important to note the bar number and location of the individual.

BREMER, JEFFREY EDWARD, St. Louis, MO, Missouri Bar #53364

Surrendered license and disbarred: Violation of Rule 4-8.4(b). Date of Order: September 23, 2016.

BROTHERTON, GARY EUGENE, Columbia, MO, Missouri Bar #38990

Suspended from the practice of law. Date of Order: July 8, 2016.

BRYANT, SEAN ERIC, St. Louis, MO, Missouri Bar #64353

Disbarment: Violation of Rules 4-1.15(a), 4-1.15(d), 4-1.15(f), and 4-8.4(c). Date of Order: October 18, 2016.

EISENSTEIN, JOEL B., St. Charles, MO, Missouri Bar #21476

Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of six months: Violation of Rules 4-3.4(a), 4-4.4(a), 4-8.4(c), and 4-8.4(d). Date of Order: April 21, 2016.

EMERT, BRADFORD C., St. Louis, MO, Missouri Bar #36118

Public Reprimand: Violation of Rules 4-1.3, 4-1.15(c), and 4-8.4(d). Date of Order: November 22, 2016. Supreme Court No. SC90933

Suspension, suspension stayed, placed on probation for two years: Violation of Rules 4-1.4(a) and 5.27. Date of Order: November 22, 2016. Supreme Court No. SC94974

FELD, KENNETH J., St. Louis, MO, Missouri Bar #19614

Surrendered license and disbarred: Violation of Rules 4-1.15 and 4-8.4(c). Date of Order: September 26, 2016.

FISCHER, ELIZABETH MARGARET, Glencoe, MO, Missouri Bar #49269

Disbarment: Rule 5.20 (Reciprocal – Virginia); Violation of Rules 4-3.1, 4-3.3(a)(1), 4-3.3(a)(3), 4-3.4(b), 4-8.1(a), 4-8.1(c), 4-8.4(b), and 4-8.4(c). Date of Order: March 9, 2016.

FOLEY, DEANNA ANGELI, St. Louis, MO, Missouri Bar #43076

Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of six months: Violation of Rules 4-1.15(a)(4), 4-1.15(a)(5), 4-1.15(a)(7), 4-1.15(b), 4-1.15(c), 4-1.15(d), and 4-1.15(f). Date of Order: May 24, 2016.

FORBES, ROBERT SCOTT, Alton, IL, Missouri Bar #59225

Disbarment: Rule 5.20 (Reciprocal – Illinois); Violation of Rules 4-1.15(a), 4-3.3(a)(1), 4-8.1(a), 4-8.4(c), and 4-8.4(d). Date of Order: August 26, 2016.

GAUGHAN, JULIA M. GILMORE, Topeka, KS, Missouri Bar #60724

Interim suspension from the practice of law pursuant to provisions of Rule 5.24. Date of order: March 24, 2016.

GENIUK, KENNETH JEREMY, Kansas City, MO, Missouri Bar #60295

Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of one year: Violation of Rules 4-1.3 and 4-1.4(a). Date of Order: June 28, 2016.

GIBSON, PHILLIP RAY, Blue Springs, MO, Missouri Bar #28610

Default Disbarment: Violation of Rules 4-1.3, 4-1.4(a), 4-1.5(a), 4-3.4(c), 4-5.5(a), 4-8.1(c), 4-8.4(c), and 4-8.4(d). Date of Order: September 1, 2016.

GREER, BRIAN C., Lee's Summit, MO, Missouri Bar #52197

Disbarment: Violation of Rules 4-1.1, 4-1.3, 4-1.4, 4-1.7(a), 4-1.16(d), 4-3.4(a), 4-3.4(b), 4-3.4(d), 4-8.4(c), and 4-8.4(d). Date of Order: May 24, 2016.

HANSON, JAMES ALLEN, Fort Wayne, IN, Missouri Bar #57147

Public Reprimand: Rule 5.20 (Reciprocal – Indiana); Violation of Rules 4-4.4(a) and 4-8.4(d). Date of Order: December 20, 2016.

**HENRY, JASON RICHMAN, West Plains, MO, (now Kansas City, MO),
Missouri Bar #52982**

Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of one year: Violation of Rules 4-8.2(a) and 4-8.4(g). Date of Order: November 22, 2016.

HINOTE, SCOTT CARTER, Ozark, MO, Missouri Bar #53069

Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of six months: Violation of Rule 4-1.15. Date of Order: November 22, 2016.

HOCHSZTEIN, JERALD A., St. Louis, MO, Missouri Bar #35997

Default Disbarment: Violation of Rules 4-1.1, 4-1.3, 4-1.4, 4-5.5(a), 4-8.1(c), 4-8.4(c), 4-8.4(d), and 5.27(b)(6). Date of Order: February 29, 2016.

HUEBEN, ELIZABETH ANNE, Kansas City, MO, Missouri Bar #52989

Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of six months: Rule 5.20 (Reciprocal – Kansas); Violation of Rule 4-8.4(b). Date of Order: June 28, 2016.

HUGHES, III, LEONARD SHERMAN, Kansas City, MO, Missouri Bar #25346

Interim suspension from the practice of law pursuant to provisions of Rule 5.23(a).
Date of Order: July 12, 2016.

KELLEY, IV, JAMES WILLIAMS, Clever, MO, Missouri Bar #35253

Surrendered license and disbarred: Violation of Rules 4-1.15 and 4-8.4(c). Date
of Order: March 30, 2016.

KRIGEL, SANFORD PAUL, Kanas City, MO, Missouri Bar #27382

Suspension, suspension stayed, placed on probation for two years: Violation of
Rules 4-3.3(a)(3), 4-4.1(a), 4-4.4(a), and 4-8.4(d). Date of Order: February 16,
2016.

LANDER, EDWARD, St. Louis, MO, Missouri Bar #17648

Suspension, suspension stayed, placed on probation for one year: Violation of
Rules 4-1.15(a), 4-1.15(d), 4-1.15(f), and 4-8.1(c). Date of Order: January 26,
2016.

LEWIS, ROBERT STEVEN, Valley Park, MO, Missouri Bar #57634

Default Disbarment: Violation of Rules 4-1.3, 4-1.5, 4-1.16(d), 4-1.22, and 4-
8.1(c). Date of Order: May 12, 2016.

LUNDGREN, ALVIN R., Brookside, UT, Missouri Bar #40238

Disbarment: Rule 5.20 (Reciprocal – Utah); Violation of Rules 4-1.15(a) and 4-
1.15(d). Date of Order: October 26, 2016.

MANN, DAVID COTTINGHAM, Sikeston, MO, Missouri Bar #25785

Public Reprimand: Violation of Rule 4-1.8(a). Date of Order: June 28, 2016.

MARGOLIS, THOMAS E., Carbondale, IL, Missouri Bar #62480

Public Reprimand: Rule 5.20 (Reciprocal – Illinois); Violation of Rules 4-1.2(a),
4-1.4, 4-8.4(c), and 4-8.4(d). Date of Order: May 24, 2016.

MCCRARY, MICHAEL WARD, Columbia, MO, Missouri Bar #52878

Suspended from the practice of law and no application for reinstatement shall be
entertained by the Court for a period of two years: Rule 5.20 (Reciprocal – United
States District Court for the Western District of Missouri); Violation of Rules 4-
1.3, 4-1.4, 4-1.5(a), 4-3.3(a)(1), 4-3.3(a)(3), 4-3.4(b), 4-4.1, and 4-8.4(c). Date of
Order: October 5, 2016.

MCRAE, FLOYD ALLEN, Columbia, MO, Missouri Bar #58368

Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of two years: Rule 5.21 (Criminal Conviction). Date of Order: September 8, 2016.

MERIWETHER, DEAN DAVID, Ballwin, MO, Missouri Bar #48336

Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of one year: Rule 5.20 (Reciprocal – United States Bankruptcy Court for the Eastern District of Missouri); Violation of Rules 4-1.1, 4-1.3, 4-1.4, 4-1.5, 4-5.5(a), and 4-8.4(d). Date of Order: March 1, 2016.

MEYER, TIMOTHY CLARK, Chippewa Falls, WI, Missouri Bar #40014

Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of two years: Rule 5.20 (Reciprocal – Kansas); Violation of Rules 4-8.4(b) and 4-8.4(d). Date of Order: November 1, 2016.

MURPHY, ELIZABETH ANNE, St. Louis, MO, Missouri Bar #46371

Default Disbarment: Violation of Rules 4-5.5, 4-8.1(c), 4-8.4(c), and 4-8.4(d). Date of Order: January 13, 2016.

O’LAUGHLIN, FREDERICK J., Dallas, TX, Missouri Bar #31711

Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of two years: Rule 5.20 (Reciprocal – Texas); Violation of Rules 4-1.1, 4-1.3, 4-1.15, 4-1.16, and 4-8.1. Date of Order: March 9, 2016.

**ORSCHELN, PHILLIP A., Kansas City, MO, (now Leawood, KS),
Missouri Bar #32651**

Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of two years: Violation of Rules 4-1.5(c), 4-1.7, 4-1.15, 4-3.3(a)(1), 4-3.3(d), 4-5.5(a), 4-8.4(a), and 4-8.4(b). Date of Order: May 17, 2016.

OWENS, DENNIS J. CAMPBELL, Kansas City, MO, Missouri Bar #25981

Interim suspension from the practice of law pursuant to provisions of Rule 5.24. Date of Order: February 1, 2016.

Interim suspension from the practice of law pursuant to provisions of Rule 5.23(b). Date of Order: April 11, 2016.

POSCH, KEVIN DAVID, Jackson, MO, Missouri Bar #63643

Disbarment: Rule 5.21 (Criminal Conviction). Date of Order: May 24, 2016.

RAINES, JOBY JASON, Marshall, MO, Missouri Bar #52909

Probation revoked. Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of six months: Violation of Rules 4-8.1(c) and 4-8.4(d). Date of Order: November 1, 2016.

RANKIN, RUSTIN KENT, Fredonia, KS, Missouri Bar #49582

Disbarment: Rule 5.20 (Reciprocal – Kansas); Violation of Rules 4-1.5(a), 4-1.5(b), 4-1.7, 4-1.8(a), 4-1.15, and 4-8.4(c). Date of Order: September 8, 2016.

RENKEMEYER, TROY DOUGLAS, Kansas City, MO, (now Overland Park, KS), Missouri Bar #47371

Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of six months: Rule 5.20 (Reciprocal – Kansas); Violation of Rule 4-8.4(c). Date of Order: June 28, 2016.

SAFAVIAN, DAVID H., Alexandria, VA, Missouri Bar #45558

Disbarment: Rule 5.21 (Criminal Conviction). Date of Order: December 6, 2016.

SEPTOWSKI, CHARLES D., St. Louis, MO, Missouri Bar #31899

Disbarment: Rule 5.20 (Reciprocal – Texas); Violation of Rules 4-3.3(a)(1), 4-3.4(c), 4-5.5(a), 4-7.5(d), 4-8.4(a), and 4-8.4(c). Date of Order: November 9, 2016.

SHETH, PARITOSH BHUPESH, St. Louis, MO, Missouri Bar #52605

Public Reprimand with Requirements: Violation of Rules 4-1.15(a), 4-1.15(b), 4-1.15(f), and 4-8.4(d). Date of Order: March 15, 2016.

SPENCER, JOHN MARVIN, St. Joseph, MO, Missouri Bar #48107

Public Reprimand: Violation of Rule 4-8.4(b). Date of Order: May 3, 2016.

WALKER JR., DOUGLAS ANTHONY, St. Louis, MO, Missouri Bar #49249

Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of six months: Violation of Rules 4-1.15, 4-5.5, and 5.27. Date of Order: December 20, 2016.

WALSH, RYAN LEONARD, Cassville, MO, Missouri Bar #62680

Disbarment: Rule 5.21 (Criminal Conviction). Date of Order: December 5, 2016.

WILLIAMS, GEORGE THOMAS, Overland Park, KS, Missouri Bar #37772

Disbarment: Rule 5.20 (Reciprocal – Kansas); Violation of Rules 4-1.3, 4-1.4, 4-8.1(a), 4-8.1(c), 4-8.4(c), and 4-8.4(d). Date of Order: September 20, 2016.

WORRELL, BLISS BARBER, St. Louis, MO, Missouri Bar #66340

Interim suspension from the practice of law pursuant to provisions of Rule 5.21(a).
Date of Order: January 26, 2016. Supreme Court No. SC95350

Disbarment: Rule 5.21 (Criminal Conviction). Date of Order: August 10, 2016.
Supreme Court No. SC95871

YOUNG II, ROBERT JOHN, Liberty, MO, Missouri Bar #49344

Interim suspension from the practice of law pursuant to provisions of Rule 5.23(c).
Date of Order: August 23, 2016.

II.

THE FOLLOWING DISCIPLINARY ACTIONS WERE PENDING BEFORE THE COURT AT THE CLOSE OF 2016 BASED ON PROCEEDINGS PROSECUTED BY THE OFFICE OF CHIEF DISCIPLINARY COUNSEL

COYLE, TERESA MARIE, St. Louis, MO, Missouri Bar #46300

(Default suspension from the practice of law and no application for reinstatement shall be entertained by the Court for a period of one year: Violation of Rules 4-1.3, 4-1.4(a), 4-1.5, 4-1.16(d), 4-3.4(c), 4-8.1(c), and 4-8.4(d). Date of Order: January 31, 2017.)

CRAWFORD, RANDALL DEAN, Kansas City, MO, Missouri Bar #29433

(Pending.)

HINKEBEIN, KARL WILLIAM, Columbia, MO, Missouri Bar #41666

(Pending.)

HOEFLE, THEODORE ROY, Raymore, MO, Missouri Bar #56509

(Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of six months: Violation of Rule 4-8.4(c). Date of Order: May 2, 2017.)

KELLY, MICHAEL PATRICK, Potosi, MO, Missouri Bar #32137

(Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of one year: Violation of Rules 4-1.1, 4-1.3, 4-1.4(a), 4-1.15(c), 4-1.15(d), 4-1.16(d), 4-8.1(c), and 4-8.4(c). Date of Order: May 16, 2017.)

MARTIN, ERIC MARVIN, Chesterfield, MO, Missouri Bar #27466

(Public Reprimand with Requirements: Violation of Rules 4-1.15(a)(6), 4-1.15(a)(7), 4-1.15(b), and 4-1.15(c). Date of Order: January 31, 2017.)

NICHOLS, RICHARD TILLMAN, Clinton, MO, Missouri Bar #60470

(Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of two years: Violation of Rules 4-1.1, 4-1.3, 4-1.4(a), 4-1.6, 4-1.7, 4-1.16(d), 4-1.22, 4-4.1, 4-8.1(a), 4-8.1(c), and 4-8.4(c). Date of Order: May 2, 2017.)

ROBINSON, JAMES CLIFTON, St. Louis, MO, Missouri Bar #30969

(Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of one year: Rule 5.20 (Reciprocal – United States Bankruptcy Court for the Eastern District of Missouri); Violation of Rules 4-1.1, 4-1.3, 4-1.4(a), 4-1.16(d), 4-3.3(a)(1), 4-3.4(a), 4-3.4(d), and 4-8.4(d). Date of Order: April 4, 2017.)

SANDERS, RITA KAY, Springfield, MO, Missouri Bar #51565

(Pending.)

WALTON JR., ELBERT A., St. Louis, MO, Missouri Bar #24547

(Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of eighteen months: Rule 5.20 (Reciprocal – United States Bankruptcy Court for the Eastern District of Missouri); Violation of Rules 4-3.3(a)(1), 4-3.4(a), 4-3.4(d), 4-3.5(d), and 4-8.4(d). Date of Order: April 4, 2017.)

WISDOM, NANCI RAE, Salem, MO, Missouri Bar #39359

(Default suspension from the practice of law and no application for reinstatement shall be entertained by the Court for a period of two years: Violation of Rules 4-1.3, 4-1.4(a), 4-1.16(d), and 4-8.1(c). Date of Order: February 28, 2017.)

III. REINSTATEMENT PROCEEDINGS

A. DISCIPLINARY MATTERS

At the beginning of the year, seven Missouri lawyers who had previously been disciplined had applications for reinstatement pending for processing by the Chief Disciplinary Counsel. During the year, eight additional applications for reinstatement were filed and referred to the Chief Disciplinary Counsel for processing.

The OCDC processed a total of 15 disciplinary reinstatement applications during 2016. The status of those 15 applications is as follows:

Reinstated	4
Denied	3
Pending with OCDC	8

Four Petitioners Were Reinstated By The Supreme Court

1. Freeman Robertson Bosley, St. Louis, MO, Missouri Bar #29341, reinstated on December 20, 2016. Petitioner was suspended on September 30, 2014.
2. David A. Hardy, Overland Park, KS, Missouri Bar #61201, reinstated on July 28, 2016, and placed on probation for a period of one year. Petitioner was suspended on February 24, 2015.
3. Darryl Brent Johnson, Jr., Nixa, MO, Missouri Bar #45260, reinstated on March 1, 2016. Petitioner was suspended on March 25, 2014.
4. Lyle Louis Odo, Platte City, MO, Missouri Bar #24665, reinstated on December 20, 2016. Petitioner was suspended on September 30, 2014.

Three Disciplined Petitioners Were Denied Reinstatement By The Supreme Court

1. James P. Barton, Jr., Missouri Bar #34782, denied reinstatement. Petitioner was suspended on March 6, 2012.
2. James Tracy Madison, Missouri Bar #48405, denied reinstatement. Petitioner was suspended on May 22, 2009.

3. Jeffrey Don Sayre, Missouri Bar #39327, denied reinstatement. Petitioner was disbarred on January 28, 2004.

B. OTHER REINSTATEMENTS

Tax

Lawyers may be suspended for state tax issues under Rule 5.245. During 2016, the OCDC investigated and processed eight tax suspension applications for reinstatement. Seven were reinstated. One application was dismissed.

Fee

Lawyers may be suspended under Rule 6.01(f) upon non-payment of annual enrollment fees. If their non-payment exceeds three years, they must apply for reinstatement under Rule 5.28. In 2016, the OCDC investigated and processed nine applications for reinstatement by those lawyers. Six were reinstated. Two applications were dismissed. One application remained pending at the end of 2016.

Returns to Active Status

Lawyers may elect to become inactive under Rule 6.03. Per Rule 6.06, the OCDC investigated and processed 108 inactive lawyers' applications for reinstatement. One hundred seven were returned to active status. One application remained pending at the end of 2016.

MCLE

Lawyers may be suspended for non-compliance with Mandatory Continuing Legal Education requirements under Rule 15.06(f). During 2016, the OCDC investigated and processed six MCLE suspension applications for reinstatement. Four were reinstated. One application was dismissed. One application remained pending at the end of 2016.

IV. COMPLAINTS RECEIVED IN 2016 AND ACTIONS THEREON

1,723 complaints of attorney misconduct were received in 2016.

The following actions were taken on complaints received in 2016:

- 694** Formal Investigations opened
 - 438** Cases investigated by Regional Disciplinary Committees
 - 256** Cases investigated by OCDC

- 49** Cases placed in the OCDC's Informal Resolution Program
[*See Paragraph A (below)]

- 909** Investigations not opened (*In certain instances, OCDC does not open an investigation until after related litigation is completed.*) Approximately 73 complaints were provided a further review and response by senior OCDC staff, following complainants' requests. Some of those reviews led to an investigation being opened.

- 36** Insufficient information to proceed

- 16** Referred to Complaint Resolution Committee (**See Missouri Bar Complaint Resolution Activity Report attached.*)

- 19** Placed in "Inquiry" status (*These cases were not opened but were monitored to determine whether an investigation should be opened in the future.*)

A. Informal Resolution Program

In this program, intake counsel assigns appropriate cases to a paralegal to contact the complainant, the respondent, or both, to assist in resolving the complaint rather than proceeding with a formal investigation. The program is used most often in response to complaints that the client has not had adequate communication from the lawyer or where the client has been unable to obtain file documents. It may also be used in a case where the complainant has trouble articulating the nature of the complaint, or seems confused about the lawyer's responsibilities or the legal process. The program has been successful in reducing complaint processing time while preserving the attorney/client relationship. Most cases in the program were resolved without opening an investigation.

B. Advisory Committee Review

Rule 5.12 permits complainants to seek review by the Advisory Committee in cases in which the OCDC or a Regional Disciplinary Committee investigated and found insufficient probable cause to believe that an attorney was guilty of professional misconduct that would justify discipline. In 2016, 70 complainants requested review. The Advisory Committee upheld the findings on 44 of these files and issued a guidance letter to one lawyer. The Committee assigned 13 of the review files for further investigation. Twelve of these review files were pending with the Committee at the end of the year.

C. Fee Disputes

The Missouri Bar and Kansas City Metropolitan Bar Association continued to provide fee dispute resolution programs. These programs are valuable to lawyers and legal consumers by providing a forum for fee-related complaints to be addressed through a non-disciplinary structure. During the year, complainants were referred to the Fee Dispute Committees as appropriate.

D. Overdraft Notification

In 2010, the Supreme Court adopted an amendment to Rule 4-1.15 of the Rules of Professional Conduct that requires financial institutions holding lawyer trust accounts to notify the OCDC in cases where the trust account is overdrawn. In 2016, the OCDC received 98 overdraft notifications. Many of these involved negligent or careless management of trust accounts, which were often handled by education and follow-up monitoring without discipline. Some overdrafts were more serious, either by scope of the problem or by the intention of the attorney. Various levels of discipline were necessary in these matters in order to protect the public and the integrity of the profession.

V. DISCIPLINE ACTION INITIATED

A. Admonitions

The OCDC administered 42 written admonitions and the Regional Disciplinary Committees administered 48 written admonitions to Missouri lawyers. (Total: 90 admonitions). In addition, 134 guidance letters were sent to lawyers by OCDC and the Regional Committees. Guidance letters are not disciplinary action, but are used to educate the attorney on ethical responsibilities or to alert the attorney that a particular course of conduct, if unchecked in the future, may cause additional complaints to be filed.

B. Investigation Summary

Region	Investigations Pending 1/1/16	Investigations Referred 2016	Investigations Disposed in 2016
IV	70	130	153
X	111	169	213
XI	24	70	62
XV	37	95	87
OCDC	123	254	257

Region	Admonitions Issued in 2016	Guidance Letters Issued in 2016
IV	11	21
X	24	20
XI	5	6
XV	8	15
OCDC	42	72

C. Filed Hearing Matters

FILING INFORMATION

In 2016, the OCDC and the Regional Disciplinary Committees filed Informations (the formal charging document) on 63 files. “Files” indicate individual complaints against attorneys. An Information against one attorney may include charges involving multiple files.

Twenty-nine Informations, representing 64 complaint files, were pending before the Advisory Committee and Disciplinary Hearing Panels at the beginning of 2016. Disciplinary Hearing Panels conducted 27 hearings involving 66 files. Seven default Informations were filed directly in the Supreme Court.

D. Cases filed at the Supreme Court

RULE 5.19

In 2016, seven disciplinary hearing panel decisions were approved by the Missouri Supreme Court, pursuant to Rule 5.19(c), without requirement of briefing and argument.

Informant’s briefs were filed pursuant to Rule 5.19(d), in the Supreme Court in eight cases. Of those eight cases, four were heard because the Respondent did not concur in a DHP’s recommended sanction, two were heard because the Informant did not concur in a DHP’s recommended sanction, one was heard because neither party concurred in a DHP’s recommended sanction, and one was heard after the Court rejected a joint stipulation or statement of acceptance of the panel’s decision. Nine disciplinary cases appeared on the Court’s oral argument calendar in 2016.

RULE 5.20

Sixteen reciprocal discipline cases, based on adjudication of misconduct in other jurisdictions, were filed in 2016: *In re Allen*, SC95493; *In re Fischer*, SC95477; *In re Forbes*, SC95792; *In re Hanson*, SC96022; *In re Hueben*, SC95625; *In re Lundgren*, SC95612; *In re Margolis*, SC95609; *In re McCrary*, SC95746; *In re Meyer*, SC95811; *In re O’Laughlin*, SC95460; *In re Rankin*, SC95781; *In re Renkemeyer*, SC95652; *In re Robinson*, SC95849; *In re Septowski*, SC95898, *In re Walton*, SC95850, and *In re Williams*, SC95737.

RULE 5.21

During 2016, two Informations were filed under Rule 5.21(d) against attorneys whose criminal cases were finally disposed, and who had previously been suspended under Rule 5.21(a): *In re Barding*, SC95599 and *In re Worrell*, SC95871.

Informations were filed under Rule 5.21(e) against three attorneys whose criminal cases were finally disposed but who had not previously been suspended on an interim basis under Rule 5.21(a) or 5.21(b): *In re McRae*, SC95829, *In re Safavian*, SC96015, and *In re Walsh*, SC95987.

RULE 5.23

In 2016, an Information was filed under Rule 5.23(a) against one attorney, who was adjudicated incapacitated and found unable to competently represent the interests of clients: *In re Hughes*, SC95768.

An Information was filed under Rule 5.23(b) against one attorney, based on the inability to competently represent the interest of clients by reason of physical or mental condition: *In re Owens*, SC95490.

An Information was filed under Rule 5.23(c) against one attorney, based on the attorney's contention that he was disabled from continuing to practice law by reason of mental infirmity: *In re Young*, SC95897.

RULE 5.24

Three Informations requesting interim suspension for substantial threat of irreparable harm were filed in 2016: *In re Bonner*, SC95639, *In re Gaughan*, SC95515, and *In re Owens*, SC95490.

RULE 5.25

In 2016, five attorneys applied to surrender their licenses under Rule 5.25: *In re Bonner*, SC96067 (accepted February 28, 2017); *In re Bremer*, SC95600 (accepted September 23, 2016); *In re Brotherton*, SC95767 (accepted July 8, 2016); *In re Feld*, SC95860 (accepted September 26, 2016); and *In re Kelley*, SC95494 (accepted March 30, 2016). The OCDC filed Reports and Recommendations in each of these cases.

VI. LAWYER MONITORING

OCDC staff monitor lawyers' practices in four circumstances, all intended to improve the lawyers' likelihood of maintaining a successful practice and protecting the public. In 2016, the office monitored 7 lawyers in the disciplinary diversion program established by Rule 5.105. The diversion program was created to help offenders who have engaged in relatively minor rule violations, often involving practice management.

Thirty lawyers were monitored in 2016 while on probation under Rule 5.225, the rule permitting probation for lawyers whose conduct did not warrant disbarment. Also, the office was asked by the Missouri Supreme Court and Missouri Board of Law Examiners in 2016 to monitor the practice of 21 newly admitted lawyers. Finally, in 2016, the office monitored the practice of 10 lawyers who have been reinstated subject to an order of probation.

VII. UNAUTHORIZED PRACTICE OF LAW

The Office of Chief Disciplinary Counsel opened complaint files on approximately 14 individuals and organizations alleged to have engaged in the unlawful practice of law.

Some of these cases were referred to local prosecuting attorneys or to the Consumer Protection Division of the Missouri Attorney General's office. Others were resolved through communication with the company or individual.

Due to the workload and staff resources of OCDC, the office focused its efforts on conducting in-depth investigations in those cases where it appeared that widespread consumer fraud was occurring. Where appropriate, the office conducted investigations of complaints, and the office referred the materials to law enforcement for criminal prosecution as OCDC is only authorized to seek a civil injunction against a party for engaging in the unauthorized practice of law.

VIII. PRESENTATIONS BY OCDC STAFF

During 2016, OCDC staff gave 24 presentations at Continuing Legal Education (CLE) seminars. The OCDC staff gave presentations to the following organizations: American Bankruptcy Institute; Bar Association of Metropolitan St. Louis; Jasper County Bar Association; Missouri Department of Corrections; Missouri Department of Labor and Industrial Relations – Workers' Compensation; Missouri Department of Social Services; Missouri Paralegal Association; Polsinelli Paralegal Training; Springfield Metropolitan Bar Association; St. Joseph Bar Association; St. Louis County Bar Association; and University of Missouri – Kansas City. The OCDC staff also spoke at the Missouri Bar's

Solo and Small Firm Conference, several Missouri Bar telephone CLEs and webinars, and many other CLE presentations sponsored by the Missouri Bar and other organizations.

IX. SIGNIFICANT ACTIVITIES IN 2016

Disciplinary Case Processing

The Supreme Court has established timeline standards for the disposition of pending cases that seek to complete 75% of investigations within six months and 90% of investigations within one year. During 2016, the OCDC and the disciplinary system met both timeline standards during the first quarter and failed to meet the timeline standards during the remainder of the year.

Policy regarding Frequent Complaint Recipients

The OCDC devotes a significant amount of its resources to complaints against attorneys who are frequent complaint recipients (FCR attorneys). In an effort to address this issue, the OCDC adopted a policy intended to identify and meet with FCR attorneys in order to discuss and address law practice management issues and any other issues that affect the FCR attorney's practice and contribute to client complaints. In addition, the FCR meetings are intended to inform the attorney regarding the disciplinary process and the system of progressive discipline adhered to by the Supreme Court and the OCDC. During 2016, the Chief Disciplinary Counsel continued to meet with FCR attorneys pursuant to this policy.

Law Practice Management Course

For the past several years, with the support and approval of the Supreme Court, the OCDC has worked with The Missouri Bar to present a comprehensive program to address the issues raised by the lack of law practice management skills among a few members of the Bar whose clients have repeatedly complained against them. This cooperative effort resulted in the development of a practice management course staffed by a distinguished faculty of lawyers from around the state. In 2016, the course was offered through a series of webinars as well as a full-day in-person session at the OCDC's office in Jefferson City, Missouri. Twenty (20) lawyers attended the course in 2016. Sarah Read, a law practice management consultant, has contacted those attorneys who attended the course in 2016 and has been conducting a series of interactive discussion groups with many of the attendees to track their progress in meeting their law practice management goals.

Regional Disciplinary Committee Training

The OCDC is an accredited CLE provider. In 2016, we hosted a training session and CLE presentation for the benefit of the Special Representatives who serve the various Regional Disciplinary Committees and who participate in and contribute to the successful operation of the disciplinary system at the regional level throughout the state.

Staff Training

In 2016, the OCDC attorney staff participated in training by attending conferences offered by The Missouri Bar, the National Organization of Bar Counsel and the American Bar Association – Center for Professional Responsibility. Paralegals at the OCDC attended and presented training through the Missouri Paralegal Association and the Organization of Bar Investigators, an organization affiliated with the National Organization of Bar Counsel.

Supreme Court Order re Amnesty for In-House Counsel

On October 29, 2015, the Court entered an Order that established an amnesty program for in-house counsel practicing law in the State of Missouri in violation of the limited admission requirements of Rule 8.105. The Order established a period of amnesty during which in-house attorneys could apply to the Missouri Board of Law Examiners for limited admission pursuant to Rule 8.105 without being subject to professional sanction for the unauthorized practice of law regarding such attorneys' in-house counsel activities only. The period of amnesty began on January 1, 2016 and ended on December 31, 2016.

Supreme Court Rule 4-1.22

The Court entered an Order on March 7, 2016, effective July 1, 2016 that modifies recordkeeping requirements for lawyers. Under amended Rule 4-1.22, the required time to maintain client files after the completion or termination of the representation has been reduced from 10 years to six years. The Rule provides that this new six-year requirement applies where the completion or termination of the representation occurs *on or after* July 1, 2016. If the completion or termination of the representation occurs prior to July 1, 2016, that client file retention requirement will be 10 years under the previous Rule.

The new version of Rule 4-1.22 still permits lawyers to hold the files for a lesser period of time, but clarifies that to do so will require an “agreement between the lawyer and client through informed consent, confirmed in writing.” If lawyers choose to destroy a client’s file before six years have passed, the new version requires that lawyers “maintain the written record of the client’s consent of destruction for at least six years after completion or termination of employment.”

Lawyers may destroy client files after the six-year period if the client does not request the file; however, the same exceptions are still maintained in this rule. Under those exceptions, lawyers are prohibited from destroying files if they know or reasonably should know that there is a malpractice claim, criminal or other governmental investigation pending, complaint under Rule 5, or other litigation that is related to the representation. These exceptions apply to all file destruction pursuant to Rule 4-1.22, whether the file is abandoned or the client has consented to its earlier destruction. Further, Rule 4-1.22 still provides that lawyers shall never destroy items of intrinsic value but shall securely store those items. The Rule's new version also includes that for such items of intrinsic value the lawyer may choose to deliver them to the state unclaimed property agency when otherwise destroying the file pursuant to the Rule. As always when destroying client files, confidentiality must be maintained.

The new version of Rule 4-1.22 provides that client files may be maintained by electronic, photographic, or other media provided that printed copies can be produced, and requires that the records be readily accessible to the lawyer.

The new version also provides that if a law firm dissolves or is being sold, reasonable arrangements must be made to maintain client files and provide written notice to the client as to the location of the file.

Finally, this new version of the Rule clarifies that the obligations under Rules 4-1.145 – 4-1.155 to maintain client trust account records are not affected by this Rule 4-1.22.

Supreme Court Rule 4-1.15

A new version of Rule 4-1.15(f), adopted in the same Order that amended Rule 4-1.22, clarifies that the records being maintained under this provision are “client trust account records.”

Under the amended Rule 4-1.15, complete client trust account records “shall be maintained and preserved for a period of at least six years after the later of: (1) termination of the representation, or (2) the date of the last disbursement of funds” Rule 4-1.15(f) **does not** permit this six-year time frame (for these trust accounting records) to be reduced.

Supreme Court Rule 5.13

On June 28, 2016, the Court entered an Order amending Rule 5.13 (Answer Required – Default). The amended rule is applicable to cases where the respondent lawyer fails to file a timely answer or response to an Information and permits the Court to impose a discipline less than disbarment in appropriate cases.

Supreme Court Rule 5.26

On December 20, 2016, the Court entered an Order amending Rule 5.26 (Designation and Appointment of Trustee). The amended rule permits and encourages lawyers to identify a successor trustee on their annual enrollment form. The successor trustee is authorized to transition the law practice of any lawyer who is unable to properly discharge the lawyer's responsibilities to clients due to disability, disappearance, death or a failure to comply with Rule 5.27 following suspension or disbarment. The amended rule became effective on July 1, 2017.

Supreme Court Rule 6

On September 10, 2015, the Court entered an Order amending Rule 6.06 (Return to Active Status). The amended Rule, which became effective, on January 1, 2016, significantly streamlines the process for attorneys who have taken inactive status to return to active status. Under the amended Rule, the applicant files an application for return to active status directly with the OCDC. The OCDC may thereafter approve the application for return to active status and notify the Clerk of the Court of such approval without the necessity of a report and recommendation to the Court, as required under the prior version of Rule 6.06. Only in cases where the OCDC determines that additional inquiry is necessary is the attorney required to file an application with the Court. The vast majority of such applications have been approved without the need for the OCDC to conduct additional inquiries.

Supreme Court Rule 15.05

On December 1, 2015, the Court entered an Order amending Rule 15.05 (to permit continuing legal education programs that address substance abuse and mental health issues to be counted toward the lawyer's hourly requirements for ethics).

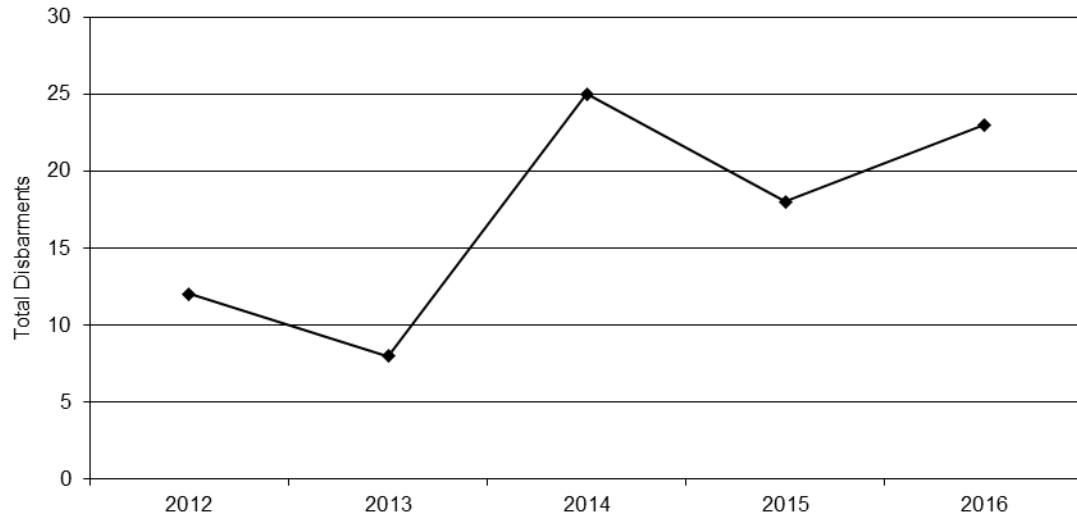
SUMMARY OF DISCIPLINE ACTIONS

During 2016:

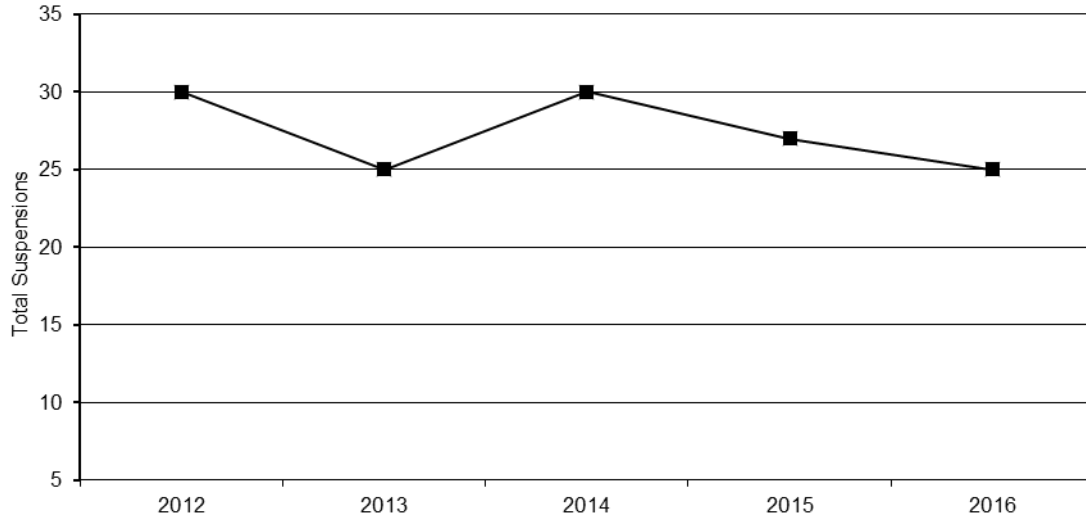
- **23** Twenty-three lawyers were disbarred;
- **25** Twenty-five lawyers were suspended; **four** of those suspensions were stayed and attorneys placed on probation with conditions; additionally, the Court lifted the stay on one lawyer's earlier suspension, revoking his probation;
- **8** Eight lawyers received public reprimands; and
- **90** Ninety written admonitions were administered by the Regional Disciplinary Committees and the OCDC.

On occasion, other pending complaints against a lawyer are dismissed upon that lawyer's disbarment or suspension.

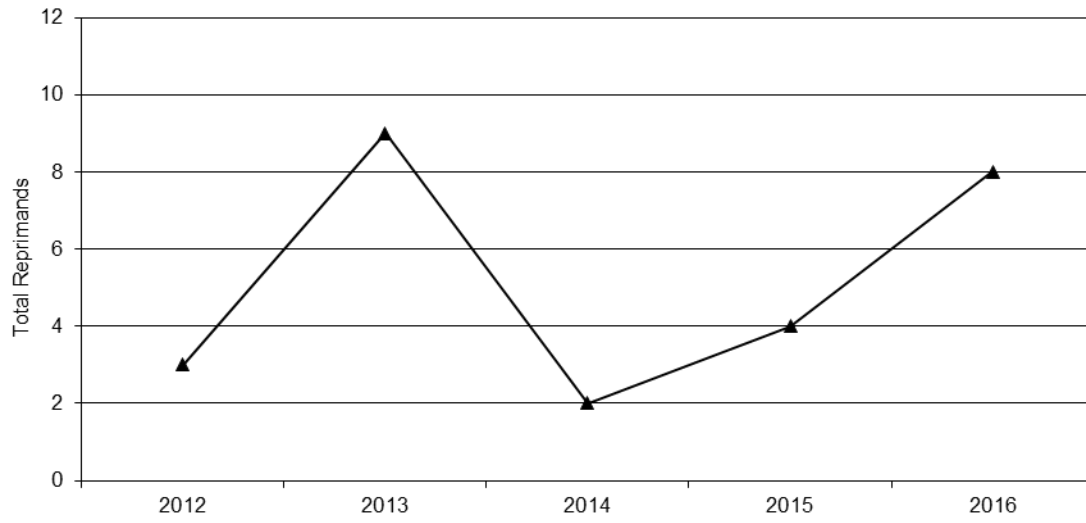
Disbarments



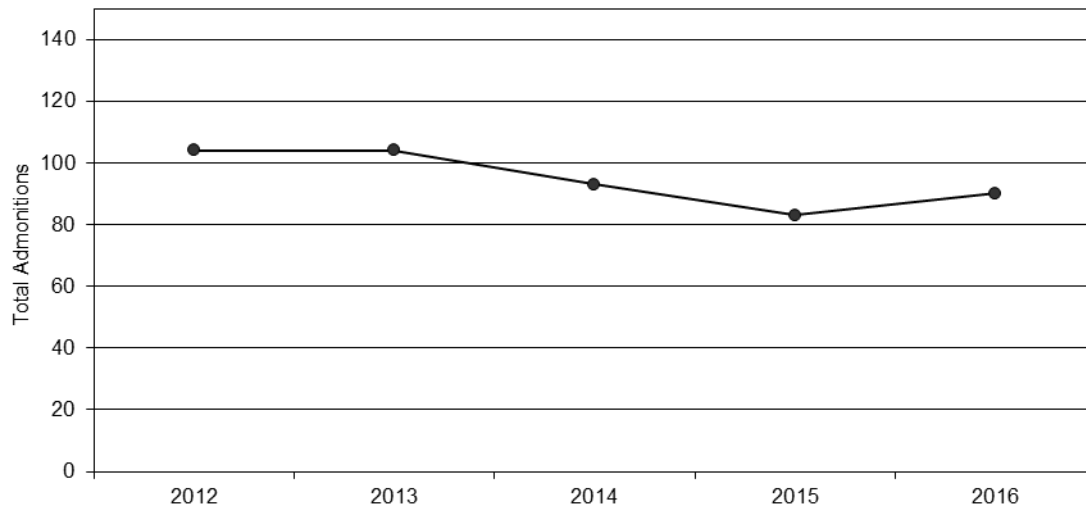
Suspensions



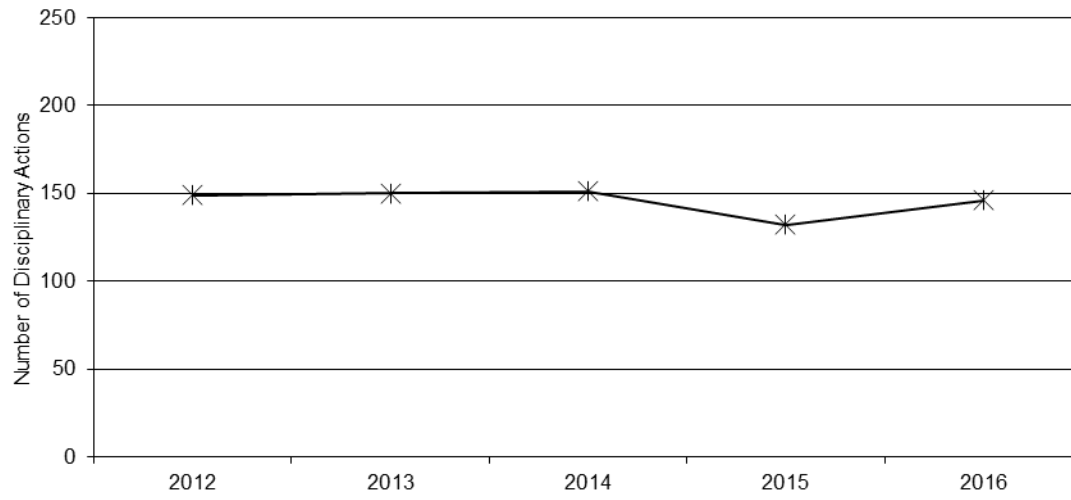
Reprimands



Admonitions



Total Disciplinary Actions



In 2016, there were a total of (146) disciplinary actions including admonitions and formal discipline matters.

The total number of complaints opened as formal investigations during 2016 was 694. The most common complaint areas are as follows:

NATURE OF VIOLATIONS *	NO.
Rule 4-1.4 (Communication)	352
Rule 4-1.3 (Diligence)	268
Rule 4-1.15 (Safekeeping Property)	144
Rule 4-1.5 (Excessive Fees)	96
Rule 4-8.4(c) (Dishonesty, Fraud, Deceit, Misrepresentation)	92
Rule 4-1.16 (Improper Withdrawal)	79
Rule 4-1.7 (Conflicts)	49
Rule 4-1.1 (Competence)	26
Rule 4-3.3 (Truth to Tribunal)	20
Rule 4-1.6 (Confidentiality)	16
Rule 4-4.2 (Communication with Person Represented by Counsel)	12
Rule 4-7.2 (Advertising)	12
Rule 4-4.1 (Truth to 3 rd Persons)	10
Rule 4-5.5 (Unauthorized Practice)	10
Rule 4-3.4 (Obstruction/False Evidence)	8
Rule 4-3.8 (Prosecutorial Responsibility)	8
Rule 4-8.4(b) (Criminal Activity)	8
Rule 4-5.3(b) (Supervisory Responsibility)	3
Rule 4-8.1 (Failure to Cooperate)	3
Rule 4-8.2 (Judicial and Legal Officials)	3
Rule 4-3.5(b) (Ex Parte Contacts)	1
Rule 4-4.3 (Dealing with Unrepresented Person)	1

* Many complaints included more than one allegation.

The most prevalent practice areas which resulted in investigations are as follows:

AREA OF PRACTICE *	NO.
Domestic	157
Criminal	148
Torts	76
Other	58
Estate/Probate	41
Bankruptcy/Receivership	36
Administrative/Governmental	22
Workers Compensation	16
Labor Law	15
Real Property	13
Corporate/Banking	11
Traffic	10
Contracts	9
Juvenile	8
Litigation	8
Immigration/Naturalization	6
Landlord/Tenant	6
Civil Rights	4
Collections	4
Commercial Law	2
Guardianship	1
Insurance	1
Patent/Trademark	1
Taxation	1

* Investigations involving trust account overdraft notifications made to the OCDC are not included in this tabulation.

Dated at the Office of Chief Disciplinary Counsel at Jefferson City, Missouri this 28th day of August, 2017.

Respectfully Submitted,

ALAN D. PRATZEL
Chief Disciplinary Counsel

LEGAL ETHICS COUNSEL ANNUAL REPORT FOR 2016

I. LEGAL ETHICS COUNSEL'S ROLE

A. Informal Advisory Opinions

Pursuant to Rule 5.30(c), the Legal Ethics Counsel issues nonbinding informal advisory opinions.

The Legal Ethics Counsel office provided 1,503 oral informal advisory opinions via telephone. Many of these opinions involved multiple questions. Opinions given in conjunction with informal contact at bar meetings and CLE programs are generally not included in this count.

The Legal Ethics Counsel also provided 31 written informal advisory opinions.

B. CLE Presentations

The Legal Ethics Counsel prepared and gave 18 CLE presentations for various groups including: The Missouri Bar, UMKC School of Law, Southern Missouri Women's Lawyers Association, and National Organization of Bar Counsel.

II. ROLE OF THE LEGAL ETHICS COUNSEL TO THE ADVISORY COMMITTEE:

Rule 5.07(b) provides that the Legal Ethics Counsel shall serve as staff to the Advisory Committee.

A. Review Summaries

Pursuant to Rule 5.12, the Advisory Committee reviews investigation files if the OCDC or a Regional Disciplinary Committee finds no probable cause and the complainant requests review. The Legal Ethics Counsel office summarized and distributed 68 review files to the Advisory Committee.

B. Hearings

The Legal Ethics Counsel office provided assistance with arrangements for hearings, as requested, to Disciplinary Hearing Officers.

The Legal Ethics Counsel administered the hearing process to assist the Chair of the Advisory Committee. As part of this process, the Legal Ethics Counsel proposed hearing panels, provided the file to the hearing panel once the panel has been approved by the Chair, monitored the progress of the hearing, and assisted the hearing officers with issues that arose during the course of the process. 30 Informations were filed in 2016.

Rule 5.16 provides, in part:

(e) The written decision of the disciplinary hearing panel shall be filed with the chair of the advisory committee. The chair shall review the panel's decision for the limited purpose of determining that the recommendation for discipline, if any, conforms to this Rule 5 and the sanctions established by the Court. If the chair of the advisory committee determines that the panel's recommendation does not conform, the chair shall direct the disciplinary hearing panel to reconsider its recommendation for discipline. After reconsideration, the panel shall file the revised written decision with the chair of the advisory committee.

(f) The chair of the advisory committee shall serve the written decision of the disciplinary hearing panel by first class United States mail, postage prepaid, on the respondent, the counsel for the informant, and the chief disciplinary counsel.

The Legal Ethics Counsel performed the majority of these duties on behalf of, and in consultation with, the Chair.

C. Budget

The Legal Ethics Counsel prepared a proposed budget for the Advisory Committee and LEC for 2016.

D. Meetings

The Legal Ethics Counsel office coordinated arrangements for four regular Advisory Committee meetings and one budget conference call meeting. The Legal Ethics Counsel office also prepared agendas and meeting materials, and prepared the minutes for these meetings.

E. Formal Opinions

The Legal Ethics Counsel provided assistance in relation to reviewing requests for formal opinions and possible appropriate topics for formal opinions.

F. Overdraft Reporting/Financial Institution Approval

Beginning January 1, 2010, Missouri attorneys were required to have their trust accounts at financial institutions “approved” by the Advisory Committee. In order to be approved, the financial institution must enter into an agreement to report insufficient funds situations that arise on attorneys’ trust accounts to the Office of Chief Disciplinary Counsel. The Legal Ethics Counsel handled issues related to bank name changes, mergers, etc., as they relate to approved status. The Legal Ethics Counsel maintained a list of approved banks on the office website.

G. Other matters

The Legal Ethics Counsel maintained a website for the Advisory Committee and Legal Ethics Counsel, www.mo-legal-ethics.org. The website includes a list of pending disciplinary matters, a calendar of upcoming disciplinary hearings, information on public access to disciplinary records pursuant to Rule 5.31, articles and CLE materials on legal ethics issues prepared by the Legal Ethics Counsel, and links to various resources.

Additionally, the Legal Ethics Counsel served on the Planning Committee for The Missouri Bar’s Solo & Small Firm Conference, was elected Treasurer of the National Organization of Bar Counsel in 2016, and was elected to serve as Chair of the Editorial Board of the *ABA/BNA Lawyers’ Manual on Professional Conduct*.