

**OFFICE OF DISCIPLINARY COUNSEL
OF THE
SUPREME COURT OF OHIO**

2014 ANNUAL REPORT

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2014 ANNUAL REPORT

OFFICE OF DISCIPLINARY COUNSEL OF THE SUPREME COURT OF OHIO

The position of Disciplinary Counsel and the Office of Disciplinary Counsel (“ODC”) have been established by The Supreme Court of Ohio pursuant to Gov. Bar Rule V(3)(B). In accordance with that rule, Disciplinary Counsel is authorized to investigate allegations of misconduct, mental illness or substance abuse by attorneys and judges under the *Ohio Rules of Professional Conduct*, the *Code of Judicial Conduct*, and rules governing the Unauthorized Practice of Law (“UPL”). Disciplinary Counsel also has the authority to initiate complaints based upon its investigations, to certify bar counsel designated by certified grievance committees, to develop and offer an education curriculum for bar counsel and certified grievance committee members, in consultation with the Board of Commissioners on Grievances and Discipline (the “Board”) and representatives of certified grievance committees, to review registration forms for the employment of suspended or disqualified attorneys, and to investigate and prepare confidential reports regarding the applications for retirement or resignation with disciplinary charges pending.

STAFF OVERVIEW

The twenty-three (23) person staff of the ODC is comprised of the following positions:

- One Disciplinary Counsel
- One Chief Assistant Disciplinary Counsel
- Eight Assistant Disciplinary Counsel, one of whom is part-time
- One Administrative Officer
- One Executive Administrative Assistant
- Two Full-time and One Part-time Legal Research Analysts
- Two Investigators
- Four Legal Secretaries

One Receptionist
One Clerical Support Staff

The office also contracts with two part-time field investigators who provide investigative services as needed in the northeastern and southwestern portions of Ohio.

There was unprecedented turnover in the ODC between the end of 2012 and the beginning of 2014. The Disciplinary Counsel, the Chief Assistant Disciplinary Counsel, and four of the eight Assistant Disciplinary Counsel in ODC left between December 31, 2012 and September 20, 2013. One of the two full-time Investigators retired and both the Executive Administrative Assistant and the Clerical Support Staff person resigned in the summer of 2013. Thus, nine of the twenty-three members of the ODC staff (including five attorneys and the new Disciplinary Counsel) commenced work in the ODC on or after January 1, 2013. In addition, one of the attorneys hired in April 2013 left in August 2014 and was replaced in October 2014.

GRIEVANCES

In 2014, ODC received a total of 2,897 new matters. This figure includes all relevant categories, such as grievances filed against attorneys, judges, magistrates and Justices, appeals from dismissals by the Certified Grievance Committees, felony convictions, board cases, Unauthorized Practice of Law investigations, UPL board cases, child support, reciprocals, retirements and resignations. Of that total, 2,042 represented grievances originally filed with ODC against attorneys and 543 represented grievances originally filed against judges.

A total of 1,442 grievances were dismissed on intake or after initial review, of which 982 were against attorneys and 460 were against judges. For administrative reasons, 101 grievances that were initially received by ODC were transferred to local bar associations for investigation. Under that same rationale, another 43 grievances were forwarded to the

Board for reassignment and none were forwarded to the Chief Justice of the Ohio Court of Appeals, pursuant to Gov. Jud. Rule II (2)(B). The remaining 1,042 grievances were opened for investigation. For a detailed analysis of those grievances which were received in 2014 and opened for investigation, please refer to Table 2. The data identifies the alleged primary violation and also includes data from the prior four calendar years to assist in tracking grievances and reporting trends in the state. Table 5 represents a geographic distribution by Ohio County of the matters filed with ODC in 2014, based on the location of the Respondents' principal offices.

One violation category, "*Failure to maintain funds in a trust*", had experienced a dramatic increase in the previous five years following adoption of a new statutory requirement in the Fall of 2005 mandating that banks notify ODC in each instance where an IOLTA is overdrawn. The number of such grievances reported in 2005 was 110, increasing to 243 in 2006, 289 in 2007, 319 in 2008, 338 in 2009, and 382 in 2010. Then we began to experience a downturn with 353 in 2011, 338 in 2012 and 254 in 2013. IOLTA overdrafts being reported in 2014 totaled 247.

At the beginning of 2014, there were 650 grievances pending with ODC. As of December 31, 2014, there were 668 grievances pending and/or under investigation.

FORMAL COMPLAINTS and DISMISSALS

In 2014, ODC filed 46 formal complaints with the board, none of which alleged judicial misconduct. Four of these complaints were dismissed at various stages of the process: two at the hearing panel stage and two by the board. Three of those dismissals resulted when the respondents' applications for resignation status were approved with the designation "pending disciplinary action". The fourth was as a result of an imposition of an interim default suspension.

The number of formal complaints certified by the board in 2014 represented a significant increase over the 31 certified complaints that were filed in 2013.

APPEALS

In Ohio, both ODC and 33 Certified Grievance Committees, which are associated with local bar associations across the state, are authorized to receive, investigate and prosecute grievances. If a grievance is initially submitted to and dismissed by any of the Certified Grievance Committees, the grievant has 14 days within which to appeal that dismissal to the Secretary of the Board who shall refer the request for review to ODC. ODC is authorized to open a new case and to conduct a separate investigation. For details, see Gov. Bar Rule V (4)(l)(5).

In 2014, ODC received 158 Appeals, a decrease of 47 from the 2013 figure. During the year, 145 Appeals were closed. One of those Appeals resulted in ODC filing a formal complaint with the Board. As of December 31, 2014, 69 Appeals were pending.

UNAUTHORIZED PRACTICE OF LAW (UPL)

ODC is authorized to receive grievances against an individual or organization who/that is not authorized to engage in the practice of law in Ohio. See Gov. Bar Rule VII. The respondent may be a former attorney who no longer is currently licensed under Ohio rules, an attorney licensed in another jurisdiction but not Ohio or someone who has never been admitted to the practice of law in any state. Also subject to ODC's investigatory powers are businesses or other entities that offer legal services without the authority to do so.

The number of UPL grievances received by ODC in 2014 totaled 45, an increase of 11 from the 34 received in 2013. During the year, 30 UPLs were closed and as of December 31, 2014, there were 35 UPL investigations pending in the ODC office. In 2014

ODC filed three UPL Board cases.

RECIPROCAL

Attorneys may be licensed to practice law in multiple state jurisdictions. When an attorney admitted to the practice of law in Ohio has been sanctioned by another state, the attorney is required to notify both ODC and the Clerk of the Supreme Court of Ohio of that action. In addition, ODC frequently learns of the imposition of discipline in other jurisdictions from the disciplinary agency itself. Once a certified copy of the original disciplinary order has been received, the Court may impose a sanction upon that attorney with either identical or comparable discipline. For details, please see Gov. Bar Rule V (11)(F). ODC received three reciprocal matters and closed eight in 2014. The Court sanctioned seven attorneys on reciprocal complaints in 2014. (see *Table 3 for sanction and original state of determination*)

CHILD SUPPORT

If an Ohio Attorney, Justice or Judge has been found in a final and enforceable determination to be in default of a Child Support order, ODC is authorized under Gov. Bar Rule V (5)(A)(1)(b) to pursue an Interim Suspension. No Child Support matters were filed with ODC in 2014, and none were pending at the close of the year.

RESIGNATIONS and RETIREMENTS

Attorneys may submit an application to the Supreme Court of Ohio to resign or retire from the practice of law which, once approved, is final and irrevocable. The application contains both an affidavit and written waiver permitting ODC to conduct a review of the application to determine whether the application will be classified as a retirement or a resignation with disciplinary action pending.

During the investigation, ODC seeks to determine whether the applicant is currently the subject of any disciplinary proceeding(s). If disciplinary action is pending, ODC prepares a sealed report to the Office of Attorney Services indicating that the applicant may resign but with the added phrase appended "with Disciplinary Action Pending". Retirement or Resignation applicants found to have no pending discipline are approved as Retirements. For details, please see Gov. Bar Rule VI (6). In 2014, 35 retirement or resignation applications were received for review by ODC. In 2014, the Court announced 18 Resignations with Disciplinary Action Pending and 19 Retirements. (*see Table 3*).¹

INTERIM SUSPENSIONS

There were 15 interim suspensions decided by the Court in 2014: eight for a Felony Conviction, six for Default, one for Interim Remedial and none for Mental Health.

HEARINGS and ORAL ARGUMENTS

In 2014, ODC attorneys appeared at 22 hearings before panels of the Board and participated in six (6) oral arguments before The Supreme Court of Ohio. As of December 31, 2014, there were: 23 cases awaiting hearing dates before the Board and five cases awaiting reports from the Board; six cases were pending oral argument before the Supreme Court; and 12 cases were pending decision by the Supreme Court. (*Table 4*). In 2014, The Supreme Court of Ohio issued formal sanctions in 75 cases in which ODC was the relator. (*Tables 1 & 3*).

Respectfully submitted,

**Scott J. Drexel
Disciplinary Counsel**

¹ In September 2007 the Court repealed Gov. Bar Rule V, Section 11(G) and replaced it with Gov. Bar Rule VI, Section 6, which eliminated "regular resignations" and made retirement a permanent status.

TABLE 1
A Five Year Comparison (2010-2014)

	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>
<u>Disposition of Grievances:</u>					
Dismissed on Intake or after Investigation	2723	2658	2601	2466	2210
Pending at End of Year	653	708	632	650	668
<u>Caseload Comparison:</u>					
Number of Grievances Received	2929	2950	2744	2679	2585
Number of Appeals Received	258	206	221	205	158
Number of UPLs Received	75	66	48	34	45
Number of Formal Complaints Filed	45	57	46	31	46
<u>Sanctions Issued:</u> <i>(Table 3 for details)</i>					
Public Reprimands	3	1	0	2	5
Six-Month Suspensions	4	5	11	3	3
One-Year Suspensions	10	3	10	6	4
Eighteen-Month Suspensions	1	2	2	0	0
Two-Year Suspensions	9	3	9	2	11
Indefinite Suspensions	14	9	5	7	10
Interim Default Suspensions				7	6
Interim Felony Suspensions				2	8
Interim Remedial Suspensions	0	0	0	0	1
Mental Health Suspensions	0	0	0	1	0
Disbarments	1	5	4	3	2
Reciprocal Disciplines	9	3	10	5	7
Resignations with Disciplinary Action Pending	16	12	20	6	18
Retirements	10	9	15	20	19

2013 is the first year we began to track Interim Default and Interim Felony Suspensions

TABLE 2**GRIEVANCES
RECEIVED AND OPENED
FOR INVESTIGATION****A Five Year Comparison (2010-2014)**

<u>Alleged Primary Violation</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>
Neglect/Failure to protect interests of the client	318	317	256	320	259
Failure to account or turn over file	41	43	70	61	31
Improper withdrawal (refusal to withdraw)	5	4	9	8	12
Excessive fees	83	68	76	75	71
Personal misconduct	125	118	88	126	78
Misrepresentation/false statement/concealment	38	37	18	14	17
Criminal conviction	12	15	5	14	12
Failure to file income tax returns	0	0	0	0	1
Commingling of funds	2	1	0	0	0
Conversion	1	29	25	18	14
Embezzlement	3	3	1	2	5
Failure to maintain funds in trust	382	353	338	254	237
Breach of client confidence	7	10	9	7	6
Conflict of lawyer's interest	32	21	36	34	26
Conflict of client's interest	50	74	55	35	46
Communication with adverse party represented by counsel	8	10	13	7	3
Trial misconduct	91	100	82	71	90
Failure to register	2	2	0	10	1
Practicing while under suspension	8	12	20	11	13
Assisting in the Unauthorized Practice of Law	10	8	5	6	6
Advertising/Solicitation	13	20	21	16	19
Judicial misconduct	97	108	106	134	92
Mental illness	1	3	0	0	1
Substance abuse	5	5	4	5	1
Other	1	5	2	0	1
TOTAL	<u>1,362</u>	<u>1,365</u>	<u>1,239</u>	<u>1,228</u>	<u>1,042</u>

TABLE 3**SANCTIONS ISSUED IN 2014 BY THE SUPREME COURT OF OHIO
PURSUANT TO CASES FILED BY DISCIPLINARY COUNSEL**

Name of Respondent and Supreme Court Case Number

PUBLIC REPRIMANDS — 5

Janice Marie Flowers 2013-1621
 Susan Louise Gwinn 2013-1247
 Robert Paul Mecklenborg 2012-1700
 Joy Malek Oldfield 2013-1623
 Jesslyn Chesterfield Wilson 2014-0548

SIX MONTH SUSPENSIONS — 3

Harland Hanna Hale 2013-1622
 Scott Thomas Hillis 2013-1244
 Ilan Wexler 2013-1250

ONE YEAR SUSPENSIONS — 4

David Bryan Bender 2013-1260
 Ric Daniell 2013-1988
 Jeffrey Glenn Simpson 2013-0922
 Jeffrey Jon Wilcox 2014-0546

EIGHTEEN MONTH SUSPENSIONS — 0**TWO YEAR SUSPENSIONS — 11**

Vincent Ferdinand Gonzalez 2013-0222	David Allen Streeter 2013-0581
Paul Dare Harmon 2013-1983	David Edward Troller 2013-0572
Joy Lenore Marshall 2013-0924	Talbert Randall Turner 2013-1252
Douglas Alan Milhoan 2014-0201	Paul Lawrence Wallace 2013-0573
James David Owen 2013-1981	Eric Andrew Wrage 2013-0931
George Zane Pappas 2013-1625	

INDEFINITE SUSPENSIONS — 10

Susan Marie Bruder 2014-0258	Wayne Lewis Kerek 2013-1423
Scott Monroe Calaway 2013-1635	Susan Prieur Land 2013-0940
Christopher Thomas Cicero 2013-1980	Derek Wayne Marsteller 2013-1944
Nathan Clinard 2013-0666	Matteuw William Oberholtzer 2014-0135
Robert Christopher Cordrick 2013-1597	Robert Carl Schuler 2012-1714

INTERIM DEFAULT SUSPENSIONS — 6

Henry Roosevelt Freeman 2014-1755
 John Charles Henck 2014-1106
 Regina Lynn Hilburn 2014-0452
 Gregory Keith Klima 2014-1997
 Derek Wayne Marsteller 2013-1944
 Aristotle R. Matsa 2014-1292

**SANCTIONS ISSUED IN 2014 BY THE SUPREME COURT OF OHIO
PURSUANT TO CASES FILED BY DISCIPLINARY COUNSEL**

Name of Respondent and Supreme Court Case Number
(Continued)

INTERIM FELONY SUSPENSIONS — 8

Gregory Alan Cohen 2014-0214	Gregory Keith Klima 2014-0434
William Bernard Feldman 2014-0477	Ronald Lee Rosenfield 2014-1300
Jason Courtland Grossman 2014-0182	Gerald Wayne Salters 2014-0595
Tracie M. Hunter 2014-1805	James William Thomas 2014-1205

INTERIM REMEDIAL SUSPENSIONS — 1

Angela Rochelle Stokes 2014-1905

MENTAL HEATH SUSPENSIONS — 0

DISBARMENTS — 2

Stephen Leslie Becker 2013-1257
Kenneth Norman Shaw 2013-0923

RECIPROCAL DISCIPLINES — 7

Mark A. Bramble 2014-1056 Interim Suspension (West Virginia)	Patricia Ann O'Connor 2014-1696 Public Reprimand (Arizona)
Eric Charles Deters 2013-0999 60 day suspension (Kentucky)	Jess Monroe Smith 2014-0116 90 day suspension (Indiana)
Robert Andrew Gaffney 2013-2034 Indefinite Suspension (Arizona)	Olen Lee York 2014-0130 Public Reprimand (U.S. Patent & Trademark Office)
Sue Elaine Mako 2014-1575 Indefinite Suspension (North Carolina)	

RESIGNATIONS WITH DISCIPLINARY ACTION PENDING — 18

William Mark Adams 2014-0333	Mitchell Alexander Naumoff 2014-0998
Mark Allen Belinky 2014-0921	William Emerson Reed II 2014-1834
William Bernard Feldman 2014-0979	Charles Alan Runser 2014-1752
Harold Kevin Garrison 2014-0253	Aaron Ronald Scheeler 2014-1610
Michael Joseph Godles 2014-1618	Howard Fred Schuman 2014-1029
Carol Jean Hampton 2014-0773	Jason Daniel Seabury 2014-1353
David Alan Lawrence 2014-0179	Patrick Ryan Thesing 2014-0007
Joseph Anthony Mamone 2013-2025	Andrew Joseph Van Horn 2014-0236
Toni Alice Marcheskie-Fronk 2014-1045	Ralph Anthony Zuzolo 2014-1753

RETIREMENTS — 19

William Edward Chaney	Laura Goodman Kuykendall	David Alan Raines
Eric Charles Deters	Braden Anthony Mechley	Blas Eliseo Serrano
James Sawyer Ford	Robert Sherman Moore	Rose M. Turzak
Robert Andrew Gaffney	Joel Ivan Newman	James Joseph Walsh
Dan E. Gerhardt	David Bradley Pariser	George Carmelo Zucco
Laura Heiser	Terri Suzanne Priest	
Donald Joe Johnson	Eugene Keyes Purdy	

Resignation applications received in 2008 and after, found to have no disciplinary action pending, are designated as *Retirements* and are not assigned Supreme Court case numbers.

TABLE 4**STATUS OF FORMAL MATTERS PENDING
AS OF DECEMBER 31, 2014**

Reinstatements	<u>1</u>
<u>Before the Probable Cause Panel</u>	
Awaiting Certification to Board	<u>1</u>
Appeal of Panel Dismissal to Full board	<u>0</u>
<u>Before the Board of Commissioners on Grievances and Discipline</u>	
Awaiting Hearing	<u>23</u>
Awaiting Board Report	<u>5</u>
<u>Before The Supreme Court of Ohio</u>	
Awaiting Oral Argument	<u>6</u>
Awaiting Supreme Court Decision	<u>12</u>
TOTAL PENDING	<u>48</u>

TABLE 5

MATTERS RECEIVED BY ODC IN THE YEAR 2014
Based on County of Respondent's Principal Ohio office location

Adams _____	15	Hamilton _____	217	Noble _____	7
Allen _____	36	Hancock _____	8	Ottawa _____	11
Ashland _____	22	Hardin _____	4	Paulding _____	2
Ashtabula _____	16	Harrison _____	2	Perry _____	2
Athens _____	13	Henry _____	2	Pickaway _____	10
Auglaize _____	5	Highland _____	7	Pike _____	2
Belmont _____	13	Hocking _____	12	Portage _____	22
Brown _____	15	Holmes _____	3	Preble _____	10
Butler _____	41	Huron _____	6	Putnam _____	1
Carroll _____	6	Jackson _____	5	Richland _____	34
Champaign _____	8	Jefferson _____	17	Ross _____	10
Clark _____	22	Knox _____	12	Sandusky _____	7
Clermont _____	16	Lake _____	30	Scioto _____	29
Clinton _____	9	Lawrence _____	15	Seneca _____	8
Columbiana _____	8	Licking _____	40	Shelby _____	6
Coshocton _____	2	Logan _____	7	Stark _____	96
Crawford _____	4	Lorain _____	45	Summit _____	140
Cuyahoga _____	568	Lucas _____	97	Trumbull _____	55
Darke _____	2	Madison _____	4	Tuscarawas _____	11
Defiance _____	4	Mahoning _____	73	Union _____	8
Delaware _____	36	Marion _____	9	Van Wert _____	8
Erie _____	30	Medina _____	36	Vinton _____	3
Fairfield _____	19	Meigs _____	2	Warren _____	30
Fayette _____	10	Mercer _____	2	Washington _____	7
Franklin _____	443	Miami _____	24	Wayne _____	12
Fulton _____	4	Monroe _____	3	Williams _____	2
Gallia _____	8	Montgomery _____	104	Wood _____	24
Geauga _____	14	Morgan _____	0	Wyandot _____	2
Greene _____	13	Morrow _____	7		
Guernsey _____	7	Muskingum _____	16	TOTAL _____	<u>2,777</u>

This list does not include all Ohio matters received in 2014.

TABLE 6

FISCAL YEAR 2014

REPORT OF OPERATIONAL EXPENSES

OF THE OFFICE OF DISCIPLINARY COUNSEL

OF THE SUPREME COURT OF OHIO

I.	Payroll (Salaries & Benefits)	\$ 1,963,281.09
II.	Personal Services (Consultants, Independent Contractors, Temporary help)	\$ 118,597.38
III.	Education, Tuition and Training	\$ 13,734.35
IV.	Supplies and Materials	\$ 42,307.74
V.	Automobile and Parking	\$ 4,451.04
VI.	Travel and Conferences (In-State & Out-of-State)	\$ 45,994.08
VII.	Postal and Shipping Expenses	\$ 28,203.29
VIII.	Communication Expenses	\$ 8,926.41
IX.	Maintenance and Repair Services	\$ 16,373.15
X.	Building, Utilities and Facilities	\$ 241,632.38
XI.	Insurances, Licenses and Permits	\$ 1,143.48
XII.	Dues and Memberships	\$ 3,675.00
XIII.	Books and Subscriptions	\$ 28,296.73
XIV.	Investigation and Discovery	\$ 26,574.94
XV.	Equipment	<u>\$ 3,147.91</u>
	Less credit adjustments	\$ (1,173.11)
	ODC - Operational Expenses for Fiscal Year 2014	<u>\$ 2,545,165.86</u>