



ANNUAL REPORT
OF THE
PROFESSIONAL RESPONSIBILITY COMMISSION
AND
PROFESSIONAL RESPONSIBILITY TRIBUNAL
January 1, 2006, through December 31, 2006

SCBD #5267

(Filed with Oklahoma Supreme Court, February 1, 2007)

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 2006 by the Professional Responsibility Commission and the Professional Responsibility Tribunal.

The Oklahoma Rules of Professional Conduct, 5 O.S. Ch. 1, App. 3-A, is the standard 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 during 2006 were B. Wayne Dabney, Oklahoma City; Michael E. Smith, Oklahoma City; Douglas W. Sanders, Jr., Poteau; Mark W. Dixon, Tulsa; and Kenneth L. Delashaw, Jr., Marietta. Non-Lawyer members were Thomas Walbert, Oklahoma City and Debra Thompson, Carney. Michael E. Smith served as Chairperson and Thomas Walbert 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 attorney and one non-lawyer members. 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 2006 were: Andrew E. Karim, Oklahoma City; F. Douglas Shirley, Watonga; David Cummins, Hollis; Kenneth L. Delashaw, Jr., Marietta; Steve Dobbs, Oklahoma City; John

J. Gardner, II, Ponca City; John Patrick Kent, Frederick; Jan Grant Johnson, Norman; Sharisse L. O'Carroll, Tulsa; Roger R. Scott, Tulsa; Ronald Main, Tulsa; Nancy Pruitt, Tulsa; Cheryl Ramsey, Stillwater; Peggy Stockwell, Norman; Sidney K. Swinson, Tulsa; and Fanne Lu Yaffe, Muskogee.

Sharisse L. O'Carroll, was appointed to fill the unexpired term of Kenneth Delashaw. Roger R. Scott was appointed to fill the unexpired term of John Patrick Kent. John J. Gardner, David L. Cummins and Douglas F. Shirley were all reappointed when their terms expired on June 30, 2006.

The non-lawyer members were: Kenneth D. Mitchell, Guthrie; Dr. Douglas O. Brady, Lawton; Kimberly Hawkins-Sanders; Oklahoma City; Robert Lemons, Tulsa; Neil McElderry, Jr., Purcell; Bill Pyeatt, Norman; Dale Cabbiness, Edmond; and William J. Pettit, Broken Arrow. Mr. Bill Pyeatt was appointed to replace Bill McElderry, whose term expired June 30, 2006.

At their annual meeting on June 30, 2006, the Professional Responsibility Tribunal voted to re-appoint Sidney K. Swinson to serve a one-year term as Chief Master and Ronald Main was appointed to serve a one-year term as Vice-Chief Master.

VOLUME OF GRIEVANCES:

During 2006, the Office of the General Counsel received 468 formal grievances involving 330 attorneys and 1,171 informal grievances involving 824 attorneys. In total were 1,639 grievances received against 1,015 attorneys. The total number of attorneys differs because some attorneys received both formal and informal grievances. In addition,

the Office handled 317 items of general correspondence, which is mail not considered to be a grievance against an attorney.

The Oklahoma, Tulsa, and LeFlore County Bar Associations assist in the investigation of grievances against attorneys practicing in those counties and assist in arbitration of fee disputes. 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.

On January 1, 2006, 196 formal grievances were carried over from the previous year. During 2006, 468 formal grievances were opened for investigation. The carryover accounted for a total caseload of 664 formal investigations pending throughout 2006. Of those grievances, 381 investigations were completed by the Office of the General Counsel and presented for review to the Professional Responsibility Commission. Therefore, 283 investigations were pending on December 31, 2006.

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 2006, the Commission voted the filing of formal disciplinary charges against 11 lawyers involving 32 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 2006, the Commission issued private reprimands to 5 attorneys involving 5 grievances.

In addition, 46 grievances were dismissed with a letter of caution 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 298 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 insured that any deficiency in the representation of a client does not occur in the future.

DISCIPLINE IMPOSED BY SUPREME COURT:

In 2006, 20 cases were acted upon by the Supreme Court. The Court issued one Private Reprimand and dismissed 3 matters. There was also one Rule 10 Suspension. The public sanctions are as follows:

Disbarment:

<u>Respondent</u>	<u>Effective Date</u>
None	

Resignations Pending Disciplinary Proceedings Approved by Court:

<u>Respondent</u>	<u>Effective Date</u>
Robelen, Scott; Dallas, TX	2/13/06
Berry, James D. Jr.; Shawnee	6/13/06
Miller, Howard Steven; Tulsa	6/29/06
Marsh, David Thomas; Tulsa	6/29/06
Holdstock, Charles; OKC	10/10/06

Disciplinary Suspensions:

<u>Respondent</u>	<u>Length</u>	<u>Effective Date</u>
Besly, Helen Frances; Tulsa	6 month	3/28/06
Malloy, Terry; Tulsa	9 month	9/11/06
Pacenza, Franklin; Cleveland	2 yr/1 day	6/13/06
Beasley, Barry K.; Broken Arrow	2 yr/1 day	6/27/06
Rogers, James Michael; Tulsa	2 yr/1 day	7/05/06
Burns, Tony Ray; Anadarko	6 month	10/10/06
Allford, Patricia Ann; Holdenville	6 month	11/14/06
Maddox, John Glen; Ponca City	2 years	3/22/05

Public Censure:

<u>Respondent</u>	<u>Effective Date</u>
Weldon, Richard; OKC	2/7/06
Wilburn, Rhett; Tulsa	6/27/06

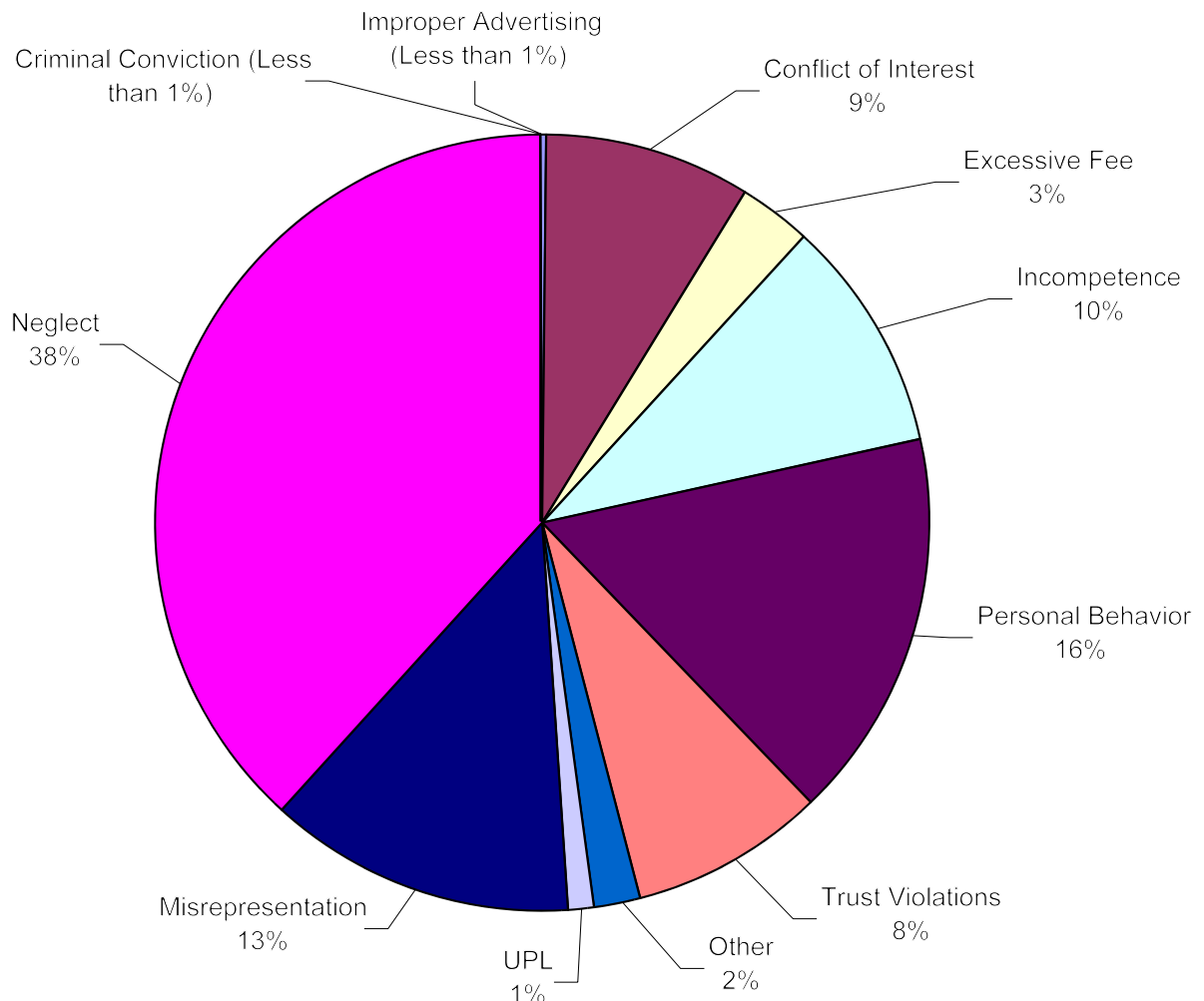
There were 32 cases pending before the Supreme Court on January 1, 2006. During 2006, 12 new formal complaints and 1 Rule 7 Judgment were filed, 1 Complaint was remanded to the Trial Panel, and three Resignations Pending Disciplinary Proceedings filed for a total of 49 cases pending before the Court during 2006. There were 13 reinstatements pending on January 1, 2006, and 8 petitions for reinstatement were filed in 2006. The Supreme Court approved 10 reinstatements, denied 3, and one was withdrawn. On December 31, 2006, there were 7 petitions for reinstatement and 29 formal complaints pending with the Supreme Court.

SURVEY OF GRIEVANCES:

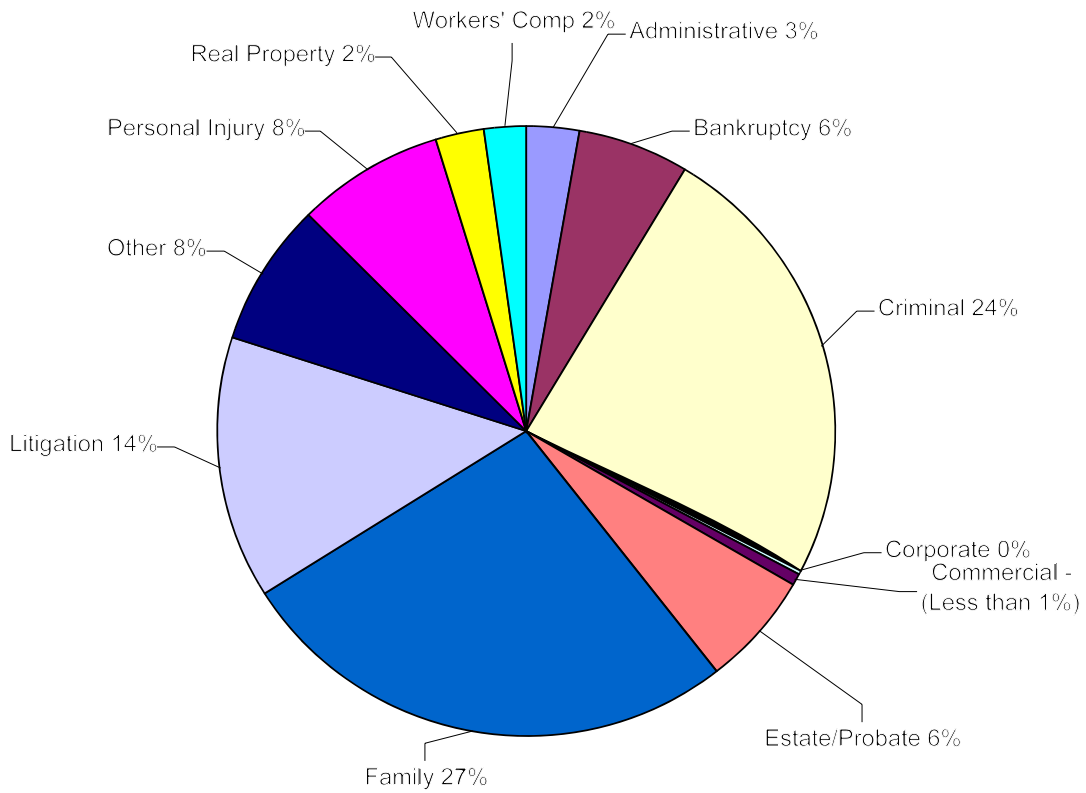
In order to better inform the Supreme Court, the bar and the public of the nature of the grievances received, the numbers of attorneys complained against, and the areas of attorney misconduct involved, the following information is presented.

Total membership of the Oklahoma Bar Association as of December 31, 2006, was 15,794 attorneys. Considering the total membership, the receipt of 1,639 formal and informal grievances during 2006, involving 1,015 attorneys, constituted 6.5 percent of the attorneys licensed to practice law by the Oklahoma Supreme Court.

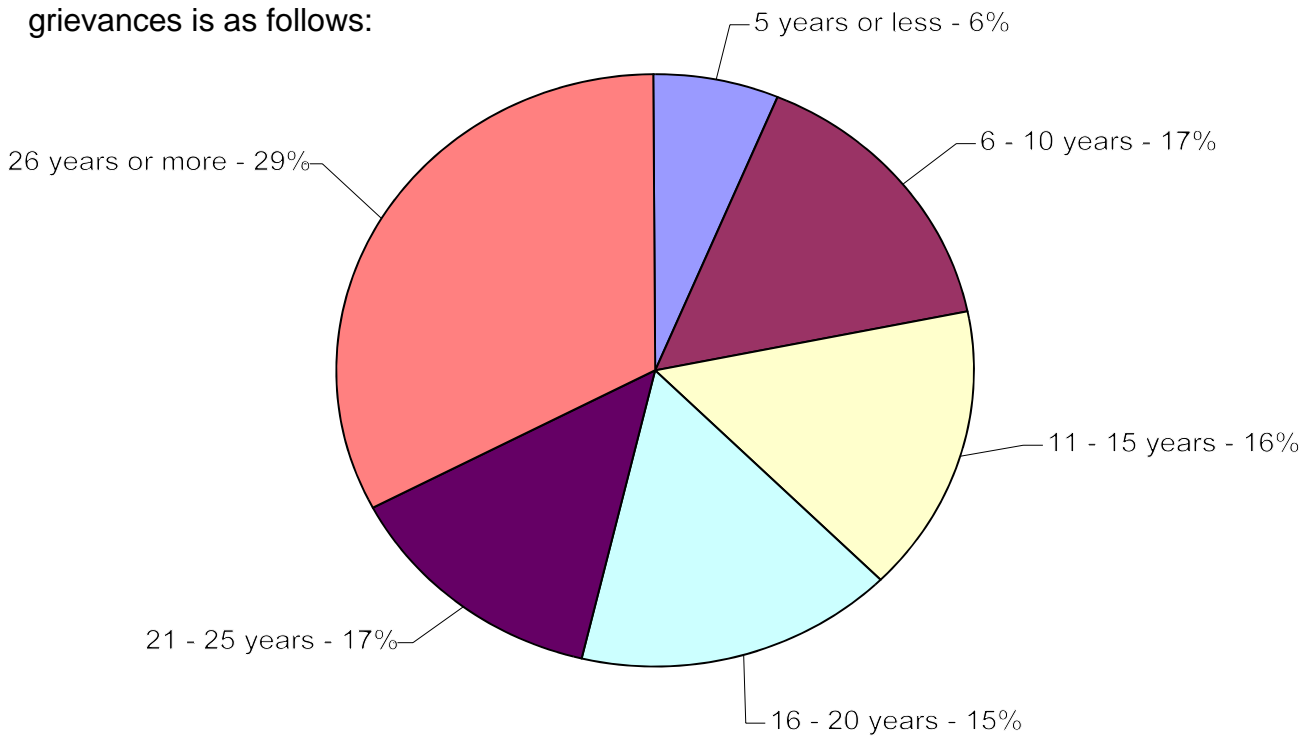
A breakdown of the type of attorney misconduct alleged in the 468 formal grievances received by the Office of the General Counsel is as follows:



Of the 468 grievances registered, the area of practice is as follows:



The number of years in practice of the 330 attorneys receiving formal grievances is as follows:



The largest number of grievances received were against attorneys who have been in practice for 25 years or more. Considering the number of practicing attorneys, the largest number have been in practice 25 years or more.

Of the 468 formal grievances filed against 330 attorneys in 2006, 176 are attorneys in urban areas and 148 attorneys live and practice in rural areas. Six 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, 2006, 23 disciplinary cases were pending before the Tribunal. In 2006, 12 cases were presented to the Tribunal by the Supreme Court for a total of 35 cases pending throughout the year. Of those, the Tribunal heard and filed reports on 14 cases and in four cases the respondent resigned pending disciplinary proceedings or the matter was dismissed. On December 31, 2006, 17 cases were pending before the Tribunal.

On January 1, 2006, six petitions for reinstatement were pending with the Tribunal and 8 new petitions were filed throughout the year. Of these 14 petitions for reinstatement, 10 cases were heard and reports were filed by the Tribunal, leaving four cases pending before the Tribunal on December 31, 2006.

ETHICS AND EDUCATION:

During 2006, the General Counsel, his staff, and the Professional Responsibility Tribunal and Commission members continued to speak to county bar association meetings, Continuing Legal Education classes, law schools 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 1st day of February, 2007, on behalf of the Professional Responsibility Tribunal, the Professional Responsibility Commission, and the Office of the General Counsel of the Oklahoma Bar Association.

Dan Murdock, General Counsel
Oklahoma Bar Association