

In the

SUPREME COURT OF MISSOURI

En Banc

May Session, 2019

**Report of the Office of the Chief Disciplinary Counsel for the year
2018 together with the Financial Report of the Treasurer of the
Advisory Committee Fund for 2018**

**ALAN D. PRATZEL
Chief Disciplinary Counsel**

IN THE
SUPREME COURT OF MISSOURI

EN BANC

MAY SESSION, 2019

REPORT OF THE OFFICE OF CHIEF DISCIPLINARY COUNSEL FOR THE YEAR
2018 TOGETHER WITH THE FINANCIAL REPORT OF THE TREASURER OF THE
ADVISORY COMMITTEE FUND FOR 2018

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 2018 or pending on December 31,
2018.

I.

THE FOLLOWING DISCIPLINARY ACTIONS WERE TAKEN BY THE COURT DURING 2018 BASED ON PROCEEDINGS PROSECUTED BY THE OFFICE OF CHIEF DISCIPLINARY COUNSEL¹

ALLEN, JEFFREY BRYAN, Lebanon, MO, Missouri Bar #58252

Interim suspension from the practice of law pursuant to provisions of Rule 5.24. Date of Order: July 31, 2018.

ARNOLD III, ROBERT EDWARD, Raymore, MO, Missouri Bar #57059

Disbarment: Violation of Rules 4-1.5(a), 4-1.5(c), 4-1.6, 4-1.15(d), 4-1.15(i), 4-8.1(c), and 4-8.4(d). Date of Order: June 12, 2018.

BAILEY, SCOTT ALAN, Clayton, MO, Missouri Bar #47515

Interim suspension from the practice of law pursuant to provisions of Rule 5.21(b). Date of Order: December 18, 2018.

BENNETT, BRYAN EUGENE, Burlington, VT, Missouri Bar #54779

Suspended from the practice of law and no petition for reinstatement shall be entertained by the Court for a period of six months: Rule 5.21 (Criminal Conviction). Date of Order: December 4, 2018.

BEST, CYNTHIA LEE, Scottsdale, AZ, Missouri Bar #38434

Suspended from the practice of law and no petition for reinstatement shall be entertained by the Court for a period of six months: Rule 5.20 (Reciprocal – Arizona); Violation of Rules 4-3.1, 4-3.4, 4-4.4(a), and 4-8.4(d). Date of Order: March 16, 2018.

BOBRINK, JEANNIE M., North Kansas City, MO, Missouri Bar #36685

Surrendered license and disbarred: Violation of Rules 4-1.3, 4-1.4, 4-1.15(a), 4-1.15(f), 4-1.16(d), and 4-8.4(c). Date of Order: January 30, 2018.

BOGGS, JAMES D., Kansas City, MO, Missouri Bar #24500

Placed on probation for two years: Violation of Rules 4-1.15(a), 4-1.15(a)(7)(c), 4-1.15(f), 4-1.22, and 4-8.4(b). Date of Order: March 6, 2018.

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

BOGGS, WILLIAM CHRISTIAN, Kansas City, MO, Missouri Bar #52787

Placed on probation for two years: Violation of Rules 4-1.15(a), 4-1.15(a)(7)(c), 4-1.15(f), and 4-1.22. Date of Order: March 6, 2018.

BUCKNER JR., L. J., Kansas City, MO, Missouri Bar #44681

Disbarment: Rule 5.20 (Reciprocal – Kansas); Violation of Rules 4-1.4(b), 4-1.5, 4-1.15(a), 4-1.15(c), 4-1.15(d), 4-1.15(e), 4-1.16(d), 4-8.1(c), and 4-8.4(c). Date of Order: October 22, 2018.

CAPELOVITCH, RAYMUND JARED, St. Louis, MO, Missouri Bar #41537

Suspension, suspension stayed, placed on probation for one year: Violation of Rules 4-1.4, 4-1.15(d), 4-8.1(c), 4-8.4(c), and 4-8.4(d). Date of Order: November 21, 2018.

CROWLEY, BRYCE C., Rolla, MO, Missouri Bar #64800

Suspended from the practice of law and no petition for reinstatement shall be entertained by the Court for a period of six months: Rule 5.21 (Criminal Conviction). Date of Order: October 30, 2018.

CULLAN, JOSEPH PATRICK, Omaha, NE, Missouri Bar #67557

Public Reprimand: Rule 5.20 (Reciprocal – Iowa); Violation of Rule 4-8.4(c). Date of Order: October 19, 2018.

CULLAN, PATRICK JOSEPH, Omaha, NE, Missouri Bar #67556

Public Reprimand: Rule 5.20 (Reciprocal – Iowa); Violation of Rule 4-8.4(c). Date of Order: October 19, 2018.

CURE, KEVIN T., Galena, KS, Missouri Bar #41064

Suspended from the practice of law and no petition for reinstatement shall be entertained by the Court for a period of six months: Rule 5.21 (Criminal Conviction). Date of Order: July 3, 2018.

DARVISH, CORINNE N., St. Louis, MO, Missouri Bar #43168

Disbarment: Violation of Rules 4-1.4, 4-1.15, and 4-8.4(c). Date of Order: April 17, 2018.

DAVIS, JAMES WILLIAM, Glen Carbon, IL, Missouri Bar #36921

Suspended from the practice of law and no petition for reinstatement shall be entertained by the Court for a period of one year: Violation of Rules 4-1.3, 4-1.15(a), 4-1.15(a)(7), 4-1.15(d), 4-1.15(f), 4-1.16(d), and 4-8.4(c). Date of Order: October 30, 2018.

**DYER, STEVEN EDWARD, Florissant, MO, (now St. Louis, MO),
Missouri Bar #45397**

Default Disbarment: Violation of Rules 4-1.1, 4-1.3, 4-3.4(c), 4-8.4(b), 4-8.4(c), and 4-8.4(d). Date of Order: July 3, 2018.

ECKERSLEY, SCOTT JAY, Midway, UT, Missouri Bar #58659

Default Public Reprimand: Violation of Rule 4-8.4(b). Date of Order: May 10, 2018.

EDWARDS, SHERRI LYNNE, Kansas City, MO, Missouri Bar #48673

Default suspension from the practice of law and no petition for reinstatement shall be entertained by the Court for a period of one year: Violation of Rules 4-1.3 and 4-1.4. Date of Order: May 1, 2018.

FISHER, CHRISTY LEA, Plattsburg, MO, Missouri Bar #44256

Disbarment: Violation of Rules 4-1.1, 4-1.3, 4-1.4(a), 4-1.15(a), 4-1.15(c), 4-1.15(d), 4-1.15(f), 4-1.16(d), 4-8.1(a), 4-8.1(b), and 4-8.4(c). Date of Order: May 4, 2018.

FORCK, NATHAN JAMES, Jefferson City, MO, Missouri Bar #58206

Default Disbarment: Violation of Rules 4-1.1, 4-1.3, 4-1.4, 4-1.5, 4-1.16, and 4-8.1(c). Date of Order: May 25, 2018.

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

Suspended from the practice of law and no petition for reinstatement shall be entertained by the Court for a period of two years: Rule 5.20 (Reciprocal – Kansas); Violation of Rules 4-5.5(c)(2), 4-7.1(a), and 4-8.4(d). Date of Order: August 21, 2018.

GEORGE, JENNIFER ANN, Princeton, MO, Missouri Bar #53313

Disbarment: Violation of Rules 4-1.3, 4-1.4, 4-1.6, 4-1.15(a), 4-1.15(c), 4-1.15(f), 4-1.16(d), 4-8.1(a), 4-8.1(c), and 4-8.4(c). Date of Order: October 30, 2018.

GLASS, MARCUS ARNOLD, Forsyth, MO, Missouri Bar #60903

Immediate suspension from the practice of law pursuant to provisions of Rule 5.24. Date of Order: April 20, 2018.

HARKINS, LUKE BENEDICT, Lenexa, KS, Missouri Bar #41357

Disbarment: Rule 5.20 (Reciprocal – Kansas); Violation of Rules 4-1.1, 4-1.3, 4-3.2, 4-8.1(c), and 4-8.4(d). Date of Order: June 5, 2018.

**HARMS II, JOE GEORGE, Kirkwood, MO, (now St. Louis, MO),
Missouri Bar #23989**

Public Reprimand: Violation of Rules 4-1.7(a), 4-1.9(a), and 4-8.1(a). Date of Order: December 4, 2018.

HODGES, ELIZABETH ANN, Basalt, CO, Missouri Bar #62955

Default Disbarment: Violation of Rules 4-1.8(c), 4-8.4(b), 4-8.4(c), and 4-8.4(d). Date of Order: April 25, 2018.

HUTCHINSON III, WILLIAM ASA, Bentonville, AR, Missouri Bar #60278

Suspension, suspension stayed, placed on probation for two years: Rule 5.21; Violation of Rule 4-8.4(b). Date of Order: December 18, 2018.

KARPOWICZ, DEBRA J., Springfield, MO, Missouri Bar #29730

Default suspension from the practice of law and no petition for reinstatement shall be entertained by the Court for a period of two years: Violation of Rules 4-1.3, 4-1.4, 4-1.5, and 4-8.1(c). Date of Order: May 1, 2018.

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

Default Disbarment: Violation of Rules 4-1.3, 4-1.4(a)(1), 4-1.4(a)(2), 4-1.15(d), 4-1.16(d), 4-8.1(c), and 4-8.4(a). Date of Order: March 6, 2018.

LEMP, MARY L., St. Louis, MO, Missouri Bar #63027

Suspended from the practice of law and no petition for reinstatement shall be entertained by the Court for a period of six months: Violation of Rules 4-3.3(a)(1), 4-8.1(c), 4-8.4(c), and 4-8.4(d). Date of Order: November 20, 2018.

LOUDON, BYRON CARROLL, Overland Park, KS, Missouri Bar #40885

Pending disciplinary case, Supreme Court No. SC96793, Dismissed on February 26, 2018, in conjunction with Supreme Court No. SC96936.

Surrendered license and disbarred, effective March 23, 2018: Violation of Rules 4-1.1, 4-1.5, 4-8.1(a), 4-8.1(b), 4-8.4(c), and 4-8.4(d). Date of Order: February 26, 2018. Supreme Court No. SC96936

MCDOWELL, JONATHAN DAVID, Jefferson City, MO, Missouri Bar #63074

Suspended from the practice of law and no petition 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), 4-1.16(d), and 4-3.3(a). Date of Order: April 3, 2018.

MUIR, TIMOTHY JOHN, Overland Park, KS, Missouri Bar #57259

Interim suspension from the practice of law pursuant to provisions of Rule 5.21(b).
Date of Order: June 5, 2018.

MYERS, ROBERT CARL BRIAN, Portland, OR, Missouri Bar #53231

Disbarment: Rule 5.20 (Reciprocal – Montana); Violation of Rules 4-8.2(a) and 4-8.4(c). Date of Order: September 19, 2018.

NETTERVILLE IV, DOC, Kansas City, MO, Missouri Bar #42383

Suspended from the practice of law and no petition 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, 4-1.15, and 4-8.4(a). Date of Order: May 22, 2018.

NORSIGIAN JR., HRANT, O'Fallon, IL, Missouri Bar #38556

Placed on probation for twelve months: Violation of Rules 4-1.15(a), 4-1.15(a)(6), 4-1.15(a)(7), 4-1.15(d), and 4-1.15(f). Date of Order: July 3, 2018.

PATIENCE, JEROME MICHAEL, Independence, MO, Missouri Bar #51965

Surrendered license and disbarred: Violation of Rule 4-8.4(b). Date of Order: February 23, 2018.

POWELL, RODNEY HOWARD, Clive, IA, Missouri Bar #28881

Suspended from the practice of law and no petition for reinstatement shall be entertained by the Court for a period of two years: Rule 5.20 (Reciprocal – Iowa); Violation of Rule 4-1.8(a). Date of Order: April 3, 2018.

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

Default Disbarment: Violation of Rules 4-1.1, 4-1.4, and 4-8.1(c). Date of Order: March 6, 2018.

**SALIVAR, DAVID CHARLES, St. Louis, MO, (now Ballwin, MO),
Missouri Bar #24205**

Public Reprimand: Violation of Rules 4-1.7(a), 4-1.9(a), and 4-8.1(a). Date of Order: December 4, 2018.

SALUS, BABETTE PAULINE, Springfield, IL, Missouri Bar #35321

Suspended from the practice of law and no petition for reinstatement shall be entertained by the Court for a period of one year: Rule 5.20 (Reciprocal – Illinois); Violation of Rules 4-1.4(a)(1), 4-1.4(a)(2), 4-1.15(a), 4-1.15(c), 4-1.16(d), 4-8.1(c), and 4-8.4(c). Date of Order: December 27, 2018.

**SANDERS, MICHAEL DAVID, Kansas City, MO (now Independence, MO),
Missouri Bar #45608**

Interim suspension from the practice of law pursuant to provisions of Rule 5.21(b).
Date of Order: February 20, 2018.

SUTTON, BRANDY LEEANN, Lawrence, KS, Missouri Bar #51366

Suspended from the practice of law and no petition 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: May 16, 2018.

VALENTINO, JONATHAN DAVID, Clayton, MO, Missouri Bar #56166

Suspended from the practice of law and no petition for reinstatement shall be entertained by the Court for a period of six months: Violation of Rules 4-1.1, 4-1.3, 4-1.4, 4-8.4(c), and 4-8.4(d). Date of Order: January 16, 2018.

WILLIAMS, BRANDON LAMONTE, St. Louis, MO, Missouri Bar #55307

Suspension, suspension stayed, placed on probation for one year: Violation of Rules 4-1.15(d), 4-5.3(b), 4-8.4(b), 4-8.4(c), and 4-8.4(d). Date of Order: May 22, 2018.

WILLIAMS, GREGORY DAVID, Sunrise Beach, MO, Missouri Bar #32272

Placed on probation for one year: Violation of Rule 4-1.10. Date of Order: April 20, 2018.

WINKIE, RICHARD LEROY, Macon, MO, Missouri Bar #59455

Disbarment: Violation of Rules 4-1.3, 4-1.4(a), 4-1.15(a), 4-1.15(a)(4), 4-1.15(c), 4-1.15(d), 4-1.15(f), and 4-8.4. Date of Order: November 20, 2018.

WINTERBERG, BRENT LEE, Kansas City, MO, Missouri Bar #44038

Public Reprimand with Requirements: Violation of Rules 4-1.3, 4-1.4, and 4-8.4(d). Date of Order: December 18, 2018.

ZAHND, ERIC GLEN, Platte City, MO, Missouri Bar #47196

Public Reprimand: Violation of Rules 4-4.4(a), 4-8.4(a), and 4-8.4(d). Date of Order: May 22, 2018.

II.

**THE FOLLOWING DISCIPLINARY ACTIONS WERE PENDING
BEFORE THE COURT AT THE CLOSE OF 2018 BASED ON PROCEEDINGS
PROSECUTED BY THE OFFICE OF
CHIEF DISCIPLINARY COUNSEL**

ALLEN, JEFFREY BRYAN, Lebanon, MO, Missouri Bar #58252

(Disbarment: Violation of Rules 4-1.3, 4-1.4, 4-1.5(c), 4-1.15(a), 4-1.15(b), 4-1.15(c), 4-1.15(d), 4-1.15(f), 4-4.1(a), 4-8.4(c), and 4-8.4(d). Date of Order: January 9, 2019.)

DIERDORF, KATHERINE ANNE, Denver, CO, Missouri Bar #63782

(Pending.)

DODSON, JENNIFER LANE, Wellsville, KS, Missouri Bar #60758

(Default Disbarment: Violation of Rules 4-1.3, 4-1.4, 4-1.15, 4-1.16(d), 4-3.4, and 4-8.4(c). Date of Order: April 2, 2019.)

GARDNER, R. SCOTT, Sedalia, MO, Missouri Bar #33504

(Suspension, suspension stayed, placed on probation for one year: Violation of Rules 4-1.15, 4-3.3, 4-3.4(c), and 4-8.4(c). Date of Order: January 31, 2019.)

GLASS, MARCUS ARNOLD, Forsyth, MO, Missouri Bar #60903

(Default Disbarment: Violation of Rules 4-1.1, 4-1.3, 4-1.4, 4-1.5, 4-1.8(a), 4-1.16(d), 4-8.1(c), 4-8.4(b), and 4-8.4(c). Date of Order: March 5, 2019.)

HEALEA, SHAYNE WYATT, California, MO, Missouri Bar #62932

(Suspended from the practice of law and no petition for reinstatement shall be entertained by the Court for a period of six months: Rule 5.21 (Criminal Conviction). Date of Order: January 29, 2019.)

MAGEE, RICHARD JOSEPH, St. Louis, MO, Missouri Bar #29943

(Suspension, suspension stayed, placed on probation for two years: Violation of Rules 4-1.1, 4-1.3, and 4-1.4. Date of Order: June 4, 2019.)

MANDELBAUM, DAVID BEN, Overland Park, KS, Missouri Bar #35420

(Disbarment: Rule 5.21 (Criminal Conviction). Date of Order: January 29, 2019.)

MORAN, MARK BRIAN, Aviston, IL, Missouri Bar #36057

(Disbarment: Violation of Rules 4-1.15(a), 4-1.15(d), 4-1.16(d), and 4-8.4(c).
Date of Order: June 4, 2019.)

SCHUESSLER, AMBRY NICHOLE, Clayton, MO, Missouri Bar #66214

(Pending.)

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

(Disbarment: Rule 5.21 (Criminal Conviction); Violation of Rules 4-8.4(b), 4-8.4(c), and 4-8.4(d). Date of Order: January 14, 2019. Supreme Court No. SC97054.)

(Petition for voluntary surrender of license overruled as moot on January 14, 2019. Supreme Court No. SC97541.)

III. REINSTATEMENT PROCEEDINGS

A. DISCIPLINARY MATTERS

At the beginning of the year, 14 Missouri lawyers who had previously been disciplined had applications for reinstatement pending for processing by the Chief Disciplinary Counsel. During the year, seven additional applications for reinstatement were filed and referred to the Chief Disciplinary Counsel for processing.

The OCDC processed a total of 21 disciplinary reinstatement applications during 2018. The status of those 21 applications is as follows:

Reinstated	6
Denied	4
Dismissed	1
Pending with OCDC	10

Six Petitioners Were Reinstated By The Supreme Court

1. Mark Steven Brown, Richmond Heights, MO, Missouri Bar #45977, reinstated on May 1, 2018. Petitioner was disbarred on September 28, 2009.
2. Joel B. Eisenstein, St. Charles, MO, Missouri Bar #21476, reinstated on December 4, 2018, and placed on probation for a period of two years. Petitioner was suspended on April 21, 2016.
3. Dale Edward Gerecke, Cape Girardeau, MO, Missouri Bar #30415, reinstated on June 20, 2018. Petitioner was suspended on November 21, 2017.
4. Caryn H. Haddix, St. Louis, MO, Missouri Bar #57074, reinstated on January 24, 2018. Petitioner was suspended on February 4, 2014.
5. Georgia Ann Mathers, Reno, NV, Missouri Bar #58025, reinstated on August 21, 2018, and placed on probation for a period of three years. Petitioner was suspended on May 9, 2013.
6. Roderick E. Smith, Kansas City, MO, Missouri Bar #45574, reinstated on August 21, 2018, and placed on probation for a period of three years. Petitioner was interimly suspended on January 23, 2006, and subsequently disbarred on May 29, 2007.

Four Disciplined Petitioners Were Denied Reinstatement By The Supreme Court

1. Kenton M. Hall, Missouri Bar #39212, denied reinstatement. Petitioner was suspended on October 2, 2017
2. Theodore Roy Hoefle, Missouri Bar #56509, denied reinstatement. Petitioner was suspended on May 2, 2017.
3. Carl Elvin Smith, Missouri Bar #35575, denied reinstatement. Petitioner was disbarred on October 4, 2011.
4. Thomas M. Utterback, Missouri Bar #23288, denied reinstatement. Petitioner was disbarred on June 30, 1998.

One Petition Was Dismissed By The Supreme Court in 2018

1. Edward Francis Walsh, IV, Missouri Bar #45046, Petitioner filed motion for voluntary dismissal without prejudice on May 9, 2018. Petitioner was suspended on September 30, 2008.

B. OTHER REINSTATEMENTS

Tax

Lawyers may be suspended for state tax issues under Rule 5.245. During 2018, the OCDC investigated and processed 17 tax suspension applications for reinstatement. Fourteen were reinstated. Three applications remained pending at the end of 2018.

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 2018, the OCDC investigated and processed 14 applications for reinstatement by those lawyers. Four were reinstated. Three applications were dismissed. Seven applications remained pending at the end of 2018.

Returns to Active Status

Lawyers may elect to become inactive under Rule 6.03. Per Rule 6.06, the OCDC investigated and processed 94 inactive lawyers' applications for reinstatement. Eighty-

three were returned to active status. Eleven applications remained pending at the end of 2018.

MCLE

Lawyers may be suspended for non-compliance with Mandatory Continuing Legal Education requirements under Rule 15.06(f). During 2018, the OCDC investigated and processed 13 MCLE suspension applications for reinstatement. Four were reinstated. Three applications were dismissed. Six applications remained pending at the end of 2018.

IV. COMPLAINTS RECEIVED IN 2018 AND ACTIONS THEREON

1,748 complaints of attorney misconduct were received in 2018.

The following actions were taken on complaints received in 2018:

- 685** Formal Investigations opened
 - 475** Cases investigated by Regional Disciplinary Committees
 - 210** Cases investigated by OCDC

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

- 1,005** Investigations not opened (*In certain instances, OCDC does not open an investigation until after related litigation is completed.*) Approximately 92 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.

- 1** Insufficient information to proceed

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

- 7** 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 2018, 62 complainants requested review. The Advisory Committee upheld the findings on 27 of these files and issued a guidance letter to two lawyers. The Committee assigned six of the review files for further investigation. Twenty-seven of these review files were pending with the Committee at the end of the year.

C. Fee Disputes

The Missouri Bar continues to provide a fee dispute resolution program. This program is 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 Committee 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 2018, the OCDC received 87 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 37 written admonitions and the Regional Disciplinary Committees administered 55 written admonitions to Missouri lawyers. (Total: 92 admonitions). In addition, 121 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 1/1/18	Investigations Referred 2018	Investigations Disposed in 2018
IV	42	153	137
X	63	197	200
XI	24	62	62
XV	38	91	83
OCDC	103	219	198

Region	Admonitions Issued in 2018	Guidance Letters Issued in 2018
IV	17	18
X	23	24
XI	4	12
XV	11	6
OCDC	37	61

C. Filed Hearing Matters

FILING INFORMATION

In 2018, the OCDC and the Regional Disciplinary Committees filed Informations (the formal charging document) on 47 files. “Files” indicate individual complaints against attorneys. An Information against one attorney may include charges involving multiple files.

Twenty-seven Informations, representing 55 complaint files, were pending before the Advisory Committee and Disciplinary Hearing Panels at the beginning of 2018. Disciplinary Hearing Panels conducted 29 hearings involving 38 files. Eight default Informations were filed directly in the Supreme Court.

D. Cases filed at the Supreme Court

RULE 5.19

In 2018, eleven 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 11 cases. Of those 11 cases, seven were heard because the Respondent did not concur in a DHP’s recommended sanction, three were heard because the Informant did not concur 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 2018.

RULE 5.20

Ten reciprocal discipline cases, based on adjudication of misconduct in other jurisdictions, were filed in 2018: *In re Best*, SC96888; *In re Buckner*, SC97336; *In re Cullan*, SC97304; *In re Cullan*, SC97305; *In re Geniuk*, SC97174; *In re Harkins*, SC97119; *In re Myers*, SC97116; *In re Powell*, SC96900; *In re Salus*, SC97549; and *In re Sutton*, SC97047.

RULE 5.21

During 2018, three Informations were filed under Rule 5.21(b) against attorneys who were subject to an interim suspension pending the final disposition of a criminal case: *In re Bailey*, SC97495; *In re Muir*, SC97145; and *In re Sanders*, SC96943.

Informations were filed under Rule 5.21(e) against seven 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 Bennett*, SC97421; *In re Crowley*, SC97103; *In re Cure*, SC97038; *In re Healea*, SC97490; *In re Hutchinson*, SC97422; *In re Mandelbaum*, SC97584; and *In re Young*, SC97054.

RULE 5.24

Two Informations requesting interim suspension for substantial threat of irreparable harm were filed in 2018: *In re Allen*, SC97323 and *In re Glass*, SC97092.

RULE 5.25

In 2018, two attorneys applied to surrender their licenses under Rule 5.25: *In re Loudon*, SC96936 (accepted February 26, 2018) and *In re Young*, SC97541 (overruled as moot on January 14, 2019). The OCDC filed a Report and Recommendation in the *Loudon* case.

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 2018, the office monitored 21 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.

Twenty-four lawyers were monitored in 2018 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 2018 to monitor the practice of six newly admitted lawyers. Finally, in 2018, the office monitored the practice of eight 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 16 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 2018, OCDC staff gave 25 presentations at Continuing Legal Education (CLE) seminars. The OCDC staff gave presentations to the following organizations: Buchanan County Bar Association; Jasper County Bar Association; Missouri Department of Corrections; Missouri Department of Labor & Industrial Relations – Employment Security; Missouri Department of Revenue; Missouri Paralegal Association; Phelps County Bar Association; Richard Fink, Chapter 13 Bankruptcy Trustee; Springfield Metropolitan Bar Association; United States Arbitration & Mediation; and University of Missouri – Kansas City. The OCDC staff also spoke at the Missouri Bar's Solo and

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

IX. SIGNIFICANT ACTIVITIES IN 2018

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 2018, the OCDC and the disciplinary system met the six-month standard throughout the year and met the one-year standard in the second, third and fourth quarters 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 2018, 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 about 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 2018, the course was offered as a full-day in-person session at the OCDC's office in Jefferson City, Missouri. Twenty-six (26) lawyers attended the course in 2018. Those attorneys who attended the course in 2018 also participate in periodic interactive discussion groups during the following year to track their progress in meeting their law practice management goals established during the program.

Staff Training

In 2018, 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 Rule 4

The Court entered an Order dated July 23, 2018 and effective January 1, 2019 amending Rule 4-1.15 (Trust Accounts and Property of Others) to permit an advanced flat fee which does not exceed \$2,000 to be deposited in an account other than the client trust account. A new Comment [20] states that “even though an advanced flat fee that will be promptly paid and which does not exceed \$2,000 may be placed directly into the office operating account, if the attorney-client relationship is terminated prior to the advanced flat fee being earned then any unearned portion of the advanced fee shall be refunded. The Order also amends Comment [5] of the Rule to provide that waiting 10 days after a deposit is made into a trust account is presumed to be a reasonable period for purposes of the “good funds” requirement, unless a lawyer has actual notice of a reason to wait longer on a specific deposit. The Order also amends Comment [6] of the Rule to provide that a disbursement of funds belonging to the lawyer within a period of one month after a fee is earned and paid shall be presumed to be reasonably prompt for purposes of Rule 4-1.15(b). In addition, a longer period may be considered reasonably prompt, in some circumstances.

The Court entered an Order dated July 19, 2019 and effective that same date adopting a new subdivision (g) of Rule 4-8.4 (Misconduct) and a new paragraph [4] of the Comments to Rule 4-8.4 (Misconduct). The new subdivision (g) prohibits lawyers from manifesting by words or conduct, in representing a client, bias or prejudice, or from engaging in harassment, including but not limited to bias, prejudice, or harassment based upon race, sex, gender, gender identity, religion, national origin, ethnicity, disability, age, sexual orientation, or marital status. The new subdivision (g) does not preclude legitimate advocacy when these factors are issues and does not limit the ability of a lawyer to accept, decline, or withdraw from a representation in accordance with Rule 4-1.16. Comment [4] offers definitions and examples of “harassment” as used in the new Rule 4-8.4(g).

Supreme Court Rule 5

On October 2, 2018, the Court entered an Order adopting a new subdivision (f) of Rule 5.21 (Interim Suspension and Final Discipline for Criminal Activities), effective January 1, 2019. The new subdivision (f) permits the chief disciplinary counsel to defer making a recommendation concerning a lawyer subject to discipline as provided in Rule

5.21 pending the lawyer's successful or unsuccessful completion of a treatment court program and permits the chief disciplinary counsel to consider the lawyer's successful or unsuccessful completion of a treatment court program in such recommendation.

On October 22, 2018, the Court amended subdivision (a) of Rule 5.30 and adopted a new subdivision (d) of Rule 5.30 (Opinions and Regulations by Advisory Committee), effective January 1, 2019. The amended subdivision (a) allows the advisory committee to make regulations consistent with the administration of Rules 4, 5 and 6. The new subdivision (d) provides that any new regulations promulgated by the advisory committee regarding Rules 4, 5 and 6 shall be submitted to the Court for review and shall become effective 60 days after submission unless disapproved by the Court.

On October 22, 2018, the Court amended Rule 5.31 (Records of Investigations and Formal Proceedings), effective January 1, 2019. The amended rule repeals adopts a new regulation that addresses procedures for media coverage of disciplinary proceedings as well as the location of disciplinary records.

On December 18, 2018, the Court entered an Order amending subdivision (e) of Rule 5.21 (Interim Suspension and Final Discipline for Criminal Activities), effective January 1, 2019. The amended subdivision (e) deletes the requirement that the final disposition of a criminal case be "adverse to the lawyer" in order for the chief disciplinary counsel to file an information in the Court and for the Court to impose discipline against the lawyer.

Supreme Court Rule 6

The Court entered an Order dated April 30, 2019 and effective November 1, 2019 adopting a new subdivision (b) of Rule 6.03 (Election to Become Inactive). The new subdivision (b) increases the annual fee to be paid by inactive lawyers to the clerk of the Court to \$100.

Supreme Court Rule 15

The Court entered an Order dated May 17, 2018 and effective July 1, 2018, amending Rule 15.05 (Continuing Legal Education Requirements) to permit accredited programs and activities devoted to professionalism and substance abuse and mental health to be included in lawyers' hourly ethics requirements to be reported to the Bar annually.

The Court entered an Order dated June 30, 2019 and effective July 1, 2019 adopting a new subdivision (e) of Rule 15.05 (Continuing Legal Education Requirements), effective July 1, 2019. The new subdivision (e) requires lawyers to annually complete one credit hour of accredited programs and activities devoted exclusively to cultural competency,

diversity, inclusion, and implicit bias, unless the lawyer has not actively practiced law in Missouri during the period or has given notice of inactive status pursuant to Rule 6.03.

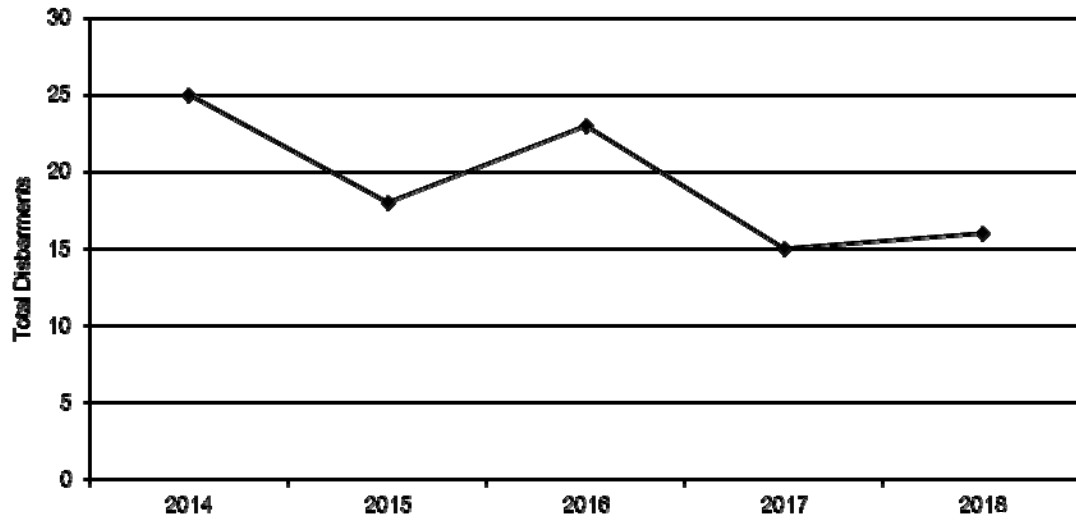
SUMMARY OF DISCIPLINE ACTIONS

During 2018:

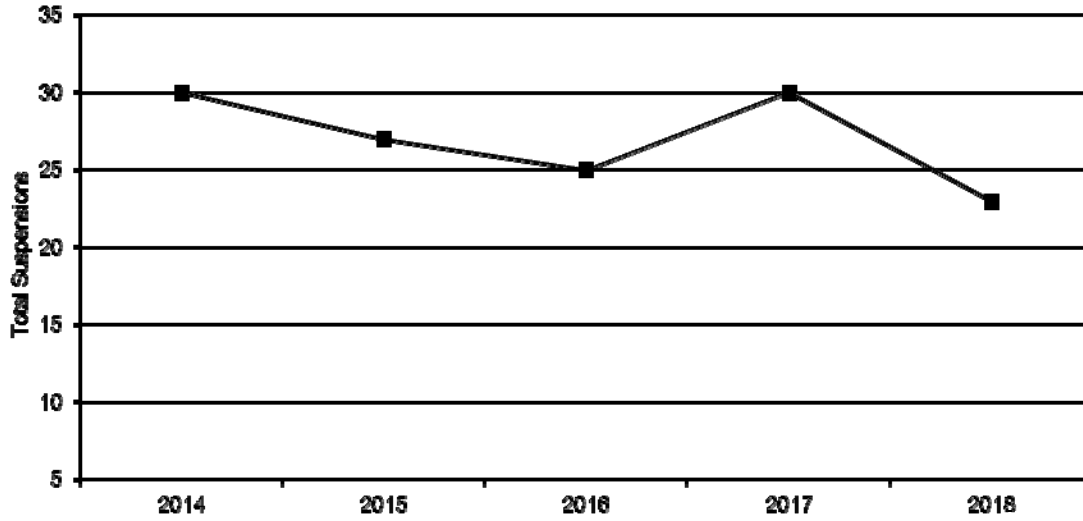
- **16** Sixteen lawyers were disbarred;
- **23** Twenty-three lawyers were suspended; **three** of those suspensions were stayed and attorneys placed on probation with conditions;
- **4** Four lawyers were placed on probation where no suspension was imposed;
- **26** Twenty-six lawyers were suspended pursuant to Rule 5.245 (Failure to Pay Tax);
- **7** Seven lawyers received public reprimands; and
- **92** Ninety-two 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.

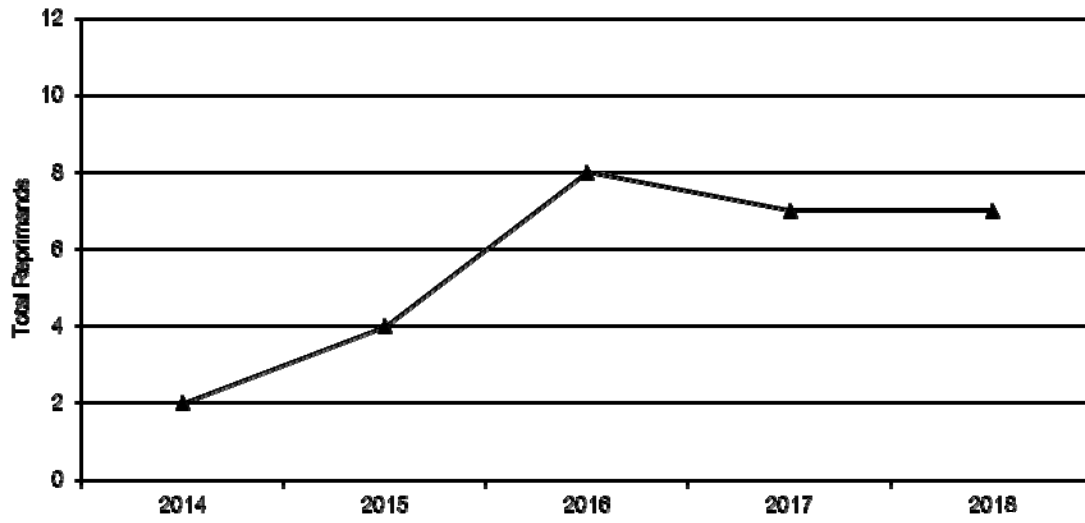
Disbarments



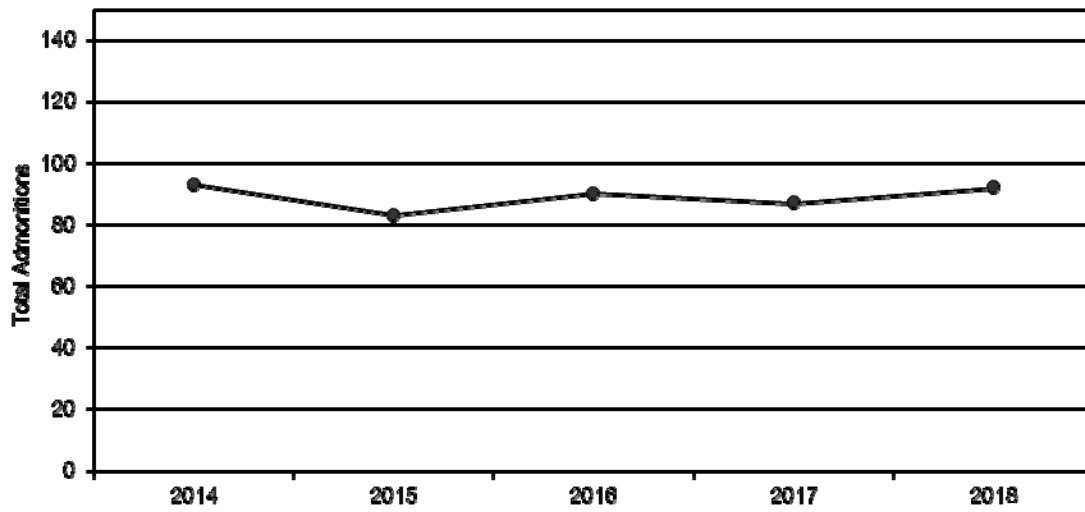
Suspensions



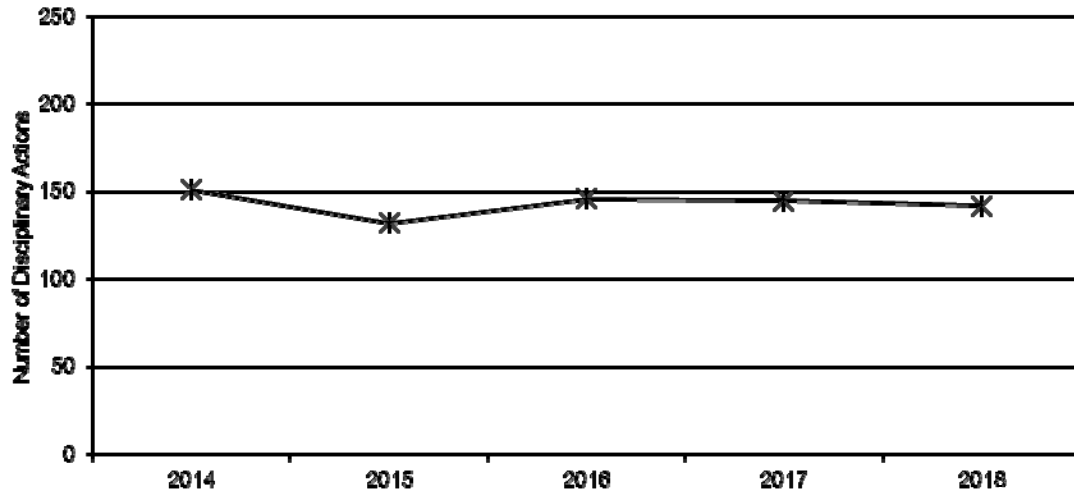
Reprimands



Admonitions



Total Disciplinary Actions



In 2018, there were a total of (142) disciplinary actions including admonitions and formal discipline matters.

The total number of complaints opened as formal investigations during 2018 was 685. The most common complaint areas are as follows:

NATURE OF VIOLATIONS *	NO.
Rule 4-1.4 (Communication)	315
Rule 4-1.3 (Diligence)	279
Rule 4-1.15 (Safekeeping Property)	124
Rule 4-1.5 (Excessive Fees)	103
Rule 4-8.4(c) (Dishonesty, Fraud, Deceit, Misrepresentation)	89
Rule 4-1.16 (Improper Withdrawal)	77
Rule 4-1.7 (Conflicts)	66
Rule 4-1.1 (Competence)	24
Rule 4-1.6 (Confidentiality)	24
Rule 4-3.3 (Truth to Tribunal)	24
Rule 4-4.2 (Communication with Person Represented by Counsel)	11
Rule 4-5.5 (Unauthorized Practice)	11
Rule 4-7.2 (Advertising)	10
Rule 4-5.3(b) (Supervisory Responsibility)	9
Rule 4-8.2 (Judicial and Legal Officials)	7
Rule 4-8.4(b) (Criminal Activity)	5
Rule 4-4.1 (Truth to 3 rd Persons)	4
Rule 4-3.8 (Prosecutorial Responsibility)	3
Rule 4-8.3 (Reporting Misconduct)	3
Rule 4-3.4 (Obstruction/False Evidence)	2
Rule 4-1.14 (Diminished Capacity)	1
Rule 4-8.4(g) (Bias)	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	189
Criminal	180
Torts	79
Other	72
Estate/Probate	62
Bankruptcy/Receivership	30
Workers Compensation	24
Labor Law	18
Litigation	16
Real Property	15
Administrative/Governmental	12
Traffic	11
Contracts	9
Corporate/Banking	9
Collections	7
Consumer Law	6
Immigration/Naturalization	6
Landlord/Tenant	6
Civil Rights	3
Insurance	3
Juvenile	3
Taxation	3
Guardianship	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 31st day of July, 2019.

Respectfully Submitted,

ALAN D. PRATZEL
Chief Disciplinary Counsel

LEGAL ETHICS COUNSEL ANNUAL REPORT FOR 2018

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 1,435 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 office provided 37 written informal advisory opinions.

The Legal Ethics Counsel office also is conducting a comprehensive review of formerly published informal advisory opinions to ensure accuracy and relevance. This will be an ongoing project.

B. CLE Presentations

The Legal Ethics Counsel office prepared and gave 18 CLE presentations for various groups including: The Missouri Bar, UMKC School of Law, American Bar 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 62 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 was 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. Twenty-five Informations were filed in 2018.

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 2019.

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 office 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. The Legal Ethics Counsel office continues to develop resource pages for lawyers on specific ethics topics that are posted on its website. The Legal Ethics Counsel office also wrote articles for publication in the *Journal of the Missouri Bar*.

Additionally, the Legal Ethics Counsel served on the Planning Committee for The Missouri Bar’s Solo & Small Firm Conference and began serving as President for the National Organization of Bar Counsel for 2018-19.