

**In the**

**SUPREME COURT OF MISSOURI**

**En Banc**

**May Session, 2022**

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**Report of the Office of the Chief Disciplinary Counsel for the year  
2021 together with the Financial Report of the Treasurer of the  
Advisory Committee Fund for 2021**

**ALAN D. PRATZEL  
Chief Disciplinary Counsel**

IN THE  
SUPREME COURT OF MISSOURI

EN BANC

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MAY SESSION, 2022

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REPORT OF THE OFFICE OF CHIEF DISCIPLINARY COUNSEL FOR THE YEAR  
2021 TOGETHER WITH THE FINANCIAL REPORT OF THE TREASURER OF THE  
ADVISORY COMMITTEE FUND FOR 2021

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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 2021 or pending on December 31,  
2021.

## I.

### THE FOLLOWING DISCIPLINARY ACTIONS WERE TAKEN BY THE COURT DURING 2021 BASED ON PROCEEDINGS PROSECUTED BY THE OFFICE OF CHIEF DISCIPLINARY COUNSEL<sup>1</sup>

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

Suspended from the practice of law and no petition for reinstatement shall be entertained by the Court for a period of three years: Rule 5.21 (Criminal Conviction). Date of Order: May 4, 2021.

**CHARPENTIER, JASON ANDREW, St. Louis, MO, Missouri Bar #52840**

Surrendered license and disbarred: Violation of Rules 4-1.15(a), 4-1.15(d), 4-1.15(f), 4-8.1(c), and 4-8.4(c). Date of Order: July 7, 2021.

**CLARK, JOHN ALLEN, Poplar Bluff, MO, Missouri Bar #27430**

Surrendered license and disbarred: Violation of Rules 4-1.15(a), 4-1.15(b), 4-1.15(c), 4-1.15(d), and 4-1.15(f). Date of Order: September 23, 2021.

**CLARK IV, WILLIAM J., St. Louis, MO, Missouri Bar #40134**

Disbarment: Violation of Rules 4-1.8, 4-1.15(a), 4-1.15(d), 4-1.15(f), 4-8.4(a), and 4-8.4(c). Date of Order: April 6, 2021.

**DALTON II, DAVID ALLEN, Ballwin, MO, Missouri Bar #36596**

Default Disbarment: Violation of Rules 4-1.3, 4-1.4, 4-1.15, 4-8.4(a), and 4-8.4(c). Date of Order: May 4, 2021.

**FISHER, JENNIFER H., St. Louis, MO, Missouri Bar #34360**

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 4-1.8(e), 4-1.15(a), 4-1.15(b), 4-1.15(c), 4-1.15(f), and 4-8.4(c). Date of Order: September 21, 2021.

**FORTNEY, JONELDA LEE, Kirksville, MO, Missouri Bar #59346**

Default Disbarment: Violation of Rules 4-1.3, 4-1.4, 4-1.15(a), 4-1.15(a)(7), 4-1.15(b), 4-1.15(c), 4-1.15(f), 4-1.16, 4-3.4(c), 4-4.1(a), 4-8.1(c), and 4-8.4(c). Date of Order: August 18, 2021.

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<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.

**FRANKE, NICHOLAS ANTHONY, Lampe, MO, Missouri Bar #37402**

Interim suspension from the practice of law pursuant to provisions of Rule 5.21(b).  
Date of Order: August 9, 2021.

**GILLIS, JOHN BENTON, Kansas City, MO, Missouri Bar #27110**

Public Reprimand with Requirements: Violation of Rules 4-1.3 and 4-1.4. Date  
of Order: March 2, 2021.

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

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(a), 4-1.15(a)(5), 4-1.15(a)(7), 4-1.15(b), 4-1.15(f), 4-1.16(d), and 4-  
8.1(c). Date of Order: September 21, 2021.

**HOWE, MEAGAN MARIE, Lebanon, MO, Missouri Bar #63774**

Immediate suspension from the practice of law pursuant to provisions of Rule  
5.24. Date of Order: April 26, 2021.

**JOHNSON, LYNN PLAISANCE, Baton Rouge, LA, Missouri Bar #44073**

Default Disbarment: Violation of Rules 4-1.1, 4-1.3, 4-1.4, 4-1.4(a), 4-1.5, 4-  
1.15(a), 4-1.15(c), 4-1.16, 4-3.4(c), 4-4.4(a), 4-8.1(c), 4-8.4(c), and 4-8.4(d). Date  
of Order: October 13, 2021.

**KAYIRA, ERIC FRANCIS, St. Louis, MO, Missouri Bar #50672**

Disbarment: Violation of Rules 4-1.1, 4-1.15(a), 4-1.15(a)(5), 4-1.15(a)(7), 4-  
1.15(b), 4-1.15(d), 4-1.15(f), 4-3.3(a)(1), 4-3.4(c), 4-5.1(a), 4-8.1(a), and 4-8.4(c).  
Date of Order: January 28, 2021.

**LEAVITT, TROY JONATHAN, Blue Springs, MO, Missouri Bar #47713**

Suspension, suspension stayed, placed on probation for two years: Violation of  
Rules 4-1.3, 4-1.4, 4-8.2, and 4-8.4(d). Date of Order: March 9, 2021.

**LINTNER, JONATHAN JAMES, Jackson, MO, Missouri Bar #61818**

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: October 26, 2021.

**MCCABE, KIRK JAMES, Liberty, MO, Missouri Bar #44395**

Default Disbarment: Violation of Rules 4-1.3, 4-1.4, 4-1.15(a), 4-1.15(d), 4-  
3.4(c), 4-8.1(c), 4-8.4(c), and 4-8.4(d). Date of Order: January 22, 2021.

**MORONEY, JAMES PATRICK, Springfield, MO, Missouri Bar #23377**

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 4-1.6 and 4-8.4(d). Date of Order: March 8, 2021.

**MURPHY, MARK DAVID, Kansas City, MO, (now Overland Park, KS),  
Missouri Bar #33698**

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 Rules 4-1.1, 4-1.2(c), 4-1.7, 4-2.1, and 4-8.4(d). Date of Order: August 31, 2021.

**PURDY, DAN K., Osceola, MO, Missouri Bar #18694**

Interim suspension from the practice of law pursuant to provisions of Rule 5.24. Date of Order: December 29, 2021.

**RASMUSSEN, CHRISTIAN JOSEPH, Lake Ozark, MO, Missouri Bar #55123**

Interim suspension from the practice of law pursuant to provisions of Rule 5.24. Date of Order: December 23, 2021.

**REYES, ROGER OCTAVIO, Kansas City, MO, Missouri Bar #58438**

Placed on probation for one year: Violation of Rules 4-1.2(c) and 4-1.3. Date of Order: September 23, 2021.

**REYNOLDS, RYAN DAVID, Springfield, MO, Missouri Bar #60452**

Disbarment: Violation of Rules 4-1.1, 4-1.3, 4-1.7, 4-1.15(a), 4-1.15(a)(7), 4-1.15(f), 4-1.16, 4-3.4(c), 4-8.4(b), and 4-8.4(d). Date of Order: September 14, 2021.

**RIPPLINGER JR., GEORGE R., Belleville, IL, Missouri Bar #27134**

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 4-3.4(a), 4-3.4(c), 4-3.4(e), 4-8.4(c), and 4-8.4(d). Date of Order: March 2, 2021.

**SIEGEL, BROOKS RICHARD, North Miami Beach, FL, Missouri Bar #68650**

Public Reprimand: Rule 5.20 (Reciprocal – Arizona); Violation of Rules 4-1.3, 4-1.4, 4-5.1(a), and 4-5.3(a). Date of Order: September 3, 2021.

**STAROSTA, TIMOTHY MARSHALL, Liberty, MO, (now Kansas City, MO),  
Missouri Bar #61028**

Default Disbarment: Violation of Rules 4-1.3, 4-1.4, 4-1.5, 4-1.15(a), 4-1.15(a)(4), 4-1.15(c), 4-3.2, 4-8.1, 4-8.4(c), and 4-8.4(d). Date of Order: June 3, 2021.

**STILES, MARSHA I., Springfield, MO, Missouri Bar #53456**

Placed on probation for two years: Violation of Rules 4-1.3, 4-1.15(a), 4-1.15(f), and 4-1.16(d). Date of Order: April 13, 2021.

**TREADWAY, TANYA J., Lawrence, KS, Missouri Bar #37526**

Interim suspension from the practice of law pursuant to provisions of Rule 5.23(a). Date of Order: June 17, 2021.

**TURNER ELIZABETH LEA, Joplin, MO, Missouri Bar #67845**

Suspended from the practice of law and no petition for reinstatement shall be entertained by the Court for a period of three years: Violation of Rules 4-1.5(a), 4-1.15(a), 4-1.15(d), 4-1.15(f), 4-8.4(c), and 4-8.4(d). Date of Order: April 20, 2021.

**VIETS, DANIEL L., Columbia, MO, Missouri Bar #34067**

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 Rule 4-1.7. Date of Order: October 12, 2021.

**WIGGINTON, STEPHEN RAY, Belleville, IL, Missouri Bar #38254**

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 21, 2021.

**WYNNE, ANDREW GAVIN, St. Louis, MO, Missouri Bar #66415**

Interim suspension from the practice of law pursuant to provisions of Rule 5.24. Date of Order: October 27, 2021.

## II.

**THE FOLLOWING DISCIPLINARY ACTIONS WERE PENDING  
BEFORE THE COURT AT THE CLOSE OF 2021 BASED ON PROCEEDINGS  
PROSECUTED BY THE OFFICE OF  
CHIEF DISCIPLINARY COUNSEL**

**KENNEY, KEVIN WAYNE, Leawood, KS, Missouri Bar #44147**

(Disbarment: Rule 5.20 (Reciprocal – Kansas); Violation of Rules 4-3.1, 4-3.3(a)(1), 4-8.4(c), and 4-8.4(d). Date of Order: February 16, 2022.)

**MCCLOSKEY, MARK THOMAS, St. Louis, MO, Missouri Bar #36144**

(Suspension, suspension stayed, placed on probation for one year: Rule 5.21 (Criminal Conviction). Date of Order: February 8, 2022.)

**MCCLOSKEY, PATRICIA LYNN NOVAK, St. Louis, MO, Missouri Bar #36153**

(Suspension, suspension stayed, placed on probation for one year: Rule 5.21 (Criminal Conviction). Date of Order: February 8, 2022.)

### III. REINSTATEMENT PROCEEDINGS

#### A. DISCIPLINARY MATTERS

At the beginning of the year, 12 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 19 disciplinary reinstatement applications during 2021. The status of those 19 applications is as follows:

Reinstated	4
Denied	2
Pending with OCDC	13

#### **Four Petitioners Were Reinstated By The Supreme Court**

1. Stephen G. Bell, St. Louis, MO, Missouri Bar #30286, reinstated on June 29, 2021. Petitioner was suspended on September 17, 2019.
2. Anthony Lee Phillips, Columbia, MO, (now Springfield, MO), Missouri Bar #56968, reinstated on January 26, 2021. Petitioner was disbarred on June 25, 2010.
3. Laura Lee Robinson, Centreville, IL, Missouri Bar #41723, reinstated on October 21, 2021. Petitioner was suspended on June 25, 2019.
4. Michael Martin Spiegel, Blue Springs, MO, Missouri Bar #49658, reinstated on October 26, 2021. Petitioner was suspended March 17, 2020. SC99014

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

1. Michael Ward McCrary, Missouri Bar #52878, denied reinstatement. Petitioner was suspended on October 5, 2016.
2. Michael Martin Spiegel, Missouri Bar #49658, denied reinstatement. Petitioner was suspended on March 17, 2020. SC98717



## B. OTHER REINSTATEMENTS

### **Tax**

Lawyers may be suspended for state tax issues under Rule 5.245. During 2021, the OCDC investigated and processed 26 tax suspension applications for reinstatement. Sixteen were reinstated. Three applications were dismissed. Seven applications remained pending at the end of 2021.

### **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 2021, the OCDC investigated and processed 12 applications for reinstatement by those lawyers. Six were reinstated. Six applications remained pending at the end of 2021.

### **Returns to Active Status**

Lawyers may elect to become inactive under Rule 6.03. Per Rule 6.06, the OCDC investigated and processed 113 inactive lawyers' applications for reinstatement. One hundred four were returned to active status. Six applications were dismissed. Three applications remained pending at the end of 2021.

### **MCLE**

Lawyers may be suspended for non-compliance with Mandatory Continuing Legal Education requirements under Rule 15.06(f). During 2021, the OCDC investigated and processed 11 MCLE suspension applications for reinstatement. Five were reinstated. Six applications remained pending at the end of 2021.

#### **IV. COMPLAINTS RECEIVED IN 2021 AND ACTIONS THEREON**

**1,739** complaints of attorney misconduct were received in 2021.

The following actions were taken on complaints received in 2021:

- 662** Formal Investigations opened
  - 362** Cases investigated by Regional Disciplinary Committees
  - 300** Cases investigated by OCDC
  
- 68** Cases placed in the OCDC's Informal Resolution Program  
[\*See Paragraph A (below)]
  
- 958** Investigations not opened (*In certain instances, OCDC does not open an investigation until after related litigation is completed.*) Approximately 40 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.
  
- 46** Referred to Complaint Resolution Committee (*\*See Missouri Bar Complaint Resolution Activity Report attached.*)
  
- 5** 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 2021, 38 complainants requested review. The Advisory Committee upheld the findings on 13 of these files and issued a guidance letter to two lawyers. The Committee assigned eight of the review files for further investigation. Fifteen 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 2021, the OCDC received 57 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 38 written admonitions and the Regional Disciplinary Committees administered 32 written admonitions to Missouri lawyers. (Total: 70 admonitions). In addition, 157 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 1/1/21	Investigations Referred 2021	Investigations Disposed in 2021
IV	68	113	138
X	77	113	127
XI	40	31	51
XV	61	79	68
OCDC	409	310	595

Region	Admonitions Issued in 2021	Guidance Letters Issued in 2021
IV	17	18
X	8	17
XI	2	8
XV	5	21
OCDC	38	93

## **C. Filed Hearing Matters**

### **FILING INFORMATION**

In 2021, the OCDC and the Regional Disciplinary Committees filed Informations (the formal charging document) on 46 files. “Files” indicate individual complaints against attorneys. An Information against one attorney may include charges involving multiple files.

Eleven Informations, representing 24 complaint files, were pending before the Advisory Committee and Disciplinary Hearing Panels at the beginning of 2021. Disciplinary Hearing Panels conducted eight hearings involving 21 files. Four default Informations were filed directly in the Supreme Court.

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

### **RULE 5.19**

In 2021, five 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 six cases. Of those six cases, three 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 one was heard because neither party concurred in a DHP’s recommended sanction. Five disciplinary cases appeared on the Court’s oral argument calendar in 2021.

### **RULE 5.20**

Three reciprocal discipline cases, based on adjudication of misconduct in other jurisdictions, were filed in 2021: *In re Kenney*, SC99427; *In re Murphy*, SC99009; and *In re Siegel*, SC99150.

### **RULE 5.21**

During 2021, one Information was filed under Rule 5.21(b) against an attorney who was subject to an interim suspension pending the final disposition of a criminal case: *In re Franke*, SC99213.

During 2021, one Information was filed under Rule 5.21(d) against an attorney whose criminal case was finally disposed, and who had previously been suspended: *In re Bailey*, SC98928.

During 2021, 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 Mark McCloskey*, SC99301; *In re Patricia McCloskey*, SC99302; and *In re Wigginton*, SC99318.

### **RULE 5.23**

In 2021, an Information was filed under Rule 5.23(a) against one attorney: *In re Treadway*, SC99149.

### **RULE 5.24**

Four Informations requesting interim suspension for substantial threat of irreparable harm were filed in 2021: *In re Howe*, SC99001; *In re Purdy*, SC99446; *In re Rasmussen*, SC99434; and *In re Wynne*, SC99348.

### **RULE 5.25**

In 2021, three attorneys applied to surrender their license under Rule 5.25: *In re Charpentier*, SC99099 (accepted July 7, 2021); *In re Clark*, SC99272 (accepted September 23, 2021); and *In re Howe*, SC99148 (denied October 5, 2021). The OCDC filed a Report and Recommendation 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 2021, the office monitored 43 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.

Eighteen lawyers were monitored in 2021 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 2021 to monitor the practice of eight newly admitted lawyers. Finally, in 2021, the office monitored the practice of 13 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 six 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 2021, OCDC staff gave presentations at Continuing Legal Education (CLE) seminars. The OCDC staff gave presentations to the following organizations: Bankruptcy Trustee Richard Fink; Bar Association of Metropolitan St. Louis; Kansas City Metropolitan Bar Association; Missouri Bankers Association; Missouri Department of Revenue; Missouri Department of Workers' Compensation; Missouri Paralegal Association; Missouri Western State University; Municipal Attorneys Association; St. Joseph Bar Association; United States District Court – Western District of Missouri; and University of Missouri – Kansas City School of Law. The OCDC staff also spoke at several Missouri Bar telephone CLEs and webinars.

## **IX. SIGNIFICANT ACTIVITIES IN 2021**

### **OCDC Response to COVID-19 Pandemic**

Beginning in mid-March, 2020, the OCDC staff began working remotely due to the COVID-19 Pandemic. Limited staff were assigned to be present in the building daily in order to ensure that the work of the discipline system continued uninterrupted. OCDC staff returned in-person to the office in June 2021. In October 2021, OCDC staff began a hybrid work schedule under which each staff member worked four days in the office and one day remotely. Throughout 2021, the OCDC continued to take necessary and appropriate steps in order to effectively carry out its work while simultaneously implanting measures to protect staff from the pandemic in accordance with the Court's various COVID-19 Orders.

The Court entered Orders dated February 5, 2022 (effective that date) and dated May 28, 2021, and effective June 15, 2021, rescinding earlier orders regarding restrictions on conducting in-person hearing panel proceedings during the COVID-19 Pandemic.

### **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. The Court has also established a timeline standard for the initial determination whether or not to open an investigative file that seeks to have new complaints and reports reviewed within two weeks of receipt. The Chief Disciplinary Counsel makes quarterly reports to the Court regarding the system's performance against the disposition timeline standards and the initial determination timeline standard. During 2021, the OCDC and the disciplinary system did not meet the disposition timeline standards in any quarter. The OCDC met its initial determination timeline standard during each quarter of 2021.

### **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 2021, 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. In 2021, the course was offered as a full-day, hybrid session in which participants were able to attend the course either in-person or remotely. Forty (40) lawyers attended the course in 2021. Those attorneys who attended the course in 2021 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 2021, the OCDC attorney staff participated in training by attending virtual 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 virtual sessions 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 June 1, 2021, and effective December 1, 2021, revising Comment 2 to Rule 4-4.4 (Respects for Rights of Third Persons). Revised Comment 2 clarifies issues that the Rule does not address concerning lawyers' obligations upon receipt of metadata from opposing counsel or their lawyers.

The Court entered an Order dated November 23, 2021, effective that day, revising the Comments to Rule 4-1.8 (regarding Conflicts of Interest: Business Transactions). New Comments 11-13 permit lawyers representing indigent clients pro bono through nonprofit legal services to provide emergency financial assistance to those clients in limited circumstances.

## **Supreme Court Rule 5**

The Supreme Court entered an Order dated May 31, 2021, and effective January 1, 2023, repealing Rule 5 and adopting a new Rule 5, inclusive of Rule 5.01 – 5.34. The Supreme Court of Missouri has repealed and adopted a new Rule 5 pertaining to attorney disciplinary matters. Rule 5 had not been revised significantly since its adoption in 1995. As the Court explained in a media release, these revisions were made in an effort to restructure the rule to reflect and clarify current disciplinary practices and procedures. The majority of changes to the rule are not substantive in nature. The changes include:

- Giving the chief disciplinary counsel and advisory committee the authority to issue guidance letters to attorneys regarding the rules of professional conduct despite a finding of insufficient probable cause;
- Allowing the chair of the advisory committee to exercise his or her discretion to permit the filing of an answer out of time upon a showing of excusable neglect;
- Authorizing hearings before a disciplinary panel to proceed virtually when in the public's best interest;
- Requiring Missouri-licensed attorneys to self-report within 10 days of being disciplined in another jurisdiction or pleading guilty to or being convicted of any crime;
- Requiring attorneys suspended or disbarred to wind up their law practices within 15 days of the suspension or disbarment order and submit to the Court a verified certificate of compliance attesting to complete performance of all obligations under the rule, including notification of clients and delivering their law licenses to the clerk of this Court;
- Increasing the fee for a reinstatement petition to \$1,000; and
- Clarifying that attorneys may provide confidential information to legal ethics counsel when seeking an informal ethics opinion, and legal ethics counsel has no duty to report possible Rule 4-8.3 violations when disclosures are made in the course of seeking an informal ethics opinion.

The full order, which takes effect January 1, 2023, is available on the Missouri Courts website at <https://www.courts.mo.gov/page.jsp?id=187056>.

## **Supreme Court Rule 9**

The Supreme Court entered an Order date January 26, 2021, effective that date, regarding Rules 9.00 – 9.03 (practice by lawyers not licensed or not residing in Missouri). The new rule eliminates previous restrictions on lawyers licensed in Missouri but neither residing nor maintaining an office in Missouri. Former Rule 9.02 was repealed and not replaced.

## **Supreme Court Rule 15**

The Court entered an Order dated February 8, 2022, effective that date, allowing lawyer members of the Missouri General Assembly to receive 15 hours of credit for service during that reporting year

The Court entered an Order dated August 13, 2020 and effective that same date adopting a new Regulation 15.05.6 entitled “Lawyers Licensed in September 2020”. The Regulation relieved lawyers licensed in September 2020 from the requirement to report any continuing legal education hours during the 2020-2021 reporting year.

The Court entered an Order dated September 1, 2020 and effective that same date adopting a new subdivision (f) to Rule 15.05 regarding continuing legal education reporting requirements for family court judges and commissioners.

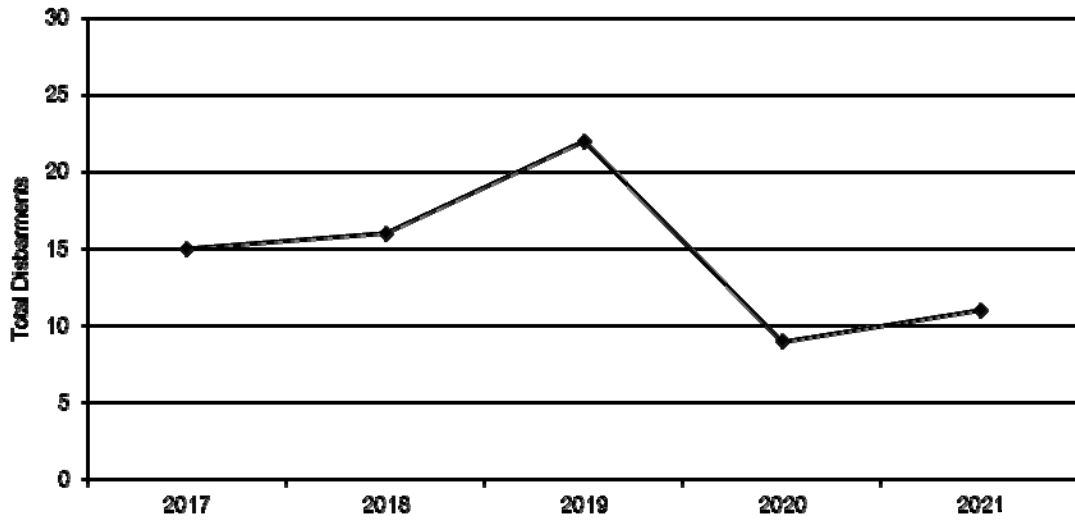
## SUMMARY OF DISCIPLINE ACTIONS

During 2021:

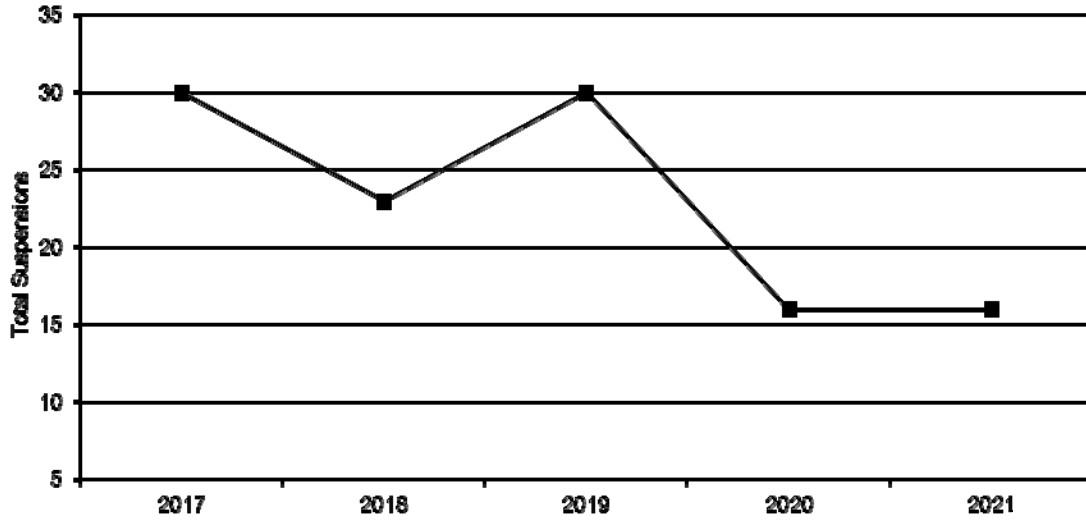
- **11** Eleven lawyers were disbarred;
- **16** Sixteen lawyers were suspended; **one** of those suspensions was stayed and the attorney placed on probation with conditions;
- **2** Two lawyers were placed on probation where no suspension was imposed;
- **44** Forty-four lawyers were suspended pursuant to Rule 5.245 (Failure to Pay Tax);
- **2** Two lawyers received public reprimands; and
- **70** Seventy 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.

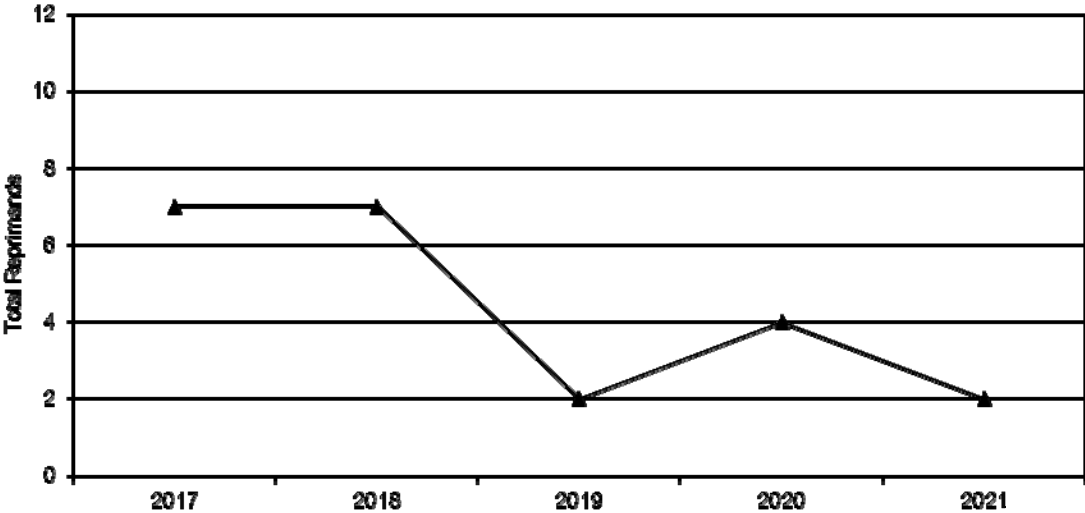
### Disbarments



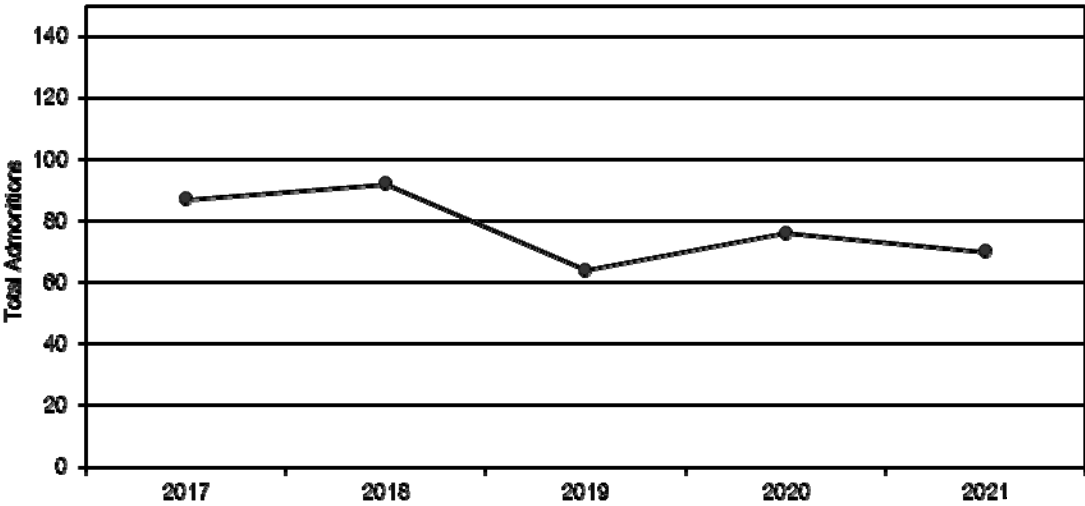
### Suspensions



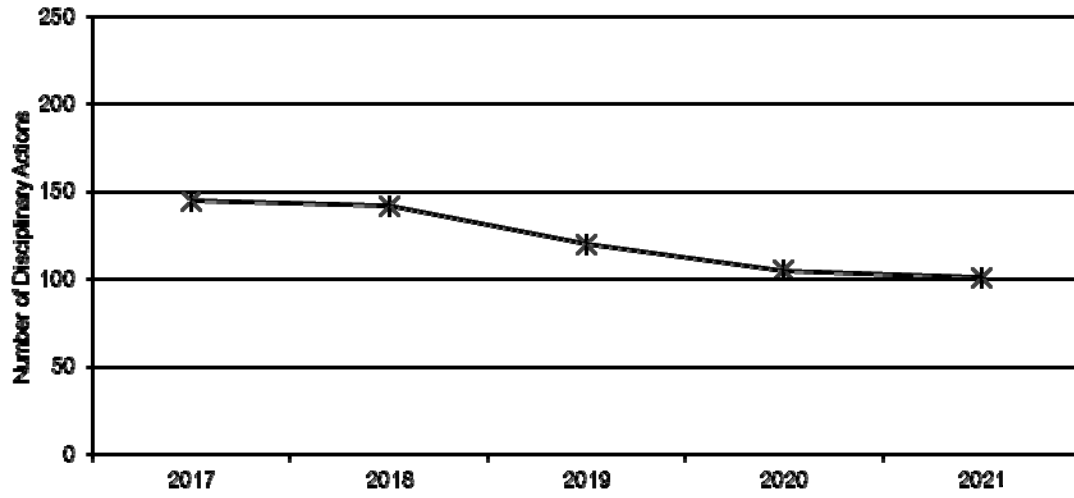
**Reprimands**



**Admonitions**



### Total Disciplinary Actions



*In 2021, there were a total of (101) disciplinary actions including admonitions and formal discipline matters.*

The total number of complaints opened as formal investigations during 2021 was 662. The most common complaint areas are as follows:

<b>NATURE OF VIOLATIONS *</b>	<b>NO.</b>
Rule 4-1.4 (Communication)	338
Rule 4-1.3 (Diligence)	267
Rule 4-8.4(c) (Dishonesty, Fraud, Deceit, Misrepresentation)	209
Rule 4-1.5 (Excessive Fees)	124
Rule 4-1.15 (Safekeeping Property)	81
Rule 4-1.16 (Improper Withdrawal)	64
Rule 4-1.1 (Competence)	47
Rule 4-1.7 (Conflicts)	33
Rule 4-3.3 (Truth to Tribunal)	22
Rule 4-7.2 (Advertising)	17
Rule 4-1.6 (Confidentiality)	16
Rule 4-5.5 (Unauthorized Practice)	12
Rule 4-1.16(a)(2) (Incapacitated Lawyer)	11
Rule 4-4.1 (Truth to 3 <sup>rd</sup> Persons)	8
Rule 4-5.3(b) (Supervisory Responsibility)	6
Rule 4-8.4(b) (Criminal Activity)	6
Rule 4-3.4 (Obstruction/False Evidence)	5
Rule 4-4.2 (Communication with Person Represented by Counsel)	5
Rule 4-8.4(g) (Bias)	5
Rule 4-3.5(b) (Ex Parte Contacts)	3
Rule 4-4.3 (Dealing with Unrepresented Person)	3
Rule 4-8.1(c) (Failure to Cooperate)	2
Rule 4-8.2 (Judicial and Legal Officials)	2
Rule 4-1.14 (Diminished Capacity)	1
Rule 4-1.2 (Scope of Representation)	1

\* 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>
Other	196
Criminal	143
Domestic	131
Litigation	55
Torts	42
Estate/Probate	30
Real Property	21
Workers Compensation	13
Bankruptcy/Receivership	11
Traffic	6
Contracts	5
Guardianship	5
Landlord/Tenant	5
Immigration/Naturalization	3
Collections	2
Juvenile	2
Patent/Trademark	2
Taxation	2
Civil Rights	1
Insurance	1
Labor Law	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 15<sup>th</sup> day of August, 2022.

Respectfully Submitted,

ALAN D. PRATZEL  
Chief Disciplinary Counsel

## **LEGAL ETHICS COUNSEL ANNUAL REPORT FOR 2021**

### **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 to members of the bar about Rules 4, 5, and 6.

The Legal Ethics Counsel office provided 945 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 22 written informal advisory opinions.

The Advisory Committee authorized publication of 13 new informal opinions. Pursuant to Rule 5.30, written summaries of select informal opinions provided by the Legal Ethics Counsel are published for informational purposes for members of the bar. Informal opinions are advisory in nature and are not binding.

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 8 CLE presentations for various groups including: The Missouri Bar, Boone County Bar Association, and American Immigration Lawyers Association - Kansas City. The Legal Ethics Counsel also moderated rebroadcasts of these CLE presentations.

### **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 38 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. 23 Informations were filed in 2021.

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.

In 2021, due to the global pandemic, some disciplinary hearings were held virtually in accordance with the Court's Order of May 13, 2020, effective May 16, 2020, *In re: Restrictions on Conducting In-person Disciplinary Hearing Panel Proceedings During the Coronavirus Disease (COVID-19) Pandemic*. The Legal Ethics Counsel office

developed procedures for disciplinary hearing officers and participants to ensure effective and proper proceedings in accordance with Rule 5 in the virtual format and was responsible for coordinating and hosting these hearings via WebEx.

### **C. Budget**

The Legal Ethics Counsel prepared a proposed budget for the Advisory Committee and LEC office for 2022.

### **D. Meetings**

The Legal Ethics Counsel office coordinated arrangements for regular Advisory Committee meetings. The Legal Ethics Counsel office prepared agendas, meeting materials and minutes for these meetings.

### **E. Formal Opinions**

The Legal Ethics Counsel provided assistance to the Advisory Committee in relation to reviewing requests for formal opinions and possible appropriate topics for formal opinions in accordance with Rule 5.30(a).

### **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](http://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 office, 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, as Immediate Past President for the National Organization of Bar Counsel for 2019-2020, and as a member of the ABA Standing Committee on Ethics and Professional Responsibility starting in 2020 for a term until 2023.