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**MAINE BOARD OF
OVERSEERS OF THE BAR**

**BAR COUNSEL'S ANNUAL REPORT
1996**

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BOARD OF OVERSEERS OF THE BAR

Bar Counsel's 1996 ANNUAL REPORT

INTRODUCTION

This document and the attached exhibits comprise Bar Counsel's Annual Report for 1996 concerning the Board of Overseers of the Bar and its three agencies: the Fee Arbitration Commission, the Grievance Commission and the Professional Ethics Commission. The Fee Arbitration Commission and the Grievance Commission conduct their respective duties under the Maine Bar Rules via three-member panels. Each grievance panel is comprised of two lawyers and one lay (public) member, whereas fee panels may either be so comprised or alternatively consist of two public members and one lawyer. More detailed information as to the scope and duties of the Board and these commissions may be obtained within informational pamphlets available at the office of the Board of Overseers of the Bar, 97 Winthrop Street, P.O.Box 1820, Augusta, ME. 04332-1820. Tel. # (207)623-1121. Please also refer to the respective membership lists, attached as part of the Appendix herein.

I. GRIEVANCE COMMISSION

A. COMPLAINTS

Two hundred thirty-two (232) grievance complaints alleging professional misconduct by Maine attorneys were received, screened and docketed as Grievance Commission Files (GCF) by the office of Bar Counsel in 1996, being a slight decrease from the number so filed in 1995 – (251). Those 232 filings consisted of matters which on their

face alleged a violation of at least one provision of the Code of Professional Responsibility (Code). As discussed later, there were also an additional 163 filings docketed as Bar Counsel Files, being matters which Bar Counsel screened as not stating any violation of the Code. See M. Bar R. 7.1(c) and 7.1(d).

B. PANEL MEETINGS AND HEARINGS

1. **Case Reviews** -- Panels of the Grievance Commission met on 27 occasions to conduct preliminary reviews of 218 complaints. These meetings consist of a panel meeting with Bar Counsel to review the contents of grievance complaint (GCF) investigative files. These are not hearings, and the investigation and review process is by rule confidential. Any subsequent disciplinary hearing and the disposition issued is always open to the public. From those 27 reviews, 191 complaints were closed by either dismissal (165) or dismissal with a warning to the involved attorney (26).

2. **Disciplinary proceedings** – Grievance Commission panels also conducted public hearings resulting in 25 decisions being issued in 1996, including six (6) reprimands of attorneys. On seven (7) of the matters heard, Bar Counsel was directed to file further proceedings before the Maine Supreme Judicial Court (Court) seeking to impose sanctions of either suspension or disbarment of the attorney. A brief description of the proven misconduct in the six reprimands issued by the Grievance Commission is presented below. For a more detailed review of these or other public disciplinary decisions, copies are available at the Board of Overseers of the Bar's office at the address and telephone number on the title page of this Annual Report.

i. Reprimands

1. A lawyer represented a criminal client charged with cocaine distribution in 1985. The client was convicted and sentenced to 12 years in federal prison. The lawyer promised the client that both the conviction and the sentence would be appealed. The sentence was appealed but ultimately dismissed by the court for want of prosecution. The lawyer did not inform the client of the dismissal. The client did not learn of it until he reviewed the docket sheet in his case. The lawyer claimed there was no basis for the appeal and therefore he did not follow up. Thereafter, when Bar Counsel investigated the complaint, the lawyer failed to provide requested information. The Grievance Commission Panel found that the lawyer had violated M. Bar R. 3.6(a)(3) and M. Bar R. 2(c). Board of Overseers of the Bar v. Richard D. Violette, GCF# 92-S-224 (January 8, 1996).

2. Counsel agreed but failed to file a request for findings of fact and conclusions of law after receiving his client's divorce judgment in 1994. When a formal disciplinary Petition was filed in this matter, he ignored that pleading and failed to respond to Bar Counsel's written and telephonic inquiries about that failure. The lawyer's defense was that he thought the disciplinary proceedings were stayed due to his client's bankruptcy. The Grievance Commission Panel found that he had neglected his client's matter and failed to communicate with him in violation of M. Bar R. 3.6(a). The Panel also found that the lawyer's failure to respond to Bar Counsel or answer the Petition was inexcusable. Board of Overseers of the Bar v. Lowell D. Weeks, GCF# 94-G-185 (January 22, 1996).

3. Although an attorney had practiced successfully for 15 years, by 1992 he began to experience increasing real estate investment, domestic and personal problems. He was involved in an act of domestic violence which resulted in a simple assault charge

being filed against him and the entry of a protection from abuse order by the court. Although he and his spouse began to reconcile, the attorney experienced a further acute domestic episode which resulted in additional criminal charges. After hospitalization and psychological counseling, he pled guilty and was sentenced pursuant to a plea agreement. Both during his sentencing and before the Grievance Commission Panel he expressed remorse and provided a full accounting of the progress of his treatment and acknowledged his need to continue counseling and to refrain from the use of alcohol. He had reconciled with his spouse and relocated to Florida at the time of the hearing. The Panel found that his conduct, although extremely serious, did not involve any of his professional activities, and that the causes for the conduct were being successfully addressed by the attorney who had admitted his fault. Board of Overseers of the Bar v. Richard M. Maraghy, Esq., GCF#92-S-236 (March 19,1996).

4. A lawyer failed to file his client's appeal to the Maine State Retirement System concerning the denial of her claim for disability benefits and also failed to return her telephone calls requesting information on the filing of the appeal. The client later moved to Hawaii and had provided him both her new address and telephone number. The lawyer stated that he did not return the telephone calls nor inform her that he had failed to file the appeal so as not to jeopardize her ability to recover from him under his malpractice policy. The panel found violations of Maine Bar Rules 3.1(a) and 3.6(a)(3) because he failed to "take reasonable measures to keep the client informed on the status of the client's affairs" and neglected a legal matter entrusted to him. Board of Overseers of the Bar v. Francis Jackson, Esq. GCF #94-K-114 (April 8, 1996).

5. A lawyer who was also a Judge of Probate represented a paving contractor business which was located next to the historic building in which the lawyer resided and had his office. The lawyer used part of the client's property to store items of personal property. When the client requested the lawyer to remove his property from its premises, the lawyer wrote to the client threatening administrative sanctions if the client would not sell the property to the lawyer on his terms. The client retained other counsel to effect the lawyer's eviction from its property, but the lawyer communicated directly with the client. In addition, the lawyer sued the client while at the same time continuing to represent it in several collection matters. The Grievance Commission Panel found that the lawyer had a conflict of interest with the client since his interests were adverse to those of the client in violation of Maine Bar Rules 3.4(a); 3.4 (b)(1),(2); 3.4(c)(2); 3.4(f)(1),(2) and 3.5(a)(2). The Panel also determined that the lawyer had violated Maine Bar Rules 3.6(c) and 3.6(f) by making threats to gain an advantage in a civil matter and by communicating directly with an adverse party which the lawyer knew to be represented by counsel. Board of Overseers of the Bar v. Brooks, GCF# 95-K-39 (April 10, 1996).

6. An attorney was called upon by a prisoner at the Maine State Prison concerning a claimed improper transfer to the "Supermax" facility in Warren. As of the date of the hearing before the Grievance Commission, he was still there. The attorney failed to communicate with him and did not act on the matter. In fact, he never personally communicated with the client as to the status of matters or that he was unable to represent him. He also failed to return the client's documents when requested and failed to respond timely to inquiries from Bar Counsel. The attorney violated M. Bar R. 3.6(a)(3)(neglect), 3.1(a) (conduct unworthy of an attorney) and 3.2(f)(4) (conduct

prejudicial to the administration of justice) for his lack of response to Bar Counsel's inquiries. Board of Overseers of the Bar v. John E. Nale, Esq., GCF# 96-S-14 (September 4,1996).

ii. OTHER GRIEVANCE COMMISSION DISPOSITIONS

Certain other complaints heard before panels of the Grievance Commission resulted in dispositions other than reprimands or proceedings before the Court. After hearing, eight (8) matters were dismissed for lack of proof of any violation of the Code, and four (4) matters resulted in issuance of a dismissal with a warning for minor violations.

The attached tables provide the various statistics in categories such as the respective areas of law, characterization, age and county of practice concerning the GCF matters received and docketed in 1996. The Appendix also includes a table indicating the various rules which the Grievance Commission and Court found violated in those matters where discipline was imposed after hearing.

C. BAR COUNSEL FILES

As referenced above at page one, Bar Counsel Files constitute matters which upon initial review by Bar Counsel do not appear to allege any professional misconduct subject to sanction under the Maine Bar Rules. See M. Bar R. 7.1(c). There were 163 such filings in 1996, a minor decrease from the number docketed in 1995 (179). As a result, by combination of such matters with all unrelated formal grievance complaints discussed above, the number of written allegations of attorney misconduct filed with Bar Counsel in

1996 totaled 395 compared to 430 so filed in 1995. Maine Bar Rule 7.1(c) provides for Bar Counsel's unilateral dismissal of Bar Counsel Files with or without investigation, with a complainant having the right to request a review thereof by a lay member of the Board or Grievance Commission. 167 Bar Counsel Files were dismissed by Bar Counsel in 1996, with 50 complainants requesting review of that action. 42 of those requests resulted in affirmance of the dismissals, 2 dismissals were vacated and docketed for a Grievance Commission panel's review, and 6 matters remained under review on December 31, 1996 (See Appendix).

II. COURT MATTERS

A. DISBARMENTS

1. A lawyer was disbarred in New Hampshire for making false statements to the disciplinary authorities in that state. The Maine Court imposed reciprocal discipline and disbarred him in Maine despite his claim that he had not received adequate notice of the charges against him in New Hampshire and that there was an infirmity of evidence that he had acted as charged. The disbarment was upheld by the Law Court. Board of Overseers of the Bar v. Arron E. Budnitz, Law Docket No. CUM-96-164 (December 19, 1996).

2. An attorney was subject of a non-disciplinary suspension for failure to file his annual Board of Overseers registration statement and pay the registration fee. The attorney continued to practice law, neglected a case and failed to keep the client informed. Thereafter the lawyer failed to respond to Bar Counsel's requests for information. Bar Counsel filed an Information with the Court, and the lawyer failed to file an Answer. Upon

Bar Counsel's Motion for Default, the allegations were deemed admitted, and after finding violations of M. Bar R. 2(c); 3.1(a); 3.2(f)(1); 3.6(a)(2), (3); and 7.3(l)(2), the Court disbarred the attorney. Board of Overseers of the Bar v. David W. Holler, Docket No. BAR-96-2 (June 6, 1996).

3. A lawyer was hired to perform legal services concerning the purchase of real property. He failed to detect a duly recorded mortgage on the property. When the clients learned of the lien, they requested the lawyer remove it. Although he promised to do so, he did not follow through. During that time period he was suspended from the practice of law, but failed to so inform the clients. He also failed to cooperate with Bar Counsel's investigation, and he did not file an Answer to the Information. The Court found that the lawyer had violated M. Bar R. 2(c); 3.1(a); 3.2(f)(1),(2),(4); 3.6(a)(2),(3); 3.9(a), (b)(1),(2), (3),(6); and 7.3(i)(1)(A), (F). Board of Overseers of the Bar v. Brian R. Olson, Docket No. BAR-96-4 (Initial order issued July 16, 1996; reconsidered and amended by order dated September 26, 1996).

B. SUSPENSIONS

1. A lawyer acted as attorney for the Personal Representative of an Estate. He improperly and without authorization removed at least \$10,000 from the Estate's bank account for personal use. The attorney admitted that by engaging in this conduct he had violated M. Bar R. 3.1(a) and 3.2(f)(2), (3), (4). The Court found that although the conduct was serious, the attorney was capable of reforming and issued a two-year suspension, suspended all but three months and then imposed mentoring and accounting conditions.

Board of Overseers of the Bar v. Thomas F. Shehan, Jr., Docket No. BAR-95-8 (January 10, 1996)

2. A lawyer was appointed to represent a criminal defendant in a post-conviction proceeding alleging ineffective assistance of trial counsel. The court ordered the matter be stayed pending resolution of a disciplinary proceeding against trial counsel. The lawyer did not communicate with his client after July of 1993 and the client filed a grievance with the Board in April of 1994. The lawyer admitted the neglect, but thereafter failed to respond to requests for information from Bar Counsel. The lawyer failed to appear for a hearing before the Grievance Commission. Thereafter, he attempted to resign from the Bar, failed to follow through on that, and ultimately failed to file an Answer to the Information filed with the Court seeking his suspension or disbarment. He was defaulted and suspended for eight months. The Court imposed conditions on his reinstatement in addition to those normally required by the Bar Rules. Board of Overseers of the Bar v. Jonathon W. Dox, Docket No. BAR-95-10 (January 30, 1996).

3. A lawyer represented a client who was accusing a former employer of sexual harassment. He verbally abused a representative of the employer at a meeting with a Maine Human Rights Commission investigator. The Court found this conduct to be unprofessional and conduct unworthy of an attorney. The lawyer had been suspended in 1993 for similar conduct, with part of that suspension suspended with conditions. Based upon this new misconduct, the lawyer was reprimanded and his earlier suspension

extended for an additional year with virtually the same conditions Board of Overseers of the Bar v. Richard B. Slosberg¹, Docket Nos. BAR-92-13, 93-3 and 95-9 (March 21, 1996).

4. A lawyer failed to comply with M. Bar R. 6(a) and 10(a) in order to obviate the administrative suspension imposed upon him in October of 1995 for failure to file his annual registration statement and fee with the Board. He also failed to notify his clients of that status. His administrative suspension was confirmed and an additional three months of disciplinary suspension was imposed by the Court. Board of Overseers of the Bar v. Lowell D. Weeks, Docket No. Bar-96-6 (July 30, 1996),

5. An attorney failed to take reasonable measures to keep his clients informed of the status of one spouse's workers' compensation claim and also neglected his appeal of a denial of an application for supplemental security income. The attorney was suspended for a period of 90 days with the suspension suspended for a period of one year subject to conditions. Board of Overseers of the Bar v. Schuyler G. Steele, Docket No. BAR-96-14 (November 27, 1996).

C. CONTEMPT

A lawyer was disbarred effective June 9, 1995. He failed to fulfill the obligations imposed upon him by M. Bar R. 7.3(i) which required him to file an affidavit certifying that he had notified all his clients and the courts of his disbarment. On November 6, 1995 the Court found him in contempt of the Order. The Board brought a second Motion for

¹ The Court rejected the Board's allegation that Slosberg's failure to pay an award of the Fee Arbitration Commission constituted a violation of M. Bar R. 3.3(a) or 9(i). However, effective March 15, 1997 the Court promulgated amendments to M. Bar R. 6(b)(6) and 9(i) whereby an attorney's failure to make an awarded refund to a client within 30 days of receipt of the award may now result in that attorney being the subject of a disciplinary action before the Court.

Contempt on the same grounds in June of 1996. After hearing, the Court again found the lawyer in contempt for failing to notify a client of his disbarment, continuing to represent that client despite his disbarment and refusing to return the client's file to him. Board of Overseers of the Bar v. David F. Gould, Docket No. BAR-95-3 (September 9, 1996),

D. RESIGNATION

Hearing having been waived by both the attorney and Bar Counsel, the Court accepted the resignation of one attorney pursuant to M. Bar R. 7.3(g). Board of Overseers of the Bar v. Eugene E. Sordyl, Docket No. BAR-96-3 (March 5, 1996).

III. FEE ARBITRATION COMMISSION

In 1996 the Board received 259 requests for petitions for arbitration of fee disputes, 103 (39.7%) of which were later returned and actually filed with the Secretary to the Fee Arbitration Commission, Jaye M. Trimm (See Appendix). With 20 petitions already pending, those 103 new petitions created a total docket of 123. Various arbitration panels met on 31 occasions to hear and dispose of 62 petitions. With preliminary assistance and involvement of Assistant Bar Counsel Karen G. Kingsley and Commission Secretary Trimm, and approval of Fee Arbitration Commission Chair Valerie Stanfill, Esq., 31 other fee disputes were dismissed, settled or withdrawn by consent of the parties prior to hearing. See M. Bar R. 9(e)(3).

The role of the office of Bar Counsel in the fee arbitration process is one of reviewing and screening petitions that have been filed with the Secretary to determine if the matter warrants the attention of that Commission or should also be processed by the

Grievance Commission. Bar Counsel may attempt to promote and assist in the informal resolution of fee disputes prior to hearing by a panel but is not otherwise usually involved after the initial screening. See M. Bar R. 9(e)(2). Additionally, pursuant to Board Regulation No. 8, the Fee Arbitration Commission and Grievance Commission are authorized to share respective investigation materials concerning related matters.

IV. PROFESSIONAL ETHICS COMMISSION

The eight attorney members of the Professional Ethics Commission met on nine occasions to discuss, draft and approve the issuance of two (2) formal advisory opinions on ethical questions presented and issued Opinion Nos. 153 and 154, as briefly summarized below. In addition to these two formal opinions, the Commission also responded by informal letter to many attorneys' requests on a variety of issues including conflicts of interest in real estate transactions, attorney advertising, acceptance of referrals and the opening and maintenance of a client trust account.

A. OPINION NO. 153 (SEPTEMBER 9, 1996)

An attorney asked the Commission whether it was a violation of the Maine Bar Rules to enter into a contingent fee agreement which provided, regardless of outcome, that the client would not be responsible for any of the disbursements. The Commission concluded that the proposed arrangement was permissible because Maine Bar Rule 3.7 (d) and the reporter's notes to that rule indicate that a contingent fee agreement with such a provision was proper despite an apparent ambiguity in Maine Bar Rule 8(e)(6).

B. OPINION NO. 154 (NOVEMBER 12 , 1996)

The Commission generally addressed the duties of an attorney handling a minor's lawsuit and the ethical dilemmas that attorney might necessarily confront involving a minor and that minor's parents. With Maine Bar Rules 3.4 (b) (1), (2) and 3.4 (c) (2); (3) in mind, the Commission concluded that an attorney is entitled to presume that a minor's parent, in making decisions about the case, is acting in the best interest of the minor even though the parent may have a direct or indirect claim of his or her own. This presumption may be relied upon by an attorney until such time as the attorney has a reasonable basis to believe that the parent is no longer putting the interests of the minor first. This opinion was later withdrawn and reissued on February 28, 1997 with only a minor amendment being made to it which did not substantially change the reasoning of the Commission or the result reached by it.

V. MISCELLANEOUS MATTERS

A. AMENDMENTS TO THE MAINE BAR RULES

The Board completed its study of the report of the Client Protection Fund Advisory Committee, and by a vote of 6-1 (two members absent) submitted a recommendation to the Court that a client protection fund rule similar to that proposed by a majority of that Advisory Committee be adopted in Maine.² A panel presentation concerning that proposed rule was conducted at the summer meeting of the Maine State Bar Association.

Although not completed in 1996, the Board commenced its study of two proposals for changes to Bar Rule 9 – Fee Arbitration Commission. The first area relates to providing for non-disciplinary suspension of attorneys who fail to refund monies as ordered after hearing by the Fee Arbitration Commission. The Board also drafted proposed amendments requiring that before an attorney could sue a client for collection of a fee, the attorney must first notify the client of the right to initiate proceedings before the Fee Arbitration Commission.³

B. VISITING COMMITTEE REPORT

As referenced in my report for 1995, the Board created a Visiting Committee to study and critique the operation of the Board's commissions. The Committee issued its

² Although that recommendation was still pending before the Court at the end of the reporting period, a revised version of the rule was later promulgated, effective July 1, 1997.

³ Both issues resulted in amendments promulgated by the Court in 1997, effective March 15, 1997.

detailed report in June of 1996, and that report is available at the Board's office. It included the following suggestions and recommendations to the Board: 1) conducting hearings at locations more convenient for complainants and witnesses; 2) less informal discussion or chit chat between hearing panel members and participants; 3) being sensitive as to whether the Board and/or its Commissions may be heavily concentrated with attorneys from "large law firms"; and 4) ensuring that greater effort is made to help everyone better understand the processes of the Fee Arbitration Commission and Grievance Commission.

The Board provided considerable study to those recommendations. By way of example, it has continued its steps to broaden the range of membership on its Commissions and in 1996 did issue significantly improved public informational pamphlets concerning the Board, the Fee Arbitration Commission and the Grievance Commission.

C. INFORMAL ADVISORY OPINIONS

The office of Bar Counsel continues to provide daily assistance to Maine attorneys through the rendering of informal advisory opinions, usually over the telephone. Bar Counsel's assistance is limited to providing an attorney with an assessment of either that attorney's or the attorney's firm's proposed conduct under the Maine Bar Rules because Bar Counsel is prohibited by both Advisory Opinion No. 67 and Board Regulation No. 28 from opining to anyone else – including a court – as to the propriety of an attorney's conduct.

D. TELEPHONIC SCREENING OF COMPLAINTS

In the fall of 1996, at my suggestion, the Board gave approval to a pilot project whereby Bar Counsel and Assistant Bar Counsel, as time resources allow, may personally screen telephonic inquiries from potential complainants to determine if the caller's issue or problem appears to indeed be an area for GCF attention, or is likely to be dismissed as a BCF – not alleging attorney misconduct – if a written complaint were actually filed. This approach has been fairly successful and well-received thus far. The callers are always provided an opportunity to file a written complaint, notwithstanding whatever reaction Bar Counsel may informally suggest as to how the matter appears over the telephone. The project will continue to be utilized at least throughout 1997, if not indefinitely.

E. ASSISTANCE TO THE MAINE STATE BAR ASSOCIATION

Bar Counsel and Assistant Bar Counsel participated in continuing legal education (CLE) seminars of the Maine State Bar Association, including Bar Counsel's appearing on a panel at the Bridging the Gap session.

To promote and facilitate discussion about its processes and receive suggestions for improvements, the Board met with the MSBA's Board of Governors on two occasions in 1996, and hopes to continue to do so in the future.

F. ELECTION AS NOBC SECRETARY

In August of 1996, I was elected to serve a one-year term as Secretary to the National Organization of Bar Counsel (NOBC). Included in the duties associated with that position are preparation and distribution of the minutes of the Officers' monthly conference

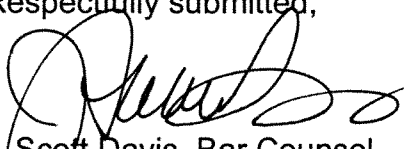
call meetings and the NOBC's mid-year and annual meetings, coordination of the Nominating Committee's Reports, membership on the Program Committee, coordination of the Officers' preliminary consideration of any proposed amendments to the By-laws, and currently being the NOBC's liaison to the American Bar Association's Standing Committee on Ethics and Professional Responsibility.

CONCLUSION

My staff and I thank all of the volunteer members of the Board and its Commissions for their unsparing work and assistance to facilitate the disciplinary, fee arbitration and ethical advisory processes of the Maine Bar Rules. I encourage any suggestions for changes to either our procedures or the Bar Rules be submitted to my attention for consideration by the Board. We also invite any Maine attorney needing a conference room for a deposition or other meeting in the Augusta area to telephone either me or the Board's new Administrative Clerk, Carolyn Condon, to schedule use of that room.

Thank you.

Respectfully submitted,



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DATED: August 26, 1997

APPENDIX

STATISTICAL ANALYSIS OF DISCIPLINARY MATTERS AND FEE DISPUTES

MEMBERSHIP LISTS

January 1, 1996 to December 31, 1996

GRIEVANCE COMMISSION COMPLAINTS

I. Complaints Reviewed 218

ACTION:

Dismissal: 165

Dismissal with warning to attorney: 26

Disciplinary hearing authorized: 25

Directly to Court re: Rule 7.2(b)(7) 2

II. Dispositions After Public Hearing 28 complaints

ACTION:

Dismissal: 8

Dismissal with warning: 4

Reprimand issued: 6

Complaints authorized to be filed
With Court by information: 7

Decisions pending: 3

III. Grievance Complaint Summary

A. Complaints pending at start of period: 150

B. New complaints docketed: 232

C. Total complaints pending: 382

D. Total complaints finally closed by review or hearing: 209

E. Complaints pending investigation, review or hearing: 173

COURT MATTERS – 1996

Disciplinary orders issued: 11 orders, with 12 sanctions imposed

1. Disbarment	3
2. Suspension	4
3. Suspended suspension	1
4. Resignation	1
5. Reprimand	1 (included in one suspension order)
6. Dismissal	1
7. Contempt found	1

C. Total Disciplinary Matters Pending – 12/31/96

A. Grievance Commission

1. Complaints to be investigated and reviewed:	99
2. Complaints awaiting Grievance Commission disciplinary proceedings:	15
3. Complaints heard – decisions pending:	3

B. Supreme Judicial Court of Maine

1. Complaints concerning pending informations	12 (10 attorneys)
2. Informations authorized, but not yet filed	2

TOTAL: 131

(Comparative total for 1995 – 150)

1996 SUMMARY OF DISCIPLINARY IMPOSITIONS

Bar Rules Found to Have Been Violated⁴

Grievance Commission Reprimands - 6

RULE	MISCONDUCT	NUMBER
3.1(a)	Conduct unworthy of an attorney	2
3.2(f)(2)	Illegal conduct	1
3.2(f)(3)	Misrepresentation / deceit	1
3.2(f)(4)	Prejudicial to the administration of justice	2
3.4(a),(b),(c),(f)	Conflict of interest	1
3.5(b)(2)	Failure to withdraw due to conflict	1
3.6(a)(3)	Neglect of client matter	4
3.6(c)	Threatening prosecution of administrative action	1
3.6(f)	Communication with adverse party	1
	TOTAL	17

Court Disbarments / Suspensions / Reprimands - 9

RULE	MISCONDUCT	NUMBER
2(c)	Failure to cooperate w/Bar Counsel	2
3.1(a)	Conduct unworthy of an attorney	6
3.2(f)(2)	Illegal conduct	3
3.2(f)(3) ⁵	Misrepresentation / deceit	3
3.2(f)(4)	Prejudicial to the administration of justice	4
3.6(a)(3)	Neglect of client matter	4
3.9(a),(b)	False advertising	1
7.3(l)	Failure to comply with terms of suspension/disbarment	3
	TOTAL	26

⁴Certain disciplinary decisions cite multiple rule violations.

⁵ One such matter involved a reciprocal action, with analogous reference to a New Hampshire rule prohibiting false statement of material fact in discipline matters.

1996 GRIEVANCE COMPLAINTS

CHARACTERIZATION

	NUMBER	PERCENT OF TOTAL
Trust violation	4	1.5
Conflict of interest	37	16
Neglect	91	39
Relationship w/client	17	7
Misrepresentation / fraud	30	13
Excessive fee	7	3
Interference with justice	32	14
Improper advertising / solicitation	1	.5
Criminal conviction	2	1
Personal behavior	0	0
No cooperation w/Bar Counsel	0	0
Medical	0	0
Incompetence	8	3.5
Jurisdiction	0	0
Conduct unworthy of an attorney	2	1
Other	1	.5
TOTAL	232	100

SIZE OF LAW OFFICE

	NUMBER	PERCENT OF TOTAL
Sole Practitioner	103	44.5
2	52	22.5
3-6	40	17
7-10	6	2.5
11 and over	27	11.5
Government / state /other	4	2
<u>TOTAL</u>	232	100

1996 GRIEVANCE COMPLAINTS

AREA OF LAW

	NUMBER	PERCENT OF TOTAL
Family	79	34
Criminal	0	0
Traffic	28	12
Probate/Wills	0	0
Guardianship	9	4
Commercial	1	.5
Collections	5	2
Landlord/Tenant	5	2
Real Property	4	2
Foreclosure	37	16
Corporate/Bank	0	0
Tort	3	1
Administrative Law	22	10
Taxation	0	0
Patent	1	.5
Immigration	0	0
Anti-Trust	0	0
Environmental	0	0
Contract/Consumer	0	0
Labor	2	1
Workers' Comp	1	.5
Other/None	11	5
Bankruptcy	19	8
Municipal	2	1
Elder Law	3	1
TOTAL	232	100

1996 GRIEVANCE COMPLAINTS

SOURCE OF COMPLAINT

	NUMBER	PERCENT OF TOTAL
Client	159	68.5
Other Party	29	12.5
Adverse Party	23	10
Judge	6	2.5
Lawyer	7	3
Adverse opponent	3	1.5
Sua sponte	4	1.5
Adverse person	1	.5
TOTAL	232	100

YEARS IN PRACTICE

	NUMBER	PERCENT OF TOTAL
40-61 years	5	2
30-39 years	10	4.5
20-29 years	58	25
10-19 years	86	37
2-9 years	73	31.5
Less than 2 years	0	0
TOTAL	232	100

AGE OF ATTORNEY

	NUMBER	PERCENT OF TOTAL
24-29	2	1
30-39	39	17
40-49	96	41.5
50-59	71	30.5
60 +	24	10
Unknown	0	0
<u>TOTAL</u>	232	100

1996 GRIEVANCE COMPLAINTS

COUNTY	NUMBER	PERCENT OF TOTAL
Androscoggin	18	8
Aroostook	16	7
Cumberland	73	31.5
Franklin	1	.5
Hancock	14	6
Kennebec	22	9.5
Knox	7	3
Lincoln	3	1
Oxford	1	.5
Penobscot	32	14
Piscataquis	2	1
Sagadahoc	2	1
Somerset	12	5
Waldo	7	3
Washington	5	2
York	14	6
Out of State	3	1
TOTAL	232	100

1996 BAR COUNSEL FILES

AREA OF LAW	NUMBER	PERCENT OF TOTAL
Family	27	17
Criminal	33	20
Probate/Wills	25	15
Commercial	3	2
Collections	4	2
Landlord/Tenant	2	1
Real Property	21	13
Corporate/Bank	4	2
Torts	13	8
Labor	1	1
Worker's Comp	4	2
Bankruptcy	2	1
Municipal	6	4
Trust Accounts	1	1
Contracts	2	1
Discrimination	1	1
Patent	1	1
OtherNone	13	8
TOTAL	163	100

1996 BAR COUNSEL FILES

CHARACTERIZATION	NUMBER	PERCENT OF TOTAL
Conspiracy	7	4.3
Disagreement over conduct of case	22	13.5
Habeas Corpus	8	5.0
Insufficient information	16	10.0
Lack of professionalism	26	16.0
Malpractice	12	7.3
Personal life	3	2.0
Request for legal assistance	60	37.0
Interference with justice	4	2.45
Other	4	2.45
TOTAL BAR COUNSEL FILES DOCKETED	163⁶	100

Bar Counsel Files pending at start of period 21

Total Bar Counsel Files on Docket 184

Bar Counsel Files Dismissed 167

Bar Counsel Files pending at end of period 17

Dismissals appealed 50

Action on review of those appeals:

Dismissals affirmed by lay member 42

Dismissals vacated by lay member 2
(re-docketed for Grievance Commission)

Panel Review)
Reviews open as of 12/31/96 6

⁶ Includes 11 matters originally docketed as Bar Counsel Files, and later transferred to formal grievance complaint status prior to December 31, 1996.

FEE ARBITRATION COMMISSION

Petition Summary January 1, 1996 – December 31, 1996

PETITIONS:

Pending at start of period:	20
Docketed during period:	103
Total open petitions during period:	123
Dismissed, settled, withdrawn:	31
Heard and closed:	58
Heard and awaiting awards:	4
Total petitions closed during period:	93
Total petitions pending at close of period:	30

BREAKDOWN OF HEARING DATES BY PANEL:

Panel IA: (York)	2
Panel II: (Cumberland)	5
Panel II: (Androscoggin, Franklin, Lincoln, Oxcord & Sagadahoc)	8
Panel III: (Kennebec, Knox, Somerset & Waldo)	9
Panel IV: (Aroostook, Hancock, Penobscot, Piscataquis, & Washington)	7
TOTAL HEARING DATES:	31

Comparison of Petitions docketed:

1994 - 89
1995 - 87
1996 - 103

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BAR COUNSEL: J. Scott Davis, Esq.

ASSISTANT BAR COUNSEL: Karen G. Kingsley, Esq.
Geoffrey S. Welsh, Esq.

STAFF:

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Nancy Hall Delaney	Administrative Assistant
Debra L. Mazeroll	Bar Admission Administrator & Board Secretary
Jennifer L. Stevens	Administrative Clerk (until June 12, 1997)
Jaye M. Trimm	Administrative Secretary & Fee Arbitration Commission Secretary