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MICHAEL S. RICHIE
CLERK

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA



ANNUAL REPORT
OF THE
PROFESSIONAL RESPONSIBILITY COMMISSION
AS COMPILED BY THE
OFFICE OF THE GENERAL COUNSEL
OF THE
OKLAHOMA BAR ASSOCIATION

JANUARY 1, 2016 THROUGH DECEMBER 31, 2016

INTRODUCTION:

Pursuant to the provisions of Rule 14.1, Rules Governing Disciplinary Proceedings (RGDP), 5 O.S. 2011, ch. 1, app. 1-A, the following is the Annual Report of grievances and complaints received and processed for 2016 by the Professional Responsibility Commission and the Office of the General Counsel of the Oklahoma Bar Association.

THE PROFESSIONAL RESPONSIBILITY COMMISSION:

The Commission is composed of seven persons - five lawyer and two non-lawyer members. The attorney members are nominated for rotating three-year terms by the President of the Association subject to the approval of the Board of Governors. The two non-lawyer members are appointed by the Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the Oklahoma Senate, respectively. Terms expire on December 31st at the conclusion of the three-year term.

Lawyer members serving on the Professional Responsibility Commission during 2016 were Angela Ailles Bahm, Oklahoma City; William R. Grimm, Tulsa; R. Richard Sitzman, Oklahoma City; Richard Stevens, Norman; and David Swank, Norman. Non-Lawyer members were Tony R. Blasier, Oklahoma City and Burt Holmes, Tulsa. Angela Ailles Bahm served as Chairperson and Tony R. Blasier 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 to effectuate the purposes of the Rules Governing Disciplinary Proceedings. 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. The attorneys in the Office of the General Counsel prosecute all proceedings under the Rules Governing Disciplinary Proceedings, supervise the investigative process, and represent the Oklahoma Bar Association at all reinstatement proceedings.

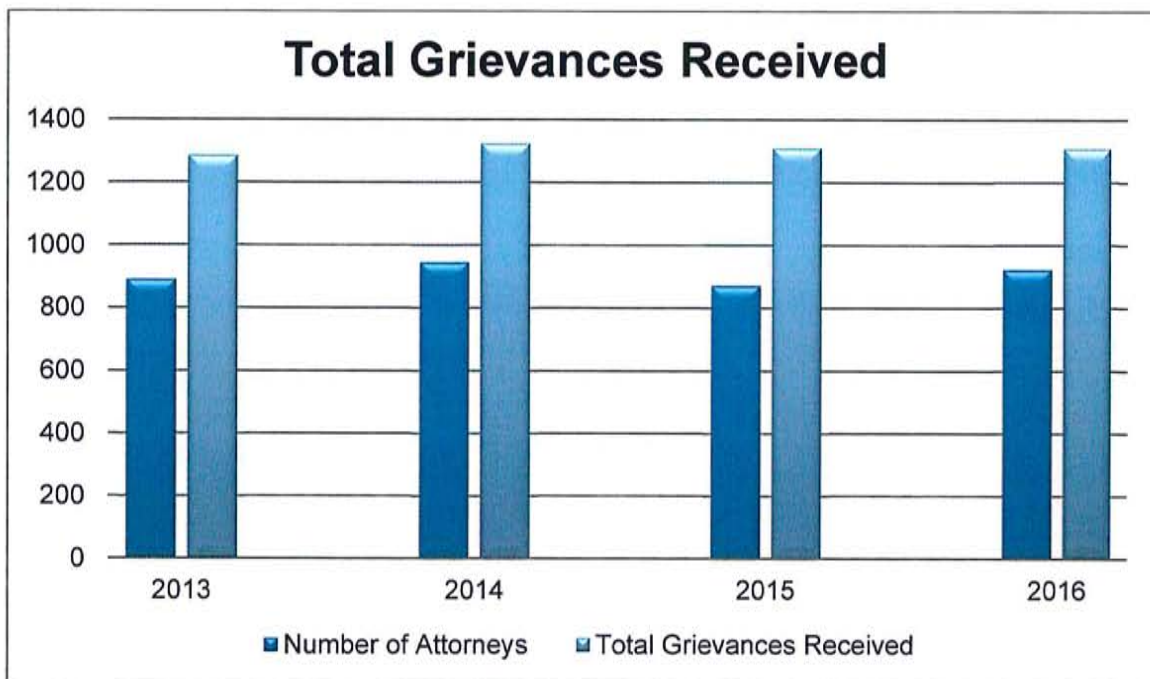
VOLUME OF GRIEVANCES:

During 2016, the Office of the General Counsel received 255 formal grievances involving 181 attorneys and 1051 informal grievances involving 742 attorneys. In total, 1309 grievances were received against 923 attorneys. The total number of attorneys differs because some attorneys received both formal and informal grievances. In addition, the Office handled 275 items of general correspondence, which is mail not considered to be a grievance against an attorney.¹

¹ The initial submission of a trust account overdraft notification is classified as general correspondence. The classification may change to a formal grievance after investigation.

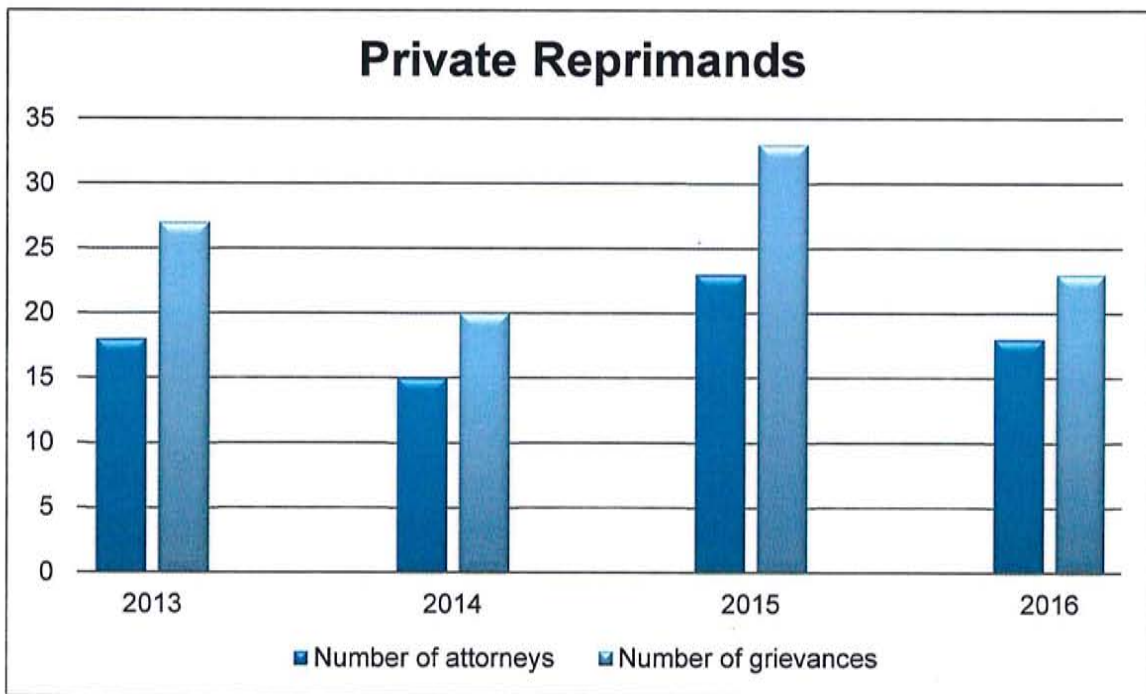
On January 1, 2016, 217 formal grievances were carried over from the previous year. During 2016, 255 new formal grievances were opened for investigation. The carryover accounted for a total caseload of 472 formal investigations pending throughout 2016. Of those grievances, 233 investigations were completed by the Office of the General Counsel and presented for review to the Professional Responsibility Commission. Therefore, 239 investigations were pending on December 31, 2016.

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.

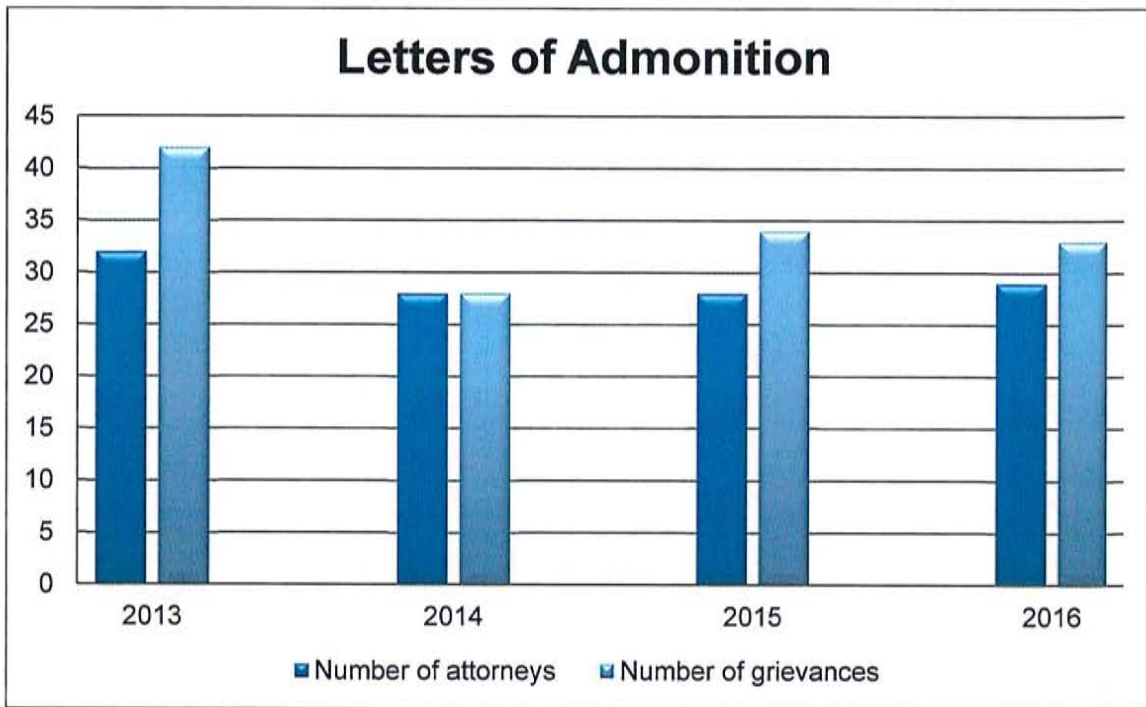


DISCIPLINE IMPOSED BY THE PROFESSIONAL RESPONSIBILITY COMMISSION:

1. **Formal Charges.** During 2016, the Commission voted the filing of formal disciplinary charges against 6 lawyers involving 10 grievances. In addition, the Commission also oversaw the investigation of 17 Rule 7, RGDP matters filed with the Chief Justice of the Oklahoma Supreme Court.
2. **Private Reprimands.** Pursuant to Rule 5.3(c), RGDP, 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 2016, the Commission issued private reprimands to 18 attorneys involving 23 grievances.



3. **Letters of Admonition.** During 2016, the Commission issued letters of admonition to 29 attorneys involving 33 grievances 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.



4. **Dismissals.** The Commission dismissed 42 grievances due to the resignation of the attorney pending disciplinary proceedings, a continuing lengthy suspension or disbarment of the respondent attorney, or due to the attorney being stricken from membership for non-compliance with MCLE requirements or non-payment of membership dues. Furthermore, the Commission dismissed one grievance due to the death of an attorney and one grievance upon successful completion of a diversion program by the attorney. The remainder were dismissed where the investigation did not substantiate the allegations by clear and convincing evidence.
5. **Diversion Program.** The Commission may also refer respondent attorneys to the Discipline Diversion Program where remedial measures are taken to ensure that any deficiency in the representation of a client does not occur in the future. During 2016, the Commission referred 38 attorneys to be admitted into the Diversion Program for conduct involving 57 grievances.

The Discipline Diversion Program is tailored to the individual circumstances of the participating attorney and the misconduct alleged. Oversight of the program is by the OBA Ethics Counsel with the OBA Management Assistance Program Director involved in programming. Program options include: Trust Account School, Professional Responsibility/Ethics School, Law Office Management Training, Communication and Client Relationship Skills, and Professionalism in the Practice of Law class. In 2016, instructional courses were taught by OBA Ethics Counsel Joe Balkenbush and OBA Management Assistance Program Director Jim Calloway.

As a result of the Trust Account Overdraft Reporting Notifications, the Office of the General Counsel is now able to monitor when attorneys encounter difficulty with management of their IOLTA accounts. Upon recommendation of the Office of the General Counsel, the Professional Responsibility Commission may place those individuals in a tailored program designed to instruct on basic trust accounting procedures. In 2016, the OBA Management Assistance Program expanded its trust account diversion classes to include instruction and demonstration of basic trust accounting software.

2016 Attorney Participation in Diversion Program Curriculum

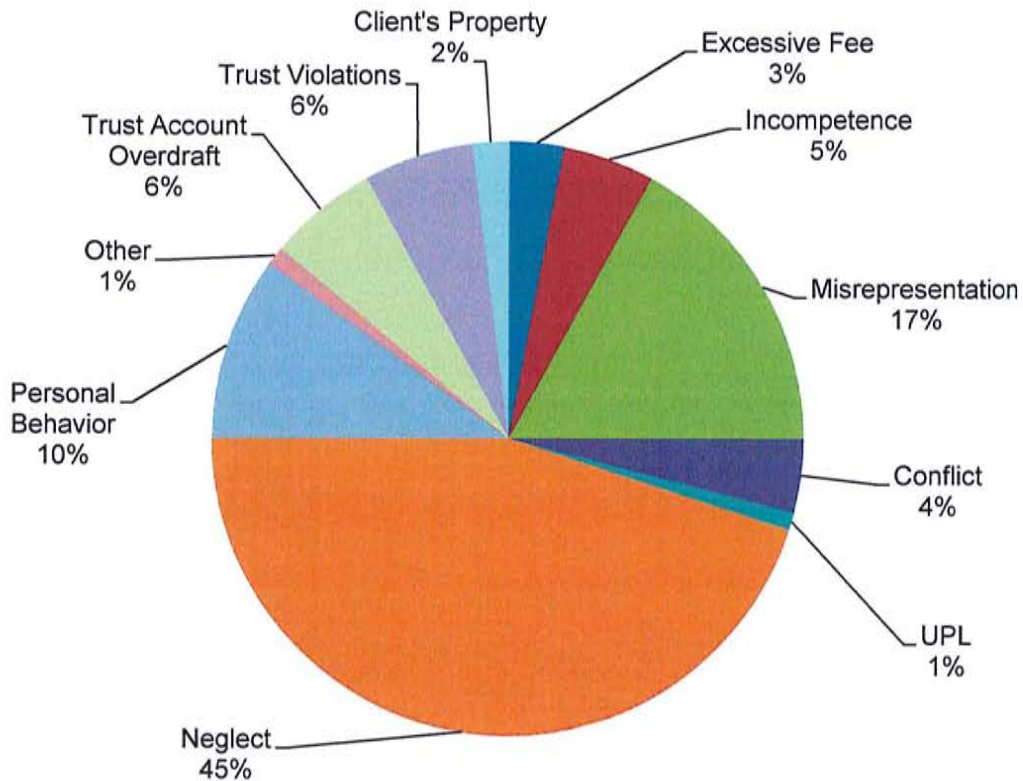
Law Office Management Training:	8 Attorneys
Communication and Client Relationship Skills:	24 Attorneys
Professionalism in the Practice of Law:	16 Attorneys
Professional Responsibility / Ethics School:	21 Attorneys
Client Trust Account School:	18 Attorneys
Law Office Consultations:	11 Attorneys

SURVEY OF GRIEVANCES:

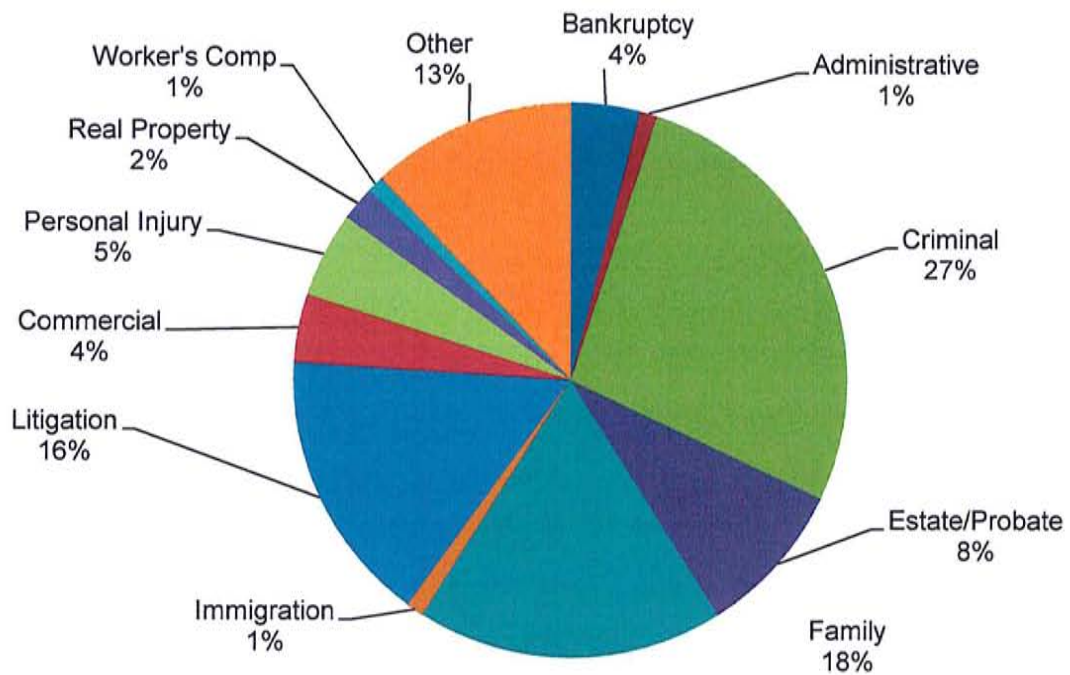
In order to better inform the Oklahoma Supreme Court, the bar, and the public of the nature of the grievances received, the numbers of attorneys complained against, and the areas of attorney misconduct involved, the following information is presented.

Total membership of the Oklahoma Bar Association as of December 31, 2016 was 17,738 attorneys. The total number of members include 11,957 males and 5,781 females. Formal and informal grievances were submitted against 923 attorneys. Therefore, approximately five percent of the attorneys licensed to practice law in Oklahoma received a grievance in 2016.

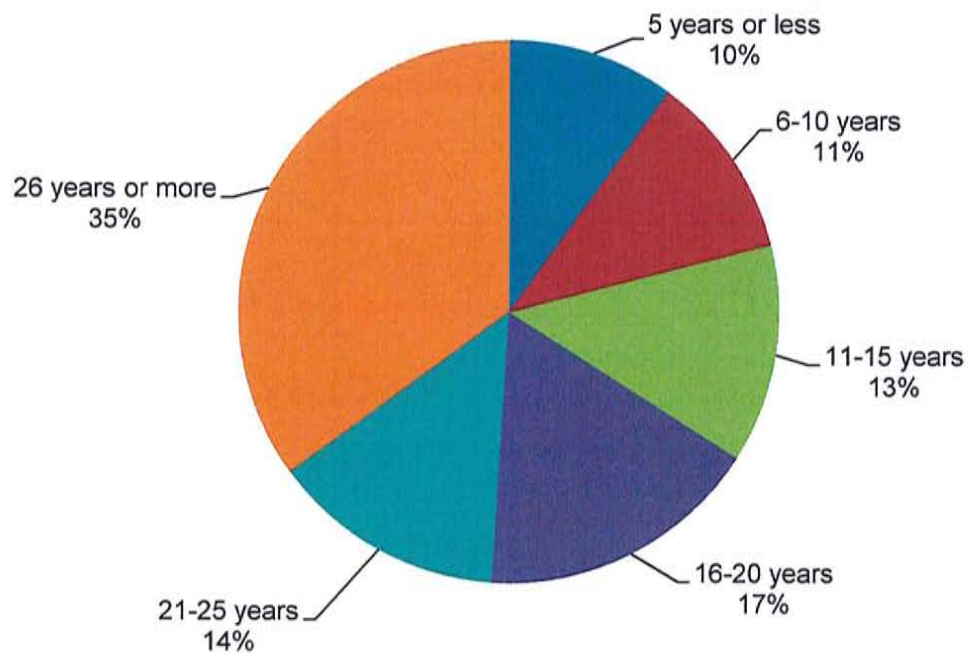
A breakdown of the type of attorney misconduct alleged in the 255 formal grievances opened by the Office of the General Counsel in 2016 is as follows:



Of the 255 formal grievances, the area of practice is as follows:



The number of years in practice of the 181 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. The age of attorneys involved in the disciplinary system is depicted below.

Type of Complaint Filed	Rule 6, RGDP	Rule 7, RGDP	Rule 10, RGDP	Rule 8, RGDP
Number of Attorneys Involved	6	19	4	9
Age of Attorney				
21-29 years old	0	1	0	0
30-49 years old	2	7	0	1
50-74 years old	4	10	3	8
75 or more years old	0	1	1	0

Type of Discipline Imposed	Dismissals	Public Censure	Disciplinary Suspension	Resignation Pending Disciplinary Proceedings	Non-Public Disciplinary Suspension	Disbarment
Number of Attorneys Involved	12	1	3	9	4	9
Age of Attorney						
21-29 years old	1	0	0	0	0	0
30-49 years old	3	0	1	1	0	5
50-74 years old	8	0	2	8	3	4
75 or more years old	0	1	0	0	1	0

DISCIPLINE IMPOSED BY THE OKLAHOMA SUPREME COURT:

In 2016, thirty-eight (38) disciplinary cases were acted upon by the Oklahoma Supreme Court. The Court consolidated one case and the public sanctions are as follows:

1. Disbarment:

<u>Respondent</u>	<u>Order Date</u>
Trenary, Jay Eric (Rules 6 and 7, RGDP)	1/26/16
Leonard, Mitchell Kevin	2/2/16

Disbarment cont'd

<u>Respondent</u>	<u>Order Date</u>
Smith, Derek Brion	3/1/16
Sullivan, John Bernard (2 Rule 7, RGDP Matters)	3/1/16
O'Laughlin, Frederick J.	5/24/16
Auer, David Bruce	6/28/16
Friesen, Larry Douglas	12/28/16

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

<u>Respondent</u>	<u>Order Date</u>
Mansfield, Christopher Ivor	1/26/16
Farber, S. Richard	2/2/16
Calliccoat, Fred Bennett	3/9/16
Goerke, Kyle Edward	4/26/16
Lewis, George Michael	5/3/16
Redd, Michael K.	5/9/16
Dickson, Kathryn	6/28/16
Morgan, Michael Steven	8/2/16
Boone, Ronald Ray	10/10/16

3. Disciplinary Suspensions:

<u>Respondent</u>	<u>Length</u>	<u>Order Date</u>
Boone, Ronald Ray	6 months + 12 month supervision	2/9/16

Disciplinary Suspensions cont'd:

<u>Respondent</u>	<u>Length</u>	<u>Order Date</u>
Mirando, Glenn Martin	2 years + 1 day	6/21/16
Gaines, Shanita D.	2 years + 1 day	9/12/16

4. Public Censure:

<u>Respondent</u>	<u>Order Date</u>
Oliver, J. Edward	3/29/16

5. Dismissals

<u>Respondent</u>		<u>Order Date</u>
Arnold, Shawn E.	Rule 7, RGDP	1/11/16
Ivy, Joel Paul	Rule 7, RGDP	1/26/16
Siegrist, Kent Leroy	Rule 7, RGDP	4/4/16
Russell, David Alan	Rule 7, RGDP	5/24/16
Bernhardt, William G.	Rule 7, RGDP	6/9/16 ²
Smith, David Douglas	Rule 7, RGDP	6/27/16
Knight, David W.	Rule 7, RGDP	9/12/16
Powell, Jace Hill	Rule 7, RGDP	9/12/16
Hampton, Brent James	Rule 7, RGDP	9/19/16
Hutter, Andrew Edward	Rule 7, RGDP	9/19/16
Kelly, Ronald	Rule 7, RGDP	10/3/16
Friesen, Larry Douglas	Rule 7, RGDP	12/6/16 ³

² Dismissed after Respondent's completion of the ordered probationary period

³ Dismissed as moot due to Respondent's disbarment in SCBD 6333

In addition to the public discipline imposed in 2016, the Court also issued the following non-public sanctions:

1. Disciplinary Suspensions:

<u>Respondent</u>	<u>Length</u>	<u>S. Ct. Order Date</u>
Rule 10 Confidential	Indefinite	10/31/16
Rule 10 Confidential	Indefinite	11/21/16

2. Dismissals

<u>Respondent</u>	<u>Order Date</u>
Rule 10 Confidential	3/29/16
Rule 10 Confidential	11/19/16

There were twenty (20) discipline cases filed with the Supreme Court on January 1, 2016. During 2016, seven (7) new formal complaints, seventeen (17) Rule 7 Convictions, and six (6) Resignations Pending Disciplinary Proceedings were filed for a total of fifty (50) cases pending with the Supreme Court during 2016. On December 31, 2016, twelve⁴ cases remain filed and pending before the Oklahoma Supreme Court.

REINSTATEMENTS:

There were three petitions for reinstatement pending before the Professional Responsibility Tribunal and five petitions for reinstatement pending with the Supreme Court as of January 1, 2016. There were four new petitions for reinstatement filed in 2016. In 2016, the Supreme Court granted eight reinstatements⁵, one was denied by the Court and two were withdrawn by the Petitioner. On December 31, 2016, there were

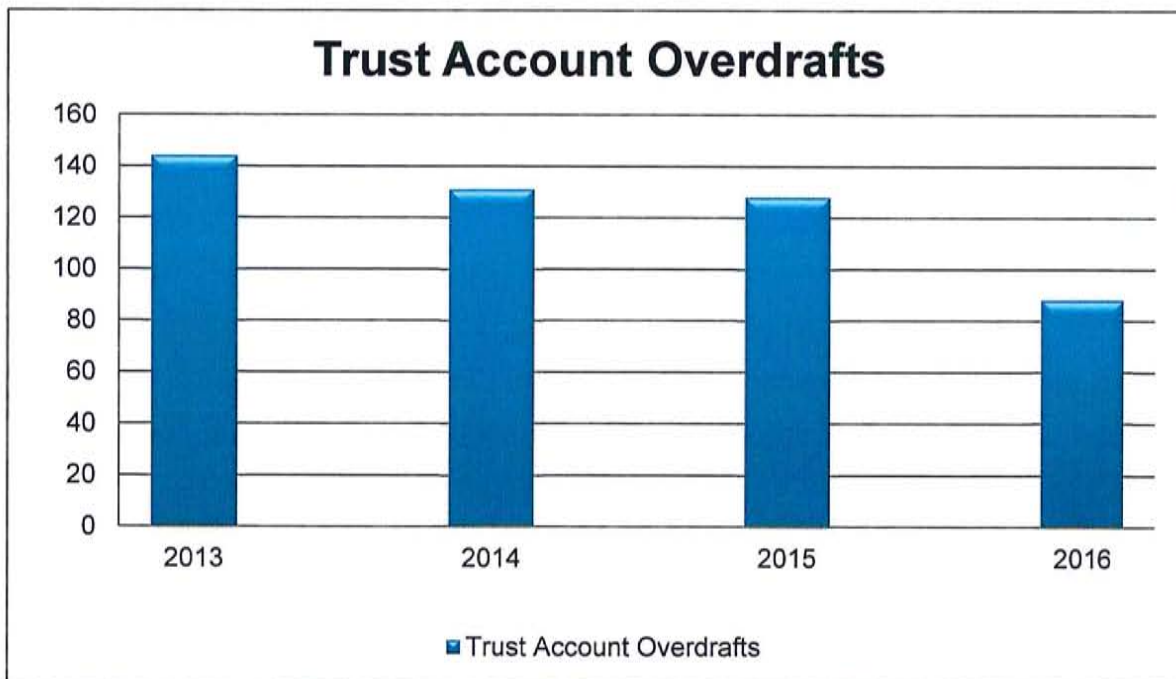
⁴ Three cases were stayed by the court and are still considered pending by the Office of the General Counsel: SCBD 6354, Rule 7, RGDP; SCBD 6365, Rule 7, RGDP; and one Rule 10 Confidential matter

⁵ Two of the granted eight reinstatements were conditioned upon the taking and successful completion of the Oklahoma Bar Examination

two petitions for reinstatement pending before the Professional Responsibility Tribunal and one petition for reinstatement pending before the Oklahoma Supreme Court.

TRUST ACCOUNT OVERDRAFT REPORTING:

The Office of the General Counsel, under the supervision of the Professional Responsibility Commission, has implemented the Trust Account Overdraft Reporting requirements of Rule 1.15(j), Oklahoma Rules of Professional Conduct, 5 O.S. 2011, ch. 1, app. 3-A. Trust Account Overdraft Reporting Agreements are submitted by depository institutions. In 2016, eighty-eight (88) notices of overdraft of a client trust account were received by the Office of the General Counsel. Notification triggers a general inquiry to the attorney requesting an explanation and supporting bank documents for the deficient account. Based upon the response, an investigation may be commenced. Repeated overdrafts due to negligent accounting practices have resulted in referral to the Discipline Diversion Program for instruction in proper trust accounting procedures.



UNAUTHORIZED PRACTICE OF LAW:

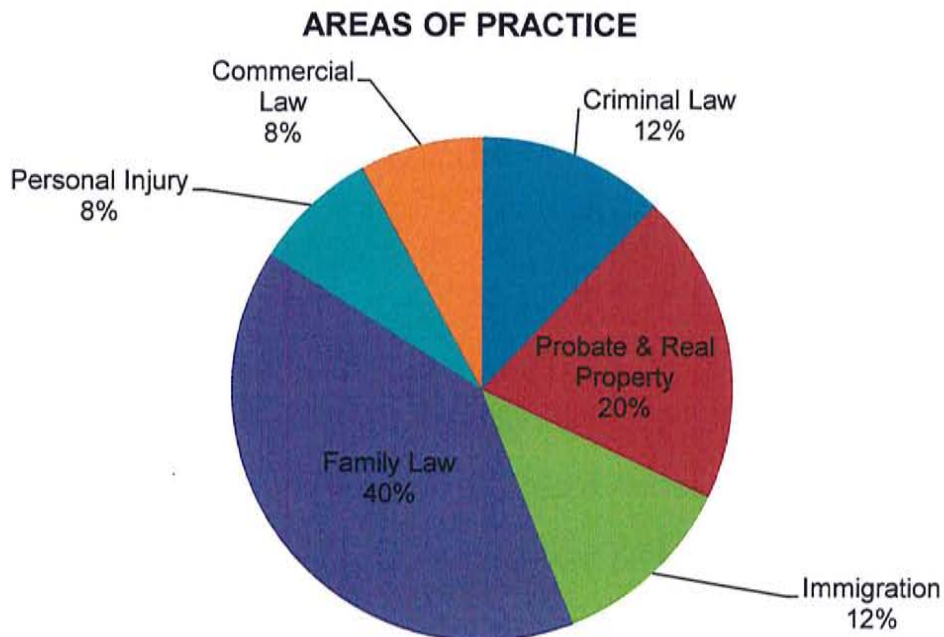
Rule 5.1(b), RGDP, authorizes the Office of the General Counsel to investigate allegations of the unauthorized practice of law (UPL) by non-lawyers, suspended lawyers and disbarred lawyers. Rule 5.5, ORPC, regulates the unauthorized practice of law by lawyers and prohibits lawyers from assisting others in doing so.

1. Requests for Investigation.

In 2016, the Office of the General Counsel received twenty-five (25) complaints for investigation of the unauthorized practice of law. The Office of the General Counsel fielded many additional inquiries regarding the unauthorized practice of law that are not reflected in this summary.

2. Practice Areas.

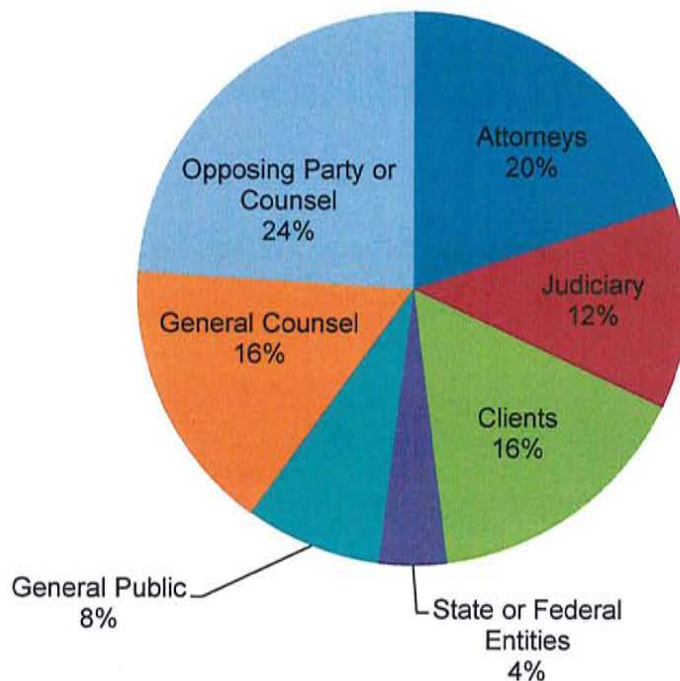
Allegations of the unauthorized practice of law encompass various areas of law. In previous years, most unauthorized practice of law complaints involved non-lawyers or paralegals handling divorce matters but that trend had declined over the last few years. However, in 2016, a significant number of UPL complaints again involved family law.



3. Referral Sources.

Requests for investigations of the unauthorized practice of law stem from multiple sources. In 2016, the Office of the General Counsel again received the most complaints from the opposing party or opposing counsel to the action in which the respondent was participating.

REQUESTS TO INVESTIGATE: REFERRAL SOURCES



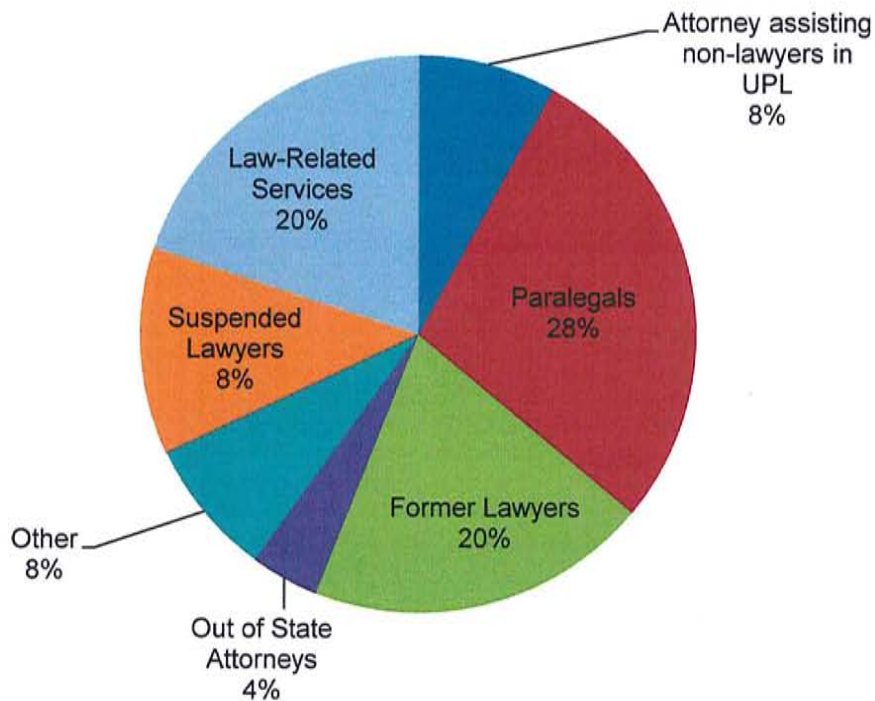
4. Respondents.

For 2016, most requests for investigation into allegations of the unauthorized practice of law concern paralegals. A new category added this year is attorneys assisting non-lawyers in the unauthorized practice of law.

For purposes of this summary, the category “paralegal” refers to an individual who advertises as a paralegal and performs various legal tasks for their customers, including legal document preparation. The “former lawyers” category includes lawyers

who have been disbarred, stricken, resigned their law license pending disciplinary proceedings, or otherwise voluntarily surrendered their license to practice law in the State of Oklahoma. The “suspended lawyers” category includes lawyers who have been suspended but not disbarred or stricken.

RESPONDENTS ALLEGEDLY PARTICIPATING IN UPL



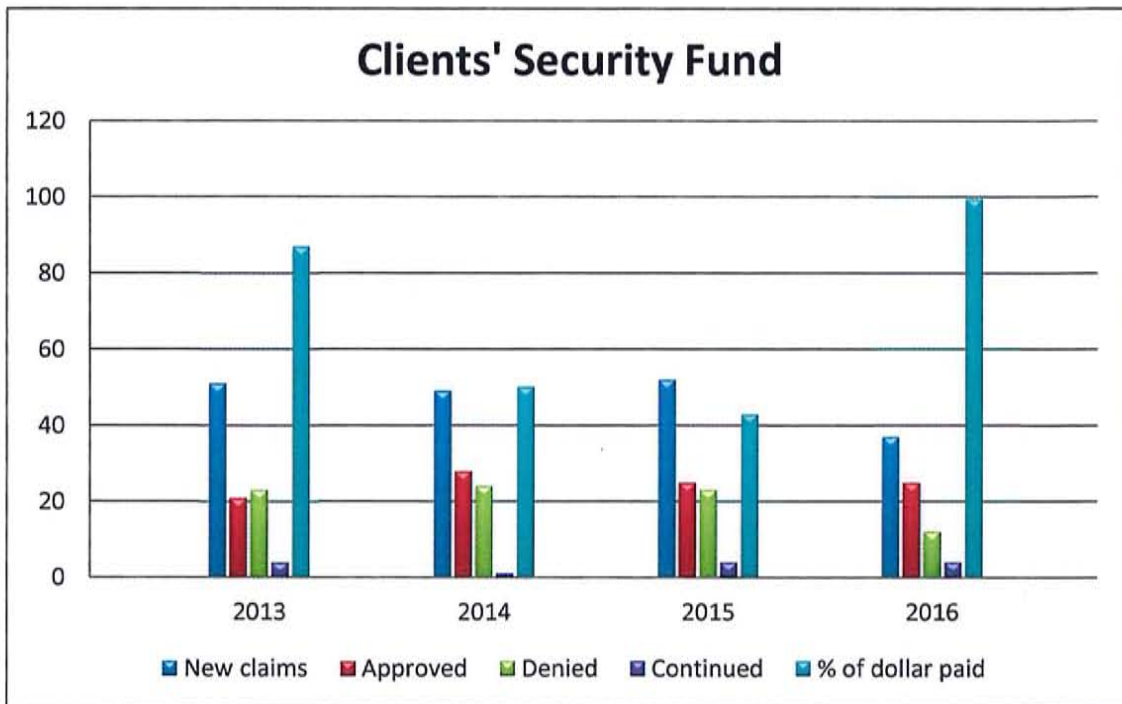
5. Enforcement.

In 2016, of the twenty-five (25) cases opened, the Office of the General Counsel took formal action in nine matters. Formal action includes issuing cease and desist letters, initiating formal investigations through the attorney discipline process, referring a case to an appropriate state and/or federal enforcement agency, or filing the appropriate district court action. Eight (8) cases were closed for no finding of unauthorized practice of law. The remainder of the cases is still pending.

CLIENTS' SECURITY FUND:

The Clients' Security Fund was established in 1965 by Court Rules of the Oklahoma Supreme Court. The Fund is administered by the Clients' Security Fund Committee which is comprised of 17 members, 14 lawyer members and 3 non-lawyers, who are appointed in staggered three-year terms by the OBA President with approval from the Board of Governors. In 2016, the Committee was chaired by lawyer member Micheal Salem, Norman. Chairman Salem has served as Chair for the Clients' Security Fund Committee since 2006. The Fund furnishes a means of reimbursement to clients for financial losses occasioned by dishonest acts of lawyers. It is also intended to protect the reputation of lawyers in general from the consequences of dishonest acts of a very few. The Board of Governors budgets and appropriates \$175,000.00 each year to the Clients' Security Fund for payment of approved claims.

In years when the approved amount exceeds the amount available, the amount approved for each claimant will be reduced in proportion on a prorata basis until the total amount paid for all claims in that year is \$175,000.00. In 2016, the Client Security Fund was able to pay 99.5% of the approved claim amount. The Office of the General Counsel provides staff services for the Committee. In 2016, the Office of the General Counsel investigated and presented to the Committee 37 new claims. The Committee approved 25 claims, denied 12 claims, and continued 4 claims into the following year for further investigation.



CIVIL ACTIONS (NON-DISCIPLINE) INVOLVING THE OBA:

The Office of the General Counsel represented the Oklahoma Bar Association in several civil (non-discipline) matters during 2016. All matters were disposed of and no cases carried forward into 2017. The following is a summary of all 2016 civil actions against the Oklahoma Bar Association:

1. *Raemona Sue Perry, individually and as a Personal Representative of the Estate of Louis G. Perry v. Bebe Bridges*, Carter County District Court Case No. CJ-2013-164. The OBA was served with a subpoena commanding the appearance of its First Assistant General Counsel to appear and give testimony regarding a confidential attorney discipline investigation. The former OBA Ethics Counsel⁶ was also subpoenaed to appear and give testimony regarding his conversations with the defendant in the pending action. The OBA filed a special appearance

⁶ Travis Pickens, former OBA Ethics Counsel, retained private counsel for representation in this matter.

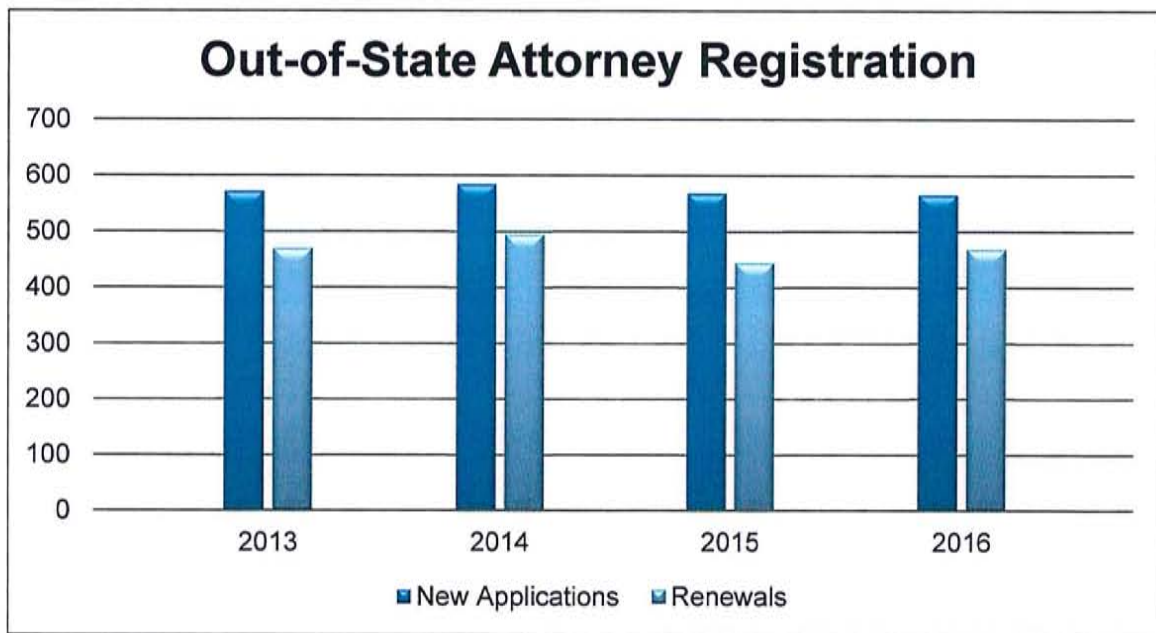
and motion to quash on May 3, 2016 on behalf of its First Assistant General Counsel. A response was filed and Judge Balkman summarily denied the OBA's motion. The OBA General Counsel appeared at trial and re-urged the motion. Ultimately, the issue was rendered moot as neither party called the subpoenaed witnesses to testify.

2. *Sara-Elizabeth Ybarra-Johnson [Hernandez] v. State of Arizona, et al.*, United States District Court for the District of Arizona., Case No. 16-CV-332. On June 7, 2016, the Plaintiff filed an action against 43 defendants, including the Oklahoma Bar Association and "All Licensed Bar Attorneys & Assistants". The OBA was not served with process. On August 10, 2016, the court dismissed the complaint with prejudice for, among other things, failure to comply with Rule 8, Federal Rules of Civil Procedure.
3. *Bird v. Property Management Service, Inc.*, Oklahoma County Case No. CJ-2010-10551. The OBA General Counsel was served a subpoena duces tecum commanding the production of all records, documents and complaints relating to an attorney. Through discussions with counsel, the OBA was able to resolve this request without judicial intervention.
4. *Chandler v. Hendryx*, Oklahoma Supreme Court Case No. O-115328. The Plaintiff filed an initial complaint on September 8, 2016. The OBA was not served with process; however, the Oklahoma Supreme Court Clerk forwarded copies of the filings to the OBA. On October 4, 2016, the Oklahoma Supreme Court treated the Plaintiff's filing as an application to assume original jurisdiction and denied his request per *Tweedy v. Oklahoma Bar Association*, 1981 OK 12, 624 P.2d 1049.

ATTORNEY SUPPORT SERVICES:

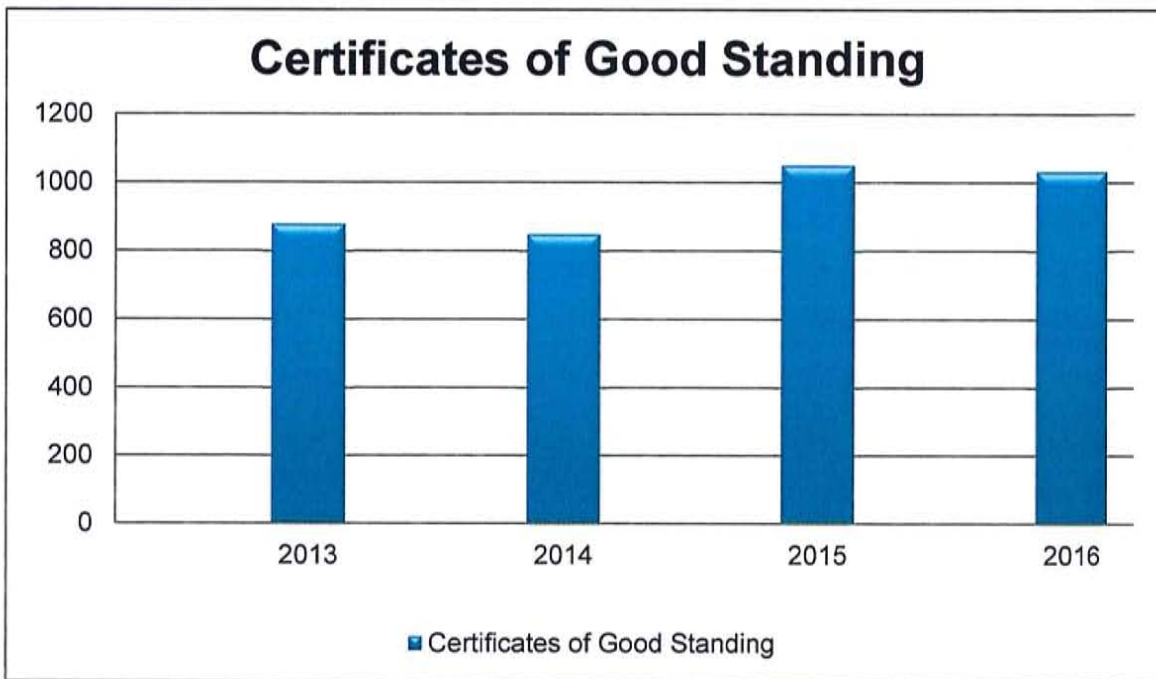
1. Out-of-State Attorney Registration.

In 2016, the Office of the General Counsel processed 565 new applications, 468 renewal applications and \$900.00 in renewal late fees submitted by out-of-state attorneys registering to participate in a proceeding before an Oklahoma Court or Tribunal. Out-of-State attorneys appearing pro bono to represent criminal indigent defendants, or on behalf of persons who otherwise would qualify for representation under the guidelines of the Legal Services Corporation due to their incomes, may request a waiver of the application fee from the Oklahoma Bar Association. Certificates of Compliance are issued after confirmation of the application information, the applicant's good standing in his/her licensing jurisdiction and payment of applicable fees. All obtained and verified information is submitted to the Oklahoma Court or Tribunal as an exhibit to a "Motion to Admit Pro Hac Vice."



2. Certificates of Good Standing.

In 2016, the Office of the General Counsel prepared 1,032 Certificates of Good Standing/Disciplinary History at the request of Oklahoma Bar Association members. There is no fee to the attorney for preparation of same.



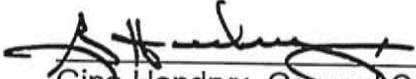
ETHICS AND EDUCATION:

During 2016, the General Counsel, Assistant General Counsels, and the Professional Responsibility Commission members presented more than 50 hours of continuing legal education programs to county bar association meetings, attorney practice groups, OBA programs, law school classes, and various legal organizations. In these sessions, disciplinary and investigative procedures, case law, and ethical standards within the profession were discussed. These efforts direct 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 was a regular contributor to *The Oklahoma Bar Journal*.

The attorneys, investigators, and support staff for the General Counsel's office also attended continuing education programs in an effort to increase their own skills and training in attorney discipline. These included trainings by the Oklahoma Bar Association (OBA), National Organization of Bar Counsel (NOBC), Organization of Bar Investigators (OBI), and the America Bar Association (ABA.)

RESPECTFULLY SUBMITTED this 1st day of February, 2016, on behalf of the Professional Responsibility Commission and the Office of the General Counsel of the Oklahoma Bar Association.


Gina Hendryx, General Counsel
Oklahoma Bar Association