

MAINE STATE LEGISLATURE

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2006 Annual Report



**Board of Overseers of the Bar
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Introduction

The Maine Board of Overseers of the Bar was created by the Maine Supreme Judicial Court in 1978 to govern the conduct of lawyers as officers of the Court. The Board consists of six lawyers and three lay members. The lawyers are appointed by the Court, and the lay members are appointed by the Court on recommendations by the Governor.

The Board regulates the conduct of lawyers by enforcing the Maine Bar Rules adopted by the Court. The purpose of the Maine Bar Rules is to provide appropriate standards for attorneys with respect to their practice of the profession of law, including but not limited to their relationship with their clients, the general public, other members of the legal profession, the courts and other agencies of this state.

Under the Maine Bar Rules, the Board appoints Bar Counsel, Deputy Bar Counsel, and Assistant Bar Counsel (hereinafter Bar Counsel) who investigate alleged misconduct by lawyers and, when authorized to do so by a reviewing panel of the Grievance Commission, litigate grievance complaints at disciplinary proceedings that are open to the public. In addition to Bar Counsel J. Scott Davis, the Board's staff consists of Deputy Bar Counsel Nora Sosnoff, Assistant Bar Counsel Aria eee, Administrative Director Jacqueline Rogers, Grievance Commission Clerk and Fee Arbitration Secretary Molly Tibbetts, Assistant to Bar Counsel Donna Spillman, Assistant to Deputy Bar Counsel Ellen Daly, CLE Coordinator Susan Adams, and Registration Clerk Linda Hapworth. The Board also had the benefit this year of a Law Clerk, Geoffrey Lewis, who was admitted to the Maine Bar in October 2006. Mr. Lewis' position was approved by the Court for a one-year term. The Board and Office of Bar Counsel have benefited from Mr. Lewis' services in research, investigation, drafting, and day-to-day Law Clerk support for the Bar Counsel legal staff, with positive results in terms of numbers of grievances processed and faster processing time lines.

The Board appoints volunteer members to three commissions established by the Maine Bar Rules: the Grievance Commission, the Fee Arbitration Commission, and the Professional Ethics Commission. The Fee Arbitration Commission and the Grievance Commission conduct their functions under the Maine Bar Rules by three-member panels. Each grievance panel is comprised of two attorneys and one lay member, while the fee panels are usually so comprised or may instead use two lay members and only one attorney. The Professional Ethics Commission, consisting of eight lawyers who volunteer their time and expertise, renders formal and informal written advisory opinions to the Court, Board, Grievance Commission, Bar Counsel, and members of the Maine bar involving interpretation and application of the Code of Responsibility to lawyer conduct.

Information concerning the responsibilities and functions of the Board and each of its commissions is contained in informational pamphlets available at the Board's office. Certain public information may also be accessed at the Board's web site at www.mebaroverseers.org. Please also note the respective membership lists may be found at the end of this report.

The Board met ten times in 2006 to conduct business pursuant to the Maine Bar Rules. During the course of the year, the Board reviewed and approved amendments to a variety of Board Regulations and policies, and submitted a number of proposed amendments to the Maine Supreme Judicial Court for its consideration.

The Board continued its active participation in the Maine Task Force for Ethics 2000 that was created by the Court in 2005. As liaison to the Task Force, Deputy Bar Counsel Nora Sosnoff, continued to work closely with Task Force members as they engaged in the difficult task of comparing current Maine Bar Rules with the ABA Model Rules to see if the Maine Rules can be brought into conformity with the ABA Rules, and similarly numbered to facilitate research on ethical issues.

Under the Maine Bar Rules, the Board proposes an annual budget to the Maine Supreme Judicial Court for its approval for the operation of the registration of attorneys, the disciplinary system, the fee arbitration system, and the mandatory continuing legal education requirement. The budget's main source of funding is the mandatory annual assessment paid by each attorney admitted to the Maine bar. The Board also collects the Court's annual mandatory assessment fee for the Lawyers' Fund for Client Protection and forwards the same to the Fund.

The Board maintains a register of all lawyers who are members of the bar of the State of Maine as well as records of the termination or suspension of the right of any lawyer to practice law in Maine. The number of attorneys admitted to active practice in Maine as of December 31, 2006 was 4,819.

Susan E. Hunter, Chair

Board of Overseers of the Bar

Board Chair

Susan E. Hunter, Esq.
Portland

Vice Chair

Paul H. Sighinolfi, Esq.
Rudman & Winchell, LLC - Bangor

Board Members

Patricia M. Ender, Esq.
Pine Tree Legal Assistance - Augusta

Marvin H. Glazier, Esq.
Vafiades, Brontas & Kominsky - Bangor

Christine Holden, Ph.D.
Lewiston

Andrew J. Pease Jr.
Brooklin

David M. Sanders, Esq.
Livermore Falls

Charles W. Smith, Jr., Esq.
Smith, Elliott, Smith & Garmey - Saco

Jud Knox
York

Court Liaison

The Honorable Warren M. Silver
Maine Supreme Judicial Court - Bangor

Bar Counsel Files

Bar Counsel Files (BCF) comprise those written grievance complaints that, upon initial review or after brief informal investigation by Bar Counsel, are deemed to not allege any actual professional misconduct by an attorney subject to sanction under the Maine Bar Rules. Maine Bar Rule 7.1(c) requires Bar Counsel's unilateral dismissal of such matters, either with or without any investigation. A total of 147 complaint matters received in 2006 were docketed as BCF matters. By comparison, the number of such BCF complaints filed in 2005 was 157. When a BCF matter is dismissed by Bar Counsel, the complainant is always notified in writing by Bar Counsel of that decision, the reason(s) for that dismissal action, and of a right, within the subsequent 14 days, to file a written request for that dismissal to be reviewed. Maine Bar Rule 7.1(c)(1) requires such reviews to be conducted by a lay member of either the Board or the Grievance Commission. That lay member has the authority to approve, disapprove, or modify the terms of Bar Counsel's dismissal action. In all dismissed BCF matters, Bar Counsel always provides the involved attorney with copies of the complaint filing, the dismissal letter, any resulting request for review, and the lay reviewer's decision. Bar Counsel dismissed 145 Bar Counsel Files in 2006, with 28 complainants requesting review of those ac-

tions. Lay members decided and affirmed all 28 of those dismissals, and therefore did not vacate or modify any of those matters so dismissed by Bar Counsel in 2006.

2006 Bar Counsel File Summary

Bar Counsel Files Pending at Start of Period	4
New Bar Counsel Files Docketed	147
Total:	151
Bar Counsel Files Dismissed (without any review requested)	123
Bar Counsel Files Dismissals Reviewed and Affirmed by Lay Members	28
Bar Counsel Files Dismissals Vacated by Lay Members	0
Total:	151
Bar Counsel Files Finally Dismissed in the Period	145
Bar Counsel Files Pending at End of Period	6
Total:	151

Grievance Commission

Complaints

In 2006, Bar Counsel received, screened and docketed 158 written grievance complaints as Grievance Commission Files (GCF), the same number so docketed for 2005. Upon being initially screened by Bar Counsel, these complaints were deemed to allege at least some form of a prima facie claim of professional misconduct by Maine attorneys in violation of the Code of Professional Responsibility (the Code). Such matters are required to be processed under Maine Bar Rule 7.1(d)(1), which makes them distinguishable from BCF matters under Bar Rule 7.1(c)(1) in two

major respects: 1. Bar Counsel cannot unilaterally dismiss or otherwise dispose of GCF matters. Such action(s) must be imposed or issued by a panel of the Grievance Commission upon its review of Bar Counsel's investigation; and 2. As Bar Counsel's investigation commences, the complained about attorney is always provided with a copy of the written complaint and requested to respond in writing. Failure to respond by itself may ultimately subject the attorney to receiving some form of sanction (See M. Bar R. 2(c) and 3.2(f)(1)).

Case Reviews

Panels of the Grievance Commission met to conduct preliminary reviews of 179 GCF complaints under Maine Bar Rule 7.1(d). Those meetings consist of a panel consulting with Bar Counsel to review the contents of GCF investigative files. Such reviews are not hearings, and neither the respective complainants nor the respondent attorneys are ever present or involved at the reviews, which usually occur by telephonic conference calls. Although there is no confidentiality requirement applicable to complainants or respondent attorneys, Bar Counsel's investigation and the Grievance Commission's preliminary review process must usually be kept confidential by the Board, the Commission and the Board's staff under Maine Bar Rule 7.3(k)(1). However, any Grievance Commission panel disciplinary hearing is always open to the public and the panel's resulting decision (report)

concerning any complaint that proceeds to hearing – regardless of the result – is required to be made available to the public upon request. Once issued and becoming final – which will occur if no appeal is filed within 21 days after delivery of the decision to the respondent

attorney – reprimands are then placed on the Board's web site (see Maine Bar Rule 7.1(e)(5)).

Upon completion of Bar Counsel's investigations and after Grievance Commission panel reviews, 149 GCF complaints were closed in 2006 by issuance of either a dismissal or a dismissal with a warning (see Maine Bar Rule 7.1(d)(3),(4)). In the remaining 30 matters reviewed, panels found probable cause that professional misconduct appeared to have occurred, warranting hearing by another panel (or the Court) to determine if any disciplinary sanction should be imposed upon the respective attorneys. Twenty-three (23) of those complaints resulted in disciplinary petitions being filed by Bar Counsel for a formal disciplinary hearing open to the public to occur for each matter before a new panel of the Commission under Maine Bar

Rule 7.1(e). The residual seven (7) hearing matters were ordered to be filed directly by Bar Counsel with the Court due to the fact that the respective respondent attorneys already had disciplinary matters pending in that forum (see Maine Bar Rule 7.2(b)(7)).

Reprimands

Board of Overseers of the Bar v. Stephen M. Brett, Esq. (York Beach)

Note: The following three matters were all heard at the same proceeding before one panel, resulting in the panel's imposition of three separate reprimands upon Attorney Brett.

GCF # 04-324 (first reprimand)

A Complaint was filed by a District Court judge concerning Attorney Brett's conduct in two completely

unrelated circumstances. Each incident resulted in the panel's issuance of a reprimand of Attorney Brett.

In the first matter, he was observed by a court officer listening at the door to a judge's chambers during a judicially assisted settlement conference. The Grievance Commission

hearing panel found that the conduct at issue continued for more than a passing moment and there existed "no logical or innocent reason to loiter behind the bench, near the judge's chamber's door other than to attempt to hear what was (confidentially) being said by his opponent." Brett received a reprimand for his violation of, *inter alia*, M. Bar R. 3.2(f)(1) (circumventing the Bar Rules); 3.2(f)(4) (conduct prejudicial to the administration of justice) and 3.7(e)(2)(vi) (conduct degrading to a tribunal).

GCF #04-324 (second reprimand)

The second complaint matter filed by that same judge concerned Attorney Brett's offer to pay a police officer \$50.00 for every arrestee/client she referred to

Grievance Commission Complaint Summary

Complaints Pending at Start of Period	69
New Complaints Docketed	158
Total Complaints Pending During Period	227
Total Complaints Finally Closed by Review or Hearing .	165
Total Complaints Pending at End of Period	62

him for legal services. The offer was made in a social environment but the panel found that the offer was serious attorney misconduct regardless whether it was “light-hearted or deliberate”. Attorney Brett received a reprimand in this instance for violating 3.1(a) (conduct unworthy of an attorney) and M. Bar R. 3.9(f)(2) (solicitation of employment).

GCF # 05-090 (third reprimand)

This Complaint was filed by an Assistant District Attorney that had been opposing counsel to Attorney Brett at the jury trial of an OUI charge against Brett’s client. During Attorney Brett’s direct examination of his client he inquired about certain details of the client’s conduct at the time of the arrest. The details provided by his client’s sworn testimony at trial varied substantially from the details provided by that client at a prior administrative license suspension hearing at which Brett also represented and examined him under oath. The effect of the altered testimony was, at least initially, beneficial to the accused’s case. Attorney Brett failed to reveal his client’s altered sworn testimony to the second tribunal, a justice of the York County Superior Court. The Grievance Commission hearing panel found that Brett was, or should have been, aware of his client’s contradictory sworn testimonies before two different tribunals and that Brett’s claimed inexperience at conducting trials was not a valid defense. As a result, Attorney Brett received a reprimand for violations of, *inter alia*, M. Bar R. 3.2(f)(3) (conduct involving dishonesty, fraud, deceit or misrepresentation), 3.2(f)(4) (conduct prejudicial to the administration of justice), 3.6(h)(5) (duty to reveal to the tribunal a client’s fraud upon that tribunal) and 3.7(e)(1)(i) (duty not to mislead a tribunal by artifice or false statement).

Board of Overseers of the Bar v. Richard B. Romanow (Portland)

GCF # 04-332; #05-243; #05-244; and #05-256

These related Complaints were filed by beneficiaries of a trust administered by then Attorney Romanow (who has been inactive since 2000), the trustee of a testamentary trust to benefit (among others) those related complainant-beneficiaries. In the course of administering the trust, Mr. Romanow failed to keep an accurate and complete accounting of the trust’s accounts. As a result, the trust funds were over-expended and certain gifts were unavailable to particular beneficiaries. Additionally, there were occasions when Mr. Romanow failed to pay the obligations of the trust in a timely manner. As a result, Mr. Romanow stipulated and agreed to receive a reprimand for his violations of M. Bar R. 3.6(a) (standards of care and judgment) and 3.6(e)(1) (preserving identity of funds and property), and the hearing panel adopted and imposed that reprimand as submitted by the parties’ agreement.

Additionally, there were occasions when Mr. Romanow failed to pay the obligations of the trust in a timely manner. As a result, Mr. Romanow stipulated and agreed to receive a reprimand for his violations of M. Bar

Complaints Reviewed	
Action Taken by Review Panels	
Dismissal	131
Dismissal with Warning (minor misconduct).....	18
Disciplinary Hearing Authorized	23
Proceed Directly to Court – Maine Bar Rule 7.2(b)(7)	7
Total Complaints Reviewed	179

Board of Overseers of the Bar v. Richard R. Rhoda, Esq. (Houlton) - GCF # 05-036

This Complaint resulted from a conflict of interest was brought by Attorney Rhoda’s former client. In late 2002, Attorney Rhoda commenced representations of three beneficiaries (M, G and J) to the estate of their grandfather. M, G and J were contemplating an “undue influence” claim against the two other beneficiaries to the estate (B and R). A substantial issue in that “undue influence” claim was whether a piece of real property held in co-tenancy by B and R with their grandfather, should have been included in the grandfather’s estate. Approximately one year after the death of the grandfather, B and R entered into a purchase and sale agreement to sell the real property at issue. B and R sought Attorney Rhoda’s representation in that transaction without

knowledge that he was also representing M, G and J. Attorney Rhoda initially failed to recognize a conflict and undertook that representation of B and R in the real estate transaction. Upon belatedly learning of the simultaneous representation conflict of interest, Attorney Rhoda did withdraw from representation of B and R but continued to represent M, G and J. Attorney Rhoda then used certain information obtained in the course of representing B and R to the advantage of M, G and J. During the civil lawsuit against his former clients B and R, he then withdrew from representation of M, G and J. After hearing, Attorney Rhoda received a reprimand from the hearing panel as a result of his delayed withdrawal. The Grievance Commission panel cited, inter alia, his violations of M. Bar R. 3.4(b)(1) (prohibiting the commencement of representation where there is a conflict of interest), 3.4(c)(1) (simultaneous representation) and 3.4(d)(1)(i) (improper successive representation adverse to a former client).

Board of Overseers of the Bar v. Andrews B. Campbell, Esq. (Waldoboro) - GCF # 04-185

This Complaint matter was filed by an inmate at a Maine correctional facility who had consulted with Attorney Campbell seeking his representation in a tort matter. Attorney Campbell eventually declined to undertake that representation but did initially prepare a Notice of Claim for the inmate without adequately clarifying to the inmate that his legal representation had not and would not commence. As a result, he had left the inmate with a reasonable belief that Campbell was his attorney. In addition, Attorney Campbell failed to properly maintain the inmate’s original documents in a client file, resulting in certain documents apparently being lost by him or a member of his staff. As a result, by the panel’s adoption of Bar Counsel’s and Respondent’s counsel’s stipulated proposal, Attorney Campbell received a reprimand for his violations of Maine Bar Rule 3.6(a) (failure to keep a client informed on the status of

a matter) and 3.13(a)(1) (failure to properly supervise attorney staff).

Board of Overseers of the Bar v. Michael X. Savasuk, Esq. (Portland) - GCF # 05-308

This Complaint was brought by a court reporter for unpaid transcripts he had prepared for Attorney Savasuk. Having received the benefit of the reporter’s services in mid May of 2005, Attorney Savasuk had still failed to pay for those services in late August of 2005 despite receiving three invoices and a notice that the provider intended to file a grievance with the Board of Overseers. Attorney Savasuk then failed to respond to two letters and three phone calls from Bar Counsel concerning

this pending GCF matter. In early March of 2006, he eventually made final payment to the service provider. At the contested hearing before the panel, Attorney Savasuk testified and claimed the chain of events was a result of multiple office errors committed

by his support staff. That defense was found inadequate because of his failure to properly supervise his non-lawyer staff. Thus, the Grievance Commission panel issued a reprimand of Attorney Savasuk for his violations of Maine Bar Rule 2(c) (failure to respond to an inquiry by Bar Counsel) and 3.13(c) (failure to supervise a non-lawyer assistant).

Board of Overseers of the Bar v. Donald Brown, Esq. (Brewer) - GCF# 05-252

This grievance involved an attorney’s failure to apply appropriate standards of care and judgment to a client whose case he had investigated but ultimately declined to take on. During his six (6) month investigation, Attorney Brown had asserted to the client that while he would not accept her personal injury case, he would file an employment claim on her behalf. Two months later, he declined to take either case. However, under the “commencement of representation” analysis inherent in Maine Bar Rule 3.4(a)(2), the facts presented at the

Dispositions after Public Hearing	
Dismissals	0
Dismissals with Warning	5
Reprimands	11
Final Dispositions Issued After Hearing	16

hearing resulted in the panel's finding that legal representation of the client had already begun in the employment matter. Once that representation commenced, Attorney Brown was neglectful of the client's legal matter by his failure to advise the client of her statute of limitations and for his failure to take action to preserve her employment claim before the Human Rights Commission. The Grievance Commission panel reprimanded Attorney Brown for his violations of Maine Bar Rules 3.4(a)(2) and 3.6(a)(3).

Board of Overseers of the Bar v. James L. Audiffred, Esq. (Saco) - GFC# 05-286

This grievance involved an attorney's behavior during the performance of his professional duties in a collections matter. After conducting a contested hearing, the Grievance Commission panel found that Attorney Audiffred's involvement in a physical altercation and his verbal abuse of others (including a law enforcement officer) was intentional and inconsistent with the mandates of his attorney's oath. The Commission found that because his actions and testimonial explanation showed little insight or acknowledgement of his actual misbehavior, the likelihood of repetition was evident. The Grievance Commission panel reprimanded Attorney Audiffred for violation of Maine Bar Rules 3.1(a) (conduct unworthy of an attorney) and 3.2(f)(4) (conduct prejudicial to the administration of justice).

Board of Overseers of the Bar v. David Vincent, Esq. (So. Portland) - GCF# 05-301

This grievance was filed by a justice of the Superior Court (as an indirect response to the written request(s) of the Respondent's incarcerated criminal defendant client) because of Attorney Vincent's failure to pursue that

client's appeal of his criminal conviction. At the time of his court-appointment to handle that appeal (of a matter where he had not been trial counsel), Attorney Vincent failed to take any steps to ascertain the procedural status of his client's case. At the disciplinary hearing, he testified that he then believed he had been appointed to handle that client's post-conviction review petition. Having failed to confirm the nature of his appointment by any discussion with his client (who had written to him to inquire), or verifying it with the clerk's office or obtaining the file from the trial attorney, Attorney Vincent mistakenly filed and then withdrew a motion related to a supposed post-conviction review matter. He failed to file an appellate brief or any opposition to the State's Motion to Dismiss Appeal. Subsequently, the Law Court dismissed the client's appeal for lack of any prosecution of it by Attorney Vincent. The Grievance Commission hearing panel reprimanded Attorney Vincent for his violations of Maine Bar Rules 3.1(a) (conduct unworthy of an attorney) and 3.6(a)(1) (failure to represent a client in a competent manner).

Board of Overseers of the Bar v. Charles R. Bean, Esq. (So. Portland) - GCF# 05-405

This matter was resolved by stipulated facts and an agreed to reprimand regarding Attorney Bean's representation of a client in a probate case. In the Grievance Commission's decision, Attorney Bean agreed that he failed to communicate with his client, clarify the scope of his representation and delayed the return of her retainer. A reprimand issued for Attorney Bean's violations of Maine Bar Rules 3.1(a) (conduct unworthy of an attorney); 3.5(a)(2) (improper withdrawal); and 3.6(a)(1)(2)(3) (lack of competence, failure to prepare, and neglect).

**Comparison of New
Grievances Docketed**

2003 - 146
2004 - 164
2005 - 158
2006 - 158

Court Matters

Disbarment

Board of Overseers of the Bar v. Thomas R. Acker (Hollis) - Bar-05-08

Mr. Acker was disbarred by the Maine Supreme Judicial Court on September 26, 2006. The disbarment occurred by agreement of the parties. The proceeding was initiated by the Board based upon multiple complaints related to Mr. Acker's role in a questionable investment scheme largely funded from his client base. The Court found violations of the following Bar Rules: 3.1(a) (conduct unworthy of an attorney); 3.2(f)(1) (violation of other Bar Rules); 3.2(f)(3) (dishonesty, misrepresentation, deceit); 3.2(h) (violation of the provision of law-related services); 3.4(f)(2)(i) (conflict of interest involving lawyer's own interest); 3.6(a)(3) (neglect); and 3.6(e)(1) (failure to identify client funds and property). Restitution and several other conditions must be met before Mr. Acker is authorized to petition for reinstatement to the bar.

Suspensions

Board of Overseers of the Bar v. Brian D. Condon, Jr., Esq. (Winthrop) - BAR # 06-3

After hearing, the Court found that over the course of approximately six months Attorney Condon had engaged in multiple instances of misconduct in his handling of trust account funds including taking funds from a trust account to satisfy a legal fee without client authorization, depositing a trust account check (payable to a client) into his own personal account after fraudulently endorsing the client's signature and altering the electronic accounting records of his law firm to obscure his prior misconduct. The Court found Attorney Condon to be in violation of M. Bar R. 3.1(a) [conduct unworthy of an attorney], 3.2(f)(1) [violation or circumvention of the Bar Rules], 3.2(f)(3) [conduct involving dishonesty, fraud, deceit or misrepresentation], 3.2(f)(4) [conduct prejudicial to the administration of justice], 3.6(a) [standards of care and judgment], 3.6(e)(1) and 3.6(e)(2)(iii) [preserving identity of funds and property]. The Court suspended Attorney Condon from the practice of law for one year with all but 15 days itself suspended. In addition,

he was required to enter into a monitoring agreement with the Maine Assistance Program for Lawyers and Judges, identify a local attorney to actually monitor his law practice, and continue treatment for Attention Deficit Disorder.

Board of Overseers of the Bar v. J. Michael Huston, Esq. (Lisbon Falls) - BAR # 05-10

Based on a stipulated Court Order issued in his prior disciplinary matter, Attorney Huston had been registered as an inactive Maine attorney since March 1999. Under Maine Bar Rule 6(c) such inactive status requires the attorney "...to completely discontinue the practice of law in Maine..." However, during the time that Attorney Huston was registered as inactive, he conducted himself

2006 Supreme Court Disciplinary Docket

Disbarments.....	1
Suspensions.....	5
Resignations.....	2
Reprimand.....	3
Dismissal with Warning	1

Pending as of 12/31/06

Disciplinary Proceedings (Informations) on File	5
Motion for Contempt	1
Appeals Law Court.....	0

in various ways that created a public impression that he was still practicing law. The Court found that Attorney Huston's assertions and actual conduct concerning one court case and other matters were inconsistent with his discontinuation of practicing law and demonstrated a lack of candor. Based on this misconduct the Court found Attorney Huston to be in violation of M. Bar R. 3.1(a) [conduct unworthy of an attorney], 3.2(f)(1)

[conduct subverting any provision of the Maine Bar Rules], 3.2(f)(3) [conduct involving dishonesty, fraud, deceit or misrepresentation] and 7.3(i)(1)(F) [action by disbarred or suspended attorneys or attorneys who assume inactive status under rule 6(c)]. The Court suspended Attorney Huston from the practice of law for six (6) months with all but 10 days itself suspended for one year. In addition, he was required not to participate in any court proceeding on behalf of a party other than himself or as a witness without the prior authorization of the Supreme Judicial Court and not to engage in any conduct that would give the appearance that he is drafting any legal documents or giving any legal advice.

Board of Overseers of the Bar v. Warren M. Turner, Esq. (Yarmouth) - BAR # 04-9 (July 27, 2006)

Attorney Turner had pled guilty to four Class D offenses arising from his failure to file Maine State income tax returns for the years 1998 through 2001. He was sentenced to two consecutive one-year sentences (both suspended), fined \$1000.00, placed on probation and required to complete 100 hours of community service. Turner met all the conditions of his sentence and self-reported his criminal convictions to the Board. By adoption of the parties proposed stipulation, the Court found Attorney Turner's conduct to be in violations of Maine Bar Rule 3.1(a) [conduct unworthy of an attorney] and Maine Bar Rule 3.2(f) [illegal conduct] and suspended him from the practice of law for 90 days with all of that period of suspension itself being suspended.

Board of Overseers of the Bar v. Stephen M. Brett, Esq. (York Beach) - BAR # 06-1 (May 11, 2006 and June 20, 2006)

Based upon Bar Counsel's Motion for Immediate Temporary Suspension without full, testimonial hearing due to multiple grievance complaints demonstrating conduct that was a threat to the public, Attorney Brett was immediately suspended on a temporary basis by the Court's initial Order of May 11, 2006. A final hearing on those many grievance complaints was held on June 20, 2006. Attorney Brett then stipulated to factual findings and multiple instances of misconduct spanning a time period from February through June 2006, and

were instances of misconduct in addition to and separate from the misconduct for which he had earlier received three reprimands on January 25, 2006 (see above). The new matters before the Court included the following misconduct by Attorney Brett:

- Assisting a criminal defendant client to contact the client's victim/partner in violation of the District Court's conditions of release.
- Requesting and receiving money from a client whom he had been court-appointed to represent.
- The court had issued proper notice of an arraignment for Attorney Brett's client, yet Brett did not appear and failed to ensure his client's presence.
- In responding to Bar Counsel's office regarding that failure to appear, Attorney Brett was found to have been "less than completely candid", and when he attempted to explain he not been given necessary notice, this constituted another instance of misconduct.
- He had pursued a social relationship with the victim of a former client. Attorney Brett's romantic interest was not shared by the woman, yet he persisted unabated causing her to feel compelled to move, change her cell phone number and re-direct her email.
- He mishandled a mechanic's lien action including direct communication with a represented opposing party without the consent of the opposing counsel.
- Attorney Brett pursued an appeal found by the Law Court to have been "obviously without any merit and (had been) taken with no reasonable likelihood of prevailing. . ."
- During the time of his temporary suspension (discussed above), Attorney Brett communicated with a recent former client and/or his power of attorney in a manner to cause those former clients to believe that he was still acting as their attorney.

Based upon all of this misconduct, the Court found violations of M. Bar R. 3.1(a) [conduct unworthy of an attorney], 3.1(f)(1) [conduct subverting any provision of the Maine Bar Rules], 3.2(f)(3) [conduct involving dishonesty, fraud, deceit or misrepresentation], 3.2(f)(4) [conduct prejudicial to the administration of justice], 3.6(a)(3) [neglect of a client's matter] and 3.6(f) [communication with an adverse party]. The Court suspended Attorney Brett from the practice of law until further

order of the Court pursuant to M. Bar R. 7.3(j) (Reinstatement) and imposed conditions including requiring his participation in the Maine Assistance Program for Lawyers and Judges, obtaining adequate malpractice insurance satisfactory to Bar Counsel and undergoing a forensic evaluation by a clinical psychologist prior to seeking reinstatement.

Reprimands

Board of Overseers of the Bar v. Robert M.A. Nadeau, Esq. (Wells) - Bar-05-03

This Order issued from a three-count disciplinary information filed by the Board. The first count involved a consensual sexual relationship between Nadeau and a divorce client. The Court determined that Attorney Nadeau's conduct when he terminated the attorney-client relationship and withdrew from the representation fell short of the standards established in the Code of Professional Responsibility. The second count involved Attorney Nadeau's direct contact with opposing attorney litigants who were represented by counsel. His direct contact with those represented persons (former associates in his firm) violated M. Bar R. 3.6(f). The third count involved Attorney Nadeau's criticism of a Justice of the Superior Court who had declined Attorney Nadeau's request to seal the court record containing information related to Attorney Nadeau's relationship with the aforementioned divorce client. The Court found that Attorney Nadeau's conduct was discourteous and degrading

to the Superior Court tribunal in violation of M. Bar R. 3.7(e)(2)(vi). With agreement of the parties, the Court dismissed count one with a warning to Attorney Nadeau to refrain from such conduct in the future. Regarding counts two and three, the Court imposed public reprimands upon Attorney Nadeau.

Board of Overseers of the Bar v. Raymond J. Dilucci, Esq. (Concord, N.H.) - BAR-05-06

Pursuant to M. Bar R. 7.3(h)(3) and by agreement of the parties, Raymond J. DiLucci was reprimanded (for conduct committed in New Hampshire) in this reciprocal discipline matter.

Resignations

Board of Overseers of the Bar v. Gary H. Reiner, Esq. (Kittery) - BAR-05-09

Pursuant to M. Bar R. 7.3(g) and upon the recommendation of the Board of Overseers, the Maine Supreme Judicial Court accepted the resignation of Mr. Reiner, effective June 16, 2006.

Board of Overseers of the Bar v. Frank B. Walker, Esq. (Ellsworth) - BAR-06-05

Pursuant to M. Bar 7.3(g) and upon the recommendation of the Board of Overseers, the Maine Supreme Judicial Court accepted the voluntary resignation of Mr. Walker, effective December 31, 2006.

Fee Arbitration Commission

The office of Bar Counsel screens all fee arbitration petitions as filed to confirm that the stated allegations actually warrant the attention of that Commission. Bar Counsel may also sometimes attempt to promote and assist in the parties' informal settlement discussion for resolution of fee disputes prior to a panel hearing, but is not usually involved in the fee arbitration process after performing that initial screening (see Maine Bar Rule 9(e)(2)(3)).

Although both Commissions are otherwise subject to confidentiality restrictions during their respective inves-

2006 Petition Summary

Pending at Start of Period.....	19
Docketed During Period	60
Total Open Petitions	79
Dismissed, Settled, Withdrawn	30
Heard and Closed by Awards.....	27
Heard and Awaiting Award	4
Total Petitions Closed During Period	57
Total Petitions Pending Hearing at Close of Period.....	18

tigative processes, pursuant to Board Regulation No. 8 panels of the Fee Arbitration Commission and Grievance Commission are authorized to share respective investigative materials concerning related matters that are being or have been considered by each body.

In 2006, 60 new Petitions for Arbitration of Fee Dispute were filed with the Secretary to the Fee Arbitration Commission. With 19 petitions already pending, a total of 79 matters were on file, representing a slight

decrease from the previous year (80). Thirty (30) of those pending fee dispute matters were dismissed, settled or withdrawn prior to any hearing before a panel of the Commission (see Maine Bar Rule 9(e)(3)). The five (5)

panels of the Fee Arbitration Commission conducted hearings involving 31 fee disputes, with four of those awaiting decision at the end of 2006. As a result, 57 fee disputes were either dismissed or decided, leaving a pending hearing docket of 18 matters at the end of 2006.

Comparison of New Cases Docketed

2003 - 70
2004 - 67
2005 - 62
2006 - 60

Professional Ethics Commission

The eight volunteer Maine attorneys who comprise the Board of Overseers' Professional Ethics Commission met throughout the year with Deputy Bar Counsel Nora Sosnoff. The Commission issued two formal written advisory opinions, numbered 190 and 191 which are briefly summarized below. It also offered informal confidential opinions in letter format in response to several inquiries from Maine attorneys on a variety of topics. The complete set of the Commission's opinions numbered 1 through 191 are indexed by topic and published on the Board's web site at <http://www.mebaroverseers.org>.

Opinion # 190 – May 3, 2006

In this opinion, the Commission answered questions about the obligations of an attorney who agrees with a legal services organization to provide *pro bono* representation to a client referred by that legal services organization. The Commission stated that an attorney who obtains a separate fee agreement would violate M. Bar R. 3.3(a) (excessive fee) if that separate agreement contravened to the detriment of the client those terms to which the attorney agreed with the legal services agency. The same rule violation applies in the case of an attorney who simply sends the client a bill for services during or after the representation that exceeds that fee to which the attorney agreed with the legal services organization. In this opinion, the Commission also answered

an inquiry about whether an attorney has a duty not to disclose or use client and case information revealed by a legal services organization to an attorney for purposes of inquiring whether the attorney will agree to provide the client with *pro bono* representation. The Commission held that for purposes of this analysis, there is no difference between information received from the legal services organization on behalf of the client and information received directly from the client. Therefore, any use or disclosure by the attorney would constitute a violation of Maine Bar R 3.6(h)(1).

Opinion # 191 – December 21, 2006

In this opinion, the Commission reviewed the question about whether a lawyer would violate the Bar Rules by aiding a client in obtaining a personal injury lawsuit advance. The facts referred to pre-settlement lawsuit funding whereby a third party lender lends money to plaintiffs while they pursue personal injury litigation. The lender claims it charges no application fee, and the plaintiff is not required to make any payments until the case is resolved. There are no credit requirements and the lender plays no part in the management of the case. In order to participate, however, the plaintiff must be represented by an attorney. The plaintiff must also complete an application disclosing case information. The attorney must share with the Company, her opinion on

the merits of the case, and the Company periodically sends a follow-up questionnaire to the attorney to be filled out and returned. The Professional Ethics Commission offered these opinions on the issues presented: Although such advances are permitted in a number of other jurisdictions, the Commission is not aware whether any of these jurisdictions have a criminal champerty statute. For the Maine lawyer, the threshold question should be whether personal injury lawsuit advances are illegal because they violate Maine's criminal champerty statute, an issue on which the Commission could not opine. The Commission also identified a number of potential ethical problems that should be of concern to Maine lawyers. Without limitation, some of the issues were: First, before assisting the client in a transaction like this, the lawyer must fulfill her obligation to provide the client with appropriate advice on whether the arrangement is in the client's best interests. See M. Bar R.

3.6(a). Second, the lawyer must guard against disclosure of client confidences or secrets without the client's informed consent. See M. Bar R. 3.6(h). Third, the lawyer must assess and advise the client on the potential consequences of sending confidences and secrets to the financing company, e.g. waiver of attorney client privilege. Fourth, the lawyer must guard against any risk that the financing company will attempt to control the litigation or otherwise interfere with the lawyer's exercise of professional judgment. See M. Bar R. 3.6(a). Fifth, the lawyer must be wary of conflicts of interest that may arise between the lawyer's duty to the client and any obligation that the lawyer undertakes with respect to the finance company or between the lawyer and her client. See M. Bar. R. 3.4(e) and 3.4(f).

For the full text of Board opinions, please visit our web site at www.mebaroversers.org.

Amendments to Maine Bar Rules

The study and proposal of amendments to the Code of Professional Responsibility (Maine Bar Rule 3) is the province of the Court's Advisory Committee on Professional Responsibility to which Bar Counsel is liaison. The study of possible rule amendments to other portions of the Maine Bar Rules is generally done by the Board and then proposed by it to the Court. In 2006 there were no amendments to the Code of Professional Responsibility. However, the Maine Task Force to Study the Models Rules of Professional Conduct (Ethics 2000) continued its active study of the American Bar Association's Model Rules of Professional Conduct. It is anticipated that in 2007 the Task Force will submit to the Advisory Committee on Professional Responsibility a proposal for the Court to adopt a revised version of the ABA's Model Rules of Professional Conduct.

In 2006 there were two amendments to the Maine Bar Rules:

Maine Bar Rule 6(a)(1) (January 1, 2006) - Registration Statement

An additional paragraph has been added to this registration rule to recognize what has been the practice of not requiring the filing of registration statements or annual fee payments by members of the Judiciary and to clarify that rule applies as well to family law magistrates. The added language creates a judicial status for such judicial officers, and specifies the registration/payment requirements upon their return to active practice.

Maine Bar Rule 7.1(b) - Investigation of Grievance Commission Complaints

This amendment provides that when either the Board Chair or Vice Chair is unable to do so, the Grievance Commission Chair will serve in place of Bar Counsel to supervise the processing and investigation of grievance complaints filed against any attorney members of the Board or Grievance Commission or against any staff attorney in the office of Bar Counsel.

Telephonic Screening of Complaints

Administrative staff continues to handle inquiries from the public. Many calls concern the conduct of attorneys, client expectations which were not met by attorneys, and client dissatisfaction with fees charged. The majority of the calls are managed by the administrative staff who explain that neither they nor Bar Counsel can provide any legal advice. Most calls conclude with the appropriate forms being forwarded to the caller so they may file a grievance complaint and/or a petition for fee arbitration if they choose to do so. Callers are assured that once filed, their matters will be reviewed and appropriately docketed by Bar Counsel. Certain calls or filings may concern conduct over which the Board has no jurisdiction, e.g. Guardians ad Litem or judges. Those callers are referred to the appropriate contacts within the judicial branch for such complaints.

Informal Advisory Opinions

The office of Bar Counsel continued to provide advice about ethics and professional responsibility to Maine attorneys on a daily basis throughout 2006. Most such advice was offered in immediate response to Maine attorneys calling Bar Counsel's "Ethics Hotline" at 207 623-1121. Maine attorneys may call and speak with one of Bar Counsel's staff attorneys to discuss conduct of the inquiring attorney or another member of that attorney's law firm. However, under Board Regulation No. 28, all Bar Counsel are prohibited from advising an inquiring attorney about another attorney's actual or "hypothetical" conduct. See also Advisory Opinions #67 and #171. Calls are accepted by Bar Counsel daily, and in 2006 alone the three Bar Counsel staff attorneys fielded a total of 859 such calls. (A few of these scenarios, revised and with identifying facts modified to protect confidentiality were later generally disseminated to Maine attorneys and judges in the Board's periodic e-mails entitled "Professional Update for Maine Lawyers and Judges".)

Informal Interventions

There are matters presented to the Board or Bar Counsel that do not meet the criteria for the attention of any of the Board's three Commissions, but which do call upon staff attorneys' expertise and involvement in professional responsibility dilemmas within the Maine bar. These matters often involve Bar Counsel's time and service to mediate or otherwise informally resolve attorney issues and disputes that as received by Bar Counsel are deemed not to be Code violations. These matters are now docketed as Informal Interventions. In 2006, 43 Informal Interventions were docketed, a significant increase from last year's total of 17 Informal Intervention matters. These files demonstrate how the Board's and Bar Counsel's bar governance functions are not limited to only processing grievance complaints.

Continuing Legal Education

The Board of Overseers of the Bar administers the process through which attorneys report compliance with Maine Bar Rule 12, Continuing Legal Education (CLE), which became mandatory in January of 2001.

For calendar year 2006, there were 51 summary suspensions for non-compliance with M. Bar R. 12. Since then, 35 of those attorneys have fulfilled the requirements and have been reinstated.

The Board of Overseers is part of an organization called ORACLE (Organization of Regulatory Administrators for Continuing Legal Education) which is comprised of MCLE regulators for all mandatory CLE states. This organization serves as an excellent resource for the Board's CLE Coordinator and its CLE Committee in working through issues and concerns that arise with regard to implementing CLE policy under Maine Bar Rule 12. Membership in the organization also includes access to an email list serve, which has proved an invaluable time-saving measure in providing support and guidance regarding CLE issues that arise which may have been already considered by other states.

The MCLE section of the Board web site continues to be a valuable tool for attorneys in keeping track of their CLE credits, searching upcoming approved courses, and providing links to providers of CLE programming.

Bar Counsel Participation at CLE Presentations

Bar Counsel welcomes opportunities to provide CLE presentations to Maine lawyers and their staff on ethics and professional responsibility. In 2006, Bar Counsel staff attorneys participated in the following CLE presentations at locations around the State:

01/26/06	E-Discovery and Metadata Concerns for Lawyers in the Employment Law Field	09/18/06	Workers' Compensation Bar – Annual Summit (Ethics)
03/01/06	Child Protection / Juvenile Justice - Ethics for Defense Counsel	09/22/06	Juvenile Justice Action Group (Ethics)
03/27/06	Domestic Violence Pro Bono Project Training – Limited Legal Representation	09/30/06	Maine Probate Judges' meeting (Ethics)
03/29/06	Ethics for Child Protection Prosecutors – Office of Attorney General	10/12/06	Univ. of Maine School of Law – Professional Responsibility Class
04/28/06	Juvenile Justice Action Group - Ethics	10/23/06	Workers' Compensation CLE - NBI Ethics
06/21/06	Legal Fees and Fee Arbitration - Ethics	11/03/06	Pierce Atwood Referring Attorneys CLE – Ethics 2000 Initiative
07/01/06	MSBA Summer Meeting 2006 -- Ethics	11/08/06	Bridging the Gap – Managing a Law Practice
07/13/06	Univ. of Maine School of Law – Professional Responsibility Class	11/15/06	Franklin County Bar Assoc.
07/26/06	Attorney General's Office – Ethics Year in Review	11/30/06	Domestic Violence Pro Bono Project Training – Limited Legal Representation
09/14/06	Paralegals – Litigation Preparation and Support	12/11/06	Oxford Bar Association – Ethics 2000 Initiative
		12/20/06	York Bar Association – Ethics presentation

If you would like Bar Counsel to take part in CLE panel presentations related to ethical and professional responsibility issues, please call Bar Counsel at 207-623-1121.

2006 Grievance Commission Statistical Analysis

Statistics for total complaints received as well as those resulting in sanction.

2006 Complaints Received - 158

2006 Sanctions Imposed - 26

Respondents by Age			Respondents by Age		
Age	#	%	Age	#	%
30-34	3	1.90%	30-34	1	3.85%
35-39	11	6.96%	35-39	2	7.69%
40-44	14	8.86%	40-44	2	7.69%
45-49	35	22.15%	45-49	6	23.08%
50-54	39	24.68%	50-54	2	7.69%
55-59	25	15.82%	55-59	7	26.92%
60-64	18	11.39%	60-64	3	11.54%
65+	12	7.59%	65+	2	7.69%
Unknown	1	0.63%	Unknown	1	3.85%

Complaint Source

Source	#	%
Attorney	1	0.63%
Client	84	53.16%
Judge	5	3.16%
Opposing Counsel	4	2.53%
Opposing Party	37	23.42%
Sua Sponte	3	1.90%
Other	24	15.19%

Complaint Source

Source	#	%
Attorney	0	0%
Client	13	50.00%
Judge	1	3.85%
Opposing Counsel	1	3.85%
Opposing Party	5	19.23%
Sua Sponte	1	3.85%
Other	5	19.23%

Respondents by Admission Date

Admission Year	#	%
1/1/1960 – 12/31/1965	3	1.90%
1/1/1966 – 12/31/1969	4	2.53%
1/1/1970 – 12/31/1975	16	10.13%
1/1/1976 – 12/31/1979	21	13.29%
1/1/1980 – 12/31/1985	20	12.66%
1/1/1986 – 12/31/1989	30	18.99%
1/1/1990 – 12/31/1995	28	17.72%
1/1/1996 – 12/31/1999	8	5.06%
1/1/2000 – 12/31/2005	25	15.82%
1/1/2006 – 12/31/2009	2	1.27%
Unknown	1	0.63%

Respondents by Admission Date

Admission Year	#	%
1/1/1960 – 12/31/1965	1	3.85%
1/1/1966 – 12/31/1969	1	3.85%
1/1/1970 – 12/31/1975	3	11.54%
1/1/1976 – 12/31/1979	1	3.85%
1/1/1980 – 12/31/1985	1	3.85%
1/1/1986 – 12/31/1989	6	23.08%
1/1/1990 – 12/31/1995	3	11.54%
1/1/1996 – 12/31/1999	0	0%
1/1/2000 – 12/31/2005	8	30.77%
1/1/2006 – 12/31/2009	1	3.85%
Unknown	1	3.85%

Total**Sanction****Complaint Characterization**

<i>Source</i>	<i>#</i>	<i>%</i>
Advising Violation of Law	2	1.27%
Conflict	15	9.49%
Disagreement over Conduct	8	5.06%
During Representation		
Disagreement over Fee	6	3.80%
Disagreement over Handling	6	3.80%
Client Funds & Property		
Failure to Communicate	9	5.70%
Illegal Conduct	11	6.96%
Improper Conduct before a	1	0.63%
Tribunal		
Incompetence	9	5.70%
Interference with Justice	20	12.66%
Lack of Preparation	6	3.80%
Misrepresentation/Fraud/	22	13.92%
Dishonesty		
Neglect	25	15.82%
Other Conduct Unworthy	16	10.13%
Prejudicial Withdrawal	1	0.63%
Threatening Prosecution	1	0.63%

<i>Source</i>	<i>#</i>	<i>%</i>
Advising Violation of Law	0	0%
Conflict	3	11.54%
Disagreement over Conduct	0	0%
During Representation		
Disagreement over Fee	0	0%
Disagreement over Handling	0	0%
Client Funds & Property		
Failure to Communicate	0	0%
Illegal Conduct	7	26.92%
Improper Conduct before a	0	0%
Tribunal		
Incompetence	1	3.85%
Interference with Justice	3	11.54%
Lack of Preparation	0	0%
Misrepresentation/Fraud	5	19.23%
Dishonesty		
Neglect	4	15.38%
Other Conduct Unworthy	2	7.69%
Prejudicial Withdrawal	0	0%
Threatening Prosecution	1	3.85%

Complaints by Area of Law

<i>Area of Law</i>	<i>#</i>	<i>%</i>
Administrative/Municipal Law . . .	6	3.80%
Collections	4	2.53%
Commercial/Business	6	3.8%
Contracts/Consumer	8	5.06%
Criminal	27	17.09%
Elder Law	2	1.27%
Family	35	22.15%
Immigration	1	0.63%
Labor	1	0.63%
Landlord/Tenant	3	1.9%
Other	14	8.86%
Probate	18	11.39%
Real Estate	21	13.29%
Taxation	2	1.27%
Torts	9	5.70%
Workers' Compensation	1	0.63%

Complaints by Area of Law

<i>Area of Law</i>	<i>#</i>	<i>%</i>
Administrative/Municipal Law . . .	0	0%
Collections	0	0%
Commercial/Business	2	7.69%
Contracts/Consumer	1	3.85%
Criminal	4	15.38%
Elder Law	0	0%
Family	7	26.92%
Immigration	0	0%
Labor	0	0%
Landlord/Tenant	1	3.85%
Other	4	15.38%
Probate	2	7.69%
Real Estate	2	7.69%
Taxation	2	7.69%
Torts	1	3.85%
Workers' Compensation	0	0%

Total**Respondent Firm Size**

<i>Firm Size</i>	<i>#</i>	<i>%</i>
1	65.....	41.14%
2-5	58.....	36.71%
6-9	13.....	8.23%
10-19	6.....	3.8%
20-49	5.....	3.16%
50-99	1.....	0.63%
Unknown	2.....	1.27%
N/A.....	8.....	5.06%

Sanction**Respondent Firm Size**

<i>Firm Size</i>	<i>#</i>	<i>%</i>
1	14.....	53.85%
2-5	5.....	19.23%
6-9	1.....	3.85%
10-19	0.....	0%
20-49	0.....	0%
50-99	0.....	0%
Unknown	0.....	0%
N/A.....	6.....	23.08%

Complaints by County

Androscoggin	10	6.33%
Aroostook.....	9	5.70%
Cumberland	49	31.01%
Franklin	0	0%
Hancock.....	9	5.70%
Kennebec	14	8.86%
Knox	3	1.90%
Lincoln.....	10	6.33%
Oxford	4	2.53%
Penobscot	14	8.86%
Piscataquis	1	0.63%
Sagadahoc.....	4	2.53%
Somerset.....	2	1.27%
Waldo.....	1	0.63%
Washington.....	2	1.27%
York	24	15.19%
Out of State	2	1.27%

Complaints by County

Androscoggin	2	7.69%
Aroostook.....	1	3.85%
Cumberland	9	34.62%
Franklin	0	0%
Hancock.....	0	0%
Kennebec	4	15.38%
Knox	1	3.85%
Lincoln.....	2	7.69%
Oxford	0	0%
Penobscot	1	3.85%
Piscataquis	0	0%
Sagadahoc.....	0	0%
Somerset.....	0	0%
Waldo.....	0	0%
Washington.....	0	0%
York	6	23.08%
Out of State	0	0%

Rules Cited - Reprimands

Rule	Misconduct	#
2(c)	Failure to Respond to Bar Counsel	1
3.1(a)	Conduct Unworthy of an Attorney	4
3.2(f)(1)	Violation of a Bar Rule Not Contained Within the Code (Rule 3)	1
3.2(f)(3)	Conduct Involving Dishonesty/Misrepresentation/Deceit	1
3.2(f)(4)	Conduct Prejudicial to the Administration of Justice	3
3.4(a)(2)	Failure to Properly Commence Representation	1
3.4(b)(1)	Conflict of Interest – lack of informed consent	1
3.4(c)(1)	Conflict of Interest – Improper Simultaneous Representation	1
3.4(d)(1)	Conflict of Interest re: Former Client	1
3.5(a)(b)	Improper Withdrawal	1
3.6(a)	Failure to Use Reasonable Care and Skill or Communicate with Client	3
3.6(a)(1)	Failure to Use Competence in a Client's Matter	2
3.6(a)(2)	Lack of Preparation	1
3.6(a)(3)	Neglect of a Client's Legal Matter	2
3.6(e)(1)	Failure to Preserve Identity of Client's Funds	1
3.6(h)(5)	Failure to Reveal to Tribunal a Client's Fraud upon that Tribunal	1
3.7(e)(1)(i)	Conduct that was Misleading to a Tribunal	1
3.7(e)(2)(vi)	Conduct Degrading to a Tribunal	1
3.9(f)(2)	Improper Solicitation of Employment	1
3.13(a)	Failure to Properly Supervise Attorney's Staff	2

Rules Cited - Dismissals with a Warning

Rule	Misconduct	#
3.1(a)	Conduct Unworthy of an Attorney	3
3.6(a)	Failure to use Reasonable Care and Skill or Keep Client Informed	4
3.6(a)(3)	Neglect of Client's Legal Matter	1

Rules Cited - Court Orders

Rule	Misconduct	#
3.1(a)	Conduct Unworthy of an Attorney	5
3.2(f)(1)	Violation of a Bar Rule Not Contained Within the Code (Rule 3)	4
3.2(f)(2)	Illegal Conduct	1
3.2(f)(3)	Conduct involving Dishonesty/Misrepresentation/Deceit	4
3.2(f)(4)	Conduct Prejudicial to the Administration of Justice	2
3.2(h)	Failure to Comply with Responsibilities re: Law-Related Services	1
3.4(f)(2)(i)	Conflict of Interest – Failure to Avoid Adverse Interest	1
3.6(a)	Failure to use Reasonable Care and Skill for the Client	1
3.6(a)(3)	Neglect of a Client's Legal Matter	1
3.6(e)(1)(2)	Failure to Preserve or Return Client's Property	2
3.6(f)	Improper Communication with Adverse Party	2
3.7(e)(2)(vi)	Conduct Degrading to a Tribunal	1
7.3(i)(1)(F)	Failure to Comply with Inactive Status Rule	1

2006 Bar Counsel File Statistical Analysis

Area of Law

<i>Area of Law</i>	<i>#</i>	<i>%</i>
Administrative Law	3	2.04%
Banking	2	1.36%
Bankruptcy	1	0.68%
Collections	6	4.08%
Commercial/Business	6	4.08%
Contracts/Consumers	2	1.36%
Criminal	43	29.25%
Elder Law	1	0.68%
Environmental Law	1	0.68%
Family	35	23.81%
Guardian ad Litem	2	1.36%
Juvenile	2	1.36%
Probate	11	7.48%
Real Estate	13	8.84%
Torts	2	1.36%
Workers' Compensation	2	2.04%
Other	14	9.52%

Characterization of Complaints

<i>Characterization</i>	<i>#</i>	<i>%</i>
Advertising / Solicitation	1	0.68%
Conduct Unworthy	28	19.05%
Conflict	7	4.76%
Conspiracy	4	2.72%
Disagreement over Conduct		
During Representation	23	15.65%
Disagreement over Fee	1	0.68%
Failure to Communicate	8	5.44%
Guardians Ad Litem	9	6.12%
Habeas Corpus	3	2.04%
Illegal Conduct	7	4.76%
Improper Conduct before		
a Tribunal	4	2.72%
Incompetence	9	6.12%
Interference with Justice	18	12.24%
Lack of Preparation	4	2.72%
Misrepresentation/Fraud/		
Dishonesty	14	9.52%
Neglect	6	4.08%
Threatening Prosecution	1	0.68%

Comparison of New Files Docketed

2003 - 169
2004 - 164
2005 - 157
2006 - 147

2006 Registration Statistical Analysis

Registration Demographics

<i>Registration Type</i>	<i>#</i>	<i>%</i>
Resident		
Active	3,576	74.21%
Emeritus	3	0.06%
Judicial	76	1.58%
Non-Resident		
Active	1,164	24.15%
Total:	4,819	

County Demographics

<i>County</i>	<i>#</i>	<i>%</i>
Androscoggin	198	4.11%
Aroostook	75	1.56%
Cumberland	1,768	36.69%
Franklin	33	0.68%
Hancock	99	2.05%
Kennebec	466	9.67%
Knox	92	1.91%
Lincoln	72	1.49%
Oxford	46	0.96%
Penobscot	337	6.99%
Piscataquis	8	0.17%
Sagadahoc	63	1.31%
Somerset	45	0.93%
Waldo	35	0.73%
Washington	32	0.66%
York	291	6.04%
Out-of-State	1,159	24.05%
Total:	4,819	

Gender Demographics

<i>Gender</i>	<i>#</i>	<i>%</i>
Female	1,504	31.21%
Male	3,315	68.79%
Total:	4,819	

Age Demographics

<i>Age</i>	<i>#</i>	<i>%</i>
29 years or less	113	2.34%
30-34	333	6.91%
35-39	543	11.27%
40-44	558	11.58%
45-49	769	15.96%
50-54	810	16.81%
55-59	774	16.06%
60-64	547	11.35%
65+	372	7.72%
Total:	4,819	

Age Demographics by Gender

<i>Age</i>	<i>#</i>	<i>%</i>
Female		
29 years or less	73	1.51%
30-34	156	3.24%
35-39	206	4.27%
40-44	213	4.42%
45-49	259	5.37%
50-54	273	5.67%
55-59	195	4.05%
60-64	105	2.18%
65+	23	0.48%

<i>Age</i>	<i>#</i>	<i>%</i>
Male		
29 years or less	40	0.83%
30-34	177	3.67%
35-39	337	6.99%
40-44	345	7.16%
45-49	510	10.58%
50-54	537	11.14%
55-59	579	12.01%
60-64	442	9.17%
65+	349	7.24%
Total:	4,819	

Admission Date Demographics

<i>Admission Date</i>	<i>#</i>	<i>%</i>	<i>Admission Date</i>	<i>#</i>	<i>%</i>
1/1/1936 – 12/31/1939	2	0.04%	1/1/1976 – 12/31/1979	431	8.94%
1/1/1940 – 12/31/1945	1	0.02%	1/1/1980 – 12/31/1985	724	15.02%
1/1/1946 – 12/31/1949	5	0.10%	1/1/1986 – 12/31/1989	637	13.22%
1/1/1950 – 12/31/1955	42	0.87%	1/1/1990 – 12/31/1995	839	17.41%
1/1/1956 – 12/31/1959	22	0.46%	1/1/1996 – 12/31/1999	556	11.54%
1/1/1960 – 12/31/1965	67	1.39%	1/1/2000 – 12/31/2005	804	16.68%
1/1/1966 – 12/31/1969	103	2.14%	1/1/2006 – 12/31/2010	153	3.17%
1/1/1970 – 12/31/1975	433	8.99%	Total:	4,819	

Practice Size Demographics

Solo	1337	27.74%
2-5	1194	24.78%
6-9	374	7.76%
10-19	441	9.15%
20-49	382	7.93%
50-99	223	4.63%
100+	460	9.55%
No Response	64	1.33%
Not Applicable	344	7.14%
Total:	4,819	

Practice Type Demographics

Government	527	10.94%	Military	21	0.44%
Female	210	4.36%	Female	5	0.11%
Male	317	6.58%	Male	16	0.33%
Inactive	30	0.62%	Private Practice	3311	68.71%
Female	20	0.42%	Female	866	17.97%
Male	10	0.20%	Male	2445	50.74%
In-House/Corporate Counsel	284	5.89%	Retired	31	0.64%
Female	94	1.95%	Female	7	0.15%
Male	190	3.94%	Male	24	0.49%
Judiciary	77	1.60%	Other	404	8.38%
Female	22	0.46%	Female	210	4.36%
Male	55	1.14%	Male	194	4.02%
Law School	33	0.68%	No Response	24	0.50%
Female	16	0.33%	Female	8	0.17%
Male	17	0.35%	Male	16	0.33%
Legal Service	77	1.60%	Total:	4,819	
Female	43	0.89%			
Male	34	0.71%			

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As of 12/31/2006

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