

Oregon State Bar

2008 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 2008. The report provides an overview of Oregon's lawyer discipline system, an analysis of the caseload within the system, along with the dispositions in 2008, 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 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 15 times in 2008. With regular meetings and conference calls combined, the SPRB considered approximately 325 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 2008:

John F. Folliard, Jr. (Portland) – Chairperson

Richard H. Braun (Portland)

Liz Fancher (Bend)

David W. Hittle (Salem)

Jolie Krechman (Portland) – Public Member

Linda Lee Lynch (Eugene) – Public Member

James A. Marshall (Albany)

Jana Toran (Portland)

Martha J. Rodman (Eugene)

The terms of John Folliard, Richard Braun, and Linda Lynch expired at the end of 2008. The new appointments for 2009 include: Peter R. Chamberlain (Portland), Jonathan P. Hill (public member from Roseburg), and William B. Kirby (Beaverton). Liz Fancher is the SPRB Chairperson for 2009.

III. SYSTEM OVERVIEW

A. COMPLAINTS RECEIVED

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 is a matter referred to Disciplinary Counsel's Office for investigation. See BR 2.5.

The table below reflects the number of files opened by Disciplinary Counsel in recent years. In 2008, Disciplinary Counsel opened 453 files (involving 467 Oregon lawyers).

Files Opened by Disciplinary Counsel

Month	2004	2005	2006	2007	2008
January	14	34	28	30	30
February	53	29	40	49	39
March	34	30	41	42	36
April	29	30	53	30	26
May	29	42	22	19	35
June	31	47	23	29	30
July	31	35	29	31	37
August	30	32	36	23	38
September	45	22	21	16	125 [†]
October	89 [*]	31	38	38	27
November	45	41	23	46	15
December	27	31	29	23	29
Total	457	404	383	376	467

*61 complaints vs. same lawyer/same conduct

†98 IOLTA compliance matters

The breakdown of the open files for 2008 is: 271 referrals from the Client Assistance Office, 81 trust account overdraft notices from financial institutions that came directly to Disciplinary Counsel's Office, 98 inquiries concerning lawyer compliance with the IOLTA rules, and 17 other matters opened by Disciplinary Counsel on the office's initiative.

For 2008, statistical information regarding complainant type and complaint subject matter is found in Appendix A to this report. Similar information for 2007 is found in Appendix B for comparison purposes.

Every complaint Disciplinary Counsel's Office received in 2008, 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 49 such appeals in 2008, affirming all of the 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 2008, the SPRB reviewed 191 of these probable cause investigations. 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 board's decision, or legal authority not previously known to the SPRB which establishes that the decision to prosecute is incorrect.

In 2008, the SPRB took action on 6 reports submitted by investigative committees and 238 matters investigated by Disciplinary Counsel staff. Action taken by the SPRB in recent years and in 2008 is summarized in the following table:

Action Taken by SPRB

Year	Pros.	Admonition Offered	Admonition Accepted	Dismissed
2004	136	28	26*	89
2005	131	43	43	122†
2006	94	33	33	85
2007	133	40	40	77
2008	123	31	30†	90

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

† One admonition letter offered was later reconsidered by the SPRB and the matter was dismissed.

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 have abandoned their practice, 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 2008.

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 65. 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). Seventeen (17) matters were referred to LPRCs in 2008.

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, but don't always, 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* and Oregon case law in determining appropriate sanctions when misconduct has been found.

Nineteen (19) disciplinary cases were tried in 2008, although some of these matters went by default and did not require full evidentiary hearings.

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. Eighteen (18) lawyers submitted Form B resignations in 2008, 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 2008, 75 formal proceedings were concluded: 20 by decision in a contested case; 35 by stipulation; 18 by Form B resignation; 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 2008, ten

(10) cases that in prior years would have required appellate review were final after trial, five (5) resulting in a disbarment and five (5) 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 2008, the Supreme Court rendered four (4) discipline opinions in contested cases and denied, after an evidentiary hearing before a trial panel, a motion to set aside a previously imposed disbarment. The court approved six (6) stipulations for discipline. The court also issued orders in three (3) cases suspending lawyers on an interim basis while the disciplinary proceedings against them were pending, and issued an order in one (1) case involuntarily transferring a lawyer to inactive status.

Among the noteworthy court decisions were:

In *In re Knappenberger*, 344 Or 559, 186 P3d 272 (2008), the court found that the lawyer charged an illegal fee when he billed a client for work in a social security claim without the approval of the Social Security Administration required by federal regulation. The court dismissed charges that the lawyer advised a domestic relations client to violate the provisions of a visitation order, finding the evidence insufficient to establish that the lawyer did more than advise the client of possible consequences if she did not comply with the order. Finally, the court found that the lawyer charged a third client an excessive fee by including a charge for time he spent drafting an affidavit in response to an ethics complaint the client filed against him. Regarding sanction, the bar urged the court to disbar the lawyer because this was the fifth time the lawyer was before the court on disciplinary charges. However, the court chose to suspend the lawyer for two years instead.

In *In re Cobb*, 345 Or 106, 190 P3d 1217 (2008), the court dismissed all charges against a lawyer who represented a limited partnership and individual investor partners in bankruptcy proceedings. Conflict of interest charges failed because the limited partnership and individual partners had congruent interests when the involuntary bankruptcy proceeding began, and the lawyer later made sufficient conflict disclosures when the clients' interests diverged. The court also dismissed charges that the lawyer made misrepresentations to the trustee concerning the extent of the client's assets, finding that the lawyer navigated just barely the line between responding truthfully to the trustee's questions and not volunteering the lawyer's subjective concerns about the legitimacy of his client's operations.

In *In re Schenck*, 345 Or 350, 194 P3d 804, modified on recon., 345 Or 652 (2008), the lawyer committed a self-interest conflict when he undertook to represent a client in collecting a debt from a third party while contemporaneously renegotiating his own debt with client on better terms. He also committed additional conflict of interest violations when he drafted wills for two elderly sisters knowing they had disagreements over the disposition between them of their respective estates, and when he prepared a will for an elderly client that named

the lawyer's wife as a substantial beneficiary. The lawyer, who had prior discipline, was suspended for one year.

Finally, in *In re Koch*, 345 Or 444, ___ P3d ___ (2008), the court suspended the lawyer for 120 days for neglect, a failure to account for client funds, and failure to respond to bar inquiries. Although the lawyer defaulted before the trial panel and made no appearance before the court, some of the charges against her were dismissed because the factual allegations in the bar's pleading, deemed true by virtue of the lawyer's default, nevertheless were insufficient to establish the violations charged.

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 either the bar's Executive Director or the Board of Governors, depending on the nature of the application. Many reinstatements are approved 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.

In one contested reinstatement case decided in 2008, *In re Gunter*, 344 Or 368, 182 P3d 187 (2008), the court denied the applicant's reinstatement based on doubt whether an alcohol and drug problem had been addressed adequately and because of the applicant's mismanagement of his own financial affairs leading to two bankruptcies in eight years.

IV. DISPOSITIONS

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

Sanction Type	2004	2005	2006	2007	2008
Disbarment	2	2	2	1	5
Form B Resignation	12	9	6	10	18
Suspension	31	34	36	35	22
Suspension Stayed/probation	2	1	0	0	2
Reprimand	15	22	14	20	23
Involuntary Inactive Transfer	1	0	0	0	1
Total Lawyer Sanctions	63	68	58	66	71
Dismissals After Adjudication	2	1	5	0	2
Dismissed as Moot	1	1 †	0	0	1
Diversion	1	3	4	2	2
Admonitions	26	43	33	42	30

† 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 six (6) lawyers on probation at the end of 2008, along with three (3) lawyers in diversion. Two (2) lawyers successfully completed probation last year and the probations were terminated. Three (3) lawyers successfully completed diversion and the diverted complaints were dismissed. One diversion was revoked for 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 2008, 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 2008:

Type of misconduct	% of cases in which misconduct present
Neglect of legal matter	41%
Dishonesty or misrepresentation	41%
Failure to respond to OSB	26%
Conduct prejudicial to justice	24%
Improper withdrawal	24%
Inadequate accounting records	21%
Criminal conduct	17%
Excessive or illegal fees	17%
Trust account violation	17%
Incompetence	14%
Failure to return property or funds	13%
Unauthorized practice	13%
Self-interest conflicts	10%
Disregarding a court rule or ruling	9%
Multiple client conflicts	6%
Improper communication	3%
Other	14%

V. SUMMARY OF CASELOAD

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

New complaints pending	157
Pending LPRC investigations	8
Pending formal proceedings	68*
Probation/diversion matters	9
Contested admission/contested reinstatement matters	0
Total	242

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

In addition to disciplinary matters, Disciplinary Counsel's Office processed and investigated approximately 187 reinstatement applications in 2008; processed approximately 550 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 2008, 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 \$88,800 for 2008) 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 2008 were \$1,585,000 with an additional \$376,000 assessed as a support services (overhead) charge. Of the actual program expenses, 89.4% consisted of salaries and benefits. An additional 6.8% of the expense budget went to out-of-pocket expenses for court reporters, witness fees, investigative expenses and related items. 3.8% 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 2008, the Bar received notice of 81 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 2008 follows:

2007 Trust Account Overdrafts

Dismissed by staff	72
Dismissed by SPRB	2
Referred to LPRC for further investigation	1
Closed by admonition letter	1
Closed by diversion	0
Formal charges authorized	0
Closed by Form B resignation	0
Pending (as of 3/2008)	5
Total Received	81

B. IOLTA COMPLIANCE

Related to trust accounts is the obligation under RPC 1.15-2(m) for Oregon lawyers to certify annually that they are in compliance with the trust account disciplinary rules, identifying the financial institutions and account numbers in which Interest on Lawyer Trust Account (IOLTA) trust funds are held. The annual certification is distributed to each lawyer with the yearly invoice for membership dues.

By July 2008, approximately 660 lawyers still had not filed their IOLTA certifications, and their names were turned over to Disciplinary Counsel's Office. Further notices from DCO prompted substantial compliance such that only four (4) lawyers ultimately were charged with a violation of RPC 1.15-2(m) in 2008.

C. 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 2008, the Bar continued to implement relatively new document management and retention policies. Ethics complaints dismissed for lack of probable cause are now retained for ten (10) years, rather than permanently. Retained records are scanned and maintained in electronic format, thereby reducing the physical file storage needs of the Bar.

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 2008, the Bar received and processed 399 *pro hac vice* applications, collecting \$99,750 for legal services.

E. 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 2008, one such custodianship involving a Multnomah County lawyer who walked away from his practice was completed and closed.

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.

G. CONTINUING LEGAL EDUCATION PROGRAMS

Throughout 2008, 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 2008, 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 2008

COMPLAINANT TYPE	NUMBER	PERCENTAGE
Accused (self-reported)	13	2.8%
Client	135	28.9%
Judge	8	1.7%
Opposing Counsel	45	9.6%
Opposing Party	41	8.8%
Third Party	33	7.1%
Unknown	2	.4%
OSB	92	19.7%
OSB (IOLTA Compliance)	98	21%
TOTAL	467	100%

COMPLAINT SUBJECT MATTER	NUMBER	PERCENTAGE
Adoption	0	--
Advertisement	0	--
Arbitration	0	--
Bankruptcy	8	1.7%
Business	6	1.3%
Civil dispute (general)	28	6.0%
Conservatorship	2	.4%
Criminal	51	10.9%
Domestic Relations	61	13.1%
Estate Planning	4	.9%
Guardianship	4	.9%
Immigration	10	2.1%
Juvenile	4	.9%
Labor Law	2	.4%
Litigation (general)	26	5.6%
Land Use	1	.2%
Other	42	9.0%
Paternity	0	--
Personal injury	11	2.4%
Probate	13	2.8%
Real Estate	2	.4%
Social Security	8	1.7%
Tenant/landlord	2	.4%
Tax	1	.2%
Trust Account (IOLTA)	98	21.0%
Trust Account Overdraft	81	17.3%
Workers Comp.	2	.4%
Unknown	0	--
TOTAL	467	100%

APPENDIX B 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%

OSB DISPOSITION LIST – 2008

Case No.	Case Name/Cite	Disposition	CC/ Stip	S Ct/ DB	Date of Action	Effective Date	DRs ORS	Bulletin Summary
1	07-73 Michael James Petersen 22 DB Rptr ___	Reprimand	Stip	DB	1/8/08	1/8/08	1.1, 1.16(a)(1)	Feb/Mar 2008
2	07-157 Robert G. Dolton 22 DB Rptr ___	Reprimand	Stip	DB	1/15/08	1/15/08	1.3, 8.4(a)(4)	April 2008
3	07-123 C. Michael Arnold 22 DB Rptr ___	Reprimand	Stip	DB	1/17/08	1/17/08	8.4(a)(2)	April 2008
4	07-143 to 07-147, 07-150 James E. White SC S055564	Form B resignation	--	S Ct	1/23/08	1/31/08	3-101A, 3-102A, 6-101A, 9-101A, 1.3, 1.4(a), 1.4(b), 1.5(a), 1.15-1(c), 1.15-1(d), 1.16(a)(1), 5.5(a), 8.1(a)(1), 8.1(a)(2), 8.4(a)(3)	April 2008
5	07-05, 07-48 Brian J. Dobie SC S055642	Two year suspension	Stip	S Ct	1/23/08	2/22/08	1-102A2, 1-102A3, 5.5(a), 8.1(a)(1), 8.4(a)(3), ORS 9.160	April 2008
6	07-116, 07-160 Michael L. Doss SC S055590	Form B resignation	--	S Ct	1/23/08	1/23/08	1.3, 1.4(a), 1.4(b), 1.15-1(d), 1.16(d), 8.1(a)(2)	Feb/Mar 2008
7	07-71, 07-173 Matthew A. Chancellor SC S055643	One year suspension	Stip	S Ct	1/23/08	1/23/08	1.7(a)(2), 3.4(c), 8.4(a)(2), 8.4(a)(3), 8.4(a)(4), 9.527(1)	Feb/Mar 2008
8	05-131, 05-134 Dennis M. Odman 22 DB Rptr ___	181 day suspension	CC	DB	11/27/07	1/27/08	1-102A3, 2-106A, 6-101B, 1.16(d), 8.1(a)(2) NG – 1-102A4, 2-110A2, 6-101A, 6-101B, 9-101C4, 1.15-1(d), 3.4, 8.4(a)(3)	April 2008
9	07-99 Bill Kloos 22 DB Rptr ___	Reprimand	Stip	DB	1/28/08	1/28/08	1.7(a)(1)	April 2008
10	07-36, 07- 49, 07-170 Michael R. Genna SC S055602	Form B resignation	--	S Ct	1/23/08	1/31/08	1.1, 1.3, 1.4(a), 1.4(b), 1.5, 1.15-1(a), 1.15-1(c), 1.15-1(d), 1.16(a)(1), 1.16(d), 8.1(a)(2), 8.4(a)(4)	Feb/Mar 2008
11	06-66, 06-105 Michael R. Karber SC S055632	Form B resignation	--	S Ct	2/13/08	2/13/08	1-102A2, 1-102A4, 8.4(a)(4) WA RPC 1.5(c)(1), 1.14(a), 1.14(b)(3)	April 2008
12	03-110, 126-04- 104, 115; 06-100, 126-07- 08, 09, 30, 65, 66, 67 Timothy P. Dunn 22 DB Rptr ___	Disbarment	CC	DB	12/19/07	2/20/08	1-102A4, 1-103C, 2-110A2, 2-110A3, 6- 101B, 7-106A, 9-101A, 9-101C3, 1.3, 1.4(a), 1.4(b), 1.5(a), 1.15-1(c), 1.15-1(d), 1.16(d), 8.1(a)(1), 8.1(a)(2), 8.1(c)(4), 8.4(a)(4)	May 2008
13	07-23, 07-24 Iain E. Levie 22 DB Rptr ___	Six month suspension	Stip	DB	3/10/08	5/7/08	1.15-1(b), 8.4(a)(3)	June 2008
14	07-172 Edward L. Daniels 22 DB Rptr ___	Reprimand	Stip	DB	3/10/08	3/10/08	5-101A1, 5-104(a), 1.7(a)(2), 1.8(a)	May 2008
15	08-24 Matthew R. Aylworth 22 DB Rptr ___	Reprimand	Stip	DB	3/14/08	3/14/08	3.5(b), 8.4(a)(4)	May 2008

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16	08-04 Michael A. Autio	Diversion	--	SPRB	3/17/08	3/17/08	1.4(a), 1.15-1(d)	No
17	07-58, 07-59 Clark Willes 22 DB Rptr __	30 day suspension	Stip	DB	3/19/08	3/27/08	1.2(c), 3.3(a)(4), 8.4(a)(3), 8.4(a)(4), 9.460(2)	May 2008
18	01-161 Matthew D. Samwick SC S055714	Form B resignation	--	S Ct	3/26/08	3/26/08	1-102A2, 1-102A3, 5-101A, 5-104A, 5-105E, 6-101B, 9-101A, 9-101C3	June 2008
19	SC S053579 Bruce A. Gunter 344 Or 368, 182 P3d 187, recon. 344 Or 540, 186 P3d 286	Reinstatement denied	CC	S Ct	3/27/08	7/15/08	BR 8.1(b) & (c)	May 2008
20	06-75, 76; 07-26, 27, 106 to 109 Todd W. Wetsel 22 DB Rptr __	Disbarment	CC	DB	1/24/08	3/31/08	1.3, 1.4(a), 1.4(b), 1.15-1(a), 1.15-1(b), 1.15-1(c), 1.15-1(d), 1.15-2(m), 1.16(a)(2), 1.16(d), 8.1(a)(2), 8.4(a)(3), 8.4(a)(4); WRPC 1.3, 1.4(a)(3), 1.4(a)(4), 1.15A(b), 1.15A(c)(1), 1.16(a)(2), 8.1(a)(2), 8.1(b), 8.4(c)	May 2008
21	07-158 Samantha N. Dang 22 DB Rptr __	Reprimand	Stip	DB	3/31/08	3/31/08	1-102A3	May 2008
22	07-139 Kurt Carstens 22 DB Rptr __	Reprimand	Stip	DB	4/7/08	4/7/08	5.5(b)(2), ORS 9.160	June 2008
23	08-20 to 08-23 Morgain Faye McGaughey SC S055816	Form B resignation	--	S Ct	4/16/08	4/16/08	1.1, 1.3, 1.4(a), 1.4(b), 1.16(a)(2), 1.16(d), 3.3(a)(1), 8.4(a)(3), 8.4(a)(4)	June 2008
24	08-34 Aubrey Sipowicz SC S055844	Form B resignation	--	S Ct	4/16/08	4/16/08	8.4(a)(2), 8.4(a)(3), 9.527(2)	June 2008
25	08-11 Jason T. Fehlman SC S055867	Form B resignation	--	S Ct	4/16/08	4/16/08	3.4(c), 8.4(a)(2), 8.4(a)(3)	June 2008
26	07-17, 08-17 James Hilborn SC S055898	Nine month suspension/ all but 60 days stayed/probation	Stip	S Ct	4/16/08	5/16/08	1.1, 1.3, 1.4(a), 1.4(b), 8.1(a)(2), 8.4(a)(3)	June 2008
27	08-02 Nyle B. Smith 22 DB Rptr __	Reprimand	Stip	DB	4/21/08	4/21/08	5.5(a), ORS 9.160	June 2008
28	07-70 Steven C. Burke 22 DB Rptr __	Dismissed	CC	DB	2/27/08	4/30/08	NG – 3.3(a)(5), 4.4(a), 8.2(a)(2)	June 2008
29	07-50, 51; 07-141 David E. Groom SC S055965	One year suspension, 10 months stayed/ probation	Stip	S Ct	5/7/08	5/10/08	6-101B, 7-101A2, 7-106A, 1.3, 1.4(a), 1.4(b), 5.5(a), 8.4(a)(3), 9.160	June 2008
30	07-86 Randall K. Bogrand SC S055882	Form B resignation	--	S Ct	5/7/08	5/7/08	8.4(a)(2), 8.4(a)(3)	July 2008
31	07-164 Linda J. Wilson SC S055850	Form B resignation	--	S Ct	5/7/08	7/6/08	1.1, 1.4(a), 1.4(b), 1.5(a), 1.16(d), 5.5, 8.4(a)(3)	July 2008
32	05-66, 05- 122, 05- Tod David Eames SC S052740	Motion to set aside default/disbarment denied	CC	S Ct	5/7/08	5/7/08	1-102A2, 1-102A3, 9-101A, 9-101C3, 8.1(a)(2), 3.4(c)	July 2008

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123								
33	David DeBlasio 22 DB Rptr —	30 day suspension & restitution	Stip	DB	5/14/08	6/13/08	6-101A, 6-101B, 9-101C1, 9-101C4, 1.1, 1.3, 1.4(a), 1.4(b), 1.15-1(d)	July 2008
34	Brian J. Sunderland SC S056045	One year suspension consecutive with prior case	Stip	S Ct	5/29/08	10/7/08	1-102A3, 1-102A4, 7-102A3, 1.4(a), 8.1(a)(1), 8.1(a)(2)	July 2008
35	Westly Allen Warner SC S055892	BR 3.4 suspension	CC	S Ct	5/29/08	5/29/08	8.4(a)(2), ORS 9.527(2)	No
36	Donald H. Ujiohn SC S055991	Form B resignation	--	S Ct	5/29/08	5/29/08	1-102A3, 5-101A, 5-104A	July 2008
37	Allan F. Knappenberger 344 Or 559, 186 P3d 272	Two year suspension	CC	S Ct	6/5/08	8/4/08	2-106A	July 2008
38	Glenn C. Brown SC S056075	BR 3.1 suspension	CC	S Ct	6/12/08	6/12/08	1.3, 1.4(a), 1.15-1(a), 1.15-1(c), 1.15-1(d), 1.16(a)(1), 1.16(d), 8.1(a)(2), 8.4(a)(3)	No
39	Charles Richard Dodson SC S056054	Form B resignation	--	S Ct	6/18/08	6/18/08	Cal. RPC 4-100(A), 4-100(B)(3), Cal. Bus. & Pro. § 6106	July 2008
40	Tracy Trummel 22 DB Rptr —	Four month suspension	Stip	DB	6/24/08	6/27/08	1-102A4, 6-101B, 1.3, 1.4(a), 1.4(b), 8.4(a)(4)	Aug/Sept 2008
41	Jeffrey S. Miller SC S056129	BR 3.2 transfer to inactive status	CC	S Ct	7/2/08	7/2/08	BR 3.2	No
42	James D. Lang 22 DB Rptr —	45 day suspension	CC	DB	3/24/08 7/3/08	7/5/08	1.3, 1.4(a), 1.4(b), 1.15-1(d), 1.16(d), 8.1(a)(2), 8.4(a)(3)	Aug/Sept 2008
43	Joseph G. Watson 22 DB Rptr —	Disbarment	CC	DB	5/12/08	7/14/08	1.15-1(d), 8.1(a), 8.4(a)(2), 8.4(a)(3)	Aug/Sept 2008
44	Montgomery W. Cobb 345 Or 106, 190 P3d 1217	Dismissed	CC	S Ct	7/17/08		NG – 1-102A3, 1-102A4, 5-105C, 5-105E, 7-102B1, 10-101B	Oct 2008
45	Todd Hammond 22 DB Rptr —	30 day suspension	CC	DB	6/27/08	7/19/08	1.5	Aug/Sept 2008
46	Matthew W. Derby SC S056112	Form B resignation	--	S Ct	7/23/08	7/23/08	1.3, 1.4(a)	Aug/Sept 2008
47	David Tombleson 22 DB Rptr —	Two year suspension, plus restitution	CC	DB	5/23/08	7/27/08	1.3, 1.4(a), 1.15-1(d), 1.16(d), 8.1(a)(2)	Aug/Sept 2008
48	Benjamin E. Freudenberg 22 DB Rptr —	Reprimand	CC	DB	6/2/08	8/5/08	1.3, 1.4(a)	Aug/Sept 2008
49	Herbert W. Lombard 22 DB Rptr —	Reprimand	Stip	DB	8/24/08	8/24/08	5.5(a), 1.16(a)(1), 9.160	Oct 2008

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50	07-52; 08-64, 82, 83 Robert G. Klahn 22 DB Rptr ___	60 day suspension	Stip	DB	8/24/08	10/17/08	1.3, 1.4(a)	Oct 2008
51	07-137 Daniel J. Bertak 22 DB Rptr ___	Disbarment	CC	DB	6/19/08	9/2/08	1.3, 1.5(a), 1.16(d), 8.4(a)(3)	Oct 2008
52	07-92 Manuel C. Hernandez	Diversión	--	SPRB	9/11/08	9/11/08	1.1, 8.4(a)(4)	No
53	07-156 Larry Epstein SC S056473	One year suspension	Stip	S Ct	9/12/08	12/5/07	8.4(a)(2), 9.527(2)	Oct 2008
54	08-53 James L. Lane 22 DB Rptr ___	30 day suspension	Stip	DB	9/15/08	9/19/08	1-102A3	Oct 2008
55	07-159 Samuel J. Nicholls 22 DB Rptr ___	Disbarment, plus restitution	CC	DB	7/17/08	9/17/08	1.15-1(d), 1.16(a)(1), 5.5(a), 8.1(a)(2), 8.4(a)(3), 9.160	Oct & Nov 2008
56	06-132, 06-133 Catherine Dixon 22 DB Rptr ___	Twelve month suspension	CC	DB	7/17/08	9/17/08	9-101A, 1.1, 1.3, 1.4(a), 8.1(a)(2)	Oct & Nov 2008
57	07-162, 08-102 Derrick E. McGavic 22 DB Rptr ___	Reprimand	Stip	DB	9/21/08	9/21/08	7-104A1, 3.5(b), 4.2, 8.4(a)(4)	Nov 2008
58	07-129 Thomas L. LaFollett SC S056466	Form B resignation	--	S Ct	10/3/08	10/3/08	1.15-1(a), 1.15-1(b), 1.15-1(c), 8.4(a)(3)	Nov 2008
59	07-28, 07-29 Steven Black SC S056478	Form B resignation	--	S Ct	10/3/08	10/3/08	1-102A2, 8.1(a)(1)	Dec 2008
60	06-81, 06-92 Jeffrey E. Dettlisen SC S056340	Form B resignation	--	S Ct	10/3/08	10/3/08	1-102A3, 2-106A, 5-101A, 6-101B, 9-101C3, 1.3, 1.4(a), 1.5, 1.15-1(d), 1.16(d), 8.1(a)(2), 8.4(a)(3)	Nov 2008
61	07-46 Sharon Lea Mitchell SC S056446	Form B resignation	--	S Ct	10/3/08	10/3/08	1.8(e), 5.5(a), 8.1(a)(2), 8.4(a)(4), ORS 9.160	Nov 2008
62	07-47 Mark L. Runnels 22 DB Rptr ___	One year suspension	CC	DB	8/6/08	10/7/08	1.3, 1.4(a), 1.4(b), 1.5(a), 1.16(a)(2), 8.4(a)(4)	Nov 2008
63	05-127, 05-128 Ronald D. Schenck 345 Or 350, 194 P3d 804, modified on recon., 345 Or 652, P3d	One year suspension	CC	S Ct	10/9/08	12/8/08	5-101A1, 5-101B, 5-104A, 5-105E, 8.1(a)(2)	x
64	07-69 Roger J. Leo 22 DB Rptr ___	Reprimand	Stip	DB	10/12/08	10/12/08	5-105C, 5-105E	Dec 2008
65	07-134 Gregory P. Barton 22 DB Rptr ___	Reprimand	Stip	DB	10/12/08	10/12/08	1-102A2	Dec 2008
66	07-171 James Dodge 22 DB Rptr ___	Reprimand	Stip	DB	10/12/08	10/12/08	3.4(c), 8.4(a)(4)	Dec 2008
67	08-88 John Michael Unfred 22 DB Rptr ___	Reprimand	Stip	DB	10/12/08	10/12/08	1.3, 1.4(a), 1.5(a)	Nov 2008

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68	Michael E. Farthing 22 DB Rptr ___	Reprimand	Stip	DB	10/19/08	10/19/08	1.4(a)	Dec 2008
69	Timothy E. Nielson 22 DB Rptr ___	Reprimand	Stip	DB	10/19/08	10/19/08	1.3, 1.4(a)	Dec 2008
70	Christopher K. Skagen 22 DB Rptr ___	18 month suspension	CC	DB	8/20/08	10/21/08	1.15-1(a), 1.15-1(c)	Dec 2008
71	Patrick T. Hughes 22 DB Rptr ___	120 day suspension	Stip	DB	11/9/08	11/12/08	1.3, 8.4(a)(4)	Jan 2009
72	Kathryn H. Clarke 22 DB Rptr ___	60 day suspension	Stip	DB	12/7/08	12/13/08	1-102A3, 2-110B2, 7-101A2, 9-101C3, 1.7(a)(2), 1.16(a)(1)	Jan 2009
73	Susan Ford Burns 22 DB Rptr ___	Reprimand	Stip	DB	12/7/08	12/7/08	1.3, 1.4(a), 1.16(d)	Feb/Mar 2009
74	Jacqueline L. Koch 345 Or 444__P3d__	120 day suspension	CC	S Ct	12/11/08	2/9/08	1.3, 1.4(a), 1.15-1(d), 8.1(a)(2), 9-101(C)(3)	x
75	Jacqueline L. Koch SC S056628	BR 3.1 suspension	CC	S Ct	12/11/08	12/16/08	9-101A, 9-101C3, 1.3, 1.4(a), 1.4(b), 1.5(a), 1.15-1(a), 1.15-1(c), 1.15-1(d), 1.15- 1(e), 1.16(d), 8.1(a)(2), 8.4(a)(3)	No
76	James Arneson 22 DB Rptr ___	Reprimand, plus restitution	CC	DB	10/15/08	12/16/08	1.15-1(d), 1.15-1(e) NG – 8.4(a)(3)	Feb/Mar 2009
77	Glenn C. Brown SC S056743	Form B resignation	--	S Ct	12/24/08	12/24/08	1.3, 1.4(a), 1.15-1(a), 1.15-1(c), 1.15-1(d), 1.16(a)(1), 1.16(d), 8.1(a)(2), 8.4(a)(3)	Jan 2009
78	William N. Later 22 DB Rptr ___	Reprimand	Stip	DB	12/28/08	12/28/08	1.1, 1.4(a)	Jan 2009
79	Benjamin M. Karlin 22 DB Rptr ___	Reprimand	Stip	DB	12/29/08	12/29/08	3.4(c)	Feb/Mar 2009
80	Patrick D. Angel 22 DB Rptr ___	Reprimand	Stip	DB	12/30/08	12/30/08	1.5(a), 1.15-1(c), 1.15-1(d), 1.16(d)	Feb/Mar 2009

OREGON STATE BAR DISCIPLINARY PROCESS



