

Oregon  State Bar

2007 **Disciplinary
Counsel's Office**

Annual Report

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I. INTRODUCTION

This is the Annual Report of the Oregon State Bar Disciplinary Counsel's Office for 2007. The report provides an overview of Oregon's lawyer discipline system, an analysis of the caseload within the system, along with the dispositions in 2007, 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 13 times in 2007. 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 2007:

Amy R. Alpern (Portland) – Chairperson

Richard H. Braun (Portland)

Liz Fancher (Bend)

John F. Folliard, Jr. (Portland)

David W. Hittle (Salem)

Jolie Krechman (Portland) – Public Member

Linda Lee Lynch (Eugene) – Public Member

James A. Marshall (Albany)

Martha J. Rodman (Eugene)

The term of Amy Alpern expired at the end of 2007. The new appointment for 2008 is Jana Toran (Portland). Jack Folliard is the SPRB Chairperson for 2008.

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 sufficient evidence to support a reasonable belief that misconduct may have occurred does the matter 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 2007, with CAO screening matters for the full year, Disciplinary Counsel opened 365 files (involving 376 Oregon lawyers). These are substantially identical numbers to those in 2006.

Files Opened by Disciplinary Counsel

Month	2002	2003	2004	2005	2006	2007
January	122	126	14	34	28	30
February	120	112	53	29	40	49
March	146	125	34	30	41	42
April	123	120	29	30	53	30
May	125	91	29	42	22	19
June	108	106	31	47	23	29
July	123	115	31	35	29	31
August	116	13	30	32	36	23
September	117	30	45	22	21	16
October	119	32	89*	31	38	38
November	93	27	45	41	23	46
December	112	23	27	31	29	23
Total	1,424	920	457	404	383	376

*61 complaints vs. same lawyer/same conduct

The breakdown of the open files for 2007 is: 284 referrals from CAO, 77 trust account overdraft notices from financial institutions that came directly to Disciplinary Counsel's Office, and 15 matters opened by Disciplinary Counsel on the office's initiative.

For 2007, statistical information regarding complainant type and complaint subject matter is found in Appendix A to this report. Similar information for 2006 is found in Appendix B for comparison purposes.

Every complaint Disciplinary Counsel's Office received in 2007, 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 43 such appeals in 2007, 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 2007, the SPRB reviewed 179 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 2007, the SPRB took action on 23 investigative reports submitted by investigative committees and 223 matters investigated by Disciplinary Counsel staff. Action taken by the SPRB in recent years and in 2007 is summarized in the following table:

Action Taken by SPRB

Year	Pros.	Admonition Offered	Admonition Accepted	Dismissed
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
2007	133	40	40	77

* 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 seven (7) such matters in 2007.

C. LOCAL PROFESSIONAL RESPONSIBILITY COMMITTEE (LPRCS)

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). Sixteen (16) matters were referred to LPRCs in 2007. All but two of these investigations were completed timely under the rules. The two exceptions were called back and completed by Disciplinary Counsel staff.

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. Ten (10) lawyers submitted Form B resignations in 2007, 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 2007, 69 formal proceedings were concluded: 18 by decision in a contested case; 35 by stipulation; 10 by Form B resignation; 4 by reciprocal discipline order; and 2 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 2007, nine (9) cases that in prior years would have required appellate review were final after trial, one resulting in a disbarment and the others resulting in suspensions of various durations.

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 2007, the Supreme Court rendered five (5) discipline opinions in contested cases. The court also approved two (2) stipulations for discipline and imposed reciprocal discipline by court order in three (3) other cases. The court also issued orders in four (4) 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 Balocca*, 342 Or 279, 151 P3d 154 (2007), the court discussed the differences between a client paying a retainer that must be held by the lawyer in a trust account, and a client paying a fee that is deemed earned by the lawyer upon receipt and need not be deposited into trust. The latter arrangement must be supported by a clear written fee agreement signed by the client in order for the lawyer to be excused from trust accounting requirements. Although the general burden of proof in disciplinary matters is on the bar, the burden of proving the existence of a written fee agreement that makes trust accounting of client payments unnecessary is on the lawyer. In this case, the lawyer could not produce such an agreement or prove that one existed. Accordingly, the money he had received from his client should have been treated by him as trust funds. It was not, which resulted in a finding by the court that the lawyer violated two trust account rules, DR 9-101(A) and DR 9-101(C)(3). In another part of this same case, the court determined that a lawyer who agrees to perform a legal service for a client for a flat fee but does not complete the work, cannot thereafter justify keeping the fee paid by applying an hourly rate to the hours expended on the matter. To do so denies the client the benefit of the flat-fee arrangement and constitutes an excessive fee under DR 2-106(A). The lawyer was suspended from practice for 90 days.

In *In re Fadeley*, 342 Or 403, 153 P3d 682 (2007), dealt with similar fee issues. There, the lawyer accepted a retainer to handle a divorce for a client. The lawyer considered the retainer nonrefundable and earned on receipt. Therefore, when the client terminated the lawyer's services shortly after retaining him, the lawyer refused to refund any of the money to the client. Because the lawyer did not have a written fee agreement with the client, his assertion that the retainer was nonrefundable and earned on receipt was not proper. He was found to have violated the excessive fee rule, DR 2-106(A), and DR 2-110(A)(3) for failing to refund the unearned portion of the client's fee, and was suspended from practice for 30 days.

In *In re Levie*, 342 Or 462, 154 P3d 113 (2007), the lawyer was found to have committed several ethics violations when, in a dispute concerning his client's compliance with the terms of a settlement agreement, the lawyer falsely represented to opposing counsel that all his client's sculptures had been turned over to a gallery for sale, when in fact three sculptures were on display in the lawyer's law firm. The lawyer also falsely represented that there were no security interests encumbering the sculptures. Finally, the lawyer misrepresented to an arbitrator that opposing counsel knew of and consented to the three sculptures being displayed in the law firm. The lawyer was suspended from practice for one year.

The lawyer in *In re Fitzhenry*, 343 Or 86, 162 P3d 260 (2007), was in-house counsel for a publicly-held corporation regulated by the SEC. In connection with an independent audit of the company's financial statements and assertions of received revenue, the lawyer signed a management representation letter to the auditors confirming that a particular transaction the prior year was a fixed commitment by a purchaser to buy over \$4 million in company product. In fact, the lawyer knew that the corporation did not have a fixed commitment for the sale, and that this information was material to the auditors' determination whether the corporate financial statements accurately represented the company's revenue. The lawyer was suspended from practice for four months for violating the rule that prohibits misrepresentations, DR 1-102(A)(3).

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.

IV. DISPOSITIONS

Attached as Appendix C is a list of disciplinary dispositions from 2007. The following table summarizes dispositions in recent years:

Sanction Type	2002	2003	2004	2005	2006	2007
Disbarment	5	1	2	2	2	1
Form B Resignation	10	11	12	9	6	10
Suspension	24	24	31	34	36	35
Suspension Stayed/probation	3	1	2	1	0	0
Reprimand	44	32	15	22	14	20
Involuntary Inactive Transfer	0	0	1	0	0	0
Total Lawyer Sanctions	86	69	63	68	58	66
Dismissals After Adjudication	1	4	2	1	5	0
Dismissed as Moot	2	0	1	1 [†]	0	0
Diversion	-	1	1	3	4	2
Admonitions	58	43	26	43	33	42

† 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 four (4) lawyers on probation at the end of 2007, along with five (5) lawyers in diversion. Two (2) lawyers successfully completed probation last year and the probations were terminated. One (1) lawyer successfully completed diversion and the diverted complaint was dismissed. 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 2007, 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 2007:

Type of misconduct	% of cases in which misconduct present
Neglect of legal matter	44%
Dishonesty or misrepresentation	35%
Trust account violation	29%
Failure to respond to OSB	29%
Conduct prejudicial to justice	18%
Failure to return property or funds	18%
Inadequate accounting records	17%
Criminal conduct	14%
Excessive or illegal fees	14%
Improper withdrawal	12%
Improper communication	8%
Incompetence	8%
Unauthorized practice	8%
Disregarding a court rule or ruling	3%
Multiple client conflicts	3%
Self-interest conflicts	3%
Other	3%

V. SUMMARY OF CASELOAD

A summary of the pending caseload in Disciplinary Counsel's Office at the end of 2007 follows:

New complaints pending	188
Pending LPRC investigations	0
Pending formal proceedings	71*
Probation/diversion matters	9
Contested admission/contested reinstatement matters	3
Total	271

* 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 2007; processed approximately 520 membership status changes (inactive, active emeritus, and active pro bono transfers and voluntary resignations); and responded to roughly 2,700 public record requests during the year.

VI. STAFFING/FUNDING

In 2007, Disciplinary Counsel's Office employed sixteen staff members (14.55 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
Jennifer Brand
Barbara Buehler
Karen L. Duncan
Sandy L. Gerbish
Vickie R. Hansen
R. Lynn Haynes
Raya J. Levin

Disciplinary Counsel's Office is funded out of the Bar's general fund. Revenue is limited (roughly \$80,300 for 2007) 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 2007 were \$1,523,500 with an additional \$370,000 assessed as a support services (overhead) charge. Of the actual program expenses, 90.2% consisted of salaries and benefits. An additional 5.6% of the expense budget went to out-of-pocket expenses for court reporters, witness fees, investigative expenses and related items. 4.2% 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 2007, the Bar received notice of 77 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 2007 follows:

2007 Trust Account Overdrafts

Dismissed by staff	74
Dismissed by SPRB	0
Referred to LPRC for further investigation	1
Closed by admonition letter	0
Closed by diversion	0
Formal charges authorized	0
Closed by Form B resignation	2
Pending	0
Total Received	77

B. PUBLIC RECORDS

In Oregon, lawyer discipline files are public record with very limited exceptions. Disciplinary Counsel staff responds to an average of 225 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 2007, the Bar continued to implement new document management and retention policies. Pursuant to a recent 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.

C. 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 during 2007, the lawyer's files and available client funds were returned to the affected clients. The custodianship was completed and closed by court order in January 2008.

D. 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 2007, the Bar received and processed 398 *pro hac vice* applications, collecting \$94,500 for legal services.

E. 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 2007, the Bar received only one (1) child support notice. In this matter, the court suspended the lawyer and three months later lifted the suspension once the lawyer brought the child support obligation current.

F. CONTINUING LEGAL EDUCATION PROGRAMS

Throughout 2007, 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, specialty bar organizations and general CLE audiences.

VIII. CONCLUSION

In 2007, 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 2007

COMPLAINANT TYPE	NUMBER	PERCENTAGE
Accused (self-reported)	12	3.2%
Client	137	36.4%
Judge	16	4.2%
Opposing Counsel	42	11.2%
Opposing Party	41	10.9%
Third Party	39	10.4%
Unknown	0	-
OSB	89	23.7%
TOTAL	376	100%

COMPLAINT SUBJECT MATTER	NUMBER	PERCENTAGE
Adoption	3	.8%
Advertisement	0	-
Arbitration	0	-
Bankruptcy	7	1.9%
Business	5	1.3%
Civil dispute (general)	40	10.6%
Conservatorship	8	2.1%
Criminal	62	16.5%
Domestic Relations	53	14.1%
Estate Planning	5	1.3%
Guardianship	3	.8%
Immigration	4	1.1%
Juvenile	3	.8%
Labor Law	2	.5%
Litigation (general)	19	5.1%
Land Use	0	-
Other	31	8.2%
Paternity	0	-
Personal injury	15	4%
Probate	20	5.3%
Real Estate	5	1.3%
Social Security	1	.3%
Tenant/landlord	3	.8%
Tax	0	-
Trust Account Overdraft	77	20.5%
Workers Comp.	6	1.6%
Unknown	4	1.1%
TOTAL	376	100%

APPENDIX B 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%

OSB DISPOSITION LIST – 2007

Case No.	Case Name/Cite	Disposition	CC/ Stip	S Ct/ DB	Date of Action	Effective Date	DRs ORS	Bulletin Summary
1	06-33 Patrick T. Hughes 21 DB Rptr__	60 day suspension	Stip	DB	1/2/07	3/3/07	6-101B, 1.3, 1.4(a)	June 2007
2	04-133, 134; 05-08 Steven Black 21 DB Rptr__	One year suspension	CC	DB	10/31/06	1/9/07	1-102A4, 1-103C, 6-101A NG – 1-102A2, 1-102A3, 5-105E, 7-102A5	April 2007
3	06-131 Jason C. McBride 21 DB Rptr__	Reprimand	Stip	DB	1/9/07	1/9/07	1.3	Feb/Mar 2007
4	06-26; 06-27 Richard T. Perry 21 DB Rptr__	97 day suspension	CC	DB	11/15/06	1/17/07	6-101B, 7-101A2, 1.3, 1.4(a), 1.4(b)	Feb/Mar 2007
5	06-29 J. Kevin Hunt 21 DB Rptr__	Reprimand	Stip	DB	1/18/07	1/18/07	1.4(a), 8.1(a)(2)	Feb/Mar 2007
6	06-96 Gary A. Bisaccio 21 DB Rptr__	Reprimand	Stip	DB	1/18/07	1/18/07	6-101B, 1.3, 8.4(a)(4)	Feb/Mar 2007
7	05-02 Michael G. Balocca 342 Or 279, 151 P3d 154	90 day suspension	CC	S Ct	1/19/07	2/19/07	2-106A, 2-110A3, 5-105C, 9-101A, 9-101C3	April 2007
8	06-56 James J. Kolstoe 21 DB Rptr__	Four year suspension	CC	DB	11/20/06	1/22/07	1-102A2	Feb/Mar 2007
9	05-181 Eric M. Cumfer 21 DB Rptr__	Two year suspension	CC	DB	11/21/06	1/22/07	1-102A3, 2-110A1, 2-110A2, 2-110A3, 7-101A1, 7-101A2, 1.4, 1.15-1(d), 8.1(a)(2)	April 2007
10	05-148, 149, 150, 179; 06-28 Daniel J. Bertak 21 DB Rptr__	Four year suspension	CC	DB	11/22/07	1/29/07	9-101A, 1.3, 1.15-1(c), 1.15-1(d), 1.16(d), 5.5(a), 8.1(a)(1), 8.1(a)(2), 8.4(a)(3), 8.4(a)(4), ORS 9.160	April 2007
11	06-34, 35, 36 Samuel J. Nicholls 21 DB Rptr__	Three year suspension	CC	DB	12/13/06	2/13/07	2-106A, 2-110A3, 6-101B, 9-101C3, 1.3, 1.4(a), 1.15-1(d), 8.1(a)	May 2007
12	06-95 Richard T. Perry (II) 21 DB Rptr__	Six month suspension, consecutive with <i>Perry I</i>	CC	DB	12/18/06	2/18/07 4/25/07	1.3, 1.4(a), 1.15-1(d), 8.1(a)(2)	April 2007
13	05-81 A. E. Bud Bailey 21 DB Rptr__	Reprimand	Stip	DB	2/20/07	2/20/07	5-101A, 5-104A	May 2007
14	05-65; 05-104 Cheryl B. Chadwick SC-S052541	Form B resignation	--	S Ct	2/21/07	2/21/07	1-102A2, 1-102A3, 2-106A, 2-110A3, 7-102A7, 7-102A8, 9-101A, 9-101C3, 9-527(2)	June 2007
15	05-75 William Redden 342 Or 393, 153 P3d 113	60 day suspension	CC	S Ct	2/23/07	4/24/07	6-101B	April 2007
16	05-21 Edward N. Fadeley 342 Or 403, 153 P3d 682	30 day suspension	CC	S Ct	2/23/07	4/24/07	2-106A, 2-110A3, 9-101A, 9-101C3,	May 2007

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Case No.	Case Name/Cite	Disposition	CC/ Stip	S Ct/ DB	Date of Action	Effective Date	DRs ORS	Bulletin Summary
17	07-11; 07-12 Benjamin M. Karlin 21 DB Rptr__	Reprimand	Stip	DB	2/26/07	2/26/07	1.3, 1.4(a), 1.4(b)	June 2007
18	06-54 Neil J. Driscoll 21 DB Rptr__	60 day suspension	Stip	DB	2/26/07	3/1/07	3.3(d), 3.5(b), 8.4(a)(3), 8.4(a)(4)	April 2007
19	05-166; 06-08 Clayton J. Lance 21 DB Rptr__	Six month suspension	Stip	DB	3/2/07	4/1/07	6-101A, 6-101B, 1.15-1(d), 8.1(a)(2)	June 2007
20	05-133; 06-53, 106, 107 Michael L. Doss 21 DB Rptr__	Six month suspension	Stip	DB	3/5/07	4/2/07	1.3, 1.4, 1.5(a), 1.15-1(a), 1.15-1(c), 1.15-1(d), 8.1(a)(2)	May 2007
21	06-82 Tonya M. Van Wallegem 21 DB Rptr__	Reprimand	Stip	DB	3/5/07	3/5/07	8.4(a)(3)	May 2007
22	05-141 to 144, 183 to 186; 06- 46 William S. LaBahn 21 DB Rptr__	Disbarment	CC	DB	1/9/07	3/12/07	1-102A3, 1-102A4, 6-101B, 7-110B, 1.3, 1.15-1(a), 1.15-1(c), 5.5(a), 8.1(a), 8.4(a)(3)	May 2007
23	04-97 Iain Levie 342 Or 462, 154 P3d 113	One year suspension	CC	S Ct	3/8/07	5/7/07	1-102A3, 1-102A4, 5-101A, 7-102A5, 7-106A, 9-101A	July 2007
24	05-135 Kathryn E. Jackson 21 DB Rptr__	60 day suspension	Stip	DB	5/8/07	6/9/07	1-102A4, 6-101A	Aug/Sept 2007
25	07-55 C. David Hall 21 DB Rptr__	Reprimand	Stip	DB	5/17/07	5/17/07	1-102A3, 8.4(a)(3)	July 2007
26	06-38, 138 to 141; 07- 02 William N. Kent SC S54781	Form B resignation	--	S Ct	5/22/07	5/22/07	1-102A2, 1-102A3, 9-101A, 9-101C3, 9- 101C4, 1.3, 1.4(a), 1.4(b), 1.5, 1.15-1(c), 1.15-1(d), 1.16(d), 8.1(a)(2), 8.4(a)(3), 8.4(a)(4)	July 2007
27	05-90, 05- 151 Todd W. Wetsel 21 DB Rptr__	18 month suspension	CC	DB	4/6/07	6/9/07	1.1, 1.3, 1.4(a), 1.7(a)(2), 1.15-1(d), 8.1(a)(2), 8.4(a)(3), 6-101A, 6-101B, 9-101A	July 2007
28	06-50 Russell D. Bevans 21 DB Rptr__	60 day suspension	Stip	DB	6/14/07	6/15/07	1.3, 1.4(a), 1.4(b)	July 2007
29	06-61, 62, 98, 99; 07- 56, 60 Oscar Nealy SC S054858	Form B resignation	--	S Ct	6/19/07	6/19/07	6-101B, 9-101A, 9-101C3, 1.2(a), 1.3, 1.4(a), 1.4(b), 1.15-1(a), 1.15-1(c), 1.15- 1(d), 1.16(d), 3.3(a), 5.3(a), 5.5(a), 8.1(a)(1), 8.1(a)(2), 8.4(a)(3), 8.4(a)(4)	July 2007
30	07-25 Mark Carton SC S054743	Reciprocal discipline – 30 day suspension	CC	S Ct	6/19/07	8/18/07	1-102A2	Aug/Sept 2007
31	03-85 James A. Fitzhenry 343 Or 86, 162 P3d 260	120 day suspension	CC	S Ct	6/28/07	7/11/07	1-102A3	Aug/Sept 2007

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Case No.	Case Name/Cite	Disposition	CC/ Stip	S Ct/ DB	Date of Action	Effective Date	DRs ORS	Bulletin Summary
32	07-04 Gregory L. Gudger 21 DB Rptr ___	Reprimand	Stip	DB	7/3/07	7/3/07	1.5(a), 9-101A	Aug/Sept 2007
33	06-124 Dean M. Shyshlak 21 DB Rptr ___	60 day suspension	Stip	DB	7/10/07	8/1/07	6-101B, 9-101A, 1.3, 1.4(a), 8.4(a)(3)	Oct 2007
34	06-07 Arthur P. Klosterman 21 DB Rptr ___	120 day suspension	Stip	DB	7/10/07	8/9/07	1.3, 1.4(a), 8.1(a)(2)	Oct 2007
35	06-63 Jason T. Fehlman 21 DB Rptr ___	One year suspension	CC	DB	5/8/07	7/18/07	8.4(a)(2); ORS 9.527(2)	Aug/Sept 2007
36	06-080 Stuart A. Sugarman 21 DB Rptr ___	Reprimand	Stip	DB	7/19/07	7/19/07	8.1(a)(2)	Aug/Sept 2007
37	06-97 Glen M. Feest SC S055019	Form B resignation	--	S Ct	7/24/07	7/24/07	1-102A4, 6-101B, 9-101C3, 9-101C4, 1.3, 1.4(a), 1.4(b), 1.15-1(d), 8.1(a)(2)	Oct 2007
38	07-62 Robert S. Shatzen S 054883	BR 3.5 reciprocal – no further discipline imposed	CC	S Ct	7/24/07	7/24/07	CA Rule 955; CA B & P Code §6103	No
39	07-90 Catherine Carroll	Diversion	--	SPRB	7/21/07	8/9/07	1.15-1(a), 1.15-1(c)	No
40	07-31 to 07-35 Thomas K. Okai SC S055020	BR 3.1 suspension	Stip	S Ct	8/13/07	8/13/07	1.2(c), 1.3, 1.4(b), 1.5(a), 1.7(a)(2), 1.15-1(c), 1.15-1(d), 1.16(d), 3.1, 8.1(a)(2), 8.4(a)(2), 8.4(a)(4)	No
41	07-119 Beth Mason SC S055100	Form B resignation	--	S Ct	8/14/07	8/4/07	8.1(a)(1), 8.4(a)(3)	Oct 2007
42	06-67 Michael Mick Banks 21 DB Rptr ___	Seven month suspension	CC	DB	6/14/07	8/14/07	6-101B, 1.2(a), 1.3, 1.4(a), 1.4(b), 8.1(a)(2)	Nov 2007
43	07-07 Vicki R. Vernon	Diversion	--	SPRB	8/17/07	8/17/07	1.3, 1.4(a)	No
44	06-125 Michael A. Kesner 21 DB Rptr ___	60 day suspension	Stip	DB	8/27/07	8/28/07	1.1, 8.4(a)(4)	Nov 2007
45	06-16, 07-93 William C. Abendroth 21 DB Rptr ___	120 day suspension, plus BR 8.1 reinstatement	Stip	DB	8/27/07	8/27/07	1.3, 1.4(a), 1.15-1(d), 1.16(a)(2), 8.1(a)(2), 8.4(a)(3)	Oct 2007
46	06-40 Willard Merkel 21 DB Rptr ___	Reprimand	CC	DB	7/9/07	9/8/07	4.1(a), 8.4(a)(3)	Nov 2007
47	07-124 Steven D. Marsh 21 DB Rptr ___	Reprimand	Stip	DB	9/13/07	9/13/07	9-101C3, 1.15-1(a)	Dec 2007
48	06-111 Shane A. Reed 21 DB Rptr ___	Reprimand	Stip	DB	9/19/07	9/19/07	7.5(c)(1), 8.4(a)(3)	Dec 2007

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Case No.	Case Name/Cite	Disposition	CC/ Stip	S Ct/ DB	Date of Action	Effective Date	DRs ORS	Bulletin Summary
49	Lincoln Nehring 21 DB Rptr ___	30 day suspension	Stip	DB	9/19/07	9/22/07	9.527(2), 8.4(a)(2), 8.4(a)(3)	Nov 2007
50	Thomas J. Greif 21 DB Rptr ___	Reprimand	Stip	DB	9/20/07	9/20/07	5-105E	Dec 2007
51	Gary D. Babcock 21 DB Rptr ___	60 day suspension	CC	DB	7/24/07	9/26/07	9-101A, 9-101C3, 1.15-1(a), 8.1(a)(2)	Nov 2007
52	Andrew P. Colvin 21 DB Rptr ___	120 day suspension	Stip	DB	10/1/07	10/1/07	1.15-1(a), 1.15-1(b), 1.15-1(c), 1.15-2(l)	Dec 2007
53	Timothy P. Dunn S054353	BR 3.1 suspension	CC	S Ct	10/4/07	10/4/07	1-102A4, 1-103C, 2-110A2, 2-110A3, 6-101B, 7-106A, 9-101A, 9-101C3, 1.3, 1.4(a), 1.4(b), 8.1(a)(1), 8.1(a)(2)	No
54	Thomas K. Okai S055213	BR 3.4 suspension	CC	S Ct	10/4/07	10/4/07	8.4(a)(2), 9.527(2)	No
55	Will Childs SC S055208	Form B resignation	--	S Ct	10/4/07	10/4/07	5.5(a), 8.1(a)(1), 8.1(a)(2), 8.4(a)(3)	Dec 2007
56	Samuel R. Blair SC S055209	Form B resignation	--	S Ct	10/4/07	10/4/07	Hawaii RPC 1.3, 1.4, 1.15(c), (d), (e), (f)(3), (f)(4) and (g), 1.16(a)(1)	Dec 2007
57	Dawna Scott Andersen SC S055210	Form B resignation	--	S Ct	10/4/07	10/4/07	8.4(a)(2), 8.4(a)(3)	Dec 2007
58	Brian J. Sunderland SC S055212	One year suspension	Stip	S Ct	10/4/07	10/7/07	1-102A3, 1-102A4, 7-102A7, 7-106A, 7-110B, 9-101A, 9-101C3, 1.15-1(a), 1.15-1(c), 5.1(a), 5.1(b), 8.4(a)(4)	Dec 2007
59	Lawrence P. Cullen 21 DB Rptr ___	Six month suspension	Stip	DB	10/9/07	11/1/07	6-101B, 1.3, 1.4(a), 1.15-1(d)	Dec 2007
60	Thomas John Hastert SC S055215	BR 3.5 reciprocal discipline - reprimand	CC	S Ct	10/18/07	10/18/07	Calif. RPC 1-300	Feb/Mar 2008
61	Kathleen Kelly Moore 21 DB Rptr ___	60 day suspension; restitution	Stip	DB	10/29/07	11/1/07	2-106A	Jan 2008
62	Keith G. Jordan SC S055065	BR 3.5 reciprocal discipline - 270 day suspension	CC	S Ct	11/1/07	1/1/08	Calif. RPC 3-700(d)(2), 3-110(d)(3), 3-110(a), Bus. & Prof. §6068(m),	Jan 2008
63	Marsha L. McDonough 21 DB Rptr ___	Reprimand	Stip	DB	11/5/07	11/5/07	1.1, 1.3, 1.4(a)	Jan 2008

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Case No.	Case Name/Cite	Disposition	CC/ Stip	S Ct/ DB	Date of Action	Effective Date	DRs ORS	Bulletin Summary
64	06-137 Jon G. Springer 21 DB Rptr ___	Reprimand	Stip	DB	11/13/07	11/13/07	1.3, 1.15-1(a), 1.15-1(c)	Jan 2008
65	07-156 Larry Epstein SC S055441	BR 3.4 suspension	CC	S Ct	12/5/07	12/5/07	8.4(a)(2), 9.527(2)	No
66	07-72 Sharon L. Hockett SC S055440	Form B resignation	--	S Ct	12/5/07	12/24/07	1-102A2, 9-101A, 9-101C3, 1.15-1(a), 8.1(a), 8.4(a)(2), 8.4(a)(3)	Feb/Mar 2008
67	07-140 Kevin L. Cathcart 21 DB Rptr ___	Reprimand	Stip	DB	12/12/07	12/12/07	3.3, 8.4(a)(3)	Jan 2008
68	07-68 Dale G. Rasmussen 21 DB Rptr ___	120 day suspension	Stip	DB	12/11/07	12/12/07	1-102A3, 7-102A7	Feb/Mar 2008
69	07-114 Edward Fitch 21 DB Rptr ___	Reprimand	Stip	DB	12/13/07	12/13/07	8.4(a)(4)	Feb/Mar 2008
70	07-165 Thomas MacNair 21 DB Rptr ___	Reprimand	Stip	DB	12/13/07	12/13/07	1.3, 1.4(a)	Feb/Mar 2008
71	06-101 T. Michael Ryan SC S055548	18 month suspension	Stip	S Ct	12/12/07	1/1/08	1.3, 1.4(a), 1.4(b), 1.5, 1.15-1(a), 1.15-1(c), 8.1(a)(1), 8.1(a)(2), 8.4(a)(4)	Feb/Mar 2008
72	07-133 William B. Knowles SC S055442	Form B resignation	--	S Ct	12/26/07	12/26/07	WA RPC 1.4, 1.5(a), 1.15(d), 8.4(b), 8.4(i),	Feb/Mar 2008
73	07-105 Randy Kane 21 DB Rptr ___	Reprimand	Stip	DB	12/31/07	21/31/07	8.4(a)(3)	April 2008

APPENDIX C-5

OREGON STATE BAR DISCIPLINARY PROCESS



