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IN THE SUPREME COURT
OF THE STATE OF ARIZONA

In the Matter of :	**Supreme Court No. R-_____**
PETITION TO AMEND RULES 46-74, ARIZONA RULES OF THE SUPREME COURT	Comment on Attorney Discipline Task Force's Petition to Amend Rules 46-72, Rules of the Supreme Court

Pursuant to Rule 28, Ariz.R.Sup.Ct., the undersigned attorneys provide the following comments to the above-referenced Petition, filed with the Arizona Supreme Court on December 28, 2009, by the Administrative Office of the Court ("AOC"), on behalf of the Attorney Discipline Task Force (the "Taskforce").

I. Introduction:

We are a group of lawyers with significant experience in and knowledge of the lawyer discipline system. Presently, we represent respondents in State Bar discipline matters. Previously, certain of us have served as volunteer or staff Bar counsel, Bar ethics counsel, a member of the Board of Governors, a President of the State Bar of Arizona, and a member (and Chair) of the Disciplinary Commission.

We question some of the proposed rule amendments and are quite supportive of others. We support the overall direction of the Task Force and the Court's stated goal of maintaining due process for lawyers subject to discipline while reducing the time and cost of processing lawyer discipline cases.

We favor removing the probable cause function from a member of the Board of Governors and establishing a body that functions independently of the State Bar, whose members will be appointed by the Supreme Court. We support the proposal enabling both the respondent and complainant to provide input directly to the Attorney Regulation Committee, input missing in the current system which relies exclusively upon bar counsel to summarize the positions of the respondent and complainant.

We favor the creation of the office of Presiding Disciplinary Judge (PDJ). Having one judge oversee and be involved in all stages of the disciplinary process will help to ensure that sanctions are proportionate and that all respondents are treated fairly. The importance of the position obviously makes the selection of the PDJ an important decision.

We favor the change in the duties of bar counsel to "review" instead of "investigate" information coming to the attention of the State Bar. We believe this change will foster a shift in the current philosophy that inhibits bar counsel from exercising appropriate discretion in resolving matters short of a full-blown screening investigation, because the current rules direct them to "investigate" matters when allegations "if true" would be grounds for discipline.

We favor the use of hearing panels, although we note that coordinating schedules in order to determine availability for hearings is likely to be more complicated with the addition of three-member hearing panels. The requirement that every hearing panel include a public member

ensures public participation in the trier-of-fact function, something that was part of the system prior to the establishment of the hearing officer system when discipline matters were heard by three-member hearing committees.

We favor proposed Rule 57(a) governing discipline by consent, particularly the elimination of the requirement of two documents (tender of admissions and joint memorandum) that currently comprise consent agreements. The provision allowing such agreements to be submitted to the PDJ is expected to speed up the acceptance and implementation of agreements.

We favor the right of direct appeal to the Supreme Court. The Court has a uniquely important role to play in assuring ethical conduct by members of the bar and can discharge that function most effectively by reviewing all appeals in cases involving alleged lawyer misconduct.

II. Comments on Specific Proposed Changes:

We address our comments in the order of rule number.

A. Service of Subpoenas: Rule 47(h)(4)B

We suggest that the Rules provide for personal service of process of subpoenas for orders to show cause when a respondent does not respond to an initial charge. While the proposed amendments do not substantively change Rule 47(c) regarding service of process, the application of 47(c) and 47(h)(4)(B) become problematic for the new order to show cause provision in 47(h)(4)(A). As drafted, the new Rule 47(h)(4)(A) authorizes the Bar to request an Order to Show Cause when a respondent does not respond to a subpoena for information. If the respondent fails to respond to a subpoena, the presiding disciplinary judge may summarily suspend the lawyer (after an order to show cause).

We agree that lawyers *who have been properly served* and who fail or refuse to respond to subpoenas and lawyers who have abandoned their

practices should be subject to this summary suspension contempt sanction. However, the new provisions also pose the potential for serious unintended consequences for an attorney who simply has not updated his or her mailing address with the State Bar, or for an attorney who has appropriately notified the State Bar of an address change, but the State Bar failed to properly timely change the information in its database. As currently drafted, a lawyer who fails to respond to a charge and subpoena, simply because the documents were mailed to an incorrect address, could be unfairly subject to suspension.

The dilemma posed by the Rules occurs because it appears that Rule 47(c) and Rule 47(h)(4)(B) permit service of process of complaints and subpoenas by certified mail, not personal service. The current version of Rule 47(c) (with minor proposed changes) regarding service of process of a subpoena provides:

> Service of the complaint, pleadings and subpoenas shall be effectuated as provided in the rules of civil procedure, except that service of the complaint in any discipline or disability proceeding, including service on a respondent's counsel, if any, may also be made by certified mail/delivery restricted to addressee in addition to regular first class mail, sent to the last address provided by counsel or respondent to the State Bar's membership records department pursuant to Rule 32(c)(3).

Proposed Rule 47(h)(4)(B). further explains that service of a subpoena may occur by:

> B. *Service.* In the case of a non-party subject to an order to show cause, a copy of the order to show cause shall be personally served upon that person. In the case of a respondent who is subject to an order to show cause, service of a copy of the order to show cause may be made by certified mail/delivery restricted to addressee in addition to regular first class mail, sent to the last address provided by respondent to the State Bar's membership records department pursuant to Rule 32(c)(3).

Generally, service of process of a subpoena by certified mail seems logical. However, when considered with new Rule 47(h)(4)(A), a lawyer could be suspended just because he or she did not *receive* the mailed subpoena.

New Rule 47(h)(4)(A) provides that a Respondent may be summarily suspended for not responding to a subpoena:

> A. *Request for Order to Show Cause.* A party may file with the presiding disciplinary judge a verified notice and request for order to show cause alleging that a person under subpoena has failed to comply with the subpoena. The presiding disciplinary judge may enter an order to show cause directing the person alleged to be in contempt to appear before the judge at a specified time and place and then and there show cause why he or she should not be held in contempt. In the case of a respondent alleged to have failed to comply with a subpoena, the order shall indicate that a finding of contempt could result in a sanction of summary suspension of his or her license to practice law.

Undersigned counsel encourage the Court to clarify the provision in 47(h)(4)(B), requiring that a subpoena for an order to show cause hearing that could result in the summary suspension of a lawyer be served personally, in accordance with Ariz. R. Civ. Pro. 4.1(d). Upon a showing that personal service has been attempted and the respondent cannot be located, then the Bar may request that the presiding disciplinary judge issue an order authorizing service by certified mail.

Accordingly, counsel recommend the following change to proposed Rule 47(h)(4)B. (shown in italics):

> B. *Service.* In the case of a non-party subject to an order to show cause, a copy of the order to show cause shall be personally served upon that person. In the case of a respondent who is subject to an order to show cause, service of a copy of the order to show cause shall be *served personally upon the respondent. Upon a showing that personal service has been attempted unsuccessfully, bar counsel may*

request that the presiding disciplinary judge authorize service ~~may be made~~ by certified mail/delivery restricted to addressee in addition to regular first class mail, sent to the last address provided by respondent to the State Bar's membership records department pursuant to Rule 32(c)(3).

B. Rule 49(a)(2)(C) (Public Notice of Discipline Imposed)

Undersigned counsel agree with and support the Arizona Supreme Court's goal set forth in Administrative Order No. 2009-73: maintaining a fair and impartial discipline system while decreasing the time and cost to process cases. In Appendix "A" to Order No. 2009-73, the Court expressed its intent that the Task Force incorporate best practices from the Colorado attorney discipline system and the systems of other states. The current proposed Rule 49(a)(2)(C) represents a significant departure from the Colorado system, which undersigned counsel believe will serve as a roadblock to achieving the goal of reducing the number of cases that actually proceed to hearing and thereby decreasing the time and cost of processing cases.

Specifically, the proposed Rule 49(a)(2)(C)(ii) provides that probation, restitution and costs shall be posted on the State Bar's website for five years from the effective date of the sanction or until completion. Notably, although the proposed rule submitted by the Task Force does not include public access for informal reprimands ("admonitions" in the proposed rules), the "Background and Purpose" section of the Petition states that it is the view of a majority of the Task Force that admonitions should also be posted on the State Bar website.

Undersigned counsel object to the proposed rule and the view of the Taskforce majority that information relating to probation and admonitions be included on the State Bar website. We submit that posting admonitions and probation on the State Bar website is not only contrary to the best practices

of the Colorado system but is actually more expansive than the policy adopted by the Board of Governors ("BOG") on the subject in 2005. At that time, when the State Bar proposed posting all discipline on the website (*see* BOG' minutes for June 15, 2005, and July 8, 2005, available on the State Bar's website), the Board rejected the State Bar's request.

The Task Force Minutes for its August 29, 2009 meeting contain information from John Gleason, Chief Bar Counsel for the Colorado Supreme Court. Mr. Gleason's views are important to this process and should be carefully considered. For purposes of proposed Rule 49(a)(2)(C), paragraph 4 is critically important because Mr. Gleason explains that a significant difference between the Colorado and Arizona systems is that informal reprimands (admonitions in Colorado) and diversions are private and confidential. Publicizing informal reprimands and diversion (and by implication, probation) is a significant disincentive and deterrent to resolving minor matters informally and expeditiously.

Respondents' counsel firmly believe that including admonitions and probation on the bar's website will have a significant and negative impact on respondents' willingness to resolve a bar charge involving relatively minor misconduct informally and expeditiously when loss of business, reputation and public humiliation might result from the publicity.

On its face, the recommendation to make diversion private (a decision we strongly support) appears to be a compromise to include one of the "best practices" of the Colorado system while inexplicably rejecting another comparable and important facet of the Colorado system – keeping admonitions private. We urge the Court to draw on the considerable experience of Colorado and reject the proposal to publicize probation and the suggestion of a majority of the Taskforce to publicize admonitions.

While the Supreme Court indicated in Appendix "A" to Order 2009-73 that it wished to modify the State Bar's intake process to give intake attorneys authority to dismiss matters and to offer diversion, the fact is that both options have been available and internally authorized since at least 2004 (*see* State Bar's 2004 Annual Report of Discipline, page iii). Thus, the proposed rule amendments do not effectively impact the State Bar's incentive or ability to offer diversion at the intake level because this ability has existed for the last six years. In sum, there is nothing in the proposed rules that would encourage any increased use of diversion. Moreover, the proposed rule changes relating to publicizing admonitions and probation would undoubtedly negatively impact the Court's stated desire to facilitate and encourage the earlier resolution of lower level cases, by publicizing admonitions and probation.

Undersigned counsel submit that making admonitions and probation private, as is the case in Colorado, and as was the case some years ago in Arizona, would accomplish the Court's goal to encourage earlier resolution of lower level cases. The public is entitled to access to information about lawyers who are guilty of misconduct serious enough to warrant censure, suspension or disbarment, and undersigned counsel support posting that information on the State Bar website. But publicizing admonitions and probation resulting from minor misconduct in the interest of transparency will undoubtedly frustrate the Court's stated desire to achieve the early, inexpensive and informal resolution of disciplinary charges. The Task Force discussed the importance of the public being made aware of sanctions imposed against an attorney in order to enable prospective clients to make more informed decision making in choosing an attorney. However, informal reprimands and probation are private in many states because, by definition,

informal reprimands and probation address negligent conduct that has resulted in little or no injury.

In 2007, the American Bar Association's Center for Professional Responsibility issued the results of a survey on Lawyer Discipline Systems across the country. In Chart I of that report, "Lawyer Population and Agency Caseload Volume 2007," which is attached as Exhibit 1 to this comment, a comparison of Arizona and Colorado numbers is available. The following are relevant points to consider:

- Arizona had 16,038 active lawyers; Colorado had 21,900
- Arizona received 3,914 charges; Colorado received 4,016
- Arizona had 864 cases pending from prior years; Colorado had 33
- Arizona summarily dismissed 1,047 charges; Colorado: 3,471
- Arizona investigated 1,797 charges; Colorado: 372
- Arizona dismissed 545 cases after investigation; Colorado: 189
- Arizona charged 101 lawyers after probable cause; Colorado: 52

These numbers demonstrate that changing the standard of review of incoming charges to encourage bar counsel to exercise discretion in their determination of whether to investigate should help reduce the initial numbers of investigations (and increase the number of summary dismissals). Nevertheless, simply encouraging bar counsel to dismiss questionable charges earlier is not likely to significantly impact the end result. Exhibit 1 demonstrates that despite the fact that Colorado has 5,000 more lawyers than Arizona, Arizona charges twice as many lawyers as Colorado after a probable cause determination.

We believe that Arizona attorneys are as ethical as Colorado attorneys. However, Exhibit 1 confirms that the dramatic difference in cases resulting in charges and dismissals is a reflection of the different prosecution policies and philosophy of the two State Bars. Based on our collective experience in the representation of thousands of respondents, we submit that

private informal reprimands (changed to the term "admonition" in the proposed rules) and private probation would encourage earlier and informal resolution of a higher percentage of bar charges.

The Court has expressed its desire to have Arizona discipline policies conform to a more uniform model and specifically, to incorporate the American Bar Association's *Standards for Imposing Lawyer Sanctions* ("the *Standards*") wherever possible. The definition of an "admonition" set forth at page 24 of the *Standards* and reproduced below is important:

> **Admonition, also known as private reprimand, is a form of non-public discipline which declares the conduct of the lawyer improper, but does not limit the lawyer's right to practice.**
>
> **Commentary**
> Admonition is the least serious of the formal disciplinary sanctions, and is the only private sanction. Because imposing an admonition will not inform members of the public about the lawyer's misconduct, admonition should be used only when the lawyer is negligent, when the ethical violation results in little or no injury to a client, the public, the legal system, or the profession, and when there is little or no likelihood of repetition. Relying on these criteria should help protect the public while, at the same time, avoid damage to a lawyer's reputation when future ethical violations seem unlikely. To enhance the preventive nature of lawyer discipline, the court or disciplinary agency should publish a fact description in admonition cases without disclosing the lawyer's name.

The Standards also provide that unless probation is imposed as a condition of either a suspension or censure (referred to as "reprimand" in the Standards), probation should also be private. Thus, if probation is imposed as a condition of an admonition under the proposed rules, the probation should be private and not posted on the State Bar website. When imposed as a condition of an admonition, probation is obviously intended to prophylactically address low-level violations of the ethical rules that involve

little or no injury and for which one of the State Bar's remedial programs are suited, *i.e.*, additional CLE instruction, or a referral for a LOMAP or MAP evaluation. This is especially true because "probation" is subject to misinterpretation by those unfamiliar with what the term actually means in the context of lawyer discipline - a descriptive word that covers remedial, rehabilitative conditions associated with the specified sanction. The potential loss of clients and the stigma attributable to publicizing such low-level informal discipline and associated probation might be enough to cause the respondent to contest the proposed sanction, which would serve to frustrate or defeat the goal of the proposed changes.

C. Rule 55(b)(1) (Deadlines During Investigation)

This proposal requires a lawyer to file a response within 20 days of notice of a screening investigation. Bar counsel may grant one 20-day extension only; further extensions must be approved by Chief Bar Counsel for "good cause shown".

We are concerned about the 20-day deadline to respond to allegations. We are aware of problems, in numerous cases, with the State Bar's system for tracking address changes. Lawyers report situations in which, having given notice to the State Bar about an address change, the State Bar continues to send mail to an old address. Lawyers report instances in which corrections only occur after multiple exchanges with the State Bar. We are thus concerned about a 20-day deadline for responding, without any requirement on the State Bar that it personally serve notice of a screening investigation on the lawyer. If, in fact, the lawyer has failed to keep the State Bar apprised of his or her address, the discipline system can deal with that issue, as all lawyers are obligated to notify the State Bar about address changes. If, on the other hand, the lawyer has made reasonably diligent efforts to communicate an address change to the State Bar, and its failings

result in the State Bar not having a current address, burdening the lawyer with discipline proceedings represents an unreasonable outcome.

Substantively, the process described in Rule 55(b) presents possible problems. The rule provides for Bar Counsel giving written notice about an investigation and "the nature of the allegations." The phrase "nature of the allegations" is vague at best, and nothing in Rule 55(b) includes a requirement that Bar Counsel provide information about the allegations sufficient to permit an intelligent response from the respondent lawyer. We have all faced many, many cases in which, under the present system, the letter from Bar Counsel (and the correspondence from the complainant) is so vague that we have a difficult time responding on behalf of our clients.

The process of giving notice and requiring a response from the respondent is satisfactory. If the process ensures that the respondent gets the notice, and that he or she has adequate information in the notice to permit an intelligent response, we have no objection to this process and, in fact, think it improves upon the system in place now.

This proposal is but one of a series of proposed changes which provide ever-shorter time frames within which a lawyer must respond to a bar investigation. These proposals are presumably intended to address the Supreme Court's legitimate concern that bar discipline cases be handled in a timely manner.

However, the biggest delay in the current process is caused not by dilatory responses from lawyers, but rather by delays occurring during the Bar's investigation. Under the current system, as well as under the new proposed rules, bar counsel typically solicit a reply from the complaining party after the respondent has submitted his or her initial response to the charges. There are no time lines, under either the current or proposed system, within which complainants are required to submit their reply, if any,

and no time limits for any supplemental information provided by complainants during the course of the investigation. This deficiency is not caused by bar counsel and could be easily addressed by a rule that prescribes a specific time within which complainants must provide a reply to the response and/or additional information requested of them by bar counsel.

More important, however, there are no deadlines for bar counsel under either the current or proposed system to conclude their investigation and make a recommendation to the committee that resolves the charges.

Respondent lawyers, and undersigned counsel who represent them, share the Court's concern that without sacrificing due process and fundamental fairness, State Bar investigations should be as expeditious as possible. However, there comes a tipping point where placing over-arching importance on expedition inevitably compromises fairness to the respondent. We believe that the proposed system crosses that fine line and the emphasis on speed will ultimately prove counter-productive. Placing all the onus for timeliness on a respondent lawyer is not only unfair – it also will disserve the Court's goal of achieving a more timely resolution of discipline cases, as it will not lead to any appreciable shortening of the time it takes for the State Bar to conclude its investigation.

D. Rule 55(b)(2) (Deadlines after investigation)

Under this proposal, bar counsel must notify a complainant within 20 days of the dismissal of an investigation. The complainant then has 10 days to object to the dismissal. The recommended dismissal and the complainant's objection are subject to review by the Attorney Regulation Committee ("the Committee"). Similarly, when bar counsel recommends diversion, stay, probation, restitution, admonition or assessment of costs and expenses, respondents must file a "Summary Response" to the charges within 10 days of the "written explanation" of the charges prepared by bar

counsel. The Summary Response is presented to the Committee along with the bar counsel's recommendation. However, there is no time limit specified in the rules within which the Committee is required to review and rule on these matters.

Again, the burden of expediting the process is disproportionately on the respondent lawyer. It is neither realistic nor fair to expect a lawyer to be able respond within ten days to the bar's recommended sanction. If a lawyer is in trial, or on vacation, or simply consumed with the business of representing clients, it will not be possible to comply with this deadline, and the rules provide no recourse for the lawyer to seek an extension of time. *Without the time to make an informed decision*, a respondent may either simply capitulate and sacrifice his or her legitimate interest in requesting a hearing or demand a hearing when prudence and counsel would dictate otherwise. By focusing exclusively on the deadlines incumbent on a respondent lawyer, the proposal achieves neither the court's goal of timeliness nor its commitment to provide lawyers with a fair opportunity to make informed decisions and respond rationally to the committee's decision.

E. Rule 55(b)(4)B) (Request for Hearing)

Under the proposal, a respondent lawyer must file a demand for formal proceedings within 10 days' notice of the committee's decision. For the reasons stated in connection with proposed Rule 55(b)(2), we believe this does not provide the respondent with adequate time in which to make such an important decision.

F. Rule 58 (Formal Proceedings)

We believe that shortening the time for a notice of default to five days, as opposed to ten, serves no useful purpose, and is contrary to the Rules of Civil Procedure, with which most practicing lawyers have familiarity. We are opposed to this change. We believe the Presiding

Discipline Judge should have the power to extend the hearing date beyond the existing 150 day requirement.

G. Rule 59(c) (Appeals)

The proposed timelines for appeal do not differ from the existing rules; but the pending proposal requires a respondent to seek a stay pending appeal and in the absence of a stay, the respondent- lawyer will be disciplined as ordered by the hearing panel. Also, a lawyer cannot obtain a stay where an "immediate suspension" has been ordered or where no conditions of probation or supervision are adequate to protect the public.

We are very concerned with the proposed rule that requires a stay pending appeal of a sanction. The proposal provides no criteria indicating when stays will be granted and in the case of short-term suspensions, such as a 30-day suspension, the suspension may be fully served before the motion for stay is ruled upon. This could lead to anomalous results. For example, in a case in which a stay was denied or not ruled upon timely a sanction could be fully served before it is reviewed, whereas in another case involving comparable facts the fact that a stay is granted will mean that a proposed sanction is never served. While absolute uniformity in discipline cases is never possible, the system should strive to avoid disparate treatment of attorneys – particularly those who have not had their cases finally decided on the merits by way of appeal.

H. Rule 61(c)(1) (Imposition of Suspension Upon Conviction of Crime)

Under this proposal, lawyers convicted of a felony will be suspended ten days after receipt *by the court* of a notice of conviction unless the lawyer files a motion showing good cause why the court should not implement the suspension. However, there is no requirement that the court notify the respondent of the date on which it has received notice of the conviction or

on which the suspension will be implemented by the court. Therefore, unless the lawyer takes the initiative and independently ascertains these critical facts, the suspension may be imposed by the court before the lawyer is even aware that the court has received notice of the conviction.

A lawyer convicted of a misdemeanor involving a "serious crime" may be suspended pending final result of the resulting discipline proceeding. The State Bar must file a motion with the court and the lawyer has the opportunity to file a response. We think before any suspension resulting from a conviction occurs, the lawyer should receive timely notice of the date on which the suspension will be imposed so that the lawyer can take timely action to forestall the suspension if such action appears warranted.

III. Conclusion:

We respectfully urge the Task Force and Supreme Court to consider and implement our comments concerning the rule changes proposed in the Petition. The undersigned lawyers appreciate the work of the Taskforce and are prepared and willing to assist the Court in evaluating and implementing the Taskforce proposals.

Respectfully submitted this 1st day of April, 2010.

/s/ Mark I. Harrison
Ralph W.Adams
Karen A. Clark
Nancy A. Greenlee
Mark I. Harrison
Denise M. Quinterri
Mark D. Rubin
Lynda C. Shely
Donald Wilson, Jr.

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. . .

Electronic copy filed with the
Clerk of the Supreme Court of Arizona
this 1st day of April, 2010.

By: /s/ Joni J. Jarrett-Mason
3020438.2

EXHIBIT 1

CHART 1

LAWYER POPULATION AND AGENCY CASELOAD VOLUME, 2007

Survey on Lawyer Discipline Systems, 2007
ABA Center for Professional Responsibility

STATE	No. of Lawyers with Active License	No. of Complaints Received by Disciplinary Agency	No. of Complaints Pending from Prior Years	No. of Complaints Summarily Dismissed for Lack of Jurisdiction	No. of Complaints Investigated	No. of Complaints Dismissed After Investigation	No. of Lawyers Charged After Probable Cause Determination
Alabama	14,285	1,398	291	1,181	233	145	28
Alaska	2,913	264	58	205	31	21	6
Arizona	16,038	3,914 [1]	864	1,047	1,797	545	101
Arkansas	8,500 *	819	N/A	0	924	784	140 [2]
California	161,437	16,684 [3]	3,526	13,310	4,889	1,637	385
Colorado	21,900	4,016 [4]	33	3,471	372	189	52
Connecticut	35,387	1,263	N/A	158	1,110 *	861	163 [2]
Delaware	3,435	354	59	75	338	228	32
District of Columbia	63,115	1,277	388	803	862	474	38
Florida	68,589	7,827 [5]	3,321	1,767	7,296	5,315	73
Georgia	31,528	2,794 [6]	341	2,496	356	178	193 [2]
Hawaii	4,700	549	340	101	448	46	331
Idaho	3,988	414	232	429	351	40	9
Illinois	82,380	5,988 [7]	1,896	1,508	6,070	4,117	279

* = Estimated.

[1]Arizona: Includes 2,742 matters handled by consumer assistance program.

[2]Arkansas, Connecticut, Georgia: Represents number of cases, not lawyers.

[3]California: Includes matters handled by central intake. The State Bar of California defines a complaint as a communication concerning the conduct of a member received by the Office of the Chief Trial Counsel which is designated for evaluation to determine if any action is warranted.

[4]Colorado: Includes matters handled by central intake.

[5]Florida: Excludes 1,898 matters handled by consumer assistance program.

[6]Georgia: Excludes matters handled by consumer assistance program.

[7]Illinois: Includes 4,117 matters handled by central intake.

CHART 1

LAWYER POPULATION AND AGENCY CASELOAD VOLUME, 2007

Survey on Lawyer Discipline Systems, 2007
ABA Center for Professional Responsibility

STATE	No. of Lawyers with Active License	No. of Complaints Received by Disciplinary Agency	No. of Complaints Pending from Prior Years	No. of Complaints Summarily Dismissed for Lack of Jurisdiction	No. of Complaints Investigated	No. of Complaints Dismissed After Investigation	No. of Lawyers Charged After Probable Cause Determination
Indiana	16,885	1,598	839	960	1,477	411	34
Iowa	8,578	904	260	120 *	799	595	40
Kansas	10,532	893	N/A	359	524	411	53
Kentucky	15,581 *	1,285 [8]	491	809	1,091	426	50
Louisiana	20,228	2,712	2,566	1,436	3,810	805	113
Maine	4,869	342	74	42	381	211	21
Maryland	33,487	1,940	354	1,589	722	368	57
Massachusetts	52,143	970 [9]	955	53	1925	881	150
Michigan	37,668	3,293	NA	2,219	686	535	168
Minnesota	25,775	1,226	578	552	1,252	465	23
Mississippi	8,331	549	21	382	28	11	22
Missouri	29,343	2,359 [10]	524	1,422	1,240	514	47
Montana	3,402	379	219	140	484	197	41
Nebraska	6,381	544	78	169	375	319	48
Nevada	7,463	1,614	N/A	161 [11]	1,453 [12]	71 [13]	17
New Hampshire	4,531	134	107	130	178	50	21
New Jersey	81,684	1,553	1,067	6,217 *	1,494	N/A	219

* = Estimated.

[8]Kentucky: Includes 552 matters handled by central intake.

[9]Massachusetts: Excludes 5,292 matters handled by consumer assistance program.

[10]Missouri: Includes matters handled by central intake.

[11]Nevada: Reflects best estimate of cases summarily dismissed by Bar Counsel with no investigation and without a grievance file being opened (no screening panel review).

[12]Nevada: 1,199 cases were investigated, but no grievance file opened, plus 254 grievance files opened for a combined total of 1,453.

[13]Nevada: Of 254 grievance files opened, 71 were dismissed outright or dismissed with letters of caution, and an additional 16 were closed with private reprimands.

CHART I

LAWYER POPULATION AND AGENCY CASELOAD VOLUME, 2007

Survey on Lawyer Discipline Systems, 2007
ABA Center for Professional Responsibility

STATE	No. of Lawyers with Active License	No. of Complaints Received by Disciplinary Agency	No. of Complaints Pending from Prior Years	No. of Complaints Summarily Dismissed for Lack of Jurisdiction	No. of Complaints Investigated	No. of Complaints Dismissed After Investigation	No. of Lawyers Charged After Probable Cause Determination
New Mexico	6,365	484	196	456	61	0	18
New York 1st Judicial Department	88,000	3,517	1,111	1,293	3,335	2,032	59
New York 2nd Judicial Department 2nd & 11th Districts	13,857	2,076	885	1,183	1,244	437	60
New York 2nd Judicial Department 9th District	13,634	1,341	669	409	789	412	103
New York 2nd Judicial Department 10th Judicial District	19,943	2,137 [14]	1,543	1,069	803	670	40
New York 3rd Judicial Department	9,500 *	1,709	617	1,024	591	255	224
New York 4th Judicial Department 5th, 7th & 8th Districts	13,153	2,224	847	1,123	1,948	1,047	22
North Carolina	22,222	1,466 [15]	700	965	581	385	30
North Dakota	1,931	194	115	57	252	134	N/A

* = Estimated.

[14] New York 2nd Judicial Dept. 10th Judicial District: Includes 609 matters handled by central intake.
[15] North Carolina: Excludes 2,789 complaints handled by consumer assistance program.

CHART I

LAWYER POPULATION AND AGENCY CASELOAD VOLUME 2007

Survey on Lawyer Discipline Systems, 2007
ABA Center for Professional Responsibility

STATE	No. of Lawyers with Active License	No. of Complaints Received by Disciplinary Agency	No. of Complaints Pending from Prior Years	No. of Complaints Summarily Dismissed for Lack of Jurisdiction	No. of Complaints Investigated	No. of Complaints Dismissed After Investigation	No. of Lawyers Charged After Probable Cause Determination
Ohio	41,831	5,284	N/A	3,037	2,247	N/A	103
Oklahoma	16,027	390	283	1,071	444	378	20
Oregon	13,500	1,721 [16]	N/A	650 *	1,070 *	890 *	133
Pennsylvania	60,619	4,733	883	114	5,502	4,045	237
Rhode Island	8,000	388	N/A	98	290	276	14
South Carolina	8,200	1,402	713	203	1,280	1,025	255
South Dakota	2,282	118	48	20	118	97	9
Tennessee	18,568	1,064 [17]	315	180	1,363	412	69
Texas	80,094	6,954 [18]	N/A	4,445	2,247	1,574	582
Utah	7,245	999 [19]	435	904	1,465	74	24
Vermont	2,000 *	262 [20]	50	71	333	156	14
Virginia	26,937	4,045 [21]	837	2,414	1,895	720	N/A

* = Estimated.

[16] Oregon: Includes 1,629 matters handled by consumer assistance program.
[17] Tennessee: Excludes 4,380 matters handled by consumer assistance program.
[18] Texas: Excludes 4,160 cases handled by consumer assistance program.
[19] Utah: Includes 42 matters handled by central intake.
[20] Vermont: Excludes 331matters handled by consumer assistance program.
[21] Virginia: Includes 2,987matters handled by consumer assistance program.

CHART I

LAWYER POPULATION AND AGENCY CASELOAD VOLUME, 2007

Survey on Lawyer Discipline Systems, 2007
ABA Center for Professional Responsibility

STATE	No. of Lawyers with Active License	No. of Complaints Received by Disciplinary Agency	No. of Complaints Pending from Prior Years	No. of Complaints Summarily Dismissed for Lack of Jurisdiction	No. of Complaints Investigated	No. of Complaints Dismissed After Investigation	No. of Lawyers Charged After Probable Cause Determination
Washington	26,730	2,589 [22]	1,067	1,125	2,196	906	83
West Virginia	6,169	577	411	204	989	580	15
Wisconsin	18,767	1,896 [23]	817	1,564	1,149	128	37
Wyoming	1,864	172	4 *	119	55 *	31	4 *
TOTAL^	1,412,514	117,598	32,028	67,109	75,243	37,514	5,109
AVERAGE^	25,223	2,100	681	1,198	1,344	695	95
MEDIAN^	14,933	1,370	435	727	893	412	5,109

* = Estimated.

[22] Washington: Includes matters handled by central intake.
[23] Wisconsin: Includes matters handled by central intake.