

ANNUAL REPORT OF THE  
LAWYERS PROFESSIONAL RESPONSIBILITY BOARD

OFFICE OF  
APPELLATE COURSES

JUL 24 2007

FILED

ANNUAL REPORT OF THE  
OFFICE OF LAWYERS PROFESSIONAL RESPONSIBILITY

---

KENT A. GERNANDER  
CHAIR, LAWYERS PROFESSIONAL  
RESPONSIBILITY BOARD  
P.O. Box 310  
64 East 4th Street  
Winona, MN 55987-0310  
(507) 454-2925

MARTIN A. COLE  
DIRECTOR OF THE OFFICE OF  
LAWYERS PROFESSIONAL  
RESPONSIBILITY  
1500 Landmark Towers  
345 St. Peter Street  
St. Paul, MN 55102-1218  
(651) 296-3952

July 2007

## TABLE OF CONTENTS

I.	INTRODUCTION AND HIGHLIGHTS .....	1
II.	NOTEWORTHY PUBLIC DISCIPLINE DECISIONS .....	3
III.	DIRECTOR'S OFFICE .....	4
A.	Budget .....	4
B.	Personnel .....	5
C.	Website .....	6
D.	Complainant Appeals .....	7
E.	Probation .....	7
F.	Advisory Opinions .....	14
G.	Overdraft Notification .....	15
H.	Judgments and Collections .....	18
I.	Disclosure .....	19
J.	Trusteeships .....	21
K.	Professional Firms .....	21
IV.	DISTRICT ETHICS COMMITTEES .....	22
V.	FY'08 GOALS AND OBJECTIVES .....	24
	APPENDIX .....	A. 1 – A. 11

## I. INTRODUCTION AND HIGHLIGHTS

Pursuant to Rules 4(c) and 5(b), Rules on Lawyers Professional Responsibility (RLPR), the Lawyers Professional Responsibility Board and the Director of the Office of Lawyers Professional Responsibility are required to report annually on the operation of the professional responsibility system in Minnesota. These reports are hereby jointly made for the period from July 2006 through June 2007. The majority of the statistical information, however, is based upon information from calendar year 2006.

**Complaint Statistics.** It's unusual and unfortunate to have to start off the Annual Report with the fact that complaints are increasing. For the first time in many years, the number of complaints received by the Director's Office increased from the previous year somewhat significantly, from 1,150 in calendar year 2005 to 1,225 in 2006. Based upon the pace of complaints received in the first six months of 2007, this year's number will again increase to over 1,325. Tables outlining these and related statistics are at A. 1 - A. 3.

For several years, the total number of complaints received had remained fairly constant at around the 1,150 level. This was in fact a reduction from higher totals seen in the early and mid-1990s. Increased educational efforts, speaking engagements and emphasis on the advisory opinion service were seen as helping to reduce the number of complaints, and then contributing to keeping complaint levels flat despite the growing lawyer population in Minnesota.

Perhaps the current increase is just an adjustment that was overdue. Increased education has no doubt prevented complaints to some extent, but perhaps cannot be expected to do so forever. With approximately 800-1000 new lawyers joining the profession every year in Minnesota, without a corresponding number of lawyers ending their careers, simple statistical probability indicates that complaints would go up at some point.

Increasing complaints impact the Director's Office and the District Ethics Committees with more investigations and eventually more discipline matters. With a full complement of ten attorneys now in place in the Director's Office, it is hoped that no significant backlog of cases will occur. Some slightly higher case file numbers may have to be accepted in the short term, however.

**Review of Discipline System.** By order dated February 14, 2007 (A. 4), the Minnesota Supreme Court established an Advisory Committee on Lawyer Discipline to conduct a review of the disciplinary processes used in Minnesota and of the operations of the Director's Office. As of the date of this Annual Report, the members of that Committee have not been named nor has a deadline for filing the Committee's report been announced.

Similar reviews of Minnesota's lawyer discipline system have occurred on three occasions, most recently in 1993 by the Henson-Dolan Commission (named for its co-chairs Robert Henson and Janet Dolan). The Board and the Director's Office believe that good lawyer government requires such periodic reviews to maintain *public confidence in the integrity of the system*. Thus, a review process can present an opportunity for recognizing what is right about Minnesota's discipline system, while also making suggestions for improvement. Most likely, the results of this Committee's work will headline next year's Annual Report.

**Changes to the Board.** The term of four experienced members of the Lawyers Board ended this past January 2007: Larry M. Anderson (public member), Patrick J. McGuigan, Neil M. Meyer and Judith M. Rush (attorney members). Ms. Rush most recently served as Board Vice-Chair. All of these departing Board members had served on Panels and Board committees. Their combined years of experience and expertise will be greatly missed.

Named to replace these departing members were attorney members Robert B. Bauer (Apple Valley), Sherri D. Hawley (Minneapolis) and Stuart T. Williams (Minneapolis), and new public member Susan C. Goldstein (Wayzata).

The members of the Board's Executive Committee are Kent Gernander, Chair; Vincent Thomas, Vice-Chair, Dianne Ward and public members Anne Maas and Mary Medved. The Board members who act as Panel Chairs for probable cause hearings are now: Richard Beens, Wood Foster, Lynn Hummel, David Sasseville, Cindy Telstad and Kenneth White. A complete listing with short biographical information of all Board members is attached at A. 5.

**Lawyers Board Seminar.** In September 2006, the Board and Director's Office hosted the annual district ethics committee seminar at the Four Points Sheraton Metrodome in Minneapolis. This was the first year the seminar was held at this venue, which proved a popular and convenient location. Highlights included a panel of district court judges discussing courtroom misconduct, and the presentation by Justice Helen Meyer of the annual Volunteer of the Year Award to former Twenty-first District Ethics Committee chair Anthony Palumbo.

## II. NOTEWORTHY PUBLIC DISCIPLINE DECISIONS.

Fifty-two attorneys were publicly disciplined in calendar year 2006, which represents the second most public disciplines in the past ten years (A. 6). Eight of those attorneys were disbarred. Thirteen more attorneys have been publicly disciplined through June of this year, while another seventeen attorneys are the subject of a pending public proceeding. The attorneys who were disbarred are:

Richard G. Day  
Eric A. L. DeRycke  
Peter C. Mayrand  
Todd R. Paulson

Brian J. Peterson  
William C. Pugh  
Martha G. Schmitt  
Willard L. Wentzel, Jr.

Misappropriation of client funds, or some similar mishandling of money in a fiduciary capacity, remains the principal type of misconduct for which attorneys are disbarred. This was a factor in every disbarment this past year. In some instances, a lengthy history of prior discipline was also a significant factor, such as in the Peterson matter; Mr. Peterson twice previously had been suspended.

In addition to the public discipline decisions, public orders are issued when an attorney resigns from the bar. Rule 11, Rules on Lawyers Professional Responsibility (RLPR), provides a procedure for resignation, which is handled through the Director's Office. In the past, this has been a relatively infrequent occurrence. This past year, however, 43 attorneys resigned their license, with another 34 having done so in the first half of 2007. An explanation lies in that the Supreme Court amended the lawyer registration rules effective October 1, 2006. These amendments created a series of new registration fee categories, some of which established a new annual fee for non-practicing lawyers who wished to remain in good standing. The large number of resignations received reflects that some lawyers who were not using their Minnesota license chose to resign rather than pay the fee or be considered not to be in good standing.

### III. DIRECTOR'S OFFICE

#### A. Budget.

##### 1. FY'07 and FY'08 Budgets.

Expenditures for the fiscal year ending June 30, 2007, are projected to be \$2,460,172. The FY'08 budget which runs from July 1, 2007 to June 30, 2008, includes anticipated expenditures of \$2,585,811. The FY'08 payroll budget anticipates a 2% across the board increase and a 3.25% merit increase for employees who have not reached the top of their salary range.

As noted above, on October 1, 2006, the Rules on Lawyers Registration were amended to include an inactive status that allows lawyers not currently practicing to pay a reduced fee and remain in good standing. Previously, such attorneys had to choose to pay the full active status fee, or become administratively suspended for failure to pay the attorney registration fee. Prior to the amendments taking effect, it was unclear what, if any, impact the new categories would have on budget figures. To date, despite the resignations noted above, income has increased due to the new fee structure. Attached at A. 7 is a chart of the current lawyer fee schedule.

Payment of the final fee award in the *RPM v. White* matter occurred this past year. This matter has been discussed extensively in previous Annual Reports. Despite this payment, the Board reported to the Court that the Board is financially very sound. That is in part due to extra income the new fee category generated and an anticipated reduction in the Director's Office's lease. There appears to be no need for a fee increase in the next three fiscal years.

**B. Personnel.**

It has been a year of personnel change in the Director's Office. In July 2006, two new attorneys, Gregory Torrence and Kevin Slator were hired to fill vacant Assistant Director positions in the Office.

Also in July 2006, long-time receptionist Carol Breidel took a position with Washington County Courts and the position was filled by Wenda Mason. Joshua Brand, a law student at the University of St. Thomas, also was hired as a law clerk.

In December 2006, Assistant Director Thomas Ascher resigned to take a position in the private sector, and in January 2007, Senior Assistant Director Betty Shaw retired after 21 years in the Office. A retirement celebration was held at the Judicial Center to honor Betty. Betty's knowledge and expertise, especially her ability to work with probationers and attorneys seeking reinstatement, will be missed.

In early 2007 Robin Crabb and former Office law clerk Siama Chaudhary were hired as Assistant Directors, returning the office's attorney staff to 10 for the first time since 2002.

The Director's Office currently employs 9 attorneys plus the Director, 4.5 paralegals, 1 administrator, 8 support staff and 1 law clerk (*see* organizational chart at A. 8).

### C. Website.

In late June 2006, the Director's Office added a new feature to the popular OLPR-LPRB website to allow attorneys to submit advisory opinion requests via e-mail. An article highlighting this new feature appeared in the July 2006 issue of *Bench & Bar*. Over 170 advisory opinion requests have been received via the website link so far.

As first reported in last year's Annual Report, earlier in 2006 the Office of Lawyers Professional Responsibility had launched "Lawyer Search – Public Discipline Record" on its website. This feature allows lawyers and members of the public to see if attorneys are authorized to practice law and check the public disciplinary history of Minnesota attorneys. If attorneys have been disciplined by the Supreme Court the user may click on the attorney's name and view a copy of the order or opinion imposing the discipline. This year, copies of related public documents, such as the Petition for Disciplinary Action and any Stipulation for Discipline, have been included for all new public discipline matters, and are being added retroactively for previous cases.

The website is maintained and updated regularly by the Director's Office. The address is [www.courts.state.mn.us/lprb](http://www.courts.state.mn.us/lprb). Attached at A. 9 is the current title page of the website's homepage.



**D. Complainant Appeals.**

Under Rule 8(e), RLPR, a dissatisfied complainant has the right to appeal most dismissals and all private discipline dispositions. Complainant appeals are reviewed by a Board member, other than members of the Board's Executive Committee, selected in rotation. During 2006, the Director's Office received 201 complainant appeals, compared to 227 such appeals in 2005. There were 208 complainant appeal determinations made by Board members in 2006 as follows:

		<u>%</u>
Approve Director's disposition	191	92
Direct further investigation	14	7
Instruct Director to issue an admonition	0	0
Instruct Director to issue charges	3	1

A total of 30.5 clerical hours were spent in 2006 processing and routing appeal files. Limited attorney time was expended in reviewing appeal letters and responding to complainants who continued to correspond even after their appeals were decided.

**E. Probation.**

The Minnesota Supreme Court has noted that for probation to be successful, it must result in a renewed commitment to ethical and professional behavior. In cases where probationers have not evidenced that renewed commitment, further discipline or an extension of the probation is sometimes required. For example, the Director had filed a petition for disciplinary action against a probationer for making an improper *ex parte* communication with a judge and falsely certifying that she had never been disciplined. The lawyer in that case was suspended from the practice of law for a period of 90 days. *In re Yvonne Moore*, 707 N.W.2d 390 (Minn. 2006). In another case, a private probation was extended for an additional two years to allow for a longer period of monitoring the lawyer's stipulated abstinence from drugs and alcohol.

Usually probation is imposed at the conclusion of a disciplinary proceeding. However, in a unique case the Supreme Court ordered an attorney placed on probation pending the final resolution of a pending disciplinary proceeding. The Director had filed a petition for disciplinary action and a petition seeking an order temporarily suspending Sergio Andrade from the practice of law. The Court denied the petition for temporary suspension. However, the Court ordered that pending final resolution of the disciplinary proceeding, Andrade was to be the subject of a supervised probation. *In re Andrade*, No. A06-426 (Minn. May 30, 2006) (order denying temporary suspension while disciplinary action pending).

The number of disciplinary probations continued to decline in 2006. In 2006 the Director's Office supervised 73 probations, down from 76 in 2005, 80 in 2004, and 83 in 2003. This is the lowest number of probations since the Director began compiling statistics in 1992.

Continuing a long standing trend, the majority of probations occur when an attorney fails to provide competent and diligent representation and to adequately communicate with clients. Of the 73 total probation files open in 2006, 41 or 56% involved violations of Rules 1.1, 1.2, 1.3 and/or 1.4, MRPC. The majority of these attorneys are placed on supervised probation where a volunteer lawyer oversees their practice to improve law office management.

Violations of Rules 8.4(a),(b),(c) and (d), MRPC, (criminal conduct, dishonesty and conduct prejudicial to the administration of justice), were factors in over 40 of the 73 probations open in 2006. Since these are serious matters, 60% of probations involving Rule 8.4, violations were placed on public probation with over half of these probations being supervised.

The next most common form of misconduct addressed by probation is improper trust accounting. In 2006, 20 probations involved a lawyer's improper maintenance of their client trust account with 17 of those probations requiring the

lawyer to provide their trust account books and records for the Director’s review. In these probations, the lawyer submits to the Director, either monthly or quarterly, their books and records for review for completeness, accuracy and compliance with the Rules. When deficiencies are noted, the Director’s Office provides a detailed explanation of how to correct the problem. Over the course of a two-year books and records probation, most probationers acquire the skills necessary to bring their trust accounting into compliance with the Rules of Professional Conduct.

Contrary to the continuing decline in the overall number of disciplinary probations, the number of probations addressing chemical dependency or mental health issues rose. After decreases in 2004 and 2005, the Director opened 12 new probation files requiring Alcohol Anonymous (AA) attendance, random urinalysis and/or psychological therapy. Of the total probations open in 2006, more than one in three probationers struggles with chemical dependency and/or mental health concerns. Where appropriate, these probations require attendance at AA meetings and compliance with treatment, therapy and medication recommendations. The Director may ask supervisors to monitor a probationer’s mental status. When serious chemical dependency is a concern, participation in the Director’s random urinalysis program may be required.

**DISABILITY RELATED PROBATIONS**

Chemical Dependency – existing files on 1/1/06	5	
New files opened during 2006	<u>7</u>	
Total Chemical Dependency Related Files		12
Psychological Disorders – existing files on 1/1/06	9	
New files opened during 2006	<u>5</u>	
Total Psychological Disorder Related Files		<u>14</u>
TOTAL DISABILITY RELATED PROBATIONS		26

	TOTAL PROBATIONS OPEN DURING YEAR	NUMBER OF NEW PROBATIONS OPENED REQUIRING:			TOTAL <sup>1</sup>
		AA ATTENDANCE	RANDOM UA	MENTAL HEALTH OR THERAPY	
1992	87	1	0	0	1
1993	100	1	0	0	1
1994	114	2	1	7	10
1995	102	1	1	5	7
1996	96	3	0	2	5
1997	87	0	2	3	5
1998	90	0	0	1	1
1999	101	0	0	5	5
2000	97	3	2	4	9
2001	95	1	2	5	8
2002	81	2	2	6	9
2003	83	3	2	8	10
2004	80	1	1	1	2
2005	76	2	2	6	7
2006	73	6	3	5	14

**Probation Supervisors.** During 2006 five probation supervisors, all from small firms (2 to 3 lawyers) responded to the Director's survey regarding their experiences supervising probationers. The supervisors shared knowledge learned in 13 to 48 years of practicing law. The supervisors volunteered an average of 3 hours per month reviewing client inventories and client files, speaking with probationers either during in-person visits or over the phone, and reporting their observations quarterly to the Director. One supervisor committed between five and six hours per month working to improve the probationer's handling of his large civil litigation practice by improving client communications and file organization, avoiding

---

<sup>1</sup> Since a probation involving chemical dependency or mental health may require AA attendance, random urinalysis and/or psychological therapy, totals may not balance.

procrastination and accepting fewer representations. The primary focus of most probations was maintaining and documenting client communications, file organization and closure and law office management skills.

All of the supervisors surveyed stated their experience was positive and they would serve again. All supervisors believed the purpose of the probation was well served. One supervisor commented that his supervisory experience helped him improve his own practice since you “learn from mistakes made by others.” Another supervisor believed the probation, “served to reinforce to the Probationer the serious responsibilities of a practicing attorney – the same for the supervising attorney.” All would recommend service as a probation supervisor to a friend.

Suggestions for how the Director’s Office could better assist supervisors included: improved communications, more information concerning the probationer’s misconduct and what to observe and report.

**PROBATION STATISTICS**

**TOTAL PROBATION FILES OPEN DURING 2006**

Public Supervised Probation Files (32.9%)	24	
Public Unsupervised Probation Files (15.1%)	<u>11</u>	
Total Public Probation Files (47.9%)		35
Private Supervised Probation Files (24.7%)	18	
Private Unsupervised Probation Files (27.3%)	<u>20</u>	
Total Private Probation Files (52.1%)		<u>38</u>
<b>Total Probation Files Open During 2006</b>		<b>73</b>

**TOTAL PROBATION FILES**

Total probation files as of 1/1/06	44
Probation files opened during 2006	29
Private probations extended during 2006	0
Probation files closed during 2006	<u>(21)</u>
<b>Total Open Probation files as of 12/31/06</b>	<b>52</b>

**PROBATIONS OPENED IN 2006**

**Public Probation Files**

Court-ordered Probation Files		
Supervised	7	
Unsupervised	<u>6</u>	13

**REINSTATEMENTS**

Supervised	2	
Unsupervised	<u>0</u>	
		<u>2</u>
<u>Total Public Probation Files</u>		<u>15</u>

**Private Probation Files**

Supervised	8	
Unsupervised	<u>6</u>	
<u>Total Private Probation Files</u>		<u>14</u>

**Total New Probation Files In 2006** 29

**PROBATIONS OPENED IN 2006 INVOLVING:**

Client Related Violations	14
Non-Client Related Violations	10
Both Client & Non-Client Violations	<u>5</u>

**Total New Probation Files in 2006** 29

**PROBATION FILES CLOSED IN 2006**

Probations Successfully Completed	19
Probation Revocations	1
Probations Extensions	<u>1</u>

**Total Probation Files Closed in 2006** 21

## AREAS OF MISCONDUCT

As reflected in 73 open files during 2006<sup>2</sup>

Competence (Violation of Rules 1.1 and 1.2, MRPC)	11
Neglect & Non-Communication (Violation of Rules 1.3 and 1.4, MRPC)	66
Breach of Confidentiality (Violation of Rule 1.6, MRPC)	4
Conflict of Interest (Violation of Rules 1.7 and 1.8, MRPC)	4
Fees & Opinion 15 Violations	7
Trust Account Books and Records (Violation of Rule 1.15, MRPC)	20
Termination of Representation (Violation of Rule 1.16, MRPC)	5
Unauthorized Practice of Law (Violation of Rule 5.5, MRPC)	5
Taxes	2
Supervision on Non-Lawyer Assistants. (Violation of Rule 5.3, MRPC)	6
Non-Cooperation (Violation of Rule 8.1, MRPC)	14
Criminal Conduct (Violation of Rule 8.4(b), MRPC)	7
Misrepresentations (Violation of Rule 8.4(c), MRPC)	17
Conduct Prejudicial to the Administration of Justice (Violation of Rule 8.4(d), MRPC)	28
Misappropriation	0

**Probation Department.** During the first half of 2006, Senior Assistant Director Craig Klausung, with the assistance of two paralegals, monitored all probations. Assistant Director Gregory Torrence, who began employment with the Director in July 2006, is now also monitoring probations.

<b>Time by Probation Dept. Staff (hrs./wk.)</b>	
Attorney 1	12
Attorney 2	2
Paralegal 1	8
Paralegal 2	<u>5</u>
<b>Total Probation Staff Time per Week</b>	<b>27</b>

---

<sup>2</sup> A file may involve more than one area of misconduct.

## **F. Advisory Opinions.**

The number of advisory opinions requested by Minnesota lawyers and judges continued to rise in 2006. In 2006 the Director's Office received 2,307 requests for advisory opinions, the most ever recorded. This represents a 6 percent increase over last year and an 11 percent increase from just two years ago.

In June 2006, a new feature was added to the OLPR website, allowing attorneys to submit advisory opinion requests via an email link. This option proved popular and 91 such requests were received in 2006. Like telephone advisory requests, inquiries from the website are responded to by telephone.

Advisory opinions are available to all licensed Minnesota lawyers and judges and are obtained by calling the Director's Office at (651) 296-3952. Advisory opinions are limited to prospective conduct. Questions or inquiries relating to past conduct, third-party conduct (i.e. conduct of another lawyer), questions of substantive law or advertising and solicitation are not answered. Advisory opinions are the personal opinion of the staff lawyer issuing the opinion and are not binding upon the Lawyers Board or the Supreme Court. Nevertheless, if the facts provided by the lawyer requesting the opinion are accurate and complete, compliance with the opinion would likely constitute evidence of a good faith attempt to comply with the professional regulations.

Set forth below is a statistical summary of advisory opinions for the period 1990 through 2006:



<u>YEAR</u>	<u>OPINIONS GIVEN BY TELEPHONE</u>	<u>OPINIONS GIVEN IN WRITING</u>	<u>TOTAL OPINIONS GIVEN</u>	<u>OPINIONS DECLINED</u>	<u>TOTAL</u>
1990	1130 (83%)	26 (2%)	1156 (85%)	199 (15%)	1355
1991	1083 (84%)	23 (2%)	1106 (86%)	186 (14%)	1292
1992	1201 (86%)	15 (1%)	1216 (87%)	182 (13%)	1398
1993	1410 (87%)	16 (1%)	1426 (88%)	201 (12%)	1627
1994	1489 (84%)	10 (1%)	1499 (85%)	266 (15%)	1765
1995	1567 (87%)	22 (1%)	1589 (88%)	206 (12%)	1795
1996	1568 (88%)	16 (1%)	1584 (89%)	199 (11%)	1783
1997	1577 (90%)	15 (1%)	1592 (91%)	165 ( 9%)	1757
1998	1478 (91%)	23 (1%)	1501 (92%)	131 ( 8%)	1632
1999	1464 (90%)	17 (1%)	1481 (91%)	154 ( 9%)	1635
2000	1600 (90%)*	28 (2%)	1628 (92%)*	142 ( 8%)	1770*
2001	1682 (92%)	9 (.5%)	1691 (93%)	133 ( 7%)	1824
2002	1695 (93%)	15 (.8%)	1710 (94%)	115 ( 6%)	1825
2003	1758 (93%)	9 (.5%)	1767 (94%)	122 ( 6%)**	1889
2004	1840 (93%)	3 (.2%)	1843 (93%)	131 ( 7%)	1974
2005	2041 (94%)	1 (.5%)	2042 (94%)	135 ( 6%)	2177
2006	2119 (92%)	2 (.8%)	2121 (92%)	186 ( 8%)	2307

\* 2000 totals revised to reflect additional AO's that were not previously included.

\*\* Percentage amount corrected.

In 2006 the Director's Office expended 426 assistant director hours in issuing advisory opinions. This compares with 424 hours in 2005. Conflict – former clients generally - was the most frequent area of inquiry.

#### **G. Overdraft Notification.**

The lawyer trust account overdraft reporting program provided for by Rule 1.15(j) – (o), MRPC, has been in effect since 1990. Since that time, Minnesota banks wishing to maintain lawyer trust accounts have had to be “approved” to do so, by agreeing to report all overdrafts on such accounts to the Director's Office. When the Director receives notice of an overdraft on a lawyer trust account, the Director writes to the account-holder and requests an explanation for the cause of the overdraft, together with three months of the lawyer's trust account books and

records, *i.e.*, bank statements, checkbook register, client subsidiary ledgers, trial balances and reconciliations. The purposes of requesting these books and records are to (1) interpret and verify the account-holder's overdraft explanation, and (2) educate the account-holder regarding the trust account books and records requirements and assist him/her in conforming his/her trust account books and records to those requirements.

Overdrafts Reported by Banks

2005	111
2006	112

Closed Inquiries During 2006

• Closed Without Need for Disciplinary Investigation	113
• Inquiry Converted to Disciplinary Investigation	<u>14</u>
<b>Total Trust Account Inquiries Closed</b>	<u>127</u>

Public Discipline Related to Trust Account Overdraft Inquiry

- *In re DeRycke*, 707 N.W.2d 370 (Minn. 2006) (disbarment)
- *In re Mayrand*, 723 N.W.2d 261 (Minn. 2006) (disbarment)
- *In re Mortensen*, 707 N.W.2d 367 (Minn. 2006) (disability)
- *In re Wentzel*, 711 N.W.2d 516 (Minn. 2006) (disbarment)
- *In re Coopet*, 718 N.W.2d 876 (Minn. 2006) (suspension)
- *In re Johnson*, 712 N.W.2d 178 (Minn. 2006) (public reprimand/probation)
- *In re Rooney*, 709 N.W.2d 263 (Minn. 2006) (suspension)
- *In re Knutson*, 711 N.W.2d 807 (Minn. 2006) (suspension)

In 68 (or 60%) of the inquiries terminated without a disciplinary investigation, the Director recommended changes or improvements to the lawyer's trust account books, records and/or practices. The most common deficiencies discovered in lawyers' trust account books and records were again the lack of client subsidiary ledgers and a failure to properly reconcile the trust account.

In 2006 the causes of trust account overdrafts that were closed without a disciplinary investigation were as follows:

<u>Overdraft Cause</u>	<u>No. of Closings</u>
Bank error	20
Mathematical/clerical error	14
Late deposit	14
Service or check charges	13
Reporting error	12
Third party check bounced	11
Bank hold on funds drawn	8
Check written in error on TA	8
Improper/lacking endorsement	7
Deposit to wrong account	2
Other	4

#### Disciplinary File Openings

The Director will initiate a disciplinary investigation based on an overdraft inquiry if the lawyer fails to respond to the overdraft inquiry, the lawyer's response does not adequately explain the overdraft or significant problems are identified in reviewing the trust account books and records. During 2006, overdraft inquiries were converted into disciplinary investigations for the following reasons:

<u>Reason for Investigation</u>	
Shortages	7
Commingling	2
Response fails to explain OD	2
Other	3
<b>Total</b>	<u>14</u>

#### Time Requirements

The Director's Office time requirements to administer the overdraft notification program are as follows:

	<u>1/05-12/05</u>	<u>1/06-12/06</u>
Attorney	159.50 hrs	194.50
Paralegal and other staff	<u>240.75 hrs</u>	<u>287.25</u>
<b>Total</b>	<b>400.25 hrs</b>	<b>481.75</b>

The number of overdraft notices reported to the Director's Office in 2006 (112) was comparable to the number reported in 2005 (111). However, the number of overdraft inquiries closed by the Director's Office in 2006 increased by 21% (from 105 to 127). Not surprisingly, the Director's Office time requirements also increased by 20%, largely as a result of this increase in the number of closed overdraft inquiries. Further, the closings taking the form of conversions to disciplinary matters increased dramatically from 2005 to 2006 (from 3 to 14). Most of these conversions were necessitated by the discovery of shortages in the trust account. Before concluding a trust account is short and conversion to a disciplinary file is necessary, the overdraft department audits the trust account for at least a three month period. These audits are time-consuming and almost certainly contributed to the increased time requirements. At the end of 2006, 18 discipline files based, at least in part, on trust account overdrafts, remained open. (One of these files was publicly resolved by private discipline in early 2007.)

#### **H. Judgments and Collections.**

In 2006 judgments were entered in 51 disciplinary matters totaling \$57,604.42. The Director's Office collected a total of \$33,703.20 from judgments entered during or prior to 2006. This is the largest amount of judgments collected in one year by the Director's Office since 1991.

Of the total amount collected, \$29,992.46 (or 89%) resulted from judgments entered in 2006. The total amount of all outstanding judgments as of January 1, 2007, was \$290,464.94. The Director's Office did not docket any judgments in 2006, but did

receive \$167 toward outstanding judgments from the revenue recapture program operated by the Minnesota Department of Revenue.

A summary of the 2006 statistics and how they compare to 2005 is presented below:

	2006	2005
Number of judgments entered:	51	32
Dollar value of judgments entered:	\$57,604.42	\$32,520.92
Total amount collected:	\$33,703.20	\$22,622.42
Portion attributable to current year's judgment:	\$29,922.46	\$18,500.36
Portion attributable to judgments of prior years:	\$3,780.74	\$4,122.06

**I. Disclosure.**

1. Department Function.

The disclosure department responds to written requests for attorney disciplinary records. Public discipline is always disclosed. Private discipline is disclosed only with a properly executed authorization from the affected attorney. In addition, the Director's Office responds to telephone requests for attorney public discipline records. Public discipline information is also available through the OLPR website. The telephone requests and responses are not tabulated.

Requests from large law firms for annual disciplinary history checks and disclosure began this past year. To date, such large-scale requests have been handled within the normal office function. The Board is monitoring the volume of such requests to determine whether a fee for this service should be requested, or if firms will need to be scheduled to avoid overloading staff in some months.

2. Source and Number of Written Requests for Disclosure.  
Calendar Year 2006.

	<u># of Requests</u>	<u># of Attorneys</u>	<u>Discipline Imposed</u>	<u>Open Files</u>
A. National Conference of Bar Examiners	117	117	2	1
B. Individual Attorneys	262	262	16	0
C. Local Referral Services				
1. RCBA	33	63	1	0
2. Hennepin County	5	213	7	1
D. Governor's Office	13	44	1	1
E. Other State Discipline Counsels/State Bars or Federal Jurisdiction	56	56	3	0
F. F.B.I.	28	28	0	0
G. MSBA: Specialist Certification Program	12	111	5	1
H. Miscellaneous Requests	45	174	3	0
<b>TOTAL</b>	<b>571</b>	<b>1068</b>	<b>38</b>	<b>4</b>
(2005 Totals)	(571)	(954)	(38)	(11)

3. Press Releases.

The disclosure department also handles the issuance of press releases, which are issued upon the filing of contested public petitions seeking suspension or disbarment, and again with every Supreme Court public disciplinary decision. Just recently, the Office began issuing releases by email to most regular media outlets, in the hope of being more timely and newsworthy. No significant change in press coverage has been seen, except where the respondent was already a prominent public figure.

## **J. Trusteeships.**

Pursuant to Rule 27, RLPR, the Court periodically appoints the Director's Office as trustee to inventory files and, when necessary, trust accounts of disabled, disappeared, deceased, suspended, disbarred or resigned lawyers.

In December 2006, the Director was appointed trustee of the files of disabled attorney Alfred Edwall. The Director took possession of approximately 40 boxes of files and has contacted the 29 clients. Those files are currently being returned or destroyed at the clients' request. In February 2007, the Director was appointed trustee of the files of suspended attorney Michael W. Coopet. The Director is in the process of inventorying those files and papers and will be contacting clients when that process is complete.

The Director's Office continues to retain 81 files from the Jane E. Brooks trusteeship, which are eligible for expunction in November of 2008.

## **K. Professional Firms.**

Under the Minnesota Professional Firms Act, Minn. Stat. § 319B.01 to 319B.12, professional firms engaged in the practice of law must file an initial report and annual reports demonstrating compliance with the Act. The Director's Office has handled the reporting requirements under statute since 1973. Annual reports are sought from all known legal professional firms, which include professional corporations, professional limited liability corporations and professional limited liability partnerships. The filing requirements for professional firms are described on the website.

Professional firms pay a filing fee of \$100 for the first report and a \$25 filing fee each year thereafter. In reporting year 2005-2006 there were 139 new professional firm filings. Fees collected from professional firm filings are included in the Board's annual budget. As of April 30, 2007, the Director's Office received \$50,825 in professional firm filing fees. The Director's Office received \$59,350 during fiscal year

2006. As of April 30, 2007, there were 74 new professional firm filings for reporting year 2006-2007.

An Assistant Director, paralegal, and file clerk staff the professional firms department in the Director's Office. The total attorney work time for overseeing the professional firms department was 30 hours. The total non-attorney work time was 210 hours.

#### **IV. DISTRICT ETHICS COMMITTEES**

Minnesota is one of a few jurisdictions that continue to use the local district ethics committees (DECs) to investigate the majority of ethics complaints. The Minnesota system continues to work well.

Initial review of complaints by practitioners in their own area and by non-lawyers is valuable in reinforcing confidence in the system. The quantity and quality of the DEC investigative reports remain high. For calendar year 2006, the Director's Office followed DEC recommendations in 93 percent of investigated matters. Several of these matters in which the recommendation was not followed involved attorneys with substantial prior relevant discipline, which is not considered by the DEC in making its recommendation.

In 2006 the monthly average of files under DEC consideration was 166, fluctuating between a low of 130 and a high of 204. The year-to-date average for 2007 is 163 as of April 30.

Rule 7(c), RLPR, provides a 90-day goal for completing investigations. For the calendar year 2006, the DECs completed 489 investigations, taking an average of 3.8 months to complete each investigation. The Hennepin DEC was assigned 227 of these investigations, taking an average of 3.7 months per investigation (*see* A. 10, DEC Investigation Summary).



The Hennepin DEC, the state's largest district, uses a two-tiered complaint review process not employed by other DEC's. The Hennepin statistics are separately monitored to reflect file aging at the two decision points in the process. The Hennepin process involves investigator presentation to a screening committee. If the screening committee recommends dismissal, the complaint is returned to the Director's Office for disposition. If the screening committee concludes a violation occurred or that additional investigation is necessary, an Investigative Review Committee (IRC), made up of one of three Hennepin DEC panels, reviews the matter. Both the complainant and the respondent are invited to attend and testify at the IRC hearing.

In calendar year 2006, 183 matters were referred back to the Director's Office after screening without an IRC hearing; it took an average of 3.4 months to complete the DEC investigation of these matters. There were 35 matters referred to an IRC panel before being sent back to the Director's Office, which took an average of 5.3 months to complete.

For calendar year 2006, of the completed DEC investigations there resulted the following dispositions:

Determination discipline not warranted	355
Admonition	35
Private probation	2

The annual seminar for DEC members, hosted by the Office and the Board, will be held on Friday, October 5, 2007. All DEC members, plus select members of the bench and bar with some connection to the discipline system, are involved. The Sheraton 4-Points Metrodome hosted the seminar for the first time in 2006, and proved a popular choice. The seminar will return there this year.

The Board and the Office remain committed to the support and training of ethics committee volunteers, both lawyer members and public members. In addition, the Hennepin DEC holds training/orientation seminars at least twice a year for its

new members. The Director's Office continues to provide support to all of the DECs through the liaisons assigned to each district.

**V. FY'08 GOALS AND OBJECTIVES.**

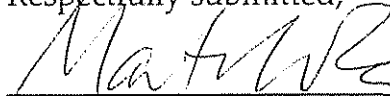
With the Director's Office at full staff for the first time in several years, it is anticipated that, despite the growing number of complaints, the Office will keep pace with its caseload and even reduce the overall number of pending files. Serious discipline cases and requests for advisory opinions and speakers will require extra effort and commitment from many individuals. Prosecution of those serious cases must remain the system's focus to ensure continued protection of the public.

With the October 2005 amendments to the disciplinary rules becoming familiar to everyone, the Board's and Director's Office's speaking load may be lessened, although requests remain high (*see* A. 11). Additional methods of expediting the advisory opinion service are being considered, along with other improvements to the OLPR/LPRB website to provide more information .

When the Supreme Court review commission becomes active this year, substantial preparation likely will be needed to provide requested information to that commission. Careful planning for the resource allocation to accomplish this task will be necessary.

Dated: July 23, 2007.

Respectfully submitted,



MARTIN A. COLE  
DIRECTOR OF THE OFFICE OF LAWYERS  
PROFESSIONAL RESPONSIBILITY

and



KENT A. GERNANDER  
CHAIR, LAWYERS PROFESSIONAL  
RESPONSIBILITY BOARD

**TABLE I**  
**Supreme Court Dispositions and Reinstatements 1990-2006**

**Number of Lawyers**

	Disbar.	Susp.	Probation	Reprimand	Dismissal	Reinstated	Reinstated Denied	Disability	SC AD/Aff	Other	Total
1990	8	27	9	10	0	2	2	2	0	0	60
1991	8	14	10	6	2	3	2	3	0	0	49
1992	7	16	8	5	0	3	0	2	0	0	41
1993	5	15	12	3	1	9	2	1	0	0	48
1994	8	5	7	0	0	4	0	1	0	0	25
1995	6	26	9	4	1	5	0	4	4	0	59
1996	4	27	5	0	3	4	1	2	1	1*	48
1997	10	16	6	2	1	5	2	2	1	1**	46
1998	15	18	10	2	1	4	3	2	1	0	56
1999	3	12	5	0	0	8	1	1	0	2***	32
2000	6	19	10	2	0	3	0	2	1	0	43
2001	3	15	9	2	0	2	0	2	0	1*	34
2002	4	18	6	1	1	5	0	4	0	1**	40
2003	6	15	4	-	-	13	1	3	-	-	42
2004	5	10	3	1	-	7	1	1	-	-	28
2005	6	22	6	1	-	5	-	2	-	-	42
2006	8	26	9	5	-	9	-	2	-	7****	66

\* Supreme Court admonition reversed.

\*\* Supreme Court stay.

\*\*\* 1 Supreme Court private admonition ordered, and 1 Supreme Court stay.

\*\*\*\* 4 Supreme Court stays, 2 reinstated to retired status, 1 conditional reinstatement pending.

**TABLE II**

	Lawyers Board Goal	<u>12/02</u>	<u>12/03</u>	<u>12/04</u>	<u>12/05</u>	<u>12/06</u>	<u>4/30/07</u>
Total Open Files	500	463	487	525	527	578	592
Cases at Least One Year Old	100	106	97	134	147	128	152
Complaints Received YTD		1,165	1,168	1,147	1,150	1,222	448
Files Closed YTD		1,226	1,143	1,109	1,148	1,171	434

**TABLE III**

	Percentage of Files Closed						
	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>
<b>1. <u>Total Dismissals</u></b>	<b>80%</b>	<b>77%</b>	<b>76%</b>	<b>79%</b>	<b>84%</b>	<b>82%</b>	<b>77%</b>
a. Summary Dismissals	43%	43%	45%	43.5%	48%	48%	40%
b. DNW/DEC	31%	26%	25%	30%	31%	27%	32%
c. DNW/DIR	6%	8%	6%	5.5%	5%	7%	5%
<b>2. <u>Admonitions</u></b>	<b>7%</b>	<b>10%</b>	<b>7%</b>	<b>9.5%</b>	<b>8.5%</b>	<b>9%</b>	<b>7%</b>
<b>3. <u>Private Probation</u></b>	<b>3%</b>	<b>3%</b>	<b>2%</b>	<b>3%</b>	<b>1.5%</b>	<b>2%</b>	<b>2%</b>
<b>4. <u>Supreme Court Dispositions</u></b>	<b>7%</b>	<b>8%</b>	<b>11%</b>	<b>5%</b>	<b>4%</b>	<b>5%</b>	<b>8.5%</b>
a. Supreme Court Reprimand	--	--	--	--	--	--	.5%
b. Supreme Court Probation	1%	1%	.5%	.5%	1%	1%	1%
c. Supreme Court Suspension	5%	5%	7%	3.5%	2%	3%	5%
d. Supreme Court Disbarment	1%	2%	4%	1%	1%	1%	2%

**TABLE IV**

Number of Months File Was Open at Disposition

	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>
Discipline Not Warranted/ District Ethics Committee	5	5	5	6	6	6	5
Discipline Not Warranted/ Director	8	8	10	10	7	11	11
Admonition	9	9	10	9	10	10	12
Private Probation	14	13	10	20	17	15	17
Supreme Court Reprimand	16	21	10	--	16	27	18
Supreme Court Reprimand and Probation		14	12	20	18	18	14
Supreme Court Probation	20	12	--	11	4	--	--
Supreme Court Suspension and Probation		20	27	21	28	--	17
Supreme Court Suspension	20	16	18	22	24	16	23
Supreme Court Disbarment	26	30	21	16	24	15	59

**TABLE V**

**Average Time Cases Under Advisement by Supreme Court – 2006**

<b>Disposition</b>	<b>No. of Matters</b>	<b>Actual Total Months</b>	<b>Average Months</b>
Supreme Court Reprimand & Probation (Stipulated)	1	2.4	2.4
Supreme Court Reprimand & Probation	8	9	1.1
Supreme Court Reprimand	5	4.7	0.9
Supreme Court Suspension & Probation (Stipulated)	1	1.2	1.2
Supreme Court Suspension (Stipulated)	17	22.8	1.3
Supreme Court Suspension	8	15.8	2
Supreme Court Stay	4	6.8	1.7
Supreme Court Disability (Stipulated)	2	2.2	1.1
Supreme Court Disbarment (Stipulated)	2	1.7	0.8
Supreme Court Disbarment	6	10	1.7
Reinstatement	7	4	0.6
Conditional Reinstatement Pending	1	2.4	2.4
Reinstatement & Probation	2	1.9	1
Reinstated to Retired Status	1	0.7	0.7
Reinstated to Retired Status (Stipulated)	1	1.6	1.6
<b>Total Decisions</b>	<b>66</b>		

STATE OF MINNESOTA

IN SUPREME COURT

ADM07-8001

Order Establishing the Supreme Court  
Advisory Committee to Review the  
Lawyer Discipline System.

O R D E R

In 1984, this court established the Supreme Court Advisory Committee on Lawyer Discipline “to study the lawyer discipline process, procedures and operations of the Minnesota Lawyers Professional Responsibility Board, to report the results of the study to the Court and Bar, and, if changes are needed, to recommend such changes for the consideration of the Court.” The committee reported to the court in April 1985. The report recommended a follow-up study.

After the American Bar Association issued a report recommending changes in the regulation of the legal profession in 1992, we appointed the Supreme Court Advisory Committee on Lawyer Discipline and American Bar Association Recommendations to update the report of the earlier advisory committee and to evaluate the ABA recommendations. The committee submitted its report in October 1993. Among its recommendations was that the attorney discipline system should be reviewed on a regular basis.

Although we did not formally act on the *recommendation for regular review*, we agree with that recommendation. As a *starting point to implement that recommendation*, we now create a Supreme Court Advisory Committee to Review the Lawyer Discipline System. The *committee will be composed of attorneys and lay members and will be charged to review and assess the process, procedures, and operations of the Lawyers Professional Responsibility Board and the Office of Lawyers Professional Responsibility in administering the attorney discipline system in Minnesota and to report its findings and make recommendations for improvements it deems advisable.*

IT IS HEREBY ORDERED THAT:

1. A fifteen-member committee designated as the Supreme Court Advisory Committee to Review the Lawyer Discipline System be, and hereby is, established to carry out the responsibilities described above.

2. The committee shall be composed of twelve attorneys admitted to the practice of law in the State of Minnesota, and three nonattorney lay members.

3. The Minnesota State Bar Association and other interested organizations and individuals may make recommendations to this court on or before March 30, 2007, for appointment to the committee of attorney and nonattorney members broadly representative of the profession and the public.


4. Recommendations and resumes of attorney and nonattorney candidates shall be sent to Frederick K. Grittner, Supreme Court Administrator and Clerk of

Appellate Courts, 305 Judicial Center, 25 Rev. Dr. Martin Luther King, Jr. Boulevard,  
Saint Paul, Minnesota 55155.

Upon receipt of the recommendations and resumes, this court will make such  
appointments to the committee as it deems appropriate and in the public interest.

Dated: February 14, 2007

BY THE COURT:



Russell A. Anderson  
Chief Justice

OFFICE OF  
APPELLATE COURTS

FEB 14 2007

FILED



## Lawyers Professional Responsibility Board Members

**Kent A. Gernander, Winona.** – Attorney member; current LPRB Board Chair; term expires January 31, 2010; partner in the firm of Streater & Murphy, P.A.; former member and Chair of Third DEC. Areas of expertise: business and commercial law; nonprofit organizations; civil litigation.

**Kathleen Clarke Anderson, Mpls.** – Public member; term expires 1/31/09; worked with Hennepin County Bar Association Fee Arbitration Board; served over 8 years as member of the Fourth DEC. Areas of expertise: public policy, political process and governance.

**Mark R. Anway, Anoka** – Public member; term expires 1/31/09; Assistant Vice-President, Credit and Compliance, Wells Fargo Equipment Finance, Inc.; served on 21<sup>st</sup> DEC for 5 years.

**Robert B. Bauer, Apple Valley** – Attorney member; term expires 1/31/10; served on First DEC for 3 years. Attorney and shareholder in the Apple Valley law firm of Severson, Sheldon, Dougherty & Molenda, P.A. Areas of expertise: civil litigation, real estate (a MSBA certified real property specialist), municipal and estate planning.

**Richard A. Beens, Mpls.** – Attorney member; term expires 1/31/08; serves on LPRB Opinion Committee; solo practitioner; served on the Twenty-First DEC for 8 years, including 6 years as Chair. Areas of expertise: general litigation, employment law and labor law.

**Joseph V. Ferguson III, Duluth.** – Attorney member; term expires 1/31/08; partner in the firm of Johnson, Killen & Seiler, P.A.; served on Eleventh DEC for 12 years, including 6 years as Chair. Areas of expertise: business law/bankruptcy/admiralty.

**Wood R. Foster, Jr. - Mpls.** – Attorney member; MSBA nominee; term expires 1/31/09; serves on LPRB Rules Committee; partner in the firm of Siegel, Brill, Greupner, Duffy & Foster; former member of the Fourth DEC; past president of Hennepin County Bar Association and the Minnesota State Bar Association. Areas of expertise: commercial litigation, as well as class action litigation.

**Susan C. Goldstein, Wayzata** – Public member; term expires 1/31/10. Currently a paralegal at Sklar Law Offices in Minnetonka. Areas of expertise: class action and complex litigation.

**Sherri D. Hawley, Mpls.** – Attorney member; term expires 1/31/10; solo practitioner. Areas of expertise: juvenile law, family law, and appeals.

**Lynn J. Hummel, Detroit Lakes** – Attorney member; term expires 1/31/10; served 9 years on Seventh DEC, 3 years as Chair. Areas of expertise: civil litigation, employment law, general practice, mediation.

**Geri L. Krueger, Glenwood** – Public member; term expires 1/31/09; sole proprietor of Geri's Paralegal Service. Areas of expertise: civil and family mediation, guardianship, conservatorship and probate.

**Ann E. Maas, Brooklyn Park** – Public member; term expires 1/31/08; serves on LPRB Executive Committee; served on the Fourth DEC for 4 years; self-employed as a mental health consultant. Areas of expertise: health care evaluation, law office management, standards and compliance, performance improvement.

**Katie McWatt, St. Paul** - Public member; term expires 1/31/08; served on the Second DEC; retired from her position as Coordinator of St. Paul Central's Minority Education program.

**Mary L. Medved, St. Paul** – Public member; term expires 1/31/10; serves on LPRB Executive Committee; serves as personnel liaison to Director's Office; served 2 terms (6 years) on the Second DEC; President, Medved Companies. Areas of expertise: Human Resource Generalist, Employment, Benefits, Compensation.

**Wallace Neal, Bloomington** – Public member; term expires 1/31/08; serves on LPRB Rules Committee; self-employed as a consultant; served 12 years on the Fourth DEC. Areas of expertise: construction contracts and specifications, as well as interest in advertising issues.

**David L. Sasseville - Mpls.** – Attorney member; MSBA nominee; term expires 1/31/09; serves as Chair of the LPRB Rules Committee; partner in the firm of Lindquist & Vennum; served on Fourth DEC for 6 years. Adjunct Professor of Law, Wm. Mitchell College of Law – Professional Responsibility. Areas of expertise: commercial litigation, regulated industries, and administrative law.

**Cindy K. Telstad - Winona** – Attorney member; MSBA nominee; term expires 1/31/08; serves on LPRB Opinion Committee; partner in the firm of Streater & Murphy; served on the Third DEC for 6 years, including 2 years as Chair. Areas of expertise: real property law, and employment law.

**Vincent A. Thomas, St. Paul** – Attorney member; MSBA nominee; term expires 1/31/10; Lawyers Board Vice-Chair; Assistant Dean for Students and Multicultural Affairs and Adjunct Professor of Law, University of St. Thomas School of Law.

**Debbie Toberman, Plymouth** - Public member; term expires 1/31/08; served on the Fourth DEC for 12 years; claim supervisor for Minnesota Lawyers Mutual Ins. Co. Area of expertise: legal malpractice.

**Dianne A. Ward, St. Paul** – Attorney member; term expires 1/31/09; serves on LPRB Executive Committee; Assistant Director in the Office of the Ramsey County Attorney; served on the Second DEC for 3 years. Areas of expertise: public law – criminal, juvenile, child support and public policy.

**Kenneth R. White, Mankato** – Attorney member; MSBA nominee; term expires 1/31/08; solo practitioner in the areas of appellate practice and civil litigation. Areas of expertise: appellate practice, personal injury and litigation.

**Stuart T. Williams, Mpls.** – Attorney member; MSBA nominee; term expires 1/31/10; served on the Fourth DEC for 7 years. Attorney and shareholder with the firm of Henson and Efron in Minneapolis. Areas of expertise: commercial litigation, environmental law, and toxic torts

**Jan M. Zender, St. James** – Attorney member; term expires 1/31/08; served on the Sixth DEC for 6 years; partner in law firm of Sunder, Olson, Bircher and Zender. Areas of expertise: real estate and estate planning.

# OLPR 2006 Summary of Public Matters Decided

## 66 Decisions Involving 118 Files

<b>Disbarment</b>	<b>26 files</b>	<b>8 attorneys</b>	LETOURNEAU , DENNIS R	A05-755	1
DAY , RICHARD G	A04-1046	2	MITCHELL , TRACY E	A06-180	1
DERYCKE , ERIC A L	A04-417	4	NOLEN , JULIUS ANTHONY	A06-2005	1
MAYRAND , PETER	A04-1704	12	PADGETT , MARK JONATHAN	A06-930	1
PAULSON , TODD RICHARD	A05-2413	1	SANNES , JON K	A06-1416	1
PETERSON , BRIAN J	A05-646	3	SWANSON , RICHARD LEE	A05-2501	1
PUGH , WILLIAM CHARLES	C7-97-1350	2	<b>Reprimand</b>	<b>5 files</b>	<b>5 attorneys</b>
SCHMITT , MARTHA G	A04-1072	1	DEHEN , JOHN PETER	A06-712	1
WENTZEL , WILLARD L	A05-846	1	HUBER , KENNETH B	A06-1758	1
<b>Suspension &amp; Probation</b>	<b>1 files</b>	<b>1 attorneys</b>	LILLIE , JOHN CANFIELD	A05-2436	1
ONORATO , STEPHANIE ANNE	A06-2110	1	THOLE , ERIC CHRISTOPHER	A05-2435	1
<b>Suspension</b>	<b>53 files</b>	<b>25 attorneys</b>	WATKINS , ALBERT SHAWE	A06-576	1
ANDERSON , ARNE DALE	A05-1473	6	<b>Disability Inactive Status</b>	<b>4 files</b>	<b>2 attorneys</b>
BOYCE , GLEN A	A06-989	1	GARDNER , MARK HOWARD	A06-2192	3
CABRERA , RICHARD ANTHONY	A05-2360	3	MORTENSEN , WILLIAM C	A05-2361	1
COOPET , MICHAEL W	A05-1659	9	<b>Stay</b>	<b>5 files</b>	<b>4 attorneys</b>
DEVAUGHN , DONALD L	A06-71	1	BERNDT , DENO WALTER	A05-2414	2
FAGRE-STROETZ , VICKI LYNN	A05-718	2	HAWKINS , CHARLES L	A06-398	1
FRALEY , DONALD J	A05-2539	1	TIERNEY , MICHAEL T	A05-2559	1
GARCIA , ALBERT A	A05-719	1	WHITLOCK , IRA WILBUR	A06-988	1
JONES , WILLIAM F	A06-1056	2	<b>Conditional Reinstatement</b>	<b>1 files</b>	<b>1 attorneys</b>
KNUTSON , CARL ANTON	A05-808	4	<b>Pending</b>		
LAHLUM , JOLIE MONIQUE	A06-1325	1	RAMIREZ , SHARON DORELLE	A04-2499	1
MARTIN , RICHARD H	A05-1650	1	<b>Reinstatement</b>	<b>7 files</b>	<b>7 attorneys</b>
MARTINEZ , HENRY J	A06-529	1	BOYCE , GLEN A	A06-989	1
MARTINEZ , MICHAEL LEE	A06-61	2	GARCIA , ALBERT A	A05-719	1
MCCORMICK , DAVID LAWRENCE	A05-1270	4	JONES , WILLIAM F	A06-1056	1
MOORE , YVONNE B	A05-1383	2	MARTIN , RICHARD H	A05-1650	1
MOULTON , DANIEL J	A05-1865	1	NICKITAS , PETER JAMES	A05-1202	1
PLUMMER , WILLIAM ALBERT	A06-1352	1	RUDAWSKI , JEROME M	A05-484	1
RENSHAW , KAREN K	A05-941	1	VAN LIEW , STEVEN WAYNE	A05-1772	1
ROBINSON , MARK EDWARD	A06-2029	1	<b>Reinstated to Retired Status</b>	<b>2 files</b>	<b>2 attorneys</b>
ROONEY , EDWARD F	A04-1959	1	MOORE , YVONNE B	A06-844	1
RUDAWSKI , JEROME M	A05-484	1	SWENSON , CHESTER D	A04-2251	1
SCHAEFER , JAMES EARL	A06-344	1	<b>Reinstatement &amp; Probation</b>	<b>2 files</b>	<b>2 attorneys</b>
VAN LIEW , STEVEN WAYNE	A05-1772	1	FRALEY , DONALD J	A06-975	1
WOOD , GARY K	A05-389	4	MOEN , JAMES W	A05-925	1
<b>Reprimand &amp; Probation</b>	<b>12 files</b>	<b>9 attorneys</b>			
GARDNER , MARK HOWARD	A05-2489	3			
JESPERSON , JOHN RICHARD	A06-1091	2			
JOHNSON , ANDREW	A05-1923	1			

**Attorney Registration Fees**

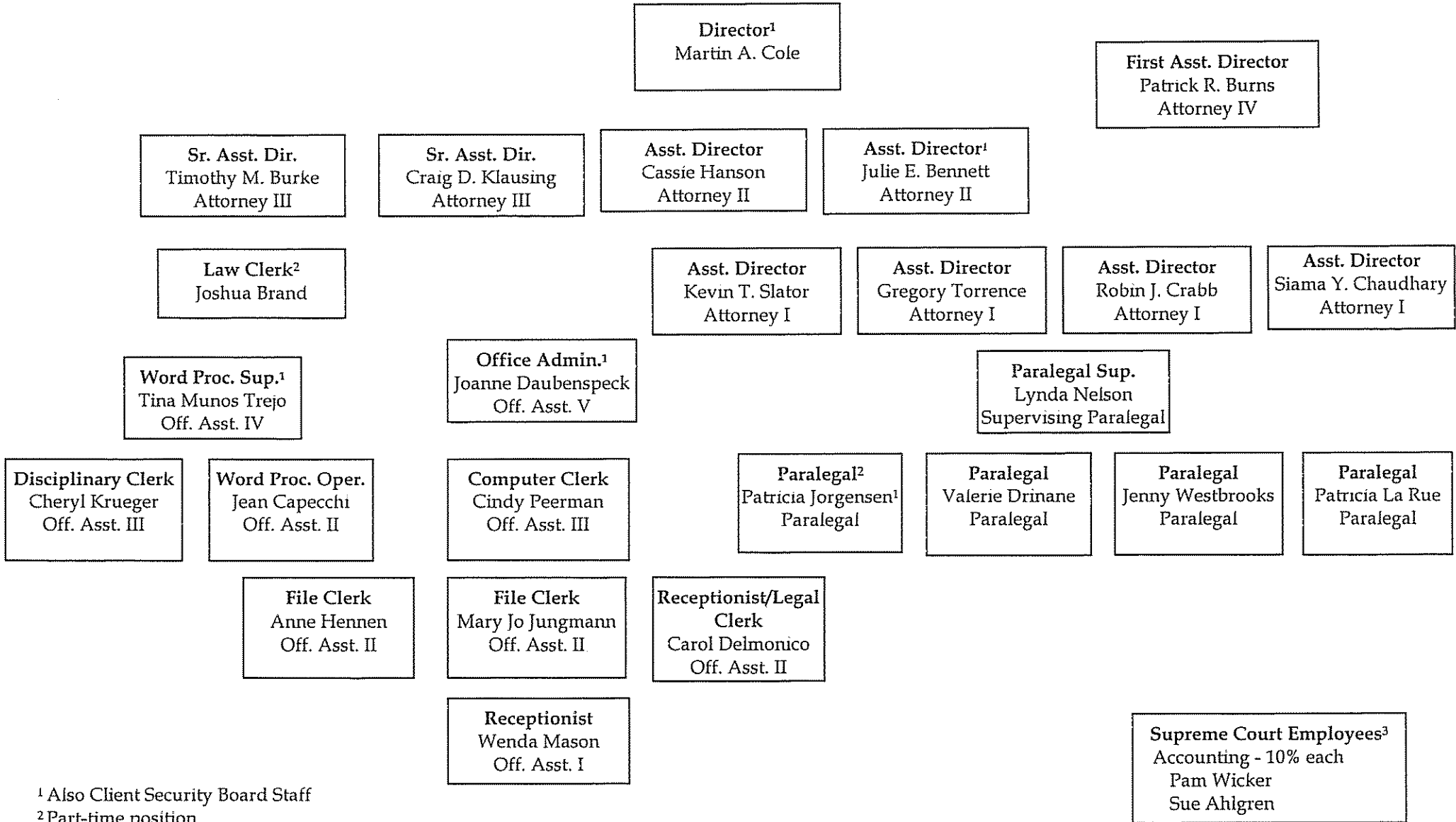
**Effective October 1, 2006**

	Active \$218	Active – low income Less than 25,000 \$193	Inactive \$179	Inactive - low income \$154
BLE	\$18	\$18	\$18	\$18
CLE	\$8	\$8	\$8	\$8
LPRB	\$122	\$122	\$83	\$83
CSB	\$12	\$12	\$12	\$12
LSAC	\$50	\$25	\$50	\$25
LTAB	\$8	\$8	\$8	\$8

	Active Military \$107	Active - Military low income \$82	Active <3 years \$97	Active - <3 years low income \$84.50
BLE	\$18	\$18	\$18	\$18
CLE	\$7	\$7	\$8	\$8
LPRB	\$24	\$24	\$26	\$26
CSB			\$12	\$12
LSAC	\$50	\$25	\$25	\$12.50
LTAB	\$8	\$8	\$8	\$8

# Office of Lawyers Professional Responsibility

## FY'07 Organizational Chart



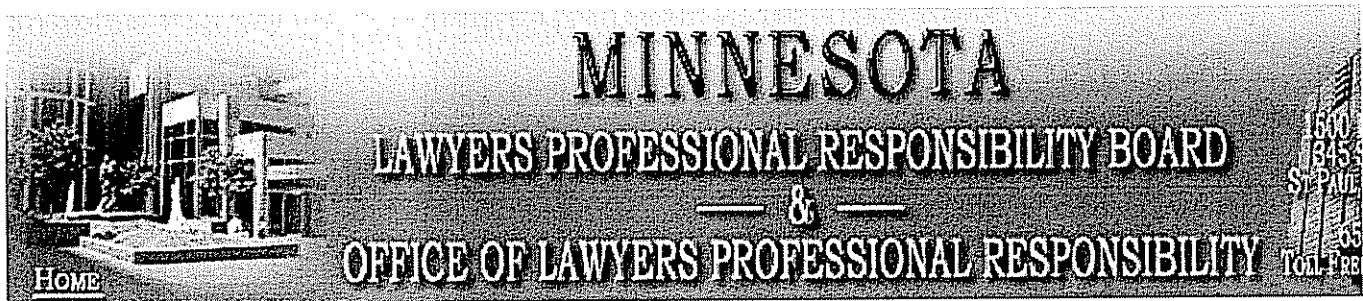
<sup>1</sup> Also Client Security Board Staff

<sup>2</sup> Part-time position

<sup>3</sup> Not administratively subject to Director's Office.  
Office pays percentage of their salary

<sup>4</sup> Not administratively subject to Director's Office.  
Hired to assist retired referees.

Sandra Robinson<sup>4</sup>  
Jud. Asst. II



[SEARCH](#)



[ABOUT LAWYERS BOARD & THE OFFICE OF LAWYERS PROFESSIONAL RESPONSIBILITY](#)

[PROFESSIONAL RESPONSIBILITY ARTICLES AND SUBJECT INDEX](#)

[FILING A COMPLAINT AGAINST A LAWYER](#)

[LAWYER SEARCH- PUBLIC DISCIPLINE RECORD](#)

[RULES GOVERNING MINNESOTA LAWYER DISCIPLINE SYSTEM](#)

[TRUST ACCOUNTS](#)

[CROSS BORDER PRACTICE RULES](#)

[ATTORNEYS ONLY: ADVISORY OPINION SERVICE](#)

[OTHER RESOURCES](#)

[RELATED LINKS](#)

## Minnesota Ethics Articles

### Notarization of signatures

A review of proper notarization practices and the importance of following them.

[more](#)

Reprinted from *Minnesota Lawyer* (June 4, 2007).

(Originally published October 7, 2002)

[Index to Minnesota Lawyer Ethics Articles](#)

### Health Check

"If you can keep your head when all about you are losing theirs . . ."

-- *If*, by Rudyard Kipling [more](#)

Reprinted from *Bench & Bar* (May/June 2007)

[Index to Bench & Bar Ethics Articles](#)

### Lawyer Ethics Articles by Subject

Use our Subject Matter Index to research our archive of ethics articles from *Minnesota Bench & Bar* and *Minnesota Lawyer* [more](#)

## What's New

### Effective July 1, 2007, amendment to Rule 1.15, MRPC, regarding

interest paid on IOLTA trust accounts. [more](#)

**Anthony C. Palumbo named Lawyers Professional Responsibility Volunteer of the Year.** [more](#)

### For Attorneys Only: Advisory Opinion Service Now Available On Line

Minnesota attorneys may now submit electronic requests for an advisory opinion to the Office of Lawyers Professional Responsibility. [Click here for details and request form.](#)

**2006 Annual Report -**

Of the Lawyers Professional Responsibility Board and Office of Lawyers Professional Responsibility [more](#)

**Minnesota Lawyer Public Discipline Search Now Available**

Members of the public can now look up public discipline of Minnesota lawyers on this website. Click the link on the menu to the left entitled "Lawyer Search: Public Discipline Record." Enter a lawyer's last name. A list of lawyers will appear showing whether or not they are authorized to practice in Minnesota and if they have been publicly disciplined. Click on the lawyer you are inquiring about. If the lawyer has been publicly disciplined, there should be a link to the Supreme Court order or opinion. Effective October 13, 2006, a copy of the petition for disciplinary action and stipulation, where applicable, is also available.

**Appendix 1 to Minnesota Rules of Professional Conduct (MRPC)**

Pursuant to Rule 1.15(i), MRPC, the Lawyers Professional Responsibility Board, is required to publish annually the books and records required by Rule 1.15(h), MRPC. [more](#)

[Top](#) | [Home](#)

<b>DEC INVESTIGATION SUMMARY</b>		
<b>2006</b>		
<b>DEC</b>	<b>Number of Files</b>	<b>Average Investigation Duration (Months)</b>
1	15	6.8
2	78	3.3
3	15	3
4	227	3.7
5	9	3.7
6	3	2.3
7	25	3.8
8	14	5.1
9	3	4.7
10	7	3.4
11	21	4.2
12	6	3
14	4	8.3
15	20	5.7
16	3	1.7
17	1	4
18	2	3.5
19	20	3.6
20	6	2.2
21	10	3.5
<b>Totals</b>	<b>489</b>	<b>3.8</b>
<b>(non 4<sup>th</sup>)</b>	<b>(262)</b>	<b>(4)</b>



**Office of Lawyers Professional Responsibility**  
**Speaking Engagements and Seminars July 2006 – June 2007**

<b>Date</b>	<b>Topic</b>	<b>Location</b>	<b>Organization</b>
7/6/06	The Business Case for Diversity	Minneapolis	MNCLE
7/21/06	DWI	St. Paul	MN Attorney General
9/8/06	New Directions	Minneapolis	HCBA
9/14/06	Lawyer Discipline Procedures	Minneapolis	Moldovan Lawyer Exchange
9/26/06	Ethics for Paralegals	IGH	Inver Hills CC
9/27/06	DEC Training	Minneapolis	HCDEC
9/28/06	Ethics for Paralegals	Winona	Winona State U.
9/28/06	Professional Responsibility 2006	Minneapolis	OLPR
10/5/06	Elder Law Institute	Minneapolis	MNCLE
10/10/06	Ethics for Paralegals	St. Paul	MN School of Business
10/11/06	DEC Training	Minneapolis	HCDEC
10/12/06	Public Law Ethics	Minneapolis	MNCLE
10/19/06	Current Cases	Minneapolis	Amdahl Inns of Court
11/2/06	Workers' Compensation	Minneapolis	MNCLE
11/10/06	Impaired Lawyer	Minneapolis	LCL
11/15/06	Ethics in Admin. Law	St. Paul	MSBA Admin. Law Section
11/15/06	Trust Accounts	Minneapolis	MN Legal Administrators
11/16/06	Current Developments	Mankato	6 <sup>th</sup> District Bar Assn.
11/17/06	Real Estate Institute	Minneapolis	MNCLE
11/20/06	PR Class	St. Paul	Hamline U.
11/22/06	Eminent Domain	Minneapolis	HCBA
11/28/06	Journey to Safety/Human Rights Rpt.	St. Paul	MN Revisor of Statutes
12/1/06	Real Property Seminar	Fargo	ND State Bar Assn.
12/1/06	Eminent Domain	Minneapolis	CLE International
12/5/06	Nuts & Bolts	Minneapolis	HCBA
12/6/06	Aftermath of White I & II: Maintaining Fairness and Impartiality in the Courts	Minneapolis	Minneapolis City Attorney's Office
12/11/06	New Forensic Technology in Criminal Apprehension	St. Paul	MN Attorney General's Office
12/12/06	Family Court: Perspectives From the Bench & Experienced Practitioners	Minneapolis	VLN
12/12/06	2006 Ethics Seminar	Minneapolis	Dorsey & Whitney
1/17/07	Ethics for Paralegals	St. Paul	MN School of Business
1/27/07	Regional Lavender Law Conference	St. Paul	Wm. Mitchell College of Law
2/4/07	JAG Seminar	St. Paul	MN National Guard
2/5/07	Ethics in Everyday Practice	Minneapolis	MNCLE
2/9/07	Professionalism	Minneapolis	HCBA
2/24/07	Ethics Update	Minneapolis	Public Defenders Assn.
2/28/07	Ethics	Minneapolis	Public Defenders CLE
3/7/07	Immigration	St. Paul	Wm. Mitchell College of Law
3/8/07	Mentoring Group	St. Paul	Ramsey County
3/15/07	Basic Ethics	Minneapolis	NALS
3/19/07	Ethical Issues in Services to Poor	Minneapolis	HCBA

**Office of Lawyers Professional Responsibility  
Speaking Engagements and Seminars July 2006 – June 2007**

<b>Date</b>	<b>Topic</b>	<b>Location</b>	<b>Organization</b>
3/20/07	Call to Justice	Minneapolis	HCBA
3/22/07	Solo/Small Firm	St. Paul	RCBA
3/22/07	Managing Paralegals	St. Paul	RCBA
3/26/07	Ethics for Paralegals	Minneapolis	North Hennepin CC
3/30/07	Lawyers Concerned for Lawyers	Minneapolis	HCBA
3/30/07	Workers' Compensation	Minneapolis	MNCLE
4/9/07	Trust Accounts	Minneapolis	MNCLE
4/13/07	Ethics for Public Lawyers	St. Paul	Attorney General's Office
4/17/07	Ethics in Real Estate Transactions	St. Paul	Ramsey Cty Real Estate Section
4/18/07	Debtor-Creditor Section	Minneapolis	HCBA
4/20/07	Professional Responsibility Topics for Arts & Entertainment Lawyers	Minneapolis	MNCLE
5/4/07	Professional Responsibility Topics for Prosecutors	Minneapolis	Hennepin County Suburban Prosecutor Assn.
5/9/07	Understanding African Cultures	Minneapolis	MNCLE
5/14/07	Civil Litigation Ethics	Minneapolis	HCBA
5/16/07	Non-traditional Family Estate Planning	Minneapolis	MNCLE
5/18/07	Civil Trial Specialist	Minneapolis	MSBA
5/18/07	Ethics Update for Trial Attorneys	Minneapolis	MTLA
5/23/07	Employee Benefits Section	Minneapolis	MSBA
6/4/07	Advertising Ethics	Minneapolis	MNCLE
6/5/07	Elimination of Bias (web cast)	St. Paul	NBI
6/7/07	Arbitration Ethics	Minneapolis	MTLA
6/15/07	Ethics Review (web cast)	Minneapolis	MNCLE
6/19/07	Elimination of Bias (web cast)	St. Paul	NBI
6/28/07	Unbundling Seminar	St. Paul	MSBA
6/29/07	10 Most Common Violations	Minneapolis	HCBA