



ANNUAL REPORT
OF THE
PROFESSIONAL RESPONSIBILITY COMMISSION
AND
PROFESSIONAL RESPONSIBILITY TRIBUNAL
January 1, 2009, through December 31, 2009

SCBD #

(Filed with Oklahoma Supreme Court, February ____, 2010)

Pursuant to the provisions of Rule 14.1, Rules Governing Disciplinary Proceedings, 5 O.S. 2001 Ch. 1, App. 1-A, this is the Annual Report of grievances and complaints received and processed for 2009 by the Professional Responsibility Commission and the Professional Responsibility Tribunal.

The Oklahoma Rules of Professional Conduct, 5 O.S. Ch. 1, App. 3-A, are the standards of conduct adopted and enforced by the Supreme Court of the State of Oklahoma, and provide guidelines by which all attorneys are to practice law in Oklahoma. The Rules Governing Disciplinary Proceedings, 5 O.S. Ch. 1, App. 1-A, provide the rules and procedures governing disciplinary proceedings.

THE PROFESSIONAL RESPONSIBILITY COMMISSION:

The Commission is composed of seven persons - five lawyer and two non-lawyer members. The attorneys are selected on rotating three-year terms by the President of the

Association, subject to the approval of the Board of Governors. The non-lawyers are appointed, one each, by the Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the Oklahoma Senate. No member can serve more than two consecutive terms. Terms expire on December 31st at the conclusion of the three-year term.

Lawyer members serving on the Professional Responsibility Commission through April 2009 were Melissa Griner DeLacerda, Stillwater; Michael E. Smith, Oklahoma City; J. Daniel Morgan, Tulsa; Mark W. Dixon, Tulsa; and Stephen D. Beam, Weatherford. Lawyer members serving on the Professional Responsibility Commission from April, 2009 through the remainder of the year were Melissa Griner DeLacerda, Stillwater; Michael E. Smith, Oklahoma City; William R. Grimm, Tulsa; Stephen D. Beam, Weatherford; and David K. Petty, Guymon. Non-Lawyer members through April 2009 were Kevin A. Grover, Broken Arrow and Debra Thompson, Carney. Non-Lawyer members from April 2009 through the remainder of the year were Tony R. Blasier and Debra Thompson, Carney. J. Daniel Morgan served as Chairperson (through April, 2009) and was replaced by Michael E. Smith as Chairperson through the remainder of 2009. Debra Thompson served as Vice-Chairperson. Commission members serve without compensation but are reimbursed for actual travel expenses.

Responsibilities:

The Professional Responsibility Commission considers and investigates any alleged ground for discipline, or alleged incapacity, of any lawyer called to its attention, or upon its

own motion, and takes such action as deemed appropriate, including holding hearings, receiving testimony, and issuing and serving subpoenas.

Under the supervision of the Professional Responsibility Commission, the Office of the General Counsel investigates all matters involving alleged misconduct or incapacity of any lawyer called to the attention of the General Counsel by grievance or otherwise, and reports to the Professional Responsibility Commission the results of investigations made by or at the direction of the General Counsel. The Professional Responsibility Commission then determines the disposition of grievances or directs the instituting of a formal complaint for alleged misconduct or personal incapacity of an attorney with the Oklahoma Supreme Court. The attorneys in the Office of the General Counsel prosecute all proceedings under the Rules Governing Disciplinary Proceedings, supervise the investigative process, and appear at all reinstatement proceedings.

PROFESSIONAL RESPONSIBILITY TRIBUNAL:

The Tribunal is composed of twenty-one persons -- fourteen lawyers and seven non-lawyers. The attorneys are selected on rotating three-year terms by the President of the Association, subject to the approval of the Board of Governors. The non-lawyers are appointed by the Governor of the State of Oklahoma. Terms expire on June 30th at the conclusion of the three-year term.

The Supreme Court has established a panel of Masters designated to preside over and conduct hearings on formal disciplinary and incapacity hearings, as well as applications for reinstatement to the practice of law. Following the filing of a formal disciplinary complaint with the Supreme Court, a three-member panel of the Professional

Responsibility Tribunal is appointed by the Chief Master, and is composed of two attorneys and one non-lawyer member. The Trial Panel presides at the hearing and prepares a report including findings of fact, conclusions of law, and a recommendation to the Supreme Court as to discipline, if such is indicated.

The lawyer members of the Professional Responsibility Tribunal who served during 2009 were: Andrew E. Karim, Oklahoma City; F. Douglas Shirley, Watonga; Steven Dobbs, Oklahoma City; Roger R. Scott, Tulsa; Lorenzo T. Collins, Ardmore; Stephen R. McNamara, Tulsa; Patrick T. Cornell, Clinton; Cody B. Hodgden, Woodward; Martha Rupp Carter, Tulsa; Kieran D. Maye Jr., Oklahoma City; Diane S. Goldschmidt, Oklahoma City and Robert Gilliland, Oklahoma City.

Dietmar K. Caudle and Luke Gaither replaced John Gardner and David Cummins, when their second term expired on June 30, 2009. Roger Scott passed away, July, 2009 and has not been replaced.

The non-lawyer members were: Kenneth D. Mitchell, Guthrie; Dr. Douglas O. Brady, Lawton; Bill Pyeatt, Norman; John Thompson, Nichols Hills; and Jason Redd, Elk City.

At its annual meeting on June 25, 2009, the Professional Responsibility Tribunal voted to appoint Steven Dobbs to serve a one-year term as Chief Master and F. Douglas Shirley was appointed to serve a one-year term as Vice-Chief Master.

VOLUME OF GRIEVANCES:

During 2009, the Office of the General Counsel received 354 formal grievances involving 224 attorneys and 1146 informal grievances involving 852 attorneys. In total, 1,500 grievances were received against 1076 attorneys. The total number of attorneys

differs because some attorneys received both formal and informal grievances. In addition, the Office handled 344 items of general correspondence, which is mail not considered to be a grievance against an attorney.

The Tulsa County Bar Association assists the Office of the General Counsel in the investigation of grievances against attorneys practicing in that county. Those grievances thought to be in violation of the Oklahoma Rules of Professional Conduct are forwarded to the Office of the General Counsel for further investigation. The Oklahoma, Tulsa, and LeFlore County Bar Associations also assist in arbitration of fee disputes.

On January 1, 2009, 211 formal grievances were carried over from the previous year and one grievance was remanded back to the Professional Responsibility Commission for further review. During 2009, 354 new formal grievances were opened for investigation. The carryover accounted for a total caseload of 566 formal investigations pending throughout 2009. Of those grievances, 205 investigations were completed by the Office of the General Counsel and presented for review to the Professional Responsibility Commission. Therefore, 361 investigations were pending on December 31, 2009. Of these 361 grievances, 43 have been investigated and are scheduled for dismissal or final disposition.

The time required for investigating and concluding each grievance varies depending on the seriousness and complexity of the allegations and the availability of witnesses and documents. The Professional Responsibility Commission requires the Office of the General Counsel to report monthly on all informal and formal grievances received and all investigations completed and ready for disposition by the Commission. In addition, the Commission receives a monthly statistical report on the pending caseload. The Board of

Governors is advised statistically each month of the actions taken by the Professional Responsibility Commission.

DISCIPLINE BY THE PROFESSIONAL RESPONSIBILITY COMMISSION:

During 2009, the Commission voted the filing of formal disciplinary charges against seven lawyers involving 24 grievances.

Pursuant to Rule 5.3(c) of the Rules Governing Disciplinary Proceedings, the Professional Responsibility Commission has the authority to impose private reprimands, with the consent of the attorney, in matters of less serious misconduct or if mitigating factors reduce the sanction to be imposed. During 2009, the Commission issued private reprimands to 15 attorneys involving 17 grievances.

In addition, 22 grievances were dismissed with a letter of admonition cautioning that the conduct of the attorney was dangerously close to a violation of a disciplinary rule which the Commission believed warranted a warning rather than discipline. The Commission dismissed 140 grievances due to lack of merit or loss of jurisdiction of the respondent. Loss of jurisdiction includes the death of the attorney, resignation pending disciplinary proceedings, lengthy suspension or disbarment, or due to the attorney being stricken from membership for non-compliance with MCLE requirements or non-payment of dues. The Commission may also refer matters to the Diversionary Program where remedial measures are taken to ensure that any deficiency in the representation of a client does not occur in the future. During 2009, the Commission approved 10 attorneys to be admitted into the Diversion Program for conduct involving 20 grievances.

DISCIPLINE IMPOSED BY THE OKLAHOMA SUPREME COURT:

In 2009, 18 disciplinary cases were acted upon by the Supreme Court. The public sanctions are as follows:

Disbarment:

<u>Respondent</u>	<u>Effective Date</u>
Golden Jr., James E.; Oklahoma City (Petition for Rehearing denied 1/22/09)	4/22/08 (retroactive f/ 12/3/07)
Shomber, Melissa Anne; Edmond	12/15/09

Resignations Pending Disciplinary Proceedings Approved by Court: (Tantamount to Disbarment)

<u>Respondent</u>	<u>Effective Date</u>
Phelps, Ronald Wayne	01/26/09
Morgan, Kenneth Lloyd	04/14/09
Cook Jr., John Duane	05/11/09
Williams, Jacob Thayne	11/30/09
Willis Jr., William P.	12/15/09

Disciplinary Suspensions:

<u>Respondent</u>	<u>Length</u>	<u>Effective Date</u>
Kinsey, Leah McCaslin	12 mos.	06/01/09
Clausing, W. Kirk	1 year	10/19/09
Confidential Rule 10	Indefinite	04/27/09

Public Censure:

<u>Respondent</u>	<u>Effective Date</u>
Wilcox, Tom J.	11/03/09

Dismissals:

<u>Respondent</u>	<u>Effective Date</u>
Roberts, Darryl F.	06/18/09
Malloy, Terry Paul	09/14/09
Wright Jr., Harvey Russell	09/14/09
Morris, Amber Nicole	11/03/09

In addition to the public discipline imposed in 2009, the Court also issued two private reprimands and three Rule 6/10 Interim Suspensions. The Court also issued an Immediate Interim Suspension on February 2, 2009 against Eddie Michael Pope in a Rule 7 Criminal Conviction/Reciprocal Discipline proceeding pending final imposition of discipline.

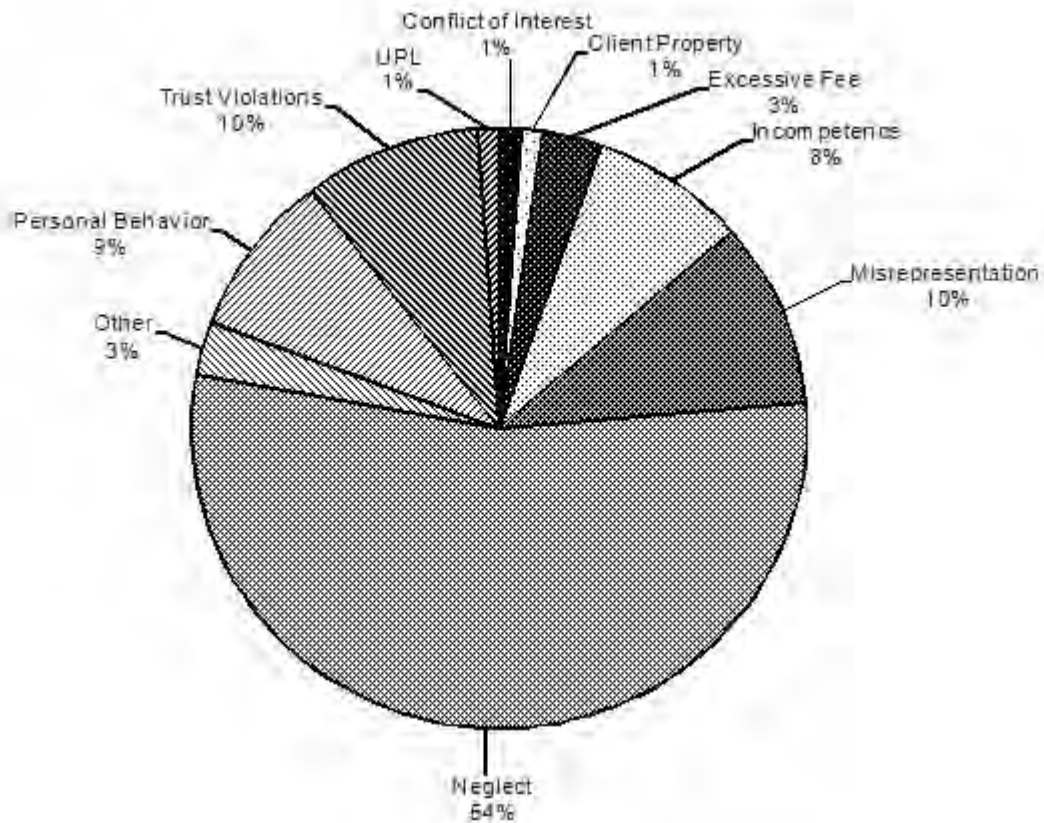
There were 26 cases pending before the Supreme Court on January 1, 2009. During 2009, seven new formal complaints and two Resignations Pending Disciplinary Proceedings were filed for a total of 35 cases. On December 31, 2009, 17 cases remained pending before the Court. There were nine reinstatements pending on January 1, 2009, and 14 petitions for reinstatement were filed in 2009. The Supreme Court approved eight reinstatements, denied two, dismissed one, and two were withdrawn. On December 31, 2009, there were ten petitions for reinstatement pending with the Supreme Court.

SURVEY OF GRIEVANCES:

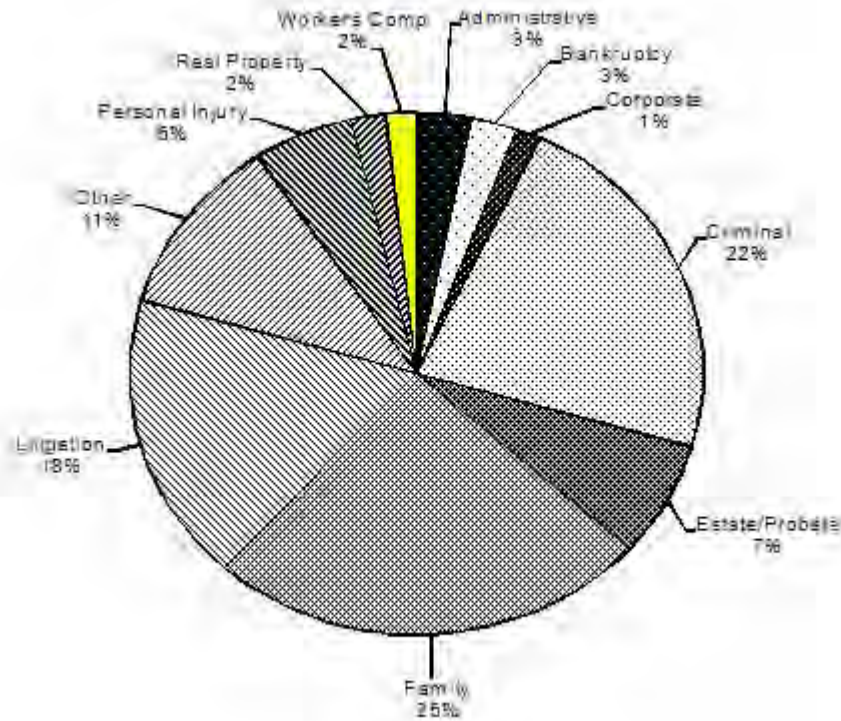
In order to better inform the Supreme Court, the bar and the public of the nature of the grievances received, the numbers of attorneys complained against, and the areas of attorney misconduct involved, the following information is presented.

Total membership of the Oklahoma Bar Association as of December 31, 2009 was 16,438 attorneys. Considering the total membership, the receipt of 1500 formal and informal grievances during 2009, involving 1076 attorneys, constituted approximately nine percent of the attorneys licensed to practice law by the Oklahoma Supreme Court.

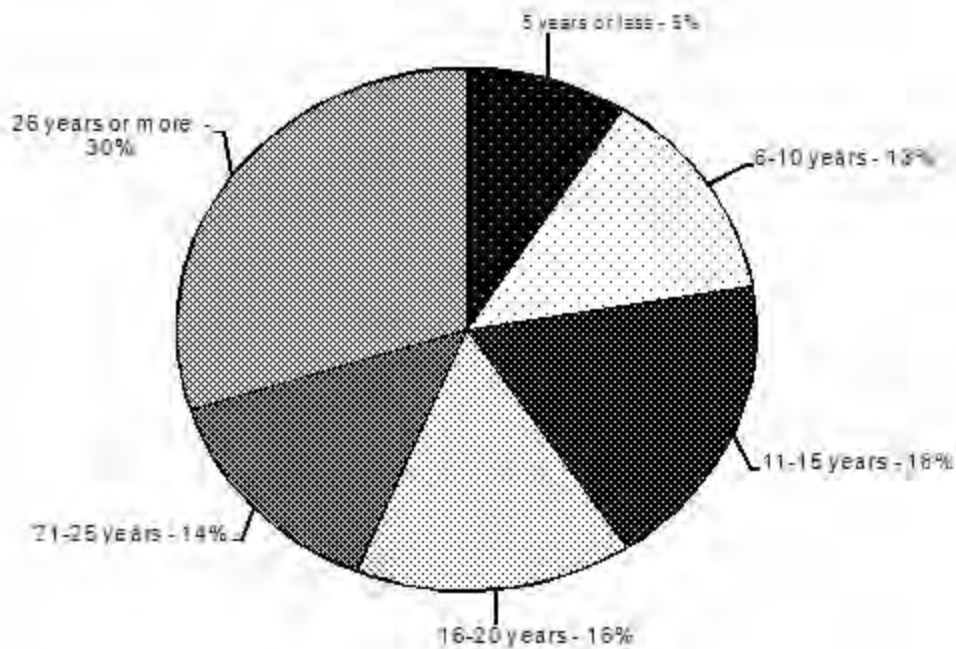
A breakdown of the type of attorney misconduct alleged in the 354 formal grievances received by the Office of the General Counsel in 2009 is as follows:



Of the 354 grievances registered, the area of practice is as follows:



The number of years in practice of the 224 attorneys receiving formal grievances is as follows:



The largest number of grievances received were against attorneys who have been in practice for 26 years or more. Considering the total number of practicing attorneys, the largest number have been in practice 26 years or more.

Of the 354 formal grievances filed against 224 attorneys in 2009, 187 are attorneys in urban areas and 159 attorneys live and practice in rural areas. Eight of the grievances were filed against attorneys licensed in Oklahoma but living out of state.

ACTION TAKEN BY THE PROFESSIONAL RESPONSIBILITY TRIBUNAL:

The Professional Responsibility Tribunal hears disciplinary cases filed by the General Counsel. The Tribunal also hears petitions for reinstatement filed by attorneys seeking reinstatement to the Bar Association. Both of these proceedings are filed with the Clerk of the Supreme Court.

As of January 1, 2009, 13 disciplinary cases were pending before the Tribunal. In 2009, seven cases were presented to the Tribunal by the Supreme Court for a total of 20 cases pending throughout the year. Of those, the Tribunal heard and filed reports on six cases and in nine cases the respondent was suspended, resigned pending disciplinary proceedings or the matter was dismissed. On December 31, 2009, five cases were pending before the Tribunal.

On January 1, 2009, three petitions for reinstatement were pending with the Tribunal and 14 new petitions were filed throughout the year. Of these 17 petitions for reinstatement, 10 cases were heard and reports were filed by the Tribunal, one Petition was withdrawn and one Petition was dismissed leaving five reinstatement cases pending before the Tribunal on December 31, 2009.

ETHICS AND EDUCATION:

During 2009, the General Counsel, Assistant General Counsels, and the Professional Responsibility Tribunal and Commission members continued to speak to county bar association meetings, Continuing Legal Education classes, law school classes and various civic organizations. In these sessions, disciplinary and investigative procedures, case law, and ethical standards within the profession were discussed. This effort directs lawyers to a better understanding of their ethical requirements and the disciplinary process, and informs the public of the efforts of the Oklahoma Bar Association to regulate the conduct of its members. In addition, the General Counsel and assistants were regular contributors to *The Oklahoma Bar Journal*.

Respectfully submitted this _____ day of February, 2010, on behalf of the Professional Responsibility Tribunal, the Professional Responsibility Commission, and the Office of the General Counsel of the Oklahoma Bar Association.

Gina Hendryx, General Counsel
Oklahoma Bar Association