

**In the**

**SUPREME COURT OF MISSOURI**

**En Banc**

**May Session, 2012**

---

**Report of the Office of the Chief Disciplinary Counsel for the year  
2011 together with the Financial Report of the Treasurer of the  
Advisory Committee Fund for 2011**

**ALAN D. PRATZEL  
Chief Disciplinary Counsel**

IN THE  
SUPREME COURT OF MISSOURI

EN BANC

---

MAY SESSION, 2012

---

REPORT OF THE OFFICE OF CHIEF DISCIPLINARY COUNSEL FOR THE YEAR  
2011 TOGETHER WITH THE FINANCIAL REPORT OF THE TREASURER OF THE  
ADVISORY COMMITTEE FUND FOR 2011

---

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 2011 or pending on December 31,  
2011.

I.

**THE FOLLOWING DISCIPLINARY ACTIONS WERE TAKEN BY  
THE COURT DURING 2011 BASED ON PROCEEDINGS  
PROSECUTED BY THE OFFICE OF  
CHIEF DISCIPLINARY COUNSEL<sup>1</sup>**

**ARMANO, KWADWO JONES, St. Louis, MO, Missouri Bar #39976**

Public Reprimand: Violation of Rules 4-1.15(c) and 4-1.15(d). Date of Order: October 4, 2011.

**BALDWIN, JAMES E., Lebanon, MO, Missouri Bar #19267**

Disbarment: Rule 5.21 (Criminal Conviction). Date of Order: March 4, 2011.

**BAUER, LARRY MICHAEL, St. Louis, MO, Missouri Bar #28835**

Disbarment: Rule 5.21 (Criminal Conviction). Date of Order: June 16, 2011.

**BLACK, TODD R., St. Louis, MO, Missouri Bar #36542**

Disbarment: Violation of Rules 4-1.3, 4-1.4, 4-1.5, 4-1.16, and 4-5.5(c). Date of Order: October 4, 2011.

**CARNES, THOMAS RICHARD, St. Louis, MO, Missouri Bar #41570**

Suspension, suspension stayed, placed on probation for one year: Violation of Rules 4-1.3, 4-1.4, 4-1.16(d), 4-8.4(a), and 4-8.4(d). Date of Order: June 1, 2011.

**CHEUNG, KEITH K., Clayton, MO, Missouri Bar #40908**

Public Reprimand: Violation of Rules 4-3.5(d), 4-8.4(c), and 4-8.4(d). Date of Order: March 1, 2011.

**CHRISTIANSEN, AMY MARIE, Chesterfield, MO, Missouri Bar #58660**

Petition for voluntary surrender denied. The Chief Disciplinary Counsel to proceed pursuant to Rule 5. Date of Order: August 30, 2011. Supreme Court No. SC91763

Interim suspension from the practice of law pursuant to provisions of Rule 5.23(b). Date of Order: October 25, 2011. Supreme Court No. SC92024

---

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

**COATNEY, LISA DAWN, Sikeston, MO, Missouri Bar #54794**

Suspended from the practice of law and no petition for reinstatement will be entertained by the Court for a period of one year: Violation of Rule 4-8.2(a). Date of Order: October 4, 2011. Supreme Court No. SC91497

Pending interim suspension case dismissed as moot on October 4, 2011. Supreme Court No. SC91913

**DAVIS, STEPHEN GREGORY, Des Peres, MO, Missouri Bar #40982**

Disbarment: Rule 5.21 (Criminal Conviction). Date of Order: August 30, 2011.

**DAY, WILLIAM BRUCE, Kansas City, MO, Missouri Bar #26041**

Default Disbarment: Violation of Rules 4-1.3, 4-1.4, 4-1.5, 4-1.15(c), 4-1.16(a)(1), 4-1.16(d), 4-5.5(b), 4-8.1, 4-8.4(d), and 6.05(c). Date of Order: September 2, 2011.

**DEVKOTA, TARAK A., Kansas City, MO, Missouri Bar #51604**

Suspension, suspension stayed, placed on probation for three years: Violation of Rules 4-1.15(c) and 4-1.15(i). Date of Order: October 4, 2011.

**EDWARDS, DARYLE ANTHONY, Olathe, KS, Missouri Bar #47981**

Disbarment: Rule 5.21 (Criminal Conviction). Date of Order: February 28, 2011.

**FLEMING, LAWRENCE JOSEPH, St. Louis, MO, Missouri Bar #19946**

Suspension, suspension stayed, placed on probation for one year: Violation of Rules 4-1.1, 4-1.3, 4-1.8(e), 4-8.4(c), and 4-8.4(d). Date of Order: June 28, 2011.

**GLICK, THOMAS GARY, St. Louis, MO, Missouri Bar #44769**

Public Reprimand: Violation of Rules 4-1.1, 4-1.3, 4-1.4(a), 4-1.4(b), and 4-1.15(i). Date of Order: November 14, 2011.

**GOLDBLATT, L. STEVEN, St. Louis, MO, (now Morgan Hill, CA),  
Missouri Bar #27642**

Interim suspension from the practice of law pursuant to provisions of Rule 5.24. Date of order: September 22, 2011.

**HARDEN, JOHN WESLEY, Springfield, MO, Missouri Bar #48708**

Default Disbarment: Violation of Rules 4-1.3, 4-1.4, 4-1.15, and 4-8.1. Date of Order: June 1, 2011.

**HOWELL, WILLIAM CRAIG, Omaha, NE, Missouri Bar #51768**

Disbarment: Rule 5.20 (Reciprocal – Nebraska); Violation of Rules 4-1.15(c) and 4-8.4(c). Date of Order: January 7, 2011.

**HYDER, GREGG T., Columbia, MO, Missouri Bar #28914**

Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of three years: Violation of Rules 4-1.1, 4-1.3, 4-1.4, 4-1.5, 4-1.15, 4-1.16, and 4-5.5. Date of Order: June 24, 2011.

**JENKINS, STEPHEN ALAN, Kansas City, MO, Missouri Bar #45455**

Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of six months: Rule 5.21(Criminal Conviction); Violation of Rule 4-8.4(b). Date of Order: September 16, 2011.

**KENNEDY JR., FRANCIS H., St. Louis, MO, Missouri Bar #19153**

Public Reprimand: Violation of Rules 4-5.5(a), 4-5.5(b)(2), and 4-8.4(d). Date of Order: August 29, 2011.

**KOENIG, MICHAEL PAUL, Chillicothe, MO, Missouri Bar #54671**

Suspension, suspension stayed, placed on probation for three years: Violation of Rules 4-1.3, 4-1.4, 4-1.15(c), and 4-8.4(c). Date of Order: October 25, 2011.

**LOGAN, SAMUEL PRICE, Overland Park, KS, Missouri Bar #41159**

Surrendered license and disbarred: Violation of Rule 4-8.4(b). Date of Order: August 26, 2011.

**LOPEZ, MARIA TERESA, Kansas City, KS, Missouri Bar #59483**

Disbarment: Rule 5.20 (Reciprocal – Florida); Violation of Rules 4-1.15 and 4-8.4(c). Date of Order: February 16, 2011.

**LOWERY, MARTHA LYNN, St. Louis, MO, Missouri Bar #58613**

Interim suspension from the practice of law pursuant to provisions of Rule 5.24. Date of order: April 20, 2011. Supreme Court No. SC91699

Default Disbarment: Violation of Rules 4-1.3, 4-1.4(a)(2), 4-1.15(c), 4-1.15(g), 4-1.16(d), 4-8.1(c), 4-8.4(c), and 4-8.4(d). Date of Order: October 31, 2011. Supreme Court No. SC92104

**MANRING, JOHN LLOYD, St. Joseph, MO, Missouri Bar #32204**

Surrendered license and disbarred. Date of Order: January 21, 2011.

**MARTIN, JAMES M., St. Louis, MO, Missouri Bar #21297**

Public Reprimand: Violation of Rules 4-1.15(m) and 4-1.16(d). Date of Order: April 25, 2011.

**MCGOOGAN, SHANE AMES, St. John, MO, Missouri Bar #56803**

Interim suspension from the practice of law pursuant to provisions of Rule 5.24. Date of order: February 11, 2011.

**MCKEE, JONATHAN DEWITT, St. Louis, MO, Missouri Bar #36432**

Default Disbarment: Violation of Rules 4-1.15(c), 4-1.15(d), 4-1.15(i), 4-5.5(c), 4-8.1(a), 4-8.1(c), 4-8.4(c), and 4-8.4(d). Date of Order: February 16, 2011.

**MILLER, GEORGE S., Maryville, MO, Missouri Bar #22510**

Motion to revoke probation declared moot because Respondent's probation was revoked when suspended by Order dated January 12, 2011, pursuant to Rule 5.245 (Failure to Pay Tax). Date of Order: April 26, 2011.

**MILLETT, MICHAEL ALLEN, Kansas City, MO, Missouri Bar #50160**

Suspended from the practice of law and no petition for reinstatement will be entertained by the Court for a period of two years: Rule 5.20 (Reciprocal – Kansas); Violation of Rules 4-4.3, 4-8.4(b), 4-8.4(c), and 4-8.4(d). Date of Order: June 6, 2011.

**MORSE, MINDY J., Kansas City, MO, Missouri Bar #41258**

Suspension, suspension stayed, placed on probation for eighteen months: Violation of Rules 4-1.4(a), 4-1.15(b), 4-1.16(a)(1), 4-5.5(b), 4-7.3(b), 4-8.1(b), 4-8.4(d), and 6.05(c). Date of Order: January 25, 2011.

**NEISNER JR., MELVIN BAUER, Killington, VT, Missouri Bar #33538**

Suspended from the practice of law effective January 9, 2009, and no petition for reinstatement will be entertained by the Court for a period of two years from January 9, 2009: Rule 5.20 (Reciprocal – Vermont); Violation of Rule 4-8.4(b). Date of Order: May 31, 2011.

**O'LOUGHLIN, J. PATRICK, Cape Girardeau, MO, Missouri Bar #27487**

Public Reprimand: Violation of Rules 4-1.4, 4-1.7, and 4-1.8. Date of Order: October 4, 2011.

**PAWLOSKI, JOHN J., St. Louis, MO, Missouri Bar #38059**

Suspension, suspension stayed, placed on probation for two years: Violation of Rules 4-1.15(c) and 4-8.4(c). Date of Order: May 17, 2011.

**PEEL, GARY E., Glen Carbon, IL, Missouri Bar #30138**

Disbarment: Rule 5.21 (Criminal Conviction). Date of Order: April 18, 2011.

**PERSLEY, KATHRYN RENEE, Kansas City, MO, Missouri Bar #44380**

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 4-1.3, 4-1.4, 4-1.15(c), and 4-5.5(a). Date of Order: April 26, 2011.

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

Public Reprimand: Violation of Rules 4-1.6, 4-1.7, and 4-8.1(c). Date of Order: January 26, 2011.

**REEVES, WILLIAM EDWARD, Caruthersville, MO, Missouri Bar #33851**

Public Reprimand: Violation of Rules 4-5.5(a) and 4-5.5(b)(2). Date of Order: February 7, 2011.

**ROMIOUS, D. CARLOS, Kansas City, MO, Missouri Bar #46749**

Disbarment: Rule 5.20 (Reciprocal – Kansas); Violation of Rules 4-1.1, 4-1.5, 4-3.4, 4-3.5, and 4-4.4. Date of Order: January 18, 2011.

**ROSS, DANIEL J., Kansas City, MO, Missouri Bar #28155**

Public Reprimand: Violation of Rules 4-1.3, 4-5.1, and 4-8.4(d). Date of Order: July 11, 2011.

**SCHMID, MARK REINHARD, Kansas City, MO, Missouri Bar #30861**

Interim suspension from the practice of law pursuant to provisions of Rule 5.23(c). Date of Order: February 7, 2011.

**SHUMAKER, SETH D., Kirksville, MO, Missouri Bar #36654**

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 4-1.7(b) and 4-1.8(a). Date of Order: January 25, 2011.

**SMITH, CARL ELVIN, Ava, MO, Missouri Bar #35575**

Disbarment: Violation of Rule 4-8.2(a). Date of Order: October 4, 2011.

**STANLEY, JAMES F., Leawood, KS, Missouri Bar #31779**

Disbarment: Rule 5.20 (Reciprocal – Kansas); Violation of Rules 4-1.1, 4-1.3, 4-1.4, 4-1.5, 4-1.8, and 4-8.4. Date of Order: May 19, 2011.

**STEWART, BYRON G., Kansas City, MO, Missouri Bar #30511**

Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of six months: Rule 5.21(Criminal Conviction); Violation of Rule 4-8.4(b). Date of Order: July 14, 2011.

(Subsequently reinstated by Order of the Missouri Supreme Court on May 4, 2012.)

**TAFT, GEORGE, Kansas City, MO, Missouri Bar #30935**

Default Disbarment: Violation of Rules 4-7.1(b), 4-7.2(f), 4-8.1(b), and 4-8.4(d). Date of Order: March 22, 2011.

**THOMPSON, THOMAS K., Liberty, MO, Missouri Bar #21257**

Public Reprimand: Violation of Rule 4-1.15(c). Date of Order: February 3, 2011.

**WHITFIELD, ANTHONY KIM, St. Louis, MO, Missouri Bar #48447**

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 4-1.1, 4-1.3, 4-1.4, 4-1.15, 4-5.5(c), and 4-8.4(c). Date of Order: November 18, 2011.

**WINNING, J. PATRICK, St. Louis, MO, Missouri Bar #27050**

Public Reprimand: Violation of Rules 4-1.6, 4-1.15(c), 4-1.15(d), and 4-8.1. Date of Order: March 11, 2011.

**YARBROUGH, JOHN T., St. Louis, MO, Missouri Bar #23162**

Surrendered license and disbarred: Violation of Rules 4-1.8, 4-1.16, and 4-8.4(c). Date of Order: December 20, 2011. Supreme Court No. SC92073

Pending disciplinary case Dismissed as Moot on December 20, 2011. Supreme Court No. SC92002

**YOUNG, MARY ELLEN TRIMIAR, Lee's Summit, MO, Missouri Bar #36717**

Suspension, suspension stayed, placed on probation for one year: Violation of Rules 4-1.3, 4-1.4, and 4-8.4(d). Date of Order: October 17, 2011.



## II.

### THE FOLLOWING DISCIPLINARY ACTIONS WERE PENDING BEFORE THE COURT AT THE CLOSE OF 2011 BASED ON PROCEEDINGS PROSECUTED BY THE OFFICE OF CHIEF DISCIPLINARY COUNSEL

**BARKER, RONALD KAY, Lee's Summit, MO, Missouri Bar #25233**

(Disbarment: Violation of Rules 4-1.15 and 4-8.4. Date of Order: January 31, 2012.)

**BARTON JR., JAMES P., Marshall, MO, Missouri Bar #34782**

(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, 4-1.4(a), 4-1.4(b), 4-1.15(c), 4-1.15(d), 4-1.15(i), 4-5.5(a), and 4-8.4(d). Date of Order: March 6, 2012.)

**DAVIS, JOHN C., Overland Park, KS, Missouri Bar #21766**

(Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of three years: Violation of Rules 4-8.4(b), 4-8.4(c), and 4-8.4(d). Date of Order: May 1, 2012.)

**DEGROOT, THOMAS JAMES, St. Louis, MO, Missouri Bar #30291**

Pending.

**EDWARDS JR., BERNARD F., St. Louis, MO, Missouri Bar #23020**

(Suspension, suspension stayed, placed on probation for one year: Violation of Rules 4-1.1, 4-1.3, 4-1.4, 4-1.5, 4-1.15(f), 4-1.16(d), 4-3.2, 4-3.4, 4-8.1(c), and 4-8.4(d). Date of Order: January 31, 2012.)

**FLETCHER, MICHAEL ROBERT, Long Beach, CA, Missouri Bar #47495**

(Petition for voluntary surrender dismissed. Date of Order: April 16, 2012.)

**HARRY, VENUS VALINE, St. Louis, MO, Missouri Bar #50195**

(Suspension, suspension stayed, placed on probation for one year: Violation of Rules 4-1.1, 4-1.3, 4-1.4(a), and 4-1.15(m). Date of Order: January 31, 2012.)

**ROSWOLD, JAMES MICHAEL, Kansas City, MO, Missouri Bar #41053**

(Suspension, suspension stayed, placed on probation for one year: Rule 5.20 (Reciprocal – Kansas); Violation of Rules 4-1.1, 4-1.3, 4-1.4, 4-1.5(c), 4-5.1(a), 4-5.1(c)(2), and 4-8.4(a). Date of Order: March 6, 2012.)

**SEBOLD, MICHAEL M., St. Louis, MO, Missouri Bar #43248**

(Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of six months: Rule 5.21(Criminal Conviction); Violation of Rule 4-8.4(b). Date of Order: April 3, 2012.)

### III. REINSTATEMENT PROCEEDINGS

#### A. DISCIPLINARY MATTERS

At the beginning of the year, 9 Missouri lawyers who had previously been disciplined had applications for reinstatement pending for processing by the Chief Disciplinary Counsel. During the year, 10 additional applications for reinstatement were filed and referred to the Chief Disciplinary Counsel for processing. The OCDC processed a total of 19 disciplinary reinstatement applications during 2011.

The status of those 19 applications is as follows:

Reinstated	<b>5</b>
Denied	<b>3</b>
Dismissed	<b>3</b>
Pending with OCDC	<b>8</b>

#### **Five Disciplined Petitioners Were Reinstated By The Supreme Court**

1. Kevin Thomas Coan, St. Louis, MO, Missouri Bar #47216, reinstated on July 12, 2011, and placed on probation for a period of two years. Petitioner was suspended on an interim basis on November 23, 2004. Petitioner was then disbarred on March 2, 2005.
2. Thomas Michael Fisher, Hickory, NC, Missouri Bar #52331, reinstated on January 25, 2011. Petitioner was suspended on September 30, 2008.
3. Peggy T. Hardge-Harris, St. Louis, MO, Missouri Bar #25106, reinstated on January 25, 2011. Petitioner was suspended on April 26, 2005.
4. Michael Elliot Kohn, St. Louis, MO, Missouri Bar #27006, reinstated on January 25, 2011, and placed on probation for a period of three years. Petitioner was disbarred on June 9, 2003.
5. Bradley Harold Lockenvitz, Columbia, MO, Missouri Bar #27150, reinstated on October 31, 2011. Petitioner was suspended on an interim basis on December 12, 2000. Petitioner was then disbarred on June 4, 2002.

### **Three Disciplined Petitioners Were Denied Reinstatement By The Supreme Court**

1. Charles Benjamin Kaiser, III, Missouri Bar #34406, denied reinstatement. Petitioner was suspended on November 23, 2004. Petitioner's suspension was extended on August 21, 2007.
2. Scott Gregory Taylor, Missouri Bar #42820, denied reinstatement. Petitioner was disbarred on January 12, 2004.
3. Derrick Reuben Williams, Sr., Missouri Bar #53416, denied reinstatement. Petitioner was suspended on January 4, 2008.

### **Three Petitions Were Dismissed By The Supreme Court in 2011**

1. Frank R. Fabbri, III, Missouri Bar #23023, cause dismissed on August 30, 2011. Petitioner was disbarred on November 20, 2007.
2. Allen Irl Harris, Missouri Bar #18763, cause dismissed as moot on March 1, 2011, due to Petitioner's death. Petitioner was suspended on September 19, 2001. Petitioner was then disbarred on May 30, 2002.
3. Stanley Loris Wiles, Missouri Bar #21807, cause dismissed on August 30, 2011. Petitioner was suspended on September 20, 2005.

## **B. OTHER REINSTATEMENTS**

### **Tax**

Lawyers may be suspended for state tax issues under Rule 5.245. During 2011, the OCDC investigated and processed 28 tax suspension applications for reinstatement. Twenty-five were reinstated. One application was dismissed, and two applications remained pending at the end of 2011.

### **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 2011, the OCDC investigated and processed 16 applications for reinstatement by those lawyers. Twelve were reinstated. Two applications were dismissed, and two applications remained pending at the end of 2011.

## **Returns to Active Status**

Lawyers may elect to become inactive under Rule 6.03. Per Rule 6.06, the OCDC investigated and processed 56 inactive lawyers' applications for reinstatement. Forty-seven were returned to active status. Nine applications remained pending at the end of 2011.

## **MCLE**

Lawyers may be suspended for non-compliance with Mandatory Continuing Legal Education requirements under Rule 15.06(f). During 2011, the OCDC investigated and processed nine MCLE suspension applications for reinstatement. Nine were reinstated.

#### **IV. COMPLAINTS RECEIVED AND ACTED UPON IN 2011**

**2,164** complaints of attorney misconduct were received in 2011.

During 2011, the following actions were taken on complaints received:

- 905** Formal Investigations opened
  - 523** Cases investigated by Regional Disciplinary Committees
  - 382** Cases investigated by OCDC
  
- 56** Cases placed in the OCDC's Informal Resolution Program  
[\*See Paragraph A (below)]
  
- 951** Investigations not opened (*In certain instances, OCDC does not open an investigation until after related litigation is completed.*) Approximately 131 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.
  
- 131** Insufficient information to proceed
  
- 49** Referred to Fee Dispute Committees
  
- 36** Referred to Complaint Resolution Committee (*\*See Missouri Bar Complaint Resolution Activity Report attached.*)
  
- 33** 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 investigates and finds no probable cause that a violation occurred. In 2011, 61 complainants requested review. The Advisory Committee upheld the findings on 33 of these files. The Committee assigned 11 of the review files for further investigation. Seventeen 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, 49 complainants were referred to Fee Dispute Committees.

## V. DISCIPLINE ACTION INITIATED

### A. Admonitions

The OCDC administered 57 written admonitions and the Regional Disciplinary Committees administered 42 written admonitions to Missouri lawyers. (Total: 99 admonitions). In addition, 229 cautionary letters were sent to lawyers by OCDC and the Regional Committees. Cautionary 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 1/1/11	Investigations Referred 2011	Investigations Disposed in 2011
IV	71	142	153
X	71	186	174
XI	27	104	92
XV	35	91	73
OCDC	160	438*	421*

\* Includes Informal Resolution

Region	Admonitions Issued in 2011	Cautionary Letters Issued in 2011
IV	15	20
X	12	28
XI	8	6
XV	7	12
OCDC	57	163



## **C. Filed Hearing Matters**

### **FILING INFORMATION**

In 2011, the OCDC and the Regional Disciplinary Committees filed Informations (the formal charging document) on 91 files. “Files” indicate individual complaints against attorneys. An Information against one attorney may include charges involving multiple files.

Twenty-nine Informations, representing 53 complaint files, were pending before the Advisory Committee and Disciplinary Hearing Panels at the beginning of 2011. Disciplinary Hearing Panels conducted 25 hearings involving 54 files. Default Informations were filed directly in the Supreme Court against 5 attorneys.

## **D. Cases filed at the Supreme Court**

### **RULE 5.19**

In 2011, twelve 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 12 cases. Of those 12 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; and six were heard after the Court rejected a joint stipulation or statement of acceptance of the panel’s decision. In addition, an Informant’s reply brief was filed in one case. Twelve disciplinary cases appeared on the Court’s oral argument calendar in 2011.

### **RULE 5.20**

Four reciprocal discipline cases, based on adjudication of misconduct in other jurisdictions, were filed in 2011: *In re Millett*, SC91709; *In re Neisner*, SC91675; *In re Roswold*, SC91893; and *In re Stanley*, SC91607.

### **RULE 5.21**

In 2011, Informations were filed under Rule 5.21(c) against six attorneys whose criminal cases were finally disposed: *In re Baldwin*, SC91580; *In re Bauer*, SC91779; *In re Davis*, SC91981; *In re Jenkins*, SC91928; *In re Peel*, SC91676; and *In re Sebold*, SC92047.

### **RULE 5.23**

In 2011, 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 Christiansen*, SC92024.

Also in 2011, an Information was filed under Rule 5.23(c) against one attorney, based on his claim during a disciplinary proceeding, that he was suffering from a mental disorder: *In re Schmid*, SC91484.

### **RULE 5.24**

Four Informations requesting interim suspension for substantial threat of irreparable harm were filed in 2011: *In re Coatney*, SC91913; *In re Goldblatt*, SC92027; *In re Lowery*, SC91699; and *In re McGoogan*, SC91496.

### **RULE 5.25**

In 2011, four attorneys applied to surrender their licenses under Rule 5.25: *In re Christiansen*, SC91763 (denied August 30, 2011); *In re Fletcher*, SC91720 (dismissed April 16, 2012); *In re Logan*, SC91791 (accepted August 26, 2011); and *In re Yarbrough*, SC92073 (accepted December 20, 2011). 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 2011, the office monitored 24 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.

Nineteen lawyers were monitored in 2011 while on probation under Rule 5.225, the rule permitting probation for suspended lawyers whose conduct did not warrant disbarment. Also, the office was asked by the Missouri Supreme Court and Missouri Board of Law Examiners in 2011 to monitor the practice of 5 newly admitted lawyers. Finally in 2011, the office monitored the practice of 7 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 21 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 2011, OCDC staff gave 42 presentations at Continuing Legal Education (CLE) seminars. The OCDC staff gave presentations to the following organizations: Audrain County Bar Association; the Bar Association of Metropolitan St. Louis; Clay County Bar Association; Guilfoil, Petzall & Shoemake; Jackson County Bar Association; the Kansas City Metropolitan Bar Association; Legal Services of Southern Missouri; Missouri Department of Revenue; Missouri Department of Social Services; Missouri Division of Workers' Compensation; Missouri Paralegal Association; the Red Cross; Sandberg Phoenix; the Springfield Metropolitan Bar Association; St. Louis County Bar

Association; United States Arbitration & Mediation; United States District Court – Western District; University of Missouri – Kansas City; Washington University; and William Woods University. 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 2011**

### **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 2011, the OCDC and the disciplinary system substantially met these timeline standards.

### **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 2011, the Chief Disciplinary Counsel continued to meet with FCR attorneys pursuant to this policy.

### **Law Practice Management Course**

In 2007, with the support and approval of the Supreme Court, the OCDC began working with The Missouri Bar to develop 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 2011, the course was offered through a series of webinars as well as a full-day in-person session in Columbia, Missouri. Thirty-four (34) lawyers attended the course in 2011. Sarah Read, a law practice management consultant, has contacted those attorneys who attended the course in 2011 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.

## **Scanning/Paperless Investigative Process**

In an effort to increase system efficiency and to reduce investigative expenses, the OCDC instituted a paperless system of complaint processing utilized by the OCDC and the Regional Disciplinary Committees in Kansas City, St. Louis and Springfield. Under the system, complaints and other externally-received documents are scanned by staff at the OCDC for processing. To the extent that the investigative files are ultimately processed by a Regional Disciplinary Committee, the case files are transmitted in a secure, electronic format to the regions. In those cases where the Supreme Court Advisory Committee is conducting a requested review pursuant to Rule 5.12, the files are transmitted securely in an electronic format to the Committee. In 2011, the OCDC continued to successfully implement and refine the paperless document management system.

## **OCDC Physical Facility**

In 2011, the Supreme Court approved a study to be performed by The Architects Alliance to determine whether the current OCDC facility is adequate to meet the disciplinary system's current and future needs. The Architects Alliance issued its report finding that the existing OCDC facility, while well-maintained, is operating at maximum capacity within existing building limitations. The report recommended that in order to increase efficiencies, meet future growth projections and move existing off-site storage to the OCDC, a building approximately 6,000 – 8,000 square feet larger than the present space would be necessary. With the approval of the Supreme Court and the Advisory Committee, The Architects Alliance recently completed a Phase II Site Feasibility Study that analyzes and evaluates several available options, including expansion of the existing OCDC facility, the availability of improved and unimproved sites, and construction of a new facility on the existing OCDC site. The Advisory Committee will consider the Study and will make a recommendation to the Court regarding the OCDC facility. In addition, the OCDC has met with representatives of the Trustees of The Missouri Bar to provide them with an update regarding building activities.

## **Regional Disciplinary Committee Training**

The OCDC is an accredited MCLE provider. In 2011, we hosted a training session and MCLE presentation for the benefit of members of the Regional Disciplinary Committee and the Special Representatives who participate in the disciplinary system at the regional level throughout the state.

## **Staff Training**

In 2011, 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.

## **Public Access**

Throughout 2011, the OCDC, the Advisory Committee and a Special Committee on Public Access (chaired by Doreen Dodson and composed of representatives from the Advisory Committee, The Missouri Bar, the Legal Ethics Counsel and the OCDC) analyzed Rule 5.31 and other jurisdictions' rules relating to the public and confidential nature of the attorney discipline system. After extensive review and discussion, the Special Committee and the Advisory Committee presented a draft rule to the Missouri Bar and subsequently to the Supreme Court. The Court adopted a new Rule 5.31 on March 29, 2012. It became effective on July 1, 2012. Since the rule's adoption, the OCDC and the Legal Ethics Counsel have been working to assure that the public can access non-confidential disciplinary records.

## **Supreme Court Rule 4**

On April 12, 2012, the Court amended Rule 4-8.4(c) to permit lawyers for a criminal law enforcement agency, regulatory agency, or the state attorney general to advise or supervise others involved in undercover investigations if the entity is authorized by law to conduct undercover investigations. It shall not be professional misconduct for a lawyer employed in a capacity other than as a lawyer by a criminal law enforcement agency, regulatory agency or state attorney general to participate in an undercover investigation, if the entity is authorized by law to conduct undercover investigations. Amended Rule 4-8.4(c) became effective on July 31, 2012.

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 2011, the OCDC received 222 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. Of the 222 overdraft cases in 2011, admonitions were issued to sixteen (16) attorneys and formal disciplinary action commenced in seven (7) cases.

## **Supreme Court Rule 5**

On May 31, 2012, the Supreme Court adopted amendments to Rule 5.16, 5.19 and 5.225 expanding available sanction options to dispose of disciplinary cases. The amended rules allow for “reprimands with requirements” and for probation in settings other than stayed suspensions. The rules also establish a mechanism for enforcing probation conditions and reprimand requirements. The amended rules will become effective on January 1, 2013.

On March 29, 2012, the Supreme Court adopted an amended Rule 5.31, establishing a more open discipline system. The amended rule leaves the complaint and investigative stages confidential, but opens disciplinary proceedings to the public upon the filing of an Information and an Answer or other responsive pleading. In addition, under the amended rule, admonitions are public documents indefinitely. The amended Rule 5.31 became effective on July 1, 2012.

On June 27, 2011, the Supreme Court amended Rule 5.245 and 5.28 to clarify that an attorney subject to tax suspension under Rule 5.245 may obtain relief if, “(1) The department of revenue revises its report to the clerk of this Court by removing the name of the lawyer from the report; or (2) The lawyer provides an affidavit setting out facts showing that the tax liability is being contested in appropriate administrative or judicial proceedings.” The amendment also provides that attorneys seeking reinstatement from tax suspensions are not obligated to take the MPRE if the department of revenue confirms that the cause of the tax suspension has been satisfactorily resolved within six months of the suspension. The amended rules became effective in July 2011.

On October 25, 2011, the Supreme Court adopted an amended and expanded Rule 5.16 and Rule 5.315 addressing the duties and responsibilities of trustees appointed to take control of the law practices of deceased, disabled or disbarred attorneys. The amended rule provides immunity and the assessment of reasonable fees and costs to reimburse the work of the trustee. The amended rule became effective on January 1, 2012.

### **Aging Attorney Task Force**

The aging “baby boom” generation of lawyers is expected to create challenges within the legal profession and the disciplinary system. In order to begin to address issues related to the aging lawyer population, the Supreme Court approved the creation of an Aging Attorney Task Force which met and examined important questions regarding the issue, such as the need to encourage attorneys to develop transition plans for their law practices. The Task Force made several recommendations to the Court, which resulted, *inter alia*, in the adoption of an expanded Rule 5.26 regarding the duties and responsibilities of trustees appointed to take control of the law practices of deceased and disabled attorneys.

As a result of another Task Force recommendation, The Missouri Bar has appointed a Committee to continue to study the issue.



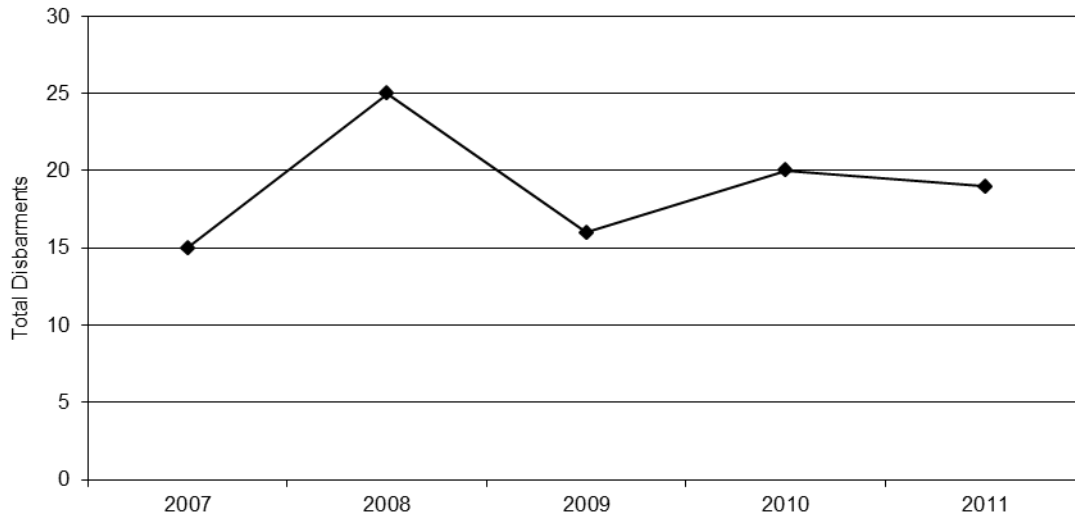
## SUMMARY OF DISCIPLINE ACTIONS

During 2011:

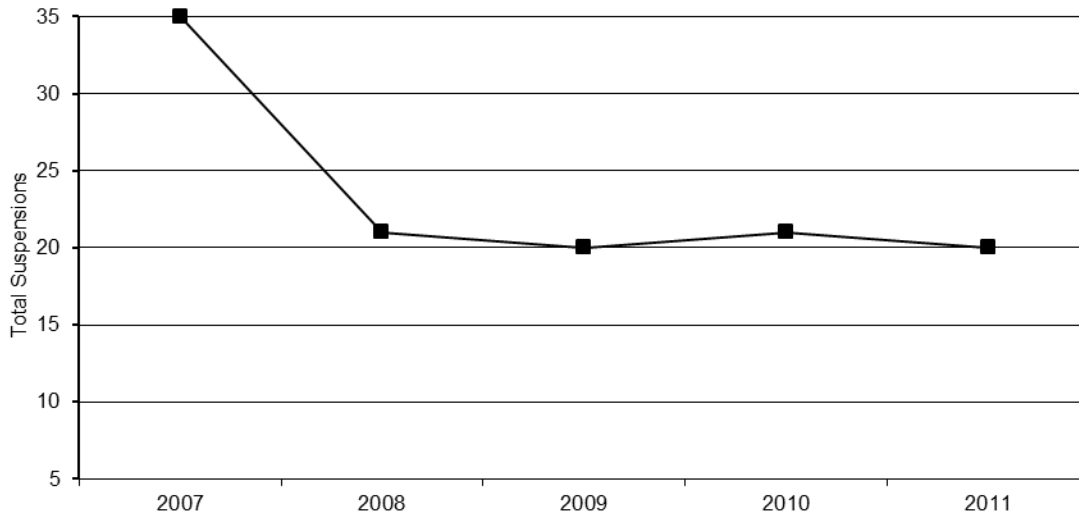
- **19** Nineteen lawyers were disbarred;
- **20** Twenty lawyers were suspended; **seven** of those suspensions were stayed and attorneys placed on probation with conditions; additionally, the Court lifted the stay on **one** lawyer's earlier suspension, revoking his probation;
- **58** Fifty-eight lawyers were suspended pursuant to Rule 5.245 (Failure to Pay Tax);
- **11** Eleven lawyers received public reprimands;
- **99** Ninety-nine written admonitions were administered by the Regional Disciplinary Committees and the OCDC; and
- **3** Three additional matters were dismissed by the Court.

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

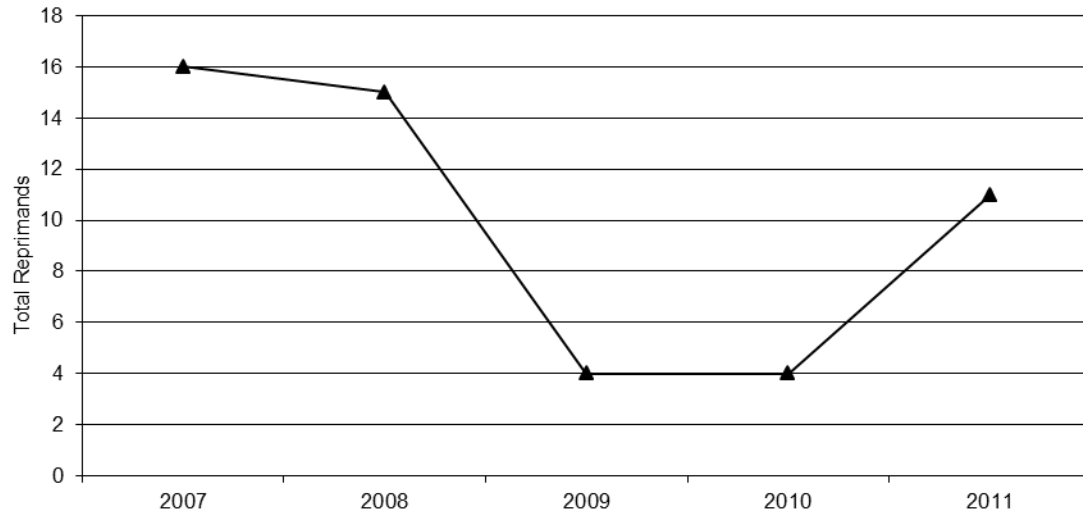
### Disbarments



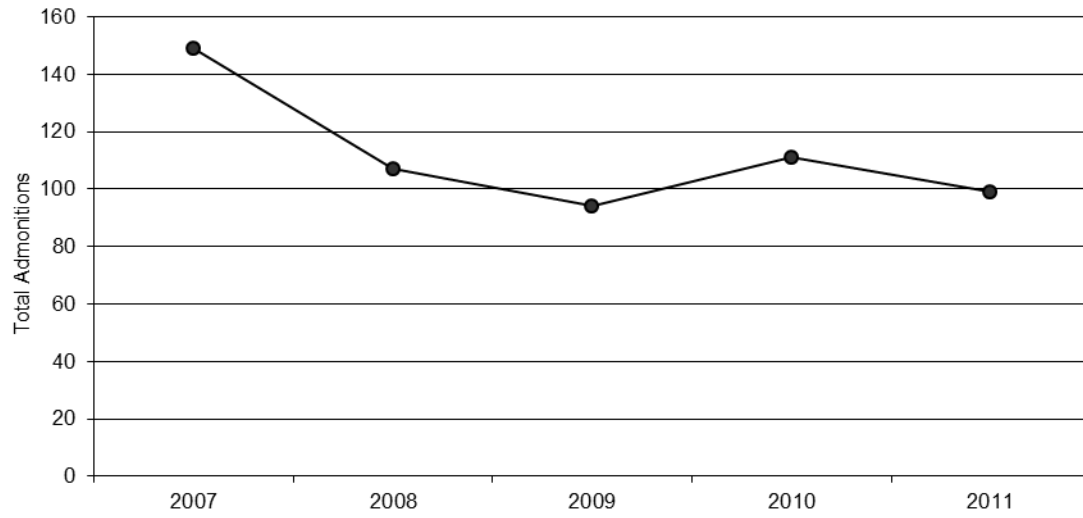
### Suspensions



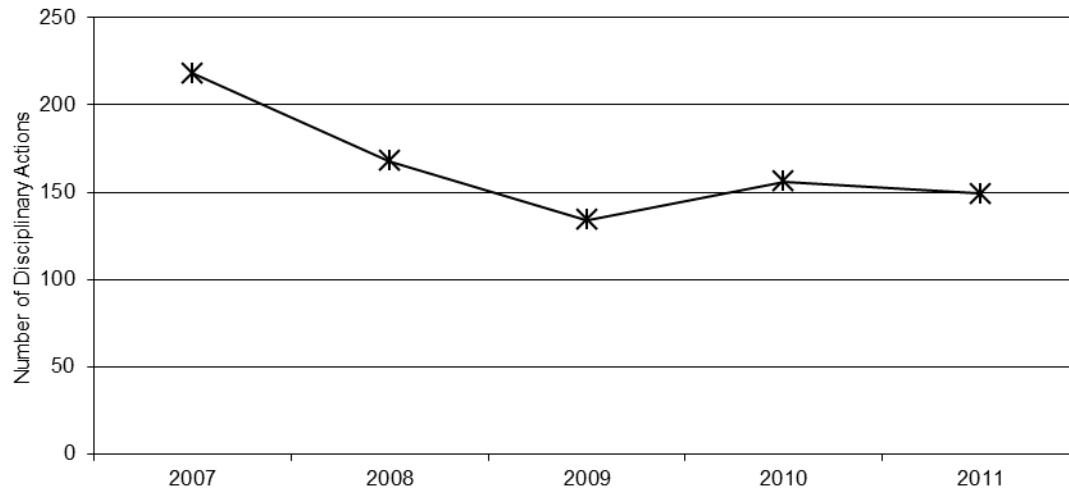
### Reprimands



### Admonitions



### Total Disciplinary Actions



*In 2011, there were a total of (149) disciplinary actions including admonitions and formal discipline matters.*

The total number of complaints opened as formal investigations during 2011 was 905. The most common complaint areas are as follows:

<b>NATURE OF VIOLATIONS *</b>	<b>NO.</b>
Rule 4-1.4 (Communication)	446
Rule 4-1.3 (Diligence)	364
Rule 4-1.15 (Safekeeping Property)	290
Rule 4-1.5 (Excessive Fees)	111
Rule 4-8.4(c) (Dishonesty, Fraud, Deceit, Misrepresentation)	85
Rule 4-1.16 (Improper Withdrawal)	73
Rule 4-1.7 (Conflicts)	71
Rule 4-5.5 (Unauthorized Practice)	35
Rule 4-7.2 (Advertising)	23
Rule 4-1.6 (Confidentiality)	16
Rule 4-4.1 (Truth to 3 <sup>rd</sup> Persons)	16
Rule 4-3.3 (Truth to Tribunal)	15
Rule 4-1.1 (Competence)	13
Rule 4-8.4(b) (Criminal Activity)	6
Rule 4-3.8 (Prosecutorial Responsibility)	5
Rule 4-3.4 (Obstruction/False Evidence)	4
Rule 4-5.3(b) (Supervisory Responsibility)	4
Rule 4-3.5(b) (Ex Parte Contacts)	3

\* Many complaints included more than one allegation.

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

<b>AREA OF PRACTICE *</b>	<b>NO.</b>
Domestic	196
Criminal	120
Torts	105
Other	48
Estate/Probate	42
Bankruptcy/Receivership	35
Contracts	35
Traffic	26
Workers Compensation	25
Administrative/Governmental	21
Labor Law	21
Real Property	21
Litigation	9
Collections	8
Insurance	7
Immigration/Naturalization	6
Taxation	6
Corporate/Banking	5
Landlord/Tenant	5
Patent/Trademark	5
Civil Rights	2
Securities	2
Commercial Law	1
Consumer Law	1
Guardianship	1
Unemployment Benefits	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 9<sup>th</sup> day of August, 2012.

Respectfully Submitted,

ALAN D. PRATZEL  
Chief Disciplinary Counsel

## **LEGAL ETHICS COUNSEL ANNUAL REPORT FOR 2011**

### **LEGAL ETHICS COUNSEL ROLE**

#### Informal Advisory Opinions

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

The Legal Ethics Counsel office provided informal advisory opinions in response to 1631 oral contacts. Some of the contacts involved multiple, separate questions and therefore multiple opinions. 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 72 written informal advisory opinions.

#### CLE Presentations

The Legal Ethics Counsel prepared and gave 29 CLE presentations for various groups, including: The Missouri Bar, University of Missouri at Kansas City Law School, KC and St. Louis National Employment Lawyers Associations, Missouri Office of Prosecution Services, Department of Social Services, University of Missouri at Columbia School of Law, American Bar Association, and the National Organization of Bar Counsel.

### **COUNSEL TO ADVISORY COMMITTEE ROLE**

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

#### 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.

#### 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. The Legal Ethics Counsel proposes a hearing panel, provides the file to the hearing panel once the panel has been approved by the Chair, monitors the progress of the hearing, and assists the hearing officers with issues that arise during the course of the process. 42 Informations were filed in 2011.

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 performs the majority of these duties on behalf of, and in consultation with, the Chair.

## **Budget**

The Legal Ethics Counsel prepared a proposed budget for the Advisory Committee and LEC for 2012.

### Meetings

The Legal Ethics Counsel office coordinated arrangements for four regular Advisory Committee meetings and one budget conference call meeting.

### Formal Opinions

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



## 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 handles issues related to bank name changes, mergers, etc., as they relate to approved status. The Legal Ethics Counsel maintains a list of approved banks on the office website.

## Other matters

The Legal Ethics Counsel maintained a website for the Advisory Committee and Legal Ethics Counsel. The website included a public area and a private area accessible only to Disciplinary Hearing Officers. The public area included articles and CLE materials on legal ethics issues prepared by the Legal Ethics Counsel.

As President-Elect, the Legal Ethics Counsel chaired the program committee of the National Organization of Bar Counsel. In August 2011, the Legal Ethics Counsel was elected President of the NOBC.

The Legal Ethics Counsel met with and assisted the Aging Attorneys Task Force and the Committee on Public Access.