

2006

Annual Report

OREGON STATE BAR
Disciplinary Counsel's Office

March 2007

Jeffrey D. Sapiro
Disciplinary Counsel



TABLE OF CONTENTS

I. INTRODUCTION	1
II. STATE PROFESSIONAL RESPONSIBILITY BOARD	1
III. SYSTEM OVERVIEW	2
A. COMPLAINTS RECEIVED	2
B. SPRB	3
C. LPRC	4
D. FORMAL PROCEEDINGS.....	5
E. DISPOSITIONS SHORT OF TRIAL	5
F. APPELLATE REVIEW.....	6
G. CONTESTED ADMISSIONS/CONTESTED REINSTATEMENTS	7
IV. DISPOSITIONS	8
V. SUMMARY OF CASELOAD	9
VI. STAFFING/FUNDING	10
VII. OTHER DEVELOPMENTS	10
A. TRUST ACCOUNT OVERDRAFT NOTIFICATION PROGRAM.....	10
B. UPL	11
C. PUBLIC RECORDS	11
D. CUSTODIANSHIP	12
E. CHILD SUPPORT & STUDENT LOAN SUSPENSIONS.....	12
F. PRO HAC VICE ADMISSION	12
G. CONTINUING LEGAL EDUCATION PROGRAMS.....	13
VIII. CONCLUSION	13
APPENDIX A	14
APPENDIX B.....	15
APPENDIX C	16
APPENDIX D.....	21

I. INTRODUCTION

This is the Annual Report of the Oregon State Bar Disciplinary Counsel's Office for 2006. The report provides an overview of Oregon's lawyer discipline system, an analysis of the caseload within the system, along with the dispositions in 2006, and a discussion of significant developments over the last year.

II. STATE PROFESSIONAL RESPONSIBILITY BOARD (SPRB)

The principal responsibility of Disciplinary Counsel's Office is to serve as counsel to the State Professional Responsibility Board (SPRB), the body to which the investigative and prosecutorial functions within the discipline system are delegated by statute. The SPRB seeks to enforce the disciplinary rules in the Code of Professional Responsibility (the DRs) and the Rules of Professional Conduct (the RPCs), while operating within the procedural framework of the Bar Rules of Procedure (the BRs). The SPRB is a nine-member board of unpaid volunteers, consisting of one lawyer each from Board of Governors (BOG) Regions 1 through 4 and 6, two lawyers from Region 5 and two public members.

The SPRB met 12 times in 2006. With regular meetings and conference calls combined, the SPRB considered approximately 310 case-specific agenda items during the year. This does not include the many policy matters also considered by the board.

The Bar was fortunate to have the following individuals on the SPRB in 2006:

Sarah Moore Bostwick (Salem) – Chairperson
Amy R. Alpern (Portland)
Richard H. Braun (Portland)
Frank P. Colistro (Portland) – Public Member
Liz Fancher (Bend)
John F. Folliard, Jr. (Portland)
Linda Lee Lynch (Eugene) – Public Member
James A. Marshall (Albany)
William H. Martin (Eugene)

The terms of Sarah Bostwick, Frank Colistro, and William Martin expired at the end of 2006. New appointments for 2007 include: David Hittle (Salem), Jolie Krechman (public member from Portland) and Martha Rodman (Eugene). Amy Alpern is the SPRB Chairperson for 2007.

III. SYSTEM OVERVIEW

A. COMPLAINTS RECEIVED

Prior to August 1, 2003, all complaints against Oregon lawyers were filed with and reviewed by Disciplinary Counsel's Office. Effective August 1, 2003, the Bar's Client Assistance Office (CAO) handles the intake of all oral and written inquiries and complaints about lawyer conduct. Only when the CAO finds that there is credible evidence to support an allegation that misconduct has occurred does the allegation become a disciplinary complaint that is referred to Disciplinary Counsel's Office for investigation. See BR 2.5.

The table below reflects the shift of the intake function to CAO and the fact that substantial screening is done in that phase of the process. In 2002, before the Client Assistance Office was created and all matters came to Disciplinary Counsel, 1,424 files were opened by Disciplinary Counsel during the course of the year. By comparison, in 2006, with CAO screening matters for the full year, Disciplinary Counsel opened 363 files (involving 383 Oregon lawyers). This is a 5% reduction from the prior year.

Files Opened by Disciplinary Counsel

Month	2001	2002	2003	2004	2005	2006
January	119	122	126	14	34	28
February	100	120	112	53	29	40
March	117	146	125	34	30	41
April	108	123	120	29	30	53
May	112	125	91	29	42	22
June	118	108	106	31	47	23
July	114	123	115	31	35	29
August	121	116	13	30	32	36
September	108	117	30	45	22	21
October	115	119	32	89*	31	38
November	100	93	27	45	41	23
December	95	112	23	27	31	29
TOTAL	1,327	1,424	920	457	404	383

*61 complaints vs. same lawyer/same conduct

The breakdown of the open files for 2006 is: 291 referrals from CAO, 66 trust account overdraft notices from financial institutions that came directly to Disciplinary Counsel's Office, and 27 matters opened by Disciplinary Counsel on the office's initiative.

For 2006, statistical information regarding complainant type and complaint subject matter is found in Appendix A to this report. Similar information for 2005 is found in Appendix B for comparison purposes.

Every complaint Disciplinary Counsel's Office received in 2006, was acknowledged in writing by staff, analyzed and investigated to varying degrees

depending on the nature of the allegations. As warranted, staff corresponded with the complainant and the responding attorney, and obtained relevant information from other sources, to develop a “record” upon which a decision on merit could be made.

If, after investigation, staff determined that probable cause did not exist to believe that misconduct had occurred, the matter was dismissed by Disciplinary Counsel. BR 2.6(b). Complainants have the right under the rules of procedure to contest or appeal a dismissal by Disciplinary Counsel staff. In that case, the matter is submitted to the SPRB for review. The SPRB reviewed 44 such appeals in 2006, affirming all of the staff dismissals.

When Disciplinary Counsel determined from an investigation that there may have been probable cause of misconduct by a lawyer, the matter was referred to the SPRB for review and action. Each matter was presented to the board by means of a complaint summary (factual review, ethics analysis and recommendation) prepared by staff. Each file also was made available to the SPRB. In 2006, the SPRB reviewed 156 of these probable cause matters. The following section describes that process of review in more detail.

B. SPRB

The SPRB acts as a grand jury in the disciplinary process, determining in each matter referred to it by Disciplinary Counsel whether probable cause of an ethics violation exists. Options available to the SPRB include dismissal if there is no probable cause of misconduct; referral of a matter back to Disciplinary Counsel or to a local professional responsibility committee (LPRC) for additional investigation; issuing a letter of admonition if a violation has occurred but is not of a serious nature; offering a remedial diversion program to the lawyer; or authorizing a formal disciplinary proceeding in which allegations of professional misconduct are litigated. A lawyer who is offered a letter of admonition may reject the letter, in which case the Rules of Procedure require the matter to proceed to a formal disciplinary proceeding. Rejections are rare.

A lawyer who is notified that a formal disciplinary proceeding will be instituted against him or her may request that the SPRB reconsider that decision. Such a request must be supported by new evidence not previously available that would have clearly affected the decision, or legal authority not previously known to the SPRB which establishes that the decision to prosecute is incorrect.

In 2006, the SPRB took action on 13 investigative reports submitted by investigative committees and 200 matters investigated by Disciplinary Counsel staff. Action taken by the SPRB in recent years and in 2006 is summarized in the following table:

Action Taken by SPRB

YEAR	PROS.	ADMONITION OFFERED	ADMONITION ACCEPTED	DISMISSED
2001	125	59	57	302
2002	113	57	55	274
2003	102	43	43	250
2004	136	28	26*	89†
2005	131	43	43	122
2006	94	33	33	85

* Two of the admonition letters offered were later reconsidered by the SPRB and the matters were dismissed.

† This lower number again reflects the shift of the intake function to the Client Assistance Office (CAO) which now handles non-jurisdictional matters. There no longer is a right to appeal these matters to the SPRB.

Note that the figures for prosecutions reflect the number of complaints that were authorized for prosecution, not necessarily the number of lawyers being prosecuted. For example, one lawyer may be the subject of numerous complaints that are consolidated into one disciplinary proceeding.

In addition to the normal complaint review process, the SPRB also is responsible for making recommendations to the Supreme Court on matters of urgency including temporary and immediate suspensions of lawyers who are suffering under some disability, have been convicted of certain crimes, or have been disciplined in another jurisdiction subjecting them to reciprocal discipline here in Oregon. There were eight (8) such matters in 2006.

C. LOCAL PROFESSIONAL RESPONSIBILITY COMMITTEE (LPRC)

Most complaints are investigated in-house by Disciplinary Counsel staff. However, some matters that require in-depth field investigation are referred by staff or the SPRB to local professional responsibility committees (LPRCs). There are 16 such committees made up of single county or multi-county districts. Total membership for all LPRCs is approximately 80. At the option of the committee, each LPRC may have one public member.

Each year at the time of appointment, LPRC members are provided with a handbook prepared and updated by the Disciplinary Counsel's Office. The handbook describes in detail the responsibilities each LPRC member is asked to undertake. It also provides practical suggestions in conducting an LPRC investigation, contains copies of resource materials including the applicable statutes and procedural rules, and includes examples of final LPRC reports in a standardized format requested by the SPRB.

Under the applicable rules of procedure, Disciplinary Counsel staff arranges for an assignment to be made to an individual committee member, and the committee member is authorized to report back his or her findings without going through the entire committee. A committee member has 90 days to complete an assignment, with one extension of 60 days available. If an investigation

is not completed by then, the rules require the matter to be referred back to Disciplinary Counsel for completion. BR 2.3(a)(2)(C). Eighteen (18) matters were referred to LPRCs in 2006. All these investigations were completed timely under the rules.

D. FORMAL PROCEEDINGS

(1) Prosecution Function

After the SPRB authorizes formal proceedings in a given matter, attorneys in Disciplinary Counsel's Office draft a formal complaint and may arrange for volunteer bar counsel to assist in preparation for trial. Bar Counsel are selected from a panel of lawyers appointed by the Board of Governors.

Discovery methods in disciplinary proceedings are similar to those in civil litigation. Requests for admission, requests for production, and depositions are common. Disputes over discovery are resolved by the trial panel chairperson assigned to a particular case.

Pre-hearing conferences to narrow the issues and to explore settlement are available at the request of either party. Such conferences are held before a member of the Disciplinary Board who is not a member of the trial panel in that case.

(2) Adjudicative Function

Members of the Disciplinary Board, appointed by the Supreme Court, sit in panels of three (two lawyers, one non-lawyer) and are selected for each disciplinary case by a regional chairperson. The panel chair rules on all pretrial matters and is responsible for bringing each case to hearing within a specific time frame established by the rules.

After hearing, the panel is required to render its decision within 28 days (subject to time extensions), making findings of fact, conclusions of law and a disposition. Panels rely on the *ABA Standards for Imposing Lawyer Sanctions* in determining appropriate sanctions when misconduct has been found.

E. DISPOSITIONS SHORT OF TRIAL

Fortunately, many of the disciplinary proceedings authorized by the SPRB are resolved short of trial with resignations or stipulations. Form B resignation (resignation "under fire") does not require an admission of guilt by an accused lawyer but, because charges are pending, is treated like a disbarment such that the lawyer is not eligible for reinstatement in the future. Six (6) lawyers submitted Form B resignations in 2006, thereby eliminating the need for further prosecution in those cases. While a resignation ends a formal proceeding, it is often obtained only after a substantial amount of investigation, discovery and trial preparation.

A significant number of cases are resolved by stipulations for discipline in which there is no dispute over material fact and both the Bar and the accused lawyer agree on the violations committed and appropriate sanction. Stipulations must

be approved by the SPRB or its chairperson on behalf of the Bar. Once that approval is obtained, judicial approval is required from the state and regional chair of the Disciplinary Board in cases where sanctions do not exceed a 6-month suspension, or from the Supreme Court for cases involving greater sanctions. Judicial approval is not always given, in which case the parties must negotiate further or proceed to trial.

In 2006, 69 formal proceedings were concluded: 15 by decision in a contested case; 39 by stipulation; 6 by Form B resignation; 5 by reciprocal discipline order; and 4 by diversion.

F. APPELLATE REVIEW

New rules of procedure governing appellate review in disciplinary proceedings took effect in 2004. In prior years, the Supreme Court automatically reviewed those discipline cases in which a trial panel imposed a sanction in excess of a six-month suspension. Beginning January 1, 2004, automatic review by the court was eliminated. Trial panel decisions, even those imposing disbarment, now are final unless either the Bar or the accused lawyer seeks Supreme Court review. Review by the court is mandatory if so requested by a party. In 2006, two (2) cases that in prior years would have required appellate review were final after trial, one resulting in a disbarment and the other resulting in a two-year suspension.

When there is an appeal, lawyers in Disciplinary Counsel's Office prepare the record for submission to the court, draft and file the Bar's briefs and present oral argument before the court. The SPRB decides for the Bar whether to seek Supreme Court review.

In 2006, the Supreme Court rendered ten (10) discipline opinions in contested cases. The court also approved six (6) stipulations for discipline and imposed reciprocal discipline by court order in four (4) other cases. The court also issued orders in three (3) cases suspending those lawyers on an interim basis while the disciplinary proceedings against them were pending.

Among the noteworthy court decisions were:

In *In re Tichenor*, 340 Or 108, 129 P3d 690 (2006), a criminal prosecutor was charged with misconduct for cross-examining defense character witnesses with questions that were predicated on facts that the Bar alleged were not supported by admissible evidence. In the disciplinary case, the Supreme Court determined that, even if the prosecutor's questions ran afoul of evidentiary rules, it did not necessarily follow that the prosecutor's conduct also was unethical. The court dismissed the case after determining that the rule at issue, DR 7-106(C)(1), did not apply to the type of statements made in this case.

In *In re Knappenberger*, 340 Or 573, 135 P3d 297 (2006), the court suspended for one year a lawyer who failed over a period of eight years to complete a qualified domestic relations order on behalf of a client. The court rejected the argument that no violation occurred because the client did not sustain any injury from the delay. In *In re Paulson*, 341 Or 13, 136 P3d 1087 (2006), the court

determined that a lawyer's pattern of asserting meritless claims, violating various court rules and taking other action contrary to his clients' interests amounted to conduct prejudicial to the administration of justice, and suspended the lawyer for six months. This same lawyer was suspended, this time for four months, in a second case in which he was found to have revealed confidential information about a former client, communicated with a represented party and failed to cooperate with a bar inquiry. *In re Paulson*, 341 Or 542, 145 P3d 171 (2006).

In *In re Merkel*, 341 Or 142, 138 P3d 847 (2006), the court dismissed an allegation that the lawyer engaged in an improper ex parte communication with an arbitrator. The court also dismissed, on a split (4-3) vote, a charge that the lawyer made a misrepresentation to opposing counsel. The lawyer told counsel that he wanted to present two witnesses by telephone testimony and that he had "cleared this" with the arbitrator. In fact, the arbitrator had not ruled on any request for telephone testimony. A majority of the court found the lawyer's statement ambiguous and therefore not a misrepresentation. The minority would have found a violation.

In *In re Wilson*, 342 Or 243, 149 P3d 1200 (2006), a lawyer was suspended for six months for making misrepresentations to opposing counsel and the trial court in order to obtain a setover that previously had been denied in a domestic relations matter. At the disciplinary hearing, the lawyer attempted to introduce evidence regarding a medical or mental health condition in explanation or mitigation of her conduct. However, the trial panel barred the evidence because the lawyer previously failed to produce her medical records that had been requested by the Bar in discovery. The Supreme Court upheld that ruling. In *In re Bettis*, 342 Or 232, 149 P3d 1194 (2006), the court overturned a trial panel dismissal and suspended the lawyer for 30 days for failing to render competent representation to an indigent client who had been charged with criminal conduct. The lawyer had sought a jury waiver from his client before reviewing any discovery or conducting any factual or legal investigation into the merits of the criminal charges. In *In re Skagen*, 342 Or 183, 149 P3d 1171 (2006), a lawyer was suspended for one year for, among other things, numerous trust account violations and obstructive behavior during the course of the disciplinary proceeding.

G. CONTESTED ADMISSIONS/CONTESTED REINSTATEMENTS

Disciplinary Counsel's Office also represents the Board of Bar Examiners (BBX) in briefing and arguing before the Supreme Court those cases in which the BBX has made an adverse admissions recommendation regarding an applicant. The actual investigation and hearing in these cases are handled by the BBX under a procedure different from that applicable to lawyer discipline cases.

For reinstatements, Disciplinary Counsel's Office is responsible for processing and investigating all applications. Recommendations are then made to the Board of Governors. Many reinstatements are approved by the board without any further level of review. For reinstatement applicants who have had significant, prior disciplinary problems or have been away from active membership status for more than five years, the Board of Governors makes a recommendation to the Supreme Court. In cases when the board recommends against reinstatement of an applicant, the Supreme Court may refer the matter to the Disciplinary Board

for a hearing before a three member panel much like lawyer discipline matters, or may direct that a hearing take place before a special master appointed by the court. Disciplinary Counsel's Office has the same responsibilities for prosecuting these contested cases as with disciplinary matters. The office also handles the appeal of these cases, which is automatic, before the Supreme Court.

The court issued one (1) contested admission opinion in 2006, denying admission to the applicant. *In re Zielinski*, 341 Or 559, 146 P3d 323 (2006). The court also issued one (1) opinion denying reinstatement to a suspended lawyer, following the recommendation made by the Board of Governors. *In re Gear*, 342 Or 59, 149 P3d 136 (2006).

IV. DISPOSITIONS

Attached as Appendix C is a list of disciplinary dispositions from 2006. The following table summarizes dispositions in recent years:

SANCTION TYPE	2001	2002	2003	2004	2005	2006
Disbarment	4	5	1	2	2	2
Form B Resignation	10	10	11	12	9	6
Suspension	29	24	24	31	34	36
Suspension stayed/probation	0	3	1	2	1	0
Reprimand	23	44	32	15	22	14
Involuntary inactive Transfer	0	0	0	1	0	0
TOTAL Lawyer Sanctions	66	86	69	63	68	58
Dismissals after Adjudication	2*	1	4	2	1	5
Dismissed as moot	0	2	0	1	1†	0
Diversion	--	--	1	1	3	4
Admonitions	57	58	43	26	43	33

* = one case involving two lawyers

† = no further action taken pursuant to BR 2.6(f)(2)

In conjunction with a stayed suspension or as a condition of admission or reinstatement, it is common for a period of probation to be imposed upon a lawyer. Disciplinary Counsel's Office was monitoring two (2) lawyers on probation at the end of 2006, along with three (3) lawyers in diversion. Three (3) lawyers successfully completed probation last year and the probations were terminated. One (1) lawyer successfully completed diversion and one diversion agreement was terminated due to the lawyer's non compliance. Most probations and diversions require some periodic reporting by the lawyer. Some require more active monitoring by a probation supervisor, typically another lawyer in the probationer's community.

The types of conduct for which a disciplinary sanction was imposed in 2006, or a Form B resignation was submitted, varied widely. The following table identifies the misconduct most often implicated in those proceedings that were concluded by decision, stipulation, order, or resignation in 2006:

Type of misconduct	% of cases in which misconduct present
Neglect of legal matter	35%
Dishonesty or misrepresentation	29%
Conduct prejudicial to justice	28%
Trust account violation	23%
Failure to respond to OSB	20%
Inadequate accounting records	18%
Criminal conduct	15%
Failure to return property or funds	11%
Excessive or illegal fees	11%
Multiple client conflicts	11%
Improper withdrawal	9%
Self-interest conflicts	9%
Incompetence	9%
Improper communication	9%
Disregarding a court rule or ruling	9%
Revealing client confidences	6%
Unauthorized practice	3%
Other (each type of violation 2% or less)	8%

V. SUMMARY OF CASELOAD

A summary of the pending caseload in Disciplinary Counsel's Office at the end of 2006 follows:

New complaints pending	221
Pending LPRC investigations	5
Pending formal proceedings	65*
Probation/diversion matters	5
Contested admission/contested reinstatement matters	2
TOTAL	298

* Reflects no. of lawyers; no. of complaints is greater.

In addition to disciplinary matters, Disciplinary Counsel's Office processed and investigated approximately 180 reinstatement applications in 2006; screened and transmitted to the UPL Committee 67 unlawful practice complaints; processed approximately 490 membership status changes (inactive, active emeritus, and active pro bono transfers and voluntary resignations); and responded to roughly 200-300 public record requests each month.

VI. STAFFING/FUNDING

In 2006, Disciplinary Counsel's Office employed seventeen staff members (15.6 FTE), along with occasional temporary help. In addition to Disciplinary Counsel, there were seven staff lawyer positions. Support staff included one investigator, one paralegal, one office administrator, one regulatory services coordinator, three secretaries, and one public records coordinator. Current staff members include:

Disciplinary Counsel

Jeffrey D. Sapiro

Assistants Disciplinary Counsel

Jane E. Angus
Amber Bevacqua-Lynott
Mary A. Cooper
Susan R. Cournoyer
Linn D. Davis
Stacy J. Hankin
Martha M. Hicks

Support Staff

Lynn Bey-Roode
Barbara Buehler
Karen L. Duncan
Vickie R. Fichtner
Sandy L. Gerbish
R. Lynn Haynes
Raya J. Levin
Sean Michael

Disciplinary Counsel's Office is funded out of the Bar's general fund. Revenue is limited (roughly \$67,300 for 2006) and comes from cost bill collections, reinstatement fees, a fee for good standing certificates and *pro hac vice* admissions, and photocopying charges for public records.

Expenses for 2006 were \$1,444,000 with an additional \$344,500 assessed as a support services (overhead) charge. Of the actual program expenses, 88.5% consisted of salaries and benefits. An additional 6.7% of the expense budget went to out-of-pocket expenses for court reporters, witness fees, investigative expenses and related items. 4.7% of the expense budget was spent on general and administrative expenses such as copying charges, postage, telephone and staff travel expense.

VII. OTHER DEVELOPMENTS

A. TRUST ACCOUNT OVERDRAFT NOTIFICATION PROGRAM

The Oregon State Bar has a Trust Account Overdraft Notification Program, pursuant to ORS 9.132 and RPC 1.15 2. Under the program, lawyers are required to maintain their trust accounts in financial institutions that have agreed to notify the Bar of any overdraft on such accounts. Approximately 65 banks have entered into notification agreements with the Bar.

In 2006, the Bar received notice of 65 trust account overdrafts. For each overdraft, a written explanation and supporting documentation was requested of the lawyer, with follow-up inquiries made as necessary. Many overdrafts were the result of bank or isolated lawyer error and, once confirmed as such, were dismissed by staff. If circumstances causing an overdraft suggested an ethics violation, the matter was referred to the SPRB. A minor violation resulting in an overdraft typically results in a letter of admonition issued to the lawyer. More serious or on-going violations result in formal disciplinary action. A summary of the disposition of trust account overdrafts received in 2006 follows:

2006 Trust Account Overdrafts

Dismissed by staff	49
Dismissed by SPRB	0
Referred to LPRC for further investigation	2
Closed by admonition letter	5
Closed by diversion	0
Formal charges authorized	5
Closed by Form B resignation	0
Pending (as of 3/2006)	4
Total Received	65

B. UPL

In 2006, Disciplinary Counsel’s Office served as liaison to the Unlawful Practice of Law Committee. UPL complaints submitted to this office were assigned a case number, entered into the UPL “docket” and referred to the committee chair. Staff attended UPL Committee meetings and, to the extent possible, assisted the committee in its deliberations. In 2006, 67 matters were referred to the UPL Committee. After investigation, the committee issued 24 admonition letters to minor violators and recommended to the Board of Governors that more serious violators be pursued through litigation.

Disciplinary Counsel staff monitored those UPL cases that are approved for litigation by the Board of Governors. At the end of 2006, six (6) matters were in or approved for litigation. Often, these matters are resolved by stipulated injunction or cease and desist agreements. The Bar obtained one (1) injunction in 2006, after an evidentiary hearing in circuit court. Another injunction has been appealed to the Court of Appeals by the defendant.

Effective in 2007, the UPL liaison responsibilities have been transferred to the Bar’s General Counsel’s Office.

C. PUBLIC RECORDS

In Oregon, lawyer discipline files are public record with very limited exceptions. Disciplinary Counsel staff responds to an average of 250 public records requests each month. These requests come from members of the public who inquire into a lawyer’s background or from other Bar members who have a need to examine these records.

Disciplinary history data is on computer such that many disciplinary record inquiries can be answered without a manual review of a lawyer's file. A significant number of requests, however, require the scheduling of appointments for file review.

During 2006, the Bar took a close look at its document management and retention policies. Pursuant to a decision of the Board of Governors and with the consent of the Supreme Court, ethics complaints dismissed for lack of probable cause will be retained for ten (10) years, rather than permanently. Retained records will be scanned and maintained in electronic format, thereby reducing the physical file storage needs of the Bar.

D. CUSTODIANSHIPS

ORS 9.705, *et. seq.*, provides a mechanism by which the Bar may petition the circuit court for the appointment of a custodian to take over the law practice of a lawyer who has abandoned the practice or otherwise is incapable of carrying on. In 2006, the Board of Governors authorized Disciplinary Counsel staff to seek such an order when a Multnomah County lawyer walked away from his practice. A custodianship order was obtained in the latter part of the year and efforts are underway to inventory the lawyer's files and promptly return them to the affected clients.

E. PRO HAC VICE ADMISSION

Uniform Trial Court Rule 3.170 provides that all applications by out-of-state lawyers for admission in a single case in Oregon (*pro hac vice* admission) must first be filed with the Oregon State Bar, along with a fee of \$250. Disciplinary Counsel's Office is responsible for reviewing each application and supporting documents (good standing certificate, evidence of professional liability coverage, etc.) for compliance with the UTCR. The filing fees collected, after a nominal administrative fee is deducted, are used to help fund legal service programs in Oregon.

In 2006, the Bar received and processed 384 *pro hac vice* applications, collecting \$90,000 for legal services.

F. CHILD SUPPORT SUSPENSIONS

Statutory provisions require that, under prescribed circumstances, the licenses of certain professionals, including lawyers, be suspended if the licensees are delinquent in the payment of child support. See, ORS 25.750, *et. seq.* Notices from support enforcement agencies that lawyers are delinquent in their payments come to Disciplinary Counsel's Office and are then submitted to the Oregon Supreme Court. After considering written submissions by the parties, the court takes appropriate action.

In 2006, the Bar received only one (1) child support notice. In this matter, the court dismissed the request for suspension when the lawyer entered into a payment agreement within a few days of notification.

G. CONTINUING LEGAL EDUCATION PROGRAMS

Throughout 2006, Disciplinary Counsel staff participated in numerous CLE programs dealing with ethics and professional responsibility issues. Staff spoke to law school classes, local bar associations, Oregon State Bar section meetings, the Oregon Department of Justice, specialty bar organizations and general CLE audiences.

VIII. CONCLUSION

In 2006, the Oregon State Bar remained committed to maintaining a system of lawyer regulation that fairly but effectively enforces the disciplinary rules governing Oregon lawyers. Many dedicated individuals, both volunteers and staff, contributed significantly toward that goal throughout the year.

Respectfully submitted,

Jeffrey D. Sapiro
Disciplinary Counsel

APPENDIX A 2006

COMPLAINANT TYPE	NUMBER	PERCENTAGE
Accused (self-reported)	11	3%
Client	133	35%
Judge	8	2%
Opposing Counsel	40	10%
Opposing Party	56	15%
Third Party	42	11%
Unknown	0	--
OSB	93	24%
TOTAL	383	100%

COMPLAINT SUBJECT MATTER	NUMBER	PERCENTAGE
Adoption	2	1%
Advertisement	0	--
Arbitration	0	--
Bankruptcy	8	2%
Business	2	1%
Civil dispute (general)	40	10%
Conservatorship	10	3%
Criminal	69	18%
Domestic Relations	47	12%
Estate Planning	1	--
Guardianship	2	1%
Immigration	5	1%
Juvenile	2	1%
Labor Law	0	--
Litigation (general)	36	9%
Land Use	1	--
Other	43	11%
Paternity	0	--
Personal injury	21	5%
Probate	9	2%
Real Estate	8	2%
Social Security	2	1%
Tenant/landlord	2	1%
Tax	0	--
Trust Account Overdraft	66	17%
Workers Comp.	3	1%
Unknown	4	1%
TOTAL	383	100%

APPENDIX B 2005

COMPLAINANT TYPE	NUMBER	PERCENTAGE
Accused (self-reported)	8	2%
Client	148	37%
Judge	12	3%
Opposing Counsel	52	13%
Opposing Party	64	16%
Third Party	41	10%
Unknown	1	--
OSB	78	19%
TOTAL	404	100%

COMPLAINT SUBJECT MATTER	NUMBER	PERCENTAGE
Adoption	0	0
Advertisement	2	.5%
Arbitration	2	.5%
Bankruptcy	9	2%
Business	6	1.5%
Civil dispute (general)	34	8.5%
Conservatorship	8	2%
Criminal	71	18%
Domestic Relations	74	18.5%
Estate Planning	9	2%
Guardianship	1	--
Immigration	4	1%
Juvenile	2	.5%
Labor Law	0	0
Litigation (general)	33	8%
Land Use	6	1.5%
Other	27	7%
Paternity	0	0
Personal injury	13	3%
Probate	17	4%
Real Estate	4	1%
Social Security	1	--
Tenant/landlord	3	1%
Tax	0	0
Trust Account Overdraft	61	15%
Workers Comp.	2	.5%
Unknown	15	4%
TOTAL	404	100%

OSB DISPOSITION LIST – 2006

Case No.	Case Name/Cite	Disposition	CC/ Stip	S Ct/ DB	Date of Action	Effective Date	DRs ORS	Bulletin Summary
1	05-87 to 89, 103, 173 Daniel A. Doyle SC 553050	Form B resignation	-	S Ct	1/10/06	1/10/06	1-102A2, 1-102A3, 1-103C, 2-106A, 6-101B, 9-101A, 9-101C3, 9-101C4, 1.15-1(a), 1.15-1(d), 8.2(a)(1), 8.4(a)(3), 9.527(2)	Feb/Mar 2006
2	04-149 Donald Bruce Kronenberg SC 553003, 20 DB Rptr 1	BR 3.5 reciprocal discipline - disbarment	CC	S Ct	1/24/06	1/24/06	WA RPC 8.4(a), 8.4(b), 8.4(c), 8.4(d)	Feb/Mar 2006
3	04-123 Dawna F. Scott 20 DB Rptr 3	Six month suspension, plus BR 8.1 application required	Stip	DB	1/30/06	2/2/06	1-103C, 9-101A, 9-101C3	April 2006
4	05-58 Kurt Carstens 20 DB Rptr 10	30 day suspension	Stip	DB	2/2/06	2/5/06	1-102A4	Feb/Mar 2006
5	05-159 Leanne M. Bowker 20 DB Rptr 16	30 day suspension	Stip	DB	2/9/06	4/1/06	5-105E, 1.9(a), 1.9(c)(2)	April 2006
6	03-33 Carroll J. Tichenor 340 Or 108, 129 P3d 690	Dismissed	CC	S Ct	2/16/06	3/24/06	7-106C1	May 2006
7	05-150, 05- 179 Daniel J. Bertak SC 553075	BR 3.1 suspension	CC	S Ct	2/16/06	2/16/06	1.3, 5.5(a), 8.1(a)(1), 8.1(a)(2), 8.4(a)(3), 8.4(a)(4), 9.160	No
8	05-174 Bobby Arsanjani 20 DB Rptr 23	30 day suspension	Stip	DB	2/27/06	3/2/06	3.4(c)	April 2006
9	05-98 James J. Kolstoe 20 DB Rptr 28	60 day suspension	Stip	DB	3/1/06	3/30/06	1-102A3, 2-110B3, 6-101A, 6-101B	April 2006
10	05-85, 86, 196 Oscar R. Nealy 20 DB Rptr 34	Four month suspension	Stip	DB	3/6/06	3/10/06	2-106A, 6-101B, 9-101C3, 9-101C4, 1.3	April 2006
11	05-114 Courtney M. O'Connor SC 553260, 20 DB Rptr 42	One year suspension	Stip	S Ct	3/7/06	3/7/06	8.4(a)(2), 8.4(a)(3)	April 2006
12	05-20 Clayton C. Patrick 20 DB Rptr 47	30 day suspension	Stip	DB	3/13/06	5/25/06	5-101A, 5-105E	May 2006
13	06-37 Timothy P. Dunn	Diversio	-	SPRB	3/18/06	5/1/06	6-101B	No
14	06-15 Sona Jean Joiner	Diversio	-	SPRB	3/18/06	3/27/06	1.15-1(a)	No
15	05-155 Randolph J. Stevens 20 DB Rptr 53	Reprimand	Stip	DB	3/23/06	3/23/06	6-101A, 6-101B	May 2006
16	05-93, 05-94 Ruth A. Cherry 20 DB Rptr 59	30 day suspension	Stip	DB	4/3/06	4/6/06	2-110A2, 5-101A, 7-101A1	May 2006
17	05-16, 129, 130, 164, 165 Patrick J. Stimac SC 553319	Form B resignation	-	S Ct	4/4/06	4/4/06	1-102A2, 1-102A3, 1-102A4, 2-106A, 6-101B, 7-101A2, 9-101A, 9-101C3, 9-101C4, 1.3, 1.4(a), 1.5(a), 1.5(c), 1.15-1(a), 1.15-1(c), 4.1(a), 8.1(a)(1), 8.1(a)(2), 8.4(a)(2), 8.4(a)(3), 8.4(a)(4)	May 2006

OSB DISPOSITION LIST – 2006

Case No.	Case Name/Cite	Disposition	CC/ Stip	S Ct/ DB	Date of Action	Effective Date	DRs ORS	Bulletin Summary
18	05-154 Harry Ainsworth 20 DB Rptr 65	30 day suspension	Stip	DB	4/7/06	6/1/06	2-110B2, 5-101A, 6-101B	June 2006
19	05-106 Iain E. Levie 20 DB Rptr 72	Reprimand	Stip	DB	4/7/06	4/7/06	9-101C3	June 2006
20	05-99 Dennis L. Oden 20 DB Rptr 76	180 day suspension	Stip	DB	4/17/06	4/17/06	1-102A2, 1-102A3	June 2006
21	05-107 Hilda Galaviz 20 DB Rptr 82	60 day suspension	Stip	DB	4/17/06	4/20/06	6-101B	June 2006
22	05-111 Matt Mattox SC 553408, 20 DB Rptr 87	One year suspension	Stip	S Ct	4/25/06	5/25/06	1-102A3, 1-102A4	June 2006
23	04-141 Calvin P. Vance 20 DB Rptr 92	Reprimand	No contest	DB	5/2/06	5/2/06	2-106A, 2-110A3, 9-101A	June 2006
24	05-48 Tilman Hasche 20 DB Rptr 96	Dismissed	CC	DB	3/6/06	5/7/06	NG – 4-101B, 5-105C, 7-101A3	June 2006
25	05-82 James W. Britt 20 DB Rptr 100	Six month suspension	Stip	DB	5/12/06	5/15/06	1-102A3, 5-108B, 6-101A	June 2006
26	05-96 Sharon Hockett 20 DB Rptr 114	60 day suspension	Stip	DB	5/15/06	5/26/06	6-101B	July 2006
27	03-104 Allan K. Knappenberger 340 Or 573, 135 P3d 297	One year suspension	CC	S Ct	5/18/06	7/22/06	6-101B	July 2006
28	04-07 Mike Kilpatrick 20 DB Rptr 120	Dismissed	CC	DB	3/16/06	5/20/06	NG – 2-106A, 5-105E	July 2006
29	05-22 Charles P. Duffy 20 DB Rptr 125	Reprimand	CC	DB	3/24/06	5/24/06	1-102A3, 1-102A4	July 2006
30	05-40, 124, 125, 126, 147 William N. Kent SC 553496, 20 DB Rptr 136	Two year suspension	Stip	S Ct	5/23/06	7/24/06	1-102A3, 1-102A4, 6-101B, 9-101A, 9-101C3, 9-101C4, 1.15-1(c), 1.15-1(d), 1.15-1(e), 1.16(d), 3.3(a)(1), 8.1(a)(2), 8.4(a)(3)	July 2006
31	02-130 Lee S. Werdell 340 Or 654, 136 P3d 21	Dismissed	CC	S Ct	5/25/06	7/5/06	NG – 1-102A2, 9.527(2)	Aug/Sept 2006
32	06-06 Michael James Wicks SC 553267; 20 DB Rptr 148	BR 3.5 reciprocal discipline - 60 day suspension	CC	S Ct	5/31/06	6/30/06	Ariz. Rule 42, 43, 44, ER 1.15	Aug/Sept 2006
33	06-31 John C. Moore 20 DB Rptr 150	Reprimand	Stip	DB	6/7/06	6/7/06	3.3(a)(5)	July 2006
34	01-100 Lauren J. Paulson 341 Or 13, 136 P3d 1087	Six month suspension	CC	S Ct	6/8/06	10/15/06	1-102A4	Oct 2006
35	06-12 David I. Bean 20 DB Rptr 157	Reprimand	Stip	DB	6/12/06	6/12/06	3.3(d), 8.4(a)(4)	July 2006

OSB DISPOSITION LIST – 2006

Case No.	Case Name/Cite	Disposition	CC/ Stip	S Ct/ DB	Date of Action	Effective Date	DRs ORS	Bulletin Summary
36	John R. Putman 20 DB Rptr 162	Reprimand	Stip	DB	6/12/06	6/12/06	1-102A4, 6-101B	July 2006
37	Samuel J. Nicholls SC 553452	BR 3.1 suspension	CC	S Ct	6/13/06	6/13/06	2-106A, 2-110A3, 6-101B, 9-101C3, 1.3, 1.4(a), 1.15-1(d), 8.1(a)	No
38	John M. Heurlin SC 553453, 20 DB Rptr 167	BR 3.5 reciprocal discipline – Disbarment	CC	S Ct	6/28/06	6/28/06	Cal. Rule 4-200(A); Bus. & Pro. Code 6068(g), 6106	Aug/Sept 2006
39	Willard Merkel 341 Or 142, 138 P3d 847	Dismissed	CC	S Ct	7/7/06	8/11/06	NG – 1-102A3, 7-110B	Oct 2006
40	Angela Hart SC 553639	Form B resignation	-	S Ct	7/18/06	7/18/06	1-102A3, 1-102A4, 6-101B, 7-102A7	Aug/Sept 2006
41	Eric R. Vargas SC 553642	Form B resignation	-	S Ct	7/18/06	7/18/06	Wash RCW 69.50.4013(1)	Aug/Sept 2006
42	Mary A. Betker SC 553725	Form B resignation	-	S Ct	7/18/06	7/18/06	Wash RPC 1.1, 1.2(a), 1.3, 1.4, 1.5(a), 1.7(b), 3.4(c), 5.3(b), 5.5(b), 8.4(c)	Aug/Sept 2006
43	Allen R. Peters	Diversion	-	SPRB	7/22/06	7/22/06	6-101B, 9-101A, 1.3, 1.4(a), 1.15-1(a), 1.15-1(b), 1.15-1(d)	No
44	Tod David Eames 20 DB Rptr 171	Disbarment	CC	DB	5/30/06	7/31/06	1-102A2, 1-102A3, 9-101A, 9-101C3, 3.4(c), 8.1(a)(2)	
45	Deborah C. Rush SC 553643	BR 3.5 reciprocal matter – no discipline imposed	CC	S Ct	8/1/06	8/1/06	S. Carolina RPC 4.5	No
46	MI Elliott Lynn SC 553814	Form B resignation	-	S Ct	8/15/06	8/15/06	1-102A2, 1-102A3, 1-102A4, 5-101A, 5-104A, 5-105E, 6-101A, 9-101A, 9-101C3, 8.1(a)(1), 8.1(a)(2)	Oct 2006
47	James W. Britt 20 DB Rptr 185	Reprimand	Stip	DB	8/17/06	8/17/06	1.15-1(d)	Oct 2006
48	Benjamin E. Freudenberg 20 DB Rptr 190	30 day suspension	Stip	DB	8/10/06	10/16/06	1.7(a), 8.4(a)(4)	Oct 2006
49	David E. Groom 20 DB Rptr 199	30 day suspension	Stip	DB	8/28/06	9/1/06	6-101B, 1.3, 1.4	Oct 2006
50	Steven B. Johnson 20 DB Rptr 206	90 day suspension	Stip	DB	8/31/06	9/30/06	5-105E, 6-101B, 9-101A, 9-101C3, 1.3, 1.4(a), 1.4(b), 8.1(a)(2)	Oct 2006
51	Glenn M. Feest SC 553795, 20 DB Rptr 215	One year suspension	Stip	S Ct	9/6/06	11/5/06	6-101B, 9-101C4, 1.3, 1.4(a), 1.15-1(d), 8.1(a)(2)	Oct 2006
52	Mary W. Johnson 20 DB Rptr 223	30 day suspension	CC	DB	7/21/06	9/15/06	9.160, 3-101(B) NG – 3.3(d), 8.4(a)(4)	Oct 2006
53	Michael M. Pacheco SC 553811	BR 3.4 interim suspension	CC	S Ct	9/19/06	9/19/06	3.3(a)(1), 8.4(a)(2), 8.4(a)(3), 9.527(1)	No

OSB DISPOSITION LIST – 2006

Case No.	Case Name/Cite	Disposition	CC/ Stip	S Ct/ DB	Date of Action	Effective Date	DRs ORS	Bulletin Summary
54	Judson M. Carusone 20 DB Rptr 231	Reprimand	Stip	DB	9/12/06	9/12/06	1-102A4, 7-110B2, 7-110B3	Nov 2006
55	Michael E. Rose 20 DB Rptr 237	Reprimand	Stip	DB	10/13/06	10/13/06	2-106A, 6-101B, 9-101A, 1.3, 1.4, 1.5(a), 1.16(d)	Nov 2006
56	Lauren Paulson 341 Or 542, 145 P3d 171	Four month suspension, consecutive to <i>Paulson II</i>	CC	S Ct	10/19/06	11/28/06 4/15/07	1-103C, 4-101B1, 4-101B2, 7-104A1	Dec 2007
57	Steven Robert Zielinski 341 Or 559, 146 P3d 323	Admission denied	CC	S Ct	10/26/06	11/29/06	9.220(2); RFA 1.05(1)	Dec 2006
58	Phyllis Koessler 20 DB Rptr 246	Two year suspension	CC	DB	8/29/06	10/29/06	1-103(C), 6-101B, 9-101C3	Jan 2007
59	Dennis L. Dunn SC S54154, 20 DB Rptr 255	One year suspension	Stip	S Ct	10/31/06	11/30/06	1-102A3, 1-103C, 4-101B3, 5-101A	Dec 2006
60	Debrah D. Davidson 20 DB Rptr 264	Reprimand	Stip	DB	11/9/06	11/9/06	5.5(a), 9.160	Dec 2006
61	Jill R. Fox 20 DB Rptr 270	60 day suspension	Stip	DB	11/20/06	11/20/06	1.3	Dec 2006
62	Thomas J. Ditton 20 DB Rptr 276	60 day suspension	Stip	DB	11/20/06	12/15/06	9-101A	Dec 2006
63	Patrick J. Furrer 20 DB Rptr 281	30 day suspension	Stip	DB	11/20/06	11/28/06	1-102A4, 7-110B	Jan 2007
64	Kasia Quillinan 20 DB Rptr 288	90 day suspension	Stip	DB	11/27/06	12/27/06	1.6(a), 1.9(c)(1), 1.9(c)(2)	Jan 2007
65	Paul D. Gear 342 Or 59, 149 P3d 136	Reinstatement denied	CC	S Ct	12/7/06	1/19/07	BR 8.1(b) & (c)	Jan 2007
66	Michael M. Pacheco SC S054311, 20 DB Rptr 293	Four year suspension	Stip	S Ct	12/5/06	12/10/06	9.527(1) & (2), 3.3(a)(1), 8.4(a)(2), 8.4(a)(3)	Jan 2007
67	Deborah L. Abernathy SC S54074, 20 DB Rptr 300	BR 3.5 reciprocal discipline – reprimand	CC	S Ct	12/5/06	12/5/06	Ariz. 1.1, 1.2, 1.3, 1.4, 3.2, 3.4, 8.4(d)	Jan 2007
68	Craig C. Coyner III 342 Or 104, 149 P3d 1118	Three month suspension; plus BR 8.1 reinstatement	CC	S Ct	12/14/06	2/12/07	1-102A4, 1-103C, 6-101B, 7-106A, 9-101A, 9-101C3	x
69	Leonard C. Ostrow 20 DB Rptr 303	Reprimand	Stip	DB	12/13/06	12/13/06	1.3, 1.4	Feb/Mar 2007
70	Christian Bottoms	Diversion	-	SPRB	12/15/06	1/8/07	1.4(a), 1.4(b), 1.16(a)(2)	No
71	Christopher Knute Skagen 342 Or 183, 149 P3d 1171	One year suspension	CC	S Ct	12/21/06	2/19/07	1-103C, 1-102A4, 9-101A, 9-101C3, 9-101D1	x
72	Linda J. Wilson 342 Or 243, 149 P3d 1200	Six month suspension	CC	S Ct	12/29/06	4/28/07	1-102A3, 1-102A4	x

OSB DISPOSITION LIST – 2006

Case No.	Case Name/Cite	Disposition	CC/ Stip	S Ct/ DB	Date of Action	Effective Date	DRs ORS	Bulletin Summary
73	05-31 Wade P. Bettis 342 Or 232 , 149 P3d 1194	30 day suspension	CC	S Ct	12/29/06	2/28/07	6-101A	x
74	06-93 Thomas W. Nawalany 20 DB Rptr 315	Reprimand	Stip	DB	12/31/06	12/31/06	6-101A	Feb/Mar 2007

APPENDIX C-5

OREGON STATE BAR DISCIPLINARY PROCESS

APPENDIX D



