

THE MILLER BECKER SEMINAR 2023



The Miller Becker Seminar is Sponsored by:



Ohio Board of Professional Conduct

Hon D. Chris Cook, *Chair*

Richard A. Dove, *Director*



THE UNIVERSITY OF AKRON SCHOOL OF LAW
JOSEPH G. MILLER & WILLIAM C. BECKER
CENTER FOR PROFESSIONAL RESPONSIBILITY

Heather M. Zirke, *Interim Director*

**SEMINAR
AGENDA**

MILLER-BECKER SEMINAR AGENDA
Friday, October 20, 2023
Ohio State Bar Association Headquarters

8:55 – 9:00 a.m.	Welcome and Announcements
9:00 – 10:30 a.m.	Appellate Advocacy <ul style="list-style-type: none">➤ Joseph M. Caligiuri (moderator)➤ Hon. William A. Klatt, John R. Willamowski, & John W. Wise, Moot Court “Justices”➤ Mathew A. Kanai & George D. Jonson, Moot Court Counsel➤ Kelly E. Heile, Panelist
10:30 – 10:45 a.m.	Break
10:45 a.m.– Noon	Respondent’s Counsel Roundtable <ul style="list-style-type: none">➤ Heather Zirke (moderator)➤ Jonathan E. Coughlan➤ Alvin E. Mathews, Jr.➤ Monica A. Sansalone➤ Lisa M. Zaring
Noon – 12:45 p.m.	Lunch
12:45 p.m.—2:00 p.m.	Determining the Sanction <ul style="list-style-type: none">➤ Richard A. Dove (moderator)➤ Elizabeth E. Cary➤ Hon. D. Chris Cook➤ Teri R. Daniel➤ Aletha M. Carver
2:00 – 2:15 p.m.	Break
2:15 p.m.—2:45 p.m.	PMBR Update <ul style="list-style-type: none">➤ Joseph M. Caligiuri
2:45 – 3:30 p.m.	Case Trends <ul style="list-style-type: none">➤ D. Allan Asbury➤ Kristi R. McAnaul
3:30 – 4:30 p.m.	Disciplinary Process Overview (Optional) <ul style="list-style-type: none">➤ Joseph M. Caligiuri➤ Richard A. Dove
4:30 p.m.	Conclusion

CLE Credit—5.25 for the main program; 6.25 for those attending the optional process overview.

POLLING LOG-IN INSTRUCTIONS FOR DETERMINING THE SANCTION SEGMENT

The first afternoon segment (Determining the Sanction) will feature five sanction-related polling questions for seminar attendees. To participate in the polling exercise, please do the following **prior** to the beginning of the afternoon portion of the program:

- Make sure your cell phone is connected to OSBA WiFi. Select OSBA WiFi from your device's network and internet connection screen and then accept the terms and conditions to connect to the OSBA's public wi-fi connection at OSBA.
- Use your cell phone's browser to navigate to [menti.com](https://www.menti.com).
- On the menti.com home page, enter the code **8612 3694**.
- Following the panel's discussion of each case scenario, you will be prompted on your cell phone to select a sanction from three or four options listed.
- Attendee votes on each scenario will be shown on the display screens in the meeting room.

ACKNOWLEDGEMENTS

The Miller Becker Center for Professional Responsibility (MBC) is a nationally recognized academic center of the University of Akron School of Law. First known as the Joseph G. Miller Institute for Professional Responsibility, the Miller Institute was established in 1993 through the Joseph and Sally Miller Endowed Fund with the goal of enhancing public trust and confidence in the legal profession and the judicial system.

Mr. Miller, an Akron philanthropist and lawyer for 44 years, tapped his good friend and colleague William C. Becker to serve as the first Director of the Miller Institute. At that time, Mr. Becker was a Professor and Associate Dean at the University of Akron School of Law. Before that, Mr. Becker had a long career as corporate counsel with BF Goodrich, culminating in his service as general counsel and vice president. He was active for many years on the Ohio State Bar Association's Ethics Committee. He also served as bar counsel for the Akron Bar Association. Mr. Becker passed away in 2003.

Following the death of his good friend, Mr. Miller made an additional gift to the Akron School of Law to ensure the vision for the Institute could be fully realized. The Joseph G. Miller Chair for Professional Responsibility was created to maintain and expand the reach of the Miller Institute and to ensure the future leadership of the program. Mr. Miller also chose to rededicate the Institute as the Joseph G. Miller and William C. Becker Center for Professional Responsibility, in recognition of Mr. Becker's leadership and establishing the Institute's renown throughout the state in the areas of lawyer and judicial ethics, and professional responsibility.

Today, the names Joseph G. Miller and William C. Becker are synonymous with legal professional responsibility. The Miller Becker Center sponsors a Distinguished Lecturer Series and Symposia attracting scholars and practitioners from across the country to discuss the latest issues and challenges in the legal profession.



The Joseph G. Miller and William C. Becker Center for Professional Responsibility (MBC) of The University of Akron School of Law thanks and honors Professor Jack P. Sahl for his innumerable contributions to the law school and to the legal profession. Professor Sahl has served with distinction as the Director of the MBC since 2008 growing the Center into a national and international resource for legal ethics and professional excellence. He retired as the MBC Director in 2023 and remains Professor of Law, Emeritus.

Professor Sahl is an author, frequent national and international speaker, consultant, and expert witness on professional responsibility matters. During his career, he served as senior counsel to the U.S. Senate Judiciary Committee's Subcommittee on the Constitution, Federalism and Property Rights. Professor Sahl also clerked for the chief judge of the U.S. Court of Appeals for the Tenth Circuit, The Honorable William J. Holloway, Jr., and managed the business and legal affairs for Ambience, Inc.

Professor Sahl was Chair of the Publications Board of Editors for the ABA Center for Professional Responsibility and serves on the Center's Michael Franck Professional Responsibility Award Selection Committee from 2006 to 2020. He was also a member of the ABA Standing Committee on Professional Discipline and was appointed to the ABA Commission on Ethics 20/20 Inbound Foreign Lawyer Working Group and its Uniformity, Choice of Law and Conflicts of Interest Working Group. Professor Sahl has also served as Chair of the American Association of Law Schools (AALS) Professional Responsibility Section. By appointment of the Ohio Supreme Court, Professor Sahl served a three-year term on the Commission for the Unauthorized Practice of Law. He also has served as a member of the Ohio Bar Association's Future of the Legal Profession Advisory Committee.

In 2019, Professor Sahl was the recipient of the Ohio State Bar Association's Eugene R. Weir Award for his outstanding contributions in Ethics and Professionalism.

Raising the Bar

Quarterly News from the Office of Disciplinary Counsel



Wayne Rice
1951-2023

WE REMEMBER

Wayne Rice's Obituary

His family, his church, the law, and good food shared among friends, formed the center of Wayne Rice's world. He died on April 26th, 2023, from complications related to bladder cancer.

Wayne Rice was born on March 6th, 1951, to Michel and Ruth Rice, two Army service members who met and married while stationed in the Philippines during World War II. He developed a love of English history at the College of Wooster, graduating in 1973. Wayne finished his degree requirements early and started work as a bank teller at the former First National Bank in Akron. Afterwards, he attended law school at the University of Akron, graduating and gaining admittance to the Bar in 1976. He met his wife, Janet, at the Church of Our Saviour, Akron, and the two married in 1978. He began his legal career as a law firm associate but returned to banking as regional counsel for TransOhio Savings Bank and then General Counsel for Falls Savings Bank. After Fifth Third Bank acquired Falls Savings, Wayne and a group of partners founded Cuyahoga Falls Savings Bank. Wayne then went into private practice until securing a full-time position as Bar Counsel for the Akron Bar Association.

Wayne's life taught us the following:

1) In all areas, serve with faithfulness and strive for dignity and justice - at the Akron Bar Association, Wayne's work focused on upholding the Rules of Professional Conduct for attorneys. In addition, he organized and conducted Character and Fitness interviews for applicants to the Ohio Bar. He led the Church of Our Saviour and St. Paul's Episcopal through interim minister periods, served as Senior Warden at both churches, led stewardship efforts, served as a chalice bearer, and served on the OPEN M Board as

President. He also served in leadership roles on the boards of Sumner on Merriman, Sumner on Ridgewood, and the Sumner Endowment.

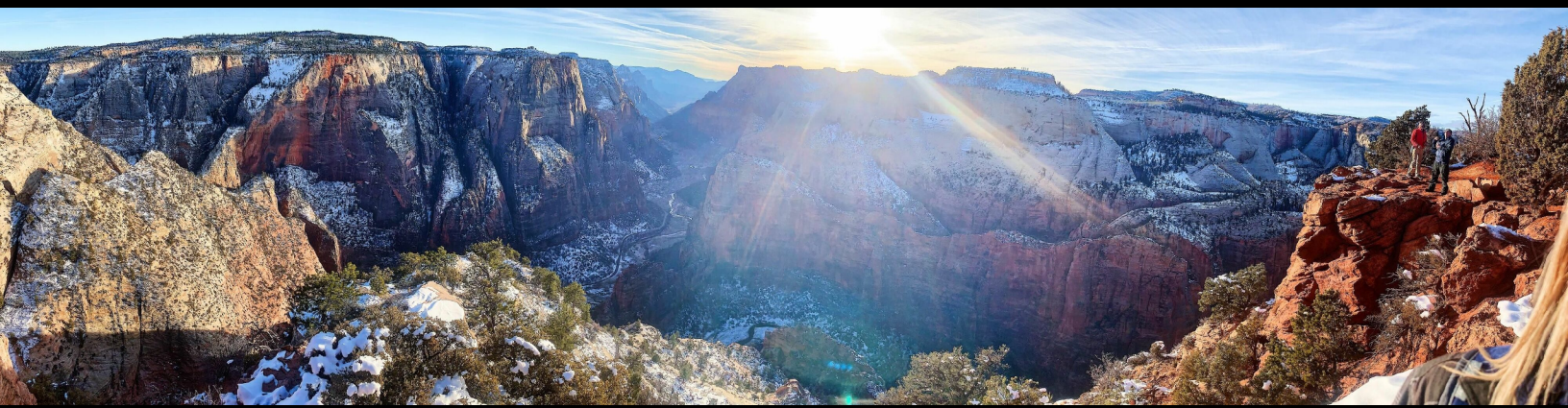
2) Take your job seriously but make time for your family - The happiest family vacations were trips to England, the Great Smoky Mountains in Tennessee along with Bryce and Zion National Parks in Utah. He never missed a soccer game, band concert, or violin recital. He loved weddings and was grateful to see three beautiful ones this past year.

**IN ALL AREAS, SERVE WITH
FAITHFULNESS AND STRIVE FOR
DIGNITY AND JUSTICE.**

3) Stay close to the ones you love - Wayne and Jan were married for 45 years, raising a son and daughter, Eddie and Laura, along with four dogs, while tolerating a menagerie of animals: hamsters, hermit crabs, lizards, and snakes. Together, they enjoyed outings at Blossom to hear the Cleveland Orchestra, sharing wine and snacks from West Point Market; Wayne loved to grill and would often host dinners on the patio with friends.

4) Cut with the sharpest knife and serve the beef medium-rare - Thanksgiving, Christmas, and Easter, were Wayne's favorite holidays. He would plan out the menus months in advance. Please raise a glass to Wayne Rice - his favorite drink at the end of a long day was a gin and tonic with a twist of a lemon, not a lime.

Wayne is survived by his wife Janet and two children, Eddie and Laura, and by his brothers, the Reverend Dr. David Rice, John Rice (Bonnie), and his sister Janet Miller (Tom, deceased).



Zion National Park - One of Wayne's Happiest Family Vacations

Reflections about Wayne from his Colleagues

Wayne was one of a kind. Strong, sure, steadfast, and caring. He was always the professional and always willing to step in and help where needed. He was a shining example of integrity, who worked hard for the betterment of the bar. Wayne left an indelible mark on his co-workers and colleagues, and he will be greatly missed.

Wayne was a gentleman, and a gentle man. He had a great sense of humor, and I enjoyed making him laugh and hearing his laugh.

- Amy Stone

Wayne and I both attended the College of Wooster. We bonded over our love of the College, as well as "The Botanist" - a type of dry gin. My impression of Wayne was that he was "too nice to be bar counsel." He was generally a nice, caring human being, but always the professional. Wayne did not need to be bar counsel; he did not need the job. He did it as a way to give back to the profession. But he loved being bar counsel, and he was very proud of the Akron Bar Association. He appreciated the area in which he worked.

- David "Chip" Comstock

Wayne was an absolute joy to talk to on the phone and in person. He had the most interesting stories.

- Michelle Bowman

Wayne was great to work with, and he was very thoughtful in his approach to the discipline process.

- Maria Palermo

Wayne was a really good guy. He was always the professional. He was a pleasure to work with. He was good at what he did, but he was also understanding.

- Rich Koblentz

Wayne was a terrific person. He was such a gentleman and an active and enthusiastic participant in our conferences. I'll miss him.

- Joe Caligiuri

Wayne was great to work with. I could send him an email and he would email back almost immediately. He was always nice and pleasant. I will miss him.

- Laura Johnston

When Wayne called, you knew it was going to be a good conversation - full of substance and full of laughter. He was always willing to lend a hand or go out of his way to assist you.

- Karen Osmond

I will remember Wayne as a kind and thoughtful person. I valued his opinions and trusted his good judgment. He was generous in sharing his time and his experience.

- Heather Zirke

**The University of Akron
School of Law**



**The University of Akron School of Law
Miller Becker Distinguished Lecture Series**

Presents



Paula Frederick

Chair of the ABA's Center for Professional Responsibility
General Counsel for the State Bar of Georgia

***Why Did the Lawyer Cross the Road? The ABA's Proposal to Overhaul
Model Rule 5.5 and Permit Cross-Border Practice***

1 Hour of Ohio CLE Credit has been submitted

November 3, 2023 from 12-1 pm

Brennan Courtroom, Room 180

The University of Akron School of Law

Lunch will be provided before the start of the program

Presentation Synopsis: The ABA is proposing a change to Rule 5.5 of the Model Rules of Professional Conduct (governing unauthorized practice of law and multijurisdictional practice) that would allow any lawyer admitted in any United States jurisdiction to practice law and represent willing clients without regard to the geographic location of the lawyer or the client. Advocates say the rule change would better reflect the way lawyers practice in the 21st century, remove barriers to client choice, and reduce the access to justice gap. Opponents are concerned about how lawyers working across borders would be regulated.

**The University of Akron
School of Law**



To Register: https://akron.qualtrics.com/jfe/form/SV_aVtC2nHeF5JlgGi

Parking information, directions, and CLE materials will be provided to attendees electronically approximately one (1) week prior to the event.

Questions? Contact Katia Lagasse: klagasse@uakron.edu

**APPELLATE
ADVOCACY**

**BEFORE THE BOARD OF PROFESSIONAL CONDUCT
OF THE SUPREME COURT OF OHIO**

In re:

Complaint against

Case No. 2022-003

**Pat H. Lockhart
Attorney Registration No. 0000000
1180 Belleview Terrace, Suite 5
Everywhere, Ohio 44444**

Respondent,

**SYNOPSIS OF BOARD REPORT
AND RECOMMENDATION**

**Bar Association of Upper Ohio
75 Hillside Drive
Over the River, Ohio 44441**

Relator.

The Board of Professional Conduct makes the following findings.

The parties submitted stipulations of fact (Stipulations at ¶ 1-46), which the Board adopted. The parties stipulated that respondent violated Prof.Cond.R. 1.8(j), 3.3(a)(1), 8.1(a), and 8.4(c). The only contested violation was an 8.4(h) violation. Relator argued that respondent's conduct was sufficiently egregious under *Bricker*; whereas respondent argued that his conduct, while contrary to other rules, did not violate Prof.Cond.R. 8.4(h). Given respondent's multiple rule violations, coupled with the harm he inflicted upon his vulnerable client, the panel finds that relator proved an 8.4(h) violation by clear and convincing evidence.

Despite the stipulations above, the board found that there was insufficient evidence to sustain the 8.1(a) violation and recommends dismissal of the charge. Respondent testified that his statement, "we never had sex," referred specifically to the timeframe in which he believed S.J. was his client. While the board ultimately found that S.J. was a client when respondent engaged in sexual activity with S.J., the Board determined that there was insufficient evidence to

prove that respondent “*knowingly* made a false statement of material fact.” Prof.Cond.R. 8.1(a), emphasis added.

The parties stipulated to aggravating and mitigating factors under Gov.Bar.R.V(13)(B) and (C) (Stipulations at ¶48-49). In addition to the mitigating factors identified by the parties, the board finds that respondent refused to acknowledge the wrongful nature of his conduct (Gov.Bar.R.V(13)(B)(7)). Respondent’s and his expert’s testimony demonstrated that respondent only acknowledged a violation of the rule. He failed to acknowledge the harm caused to S.J. by his conduct. Furthermore, the parties stipulated to respondent’s “post-complaint cooperation in the disciplinary process[.]” We disagree and find instead that respondent showed a lack of cooperation throughout the disciplinary process. Gov.Bar.R.V(13)(B)(5). While respondent entered into stipulations, respondent was often flippant and evasive during his testimony before the panel, even when questioned by his own attorney.

Finally, the parties stipulated that respondent should receive mitigating credit for “Positive character evidence.” However, that stipulation was based solely on three letters. The first letter, submitted by Tommie Dietz, indicates that the author was unaware of the disciplinary charges respondent faced and, therefore, is of no evidentiary value. While respondent did receive two letters from character witnesses who were aware of the allegations, we do not believe that two letters are sufficient to warrant mitigation when an attorney has been practicing for nearly a decade, especially when one of the letters is from an attorney identifying themselves as “a close friend[.]” Stip.Ex.10.

At the hearing, the respondent advocated for a six-month suspension; however, relator advocated for a one-year suspension. Given the dearth of mitigating factors and the wealth of aggravating factors and, in line with the Board’s assessment of other cases involving violations

of Prof.Cond.R. 1.8(j), the Board recommends the imposition of a 24-month suspension with six months stayed. The stay shall be conditioned upon respondent's continued compliance with the March 1, 2022, OLAP contract, including his participation in counseling as directed by Trapper John or another qualified health care or mental health professional.

IN THE SUPREME COURT OF OHIO

Bar Association of Upper Ohio

Relator,

Case No. 0000-0000

v.

Pat H. Lockhart, Esq.

On Certified Report by the
Board of Professional Conduct

Respondent.

Respondent's Objections

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Bar Counsel
Bar Association of Upper Ohio
Lead Counsel for Relator

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lzaring@mojolaw.com
Counsel for Respondent

Argument

Objection No. 1: The Board erred in finding that respondent's misconduct was sufficiently egregious to warrant a finding under Prof.Cond.R. 8.4(h).

Objection No. 2: The Board erred in rejecting the parties' stipulation to respondent's positive character evidence.

Objection No. 3: Respondent's misconduct warrants a six-month suspension from the practice of law.

**DETERMINING THE
SANCTION**

DETERMINING THE SANCTION

Scenario #1—Impugning the Judiciary

In the course of representing clients in two legal matters, Respondent engaged in a series of acts directed at opposing counsel, opposing parties, judicial officers, and others. These acts included:

- False and threatening statements to unrepresented parties.
- Filing pleadings that included false claims about a prospective guardian's mental health and fitness to be granted custody of a minor.
- Filing unsubstantiated and retaliatory complaints with a licensing board about the prospective guardian's mental condition and fitness to serve as a medical professional.
- Making threatening comments to opposing counsel, accusing opposing counsel of "churning fees," and responding to letters from opposing counsel that said counsel was "too stupid to know how stupid you are," and directing him to send "no more idiotic letters." After opposing counsel withdrew from the representation, Respondent reiterated her comments about the lawyer to lawyer's former clients.
- Filing multiple pleadings asserting that judicial officers issued decisions and orders that (1) were "absolutely insane;" (2) contained lies and were the product of a personal vendetta against Respondent; (3) were the product of *ex parte* communications and politically motivated; and (4) were fundamentally unfair and a distortion of the truth.
- Filing numerous frivolous pleadings that resulted in imposition of Civ. R. 11 sanctions.

In responding to the disciplinary complaint and before the Board hearing panel, Respondent denied engaging in any unethical conduct and described her actions as just and truthful. Respondent alleged Relator's counsel was dishonest and incompetent and asserted Relator and the hearing panel were collaborating to cover-up misconduct on the part of judicial officers and opposing counsel. Respondent also showed up more than an hour late for day one of the hearing, and in the middle of Relator's opening statement, and 90 minutes late on day two, offering no credible explanation for her tardiness on either occasion. On two occasions when the panel chair ruled on objections and ordered Respondent to "move on," Respondent replied "no, I'm not going to do that."

In response to questions from Relator and the panel, Respondent showed no remorse for her conduct and indicated she would engage in the same activity if she had it to do over. Respondent's positions and allegations were reiterated in objections filed with the Supreme Court and during oral argument.

The Board found the following rule violations: threatening misconduct allegations to obtain an advantage in a civil matter [Rule 1.2(e)]; engaging in frivolous conduct [Rule 3.1]; making false statements of fact or law to a tribunal [Rule 3.3(a)(1)]; engaging in

undignified or discourteous behavior toward a tribunal [Rule 3.5(a)(6)]; making a false statement of material fact or law to a third person [Rule 4.1]; engaging in conduct to embarrass or harass a third person [Rule 4.4(a)]; conduct involving fraud, dishonesty, deceit, or misrepresentation [Rule 8.4(c)]; conduct prejudicial to the administration of justice [Rule 8.4(d)]; and false statements concerning the integrity of a judicial officer [Rule 8.2(a)].

The Board found the following aggravating and mitigating factors:

- *Aggravating factors:* (1) a pattern of misconduct; (2) multiple offenses; (3) a selfish or dishonest motive; (4) harm to vulnerable victims; and (5) refusal to acknowledge the wrongful nature of her misconduct. The Board also cited Respondent's attacks directed to Relator's counsel and her dilatory approach to the disciplinary hearing as additional aggravating factors.
- *Mitigating factors:* (1) no prior discipline and (2) full and free disclosure to the Board, although the latter was given little weight given her conduct before the panel.

Scenario #2—False Notarization

Respondent was retained to represent a husband and wife in an estate-planning matter. Through conversations with the wife and one of the adult children, Respondent was aware the husband had suffered a debilitating stroke and been diagnosed with Alzheimer's disease. Respondent received \$7,500 to prepare wills, a trust, and other estate planning documents. Although there was no written fee agreement, the couple's daughter, who was to be the trustee and executor, believed the fee covered preparation of these documents, asset transfers, and probating the clients' estates.

Respondent delegated all of the contact with the husband to his nonattorney office manager, including having the office manager obtain the client's signature on a durable power of attorney, a trust document, four other estate-planning documents, and a deed. On each of the seven instruments, Respondent either falsely signed the documents as a witness or notarized the documents under jurats that falsely indicated the signatory had personally appeared before him to acknowledge the signatures. These acts were contrary to Respondent's obligations to properly supervise nonlawyer assistants [Rule 5.3] and constituted dishonesty, fraud, deceit, or misrepresentation [Rule 8.4(c)]. Respondent also stipulated to failing to act with reasonable diligence [Rule 1.3], failing to properly consult with the clients [Rule 1.4(a)(2)], breaching his duties with respect to representing a client with diminished capacity [Rule 1.14(a)], and failing to return the clients' property upon termination [Rule 1.16(d)].

Respondent's misconduct came to light during probate litigation that commenced following the deaths of the clients and malpractice litigation filed against Respondent.

Respondent stipulated to the facts and the misconduct alleged by Relator. The Board found the following aggravating and mitigating factors:

- *Aggravating factors:* (1) a pattern of misconduct; (2) multiple offenses; and (3) harm to vulnerable victims.
- *Mitigating factors:* (1) no prior discipline; (2) full and free disclosure to the Board; (3) cooperation in the disciplinary proceedings; and (4) other penalties and sanctions resulting from the malpractice judgment.

Respondent's hearing testimony indicated acceptance of responsibility for his misconduct, remorse, and implementation of changes to his notarization practices.

Sanction:

- A. Fully stayed suspension
- B. Partially stayed suspension
- C. Actual suspension with no stay

Scenario #3—Sex-with-Client

Respondent stipulated to a violation of Rule 1.8(j) [solicit or engage in sexual activity with a client] arising from a sexual relationship with a client. The intimate relationship continued for more than two years after the initial client-lawyer relationship ended. After the intimate relationship ended, Respondent represented the client in two other matters and they remained friends for two years. Respondent testified that the client initiated the intimate relationship but he also admitted that the intimate relationship was inappropriate while he represented the client.

The Board found the following aggravating and mitigating factors:

- *Aggravating factor:* prior discipline. Respondent received a two-year suspension in 1996 for engaging in conduct that reflected adversely on his fitness to practice and failing to cooperate in the disciplinary investigation.
- *Mitigating factors:* (1) absence of a selfish or dishonest motive; (2) full and free disclosure to the Board; (3) cooperation in the disciplinary proceedings; (4) acknowledgement of wrongdoing; and (5) evidence of good character and reputation.

Sanction:

- A. Fully stayed suspension
- B. Partially stayed suspension
- C. Actual suspension with no stay

Scenario #4—Excessive Fee; Egregious Conduct

Respondent was contacted by the parents of a minor decedent regarding possible representation in a wrongful death matter. The parents sought to negotiate a settlement directly with the defendant-hospital and indicated a desire to retain counsel only if the settlement discussions failed. Respondent and the parents discussed a reduced contingent fee arrangement, but no fee agreement was signed. Respondent engaged in no settlement discussions with the defendant-hospital. However, he did spend approximately 15 hours discussing the settlement negotiations with the father, advising of the necessity to open an estate and obtain approval from the probate court of any monetary settlement, and preparing and filing the necessary documents to open the estate and have the father appointed as administrator.

After the parents negotiated a seven-figure settlement with the defendant-hospital, Respondent sought to have the parents sign the previously discussed contingent fee agreement. After the parents refused, Respondent had his law partner “play hardball” to pressure the parents into signing the contingent fee agreement. The partner prepared a petition to have the father removed as administrator, and the draft petition was delivered to the parents a few days before their first Christmas without their daughter. Although Respondent did not file the petition, he did file an application for attorney fees that was subsequently withdrawn. After the parents filed a motion for sanctions against the lawyer, Respondent agreed to make a substantial charitable donation in the name of the daughter and issued a letter of apology to the parents.

Respondent stipulated and the Board found violations of Rule 1.5(a) [an illegal or clearly excessive fee] and 8.4(h) [conduct reflecting adversely on a lawyer’s fitness to practice law]. The former finding was based on Respondent’s attempt to collect a 20 percent contingent fee to which the client had not agreed and that was well in excess of the 15 hours Respondent spent on the matter. The latter finding was predicated on circulating the removal petition that accused the father of being a fraud and a liar.

The Board found the following aggravating and mitigating factors:

- *Aggravating factors:* (1) a selfish motive; and (2) harm to vulnerable victims.
- *Mitigating factors:* (1) no prior discipline; (2) full and free disclosure to the Board; (3) cooperation in the disciplinary proceedings; (4) timely and good faith effort to rectify the consequences of misconduct; and (5) evidence of good character and reputation.

Sanction:

- A. Public reprimand
- B. Fully stayed suspension
- C. Partially stayed suspension
- D. Actual suspension with no stay

Scenario #5—Ex Parte Communications

Respondent engaged in a series of *ex parte* communications with an individual regarding multiple cases pending before the judge. Some 30 years prior to the events that gave rise to the disciplinary complaint, Respondent was the litigant's probation officer.

Respondent presided over the former probationer's criminal case, during which he disclosed the existence of the prior relationship with the defendant and secured the parties' consent to his participation. Shortly after Respondent accepted a plea agreement and sentenced the defendant, Respondent and the defendant "friended" each other on social media and regularly communicated with each other via social media for a five-month period. The social media communications included:

- Messages regarding a drug case over which Respondent was presiding. The former probationer told Respondent that the defendant had sold drugs to the former probationer's daughter and asked Respondent to not "set a bond [the defendant] can make."
- An exchange of messages regarding the former probationer's child custody matter that included substantive information about a pending custody transfer motion. One message included an invitation to a family dinner.
- Messages inquiring into the possible modification of an existing protection order to allow the former probationer to attend his mother's funeral where protected persons would be in attendance. These messages continued after a motion to modify the order was filed and after the protected persons lodged objections to the modification. Respondent granted the motion without conducting a hearing.
- After the former probationer was injured in a motor vehicle accident, he communicated with Respondent about the nature of his injuries and expressed opinions regarding the other driver's criminal case pending before Respondent. Respondent presided over the case without disclosing the communications and placed the defendant-driver in a diversion program.

Respondent stipulated and the Board found violations of the following provisions of the Code of Judicial Conduct: Rule 1.2 [act in a manner that promotes public confidence in the judiciary and avoid impropriety and the appearance of impropriety]; Rule 2.2 [requiring a judge to uphold and apply the law and perform all judicial duties fairly and impartially]; Rule 2.9(A) [prohibiting *ex parte* communications]; Rule 2.9(B) [requiring a judge who receives an unauthorized *ex parte* communication to disclose the communication to the parties and provide them with an opportunity to respond]; and Rule 2.11(A) [failure to disqualify from a matter in which the judge's impartiality might reasonably be questioned].

The Board found the following aggravating and mitigating factors:

- *Aggravating factor:* a pattern of misconduct and multiple offenses.
- *Mitigating factors:* (1) no prior discipline; (2) full and free disclosure to the Board; (3) cooperation in the disciplinary proceedings; (4) absence of a selfish or dishonest motive; (5) remorse and remedial actions (termination of social media accounts); and (6) evidence of good character and reputation.

PMBR UPDATE


PMBR Update

Joseph M. Caligiuri
Office of Disciplinary Counsel

1

What is PMBR?

- “Proactive Management-Based Regulation”
- Goal: Prevention rather than reaction and prosecution
 - Avoid misconduct and minimize malpractice liability
 - Enhance competency and improve practice
 - Self-assessment based
 - Both public protection and lawyer assistance
- Conference of Chief Justices
 - 2019 Resolution: In Support of Proactive Management-Based Ethical Lawyer Regulation
- American Bar Association
 - 2019 Resolution: Urging states to study and adopt PMBR



2


Proactive Regulation: Existing Examples

- Continuing legal education
- Ethics hotlines
- Assistance for impaired lawyers
- New lawyer training
- Mentoring
- Articles and Newsletters
- Practice tips



3







PMBR Focus = Law Practice Management



- Three areas of emphasis
 - Proactive initiatives as a complement to discipline
 - Address the ethical infrastructure that is the responsibility of law firm management
 - Establish collaborative relationships between regulators and service providers
- Risk-based approach
 - Primary concern: lawyers who do not carry malpractice insurance (states have been reluctant to adopt mandatory insurance)
 - Typically solo/small firm practitioners

4

PMBR in Other States

<p>Illinois</p> <ul style="list-style-type: none"> • The first state to adopt PMBR - January 25, 2017 • The model for Ohio's program • Every two years, lawyers who represent at least one private client and do not maintain malpractice insurance must complete the PMBR program OR obtain insurance and report • Tied to registration • Mandatory if at least one private client 	<p>Colorado</p> <ul style="list-style-type: none"> • Adopted in 2017 • Comprehensive online self-assessment survey • Incorporates 10 core practice principles • Confidential • May follow up with peer review • Voluntary • Developing incentives for participation 	<p>Other Voluntary States</p> <ul style="list-style-type: none"> • Patterned on Colorado's self-assessment model • Iowa • New Mexico • Wisconsin • Tennessee    
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5

Committee to Study PMBR



- Early 2021: ODC assembled a committee to consider PMBR for Ohio
- Members represented
 - ODC
 - Board of Professional Conduct
 - Bar counsel
 - Discipline defense bar
- Monthly meetings
- Reviewed other state programs, PMBR literature, ABA and NOBC recommendations, discipline statistics for solo and small firm practitioners
- Met with Illinois PMBR coordinator and watched Illinois educational modules
- Presented rule proposal to the Supreme Court; published for public comment

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Rule Amendments

- March 2, 2023: Supreme Court adopts PMBR and amendments to Gov.Bar R. V and VI (effective January 1, 2025)
- New registration requirements
 - Whether professional liability insurance
 - If solo practitioner, whether succession plan
 - Other states/territories of admission
- New registration consequences for 2025-2027
 - If no insurance and engaged in the private practice of law
 - Complete ODC's free online education course on the ethical operation of a law practice
 - Information regarding participation is confidential
- Lawyer is prevented from registering when:
 - Failure to complete the ODC course OR
 - Failure to obtain professional liability insurance



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How Does It Work?



- Starting in 2025-2027 registration biennium and every two years
- Attorneys engaged in the private practice of law as defined
 - Carry professional liability insurance OR
 - Take the *free, online* PMBR course (for CLE credit)
 - *Before* registration
- Participation is confidential (aggregate statistics are permitted)

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Attorneys Exempt from the PMBR Requirement

- Registered as corporate counsel
- Employed by an organizational client or governmental entity and does not represent clients outside that capacity
- Registered as a military legal assistance attorney
- Registered as an emeritus pro bono attorney
- No longer practicing law in any capacity
- Newly admitted and in the first registration biennium



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Sample PMBR Course Topics



- Conflicts of Interest
 - The Lawyer's Own Interests
 - Informed Consent
- Advertising and Technology
- Securing Documents from Alteration and Disclosure
- Social Media and the Practice of Law
- Time and Billing
- Civility
- Ethical Implications of the Virtual Practice of Law
- Stress Management and the Practice of Law
- Duty to Report Professional Misconduct
- Record Retention
- Practice Management Software Alternatives
- Securing Communications

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Answers to FAQs

- Because the effective date is January 1, 2025, the rule language must be accessed here: [https://www.supremecourt.ohio.gov/ruleamendments/documents/PMBR%20\(A%20Adopted\).pdf](https://www.supremecourt.ohio.gov/ruleamendments/documents/PMBR%20(A%20Adopted).pdf)
- Private practice attorneys without insurance must complete the PMBR course every two years
- The PMBR course will be available online and on demand in early 2025
- All Ohio attorneys will be able to take the PMBR course for free CLE credit
- Attorneys not engaged in the practice of law may still register as active
- Attorneys who only represent family members ARE engaged in the private practice of law
- Part-time judges and magistrates who are engaged in the private practice of law are subject to the PMBR requirements

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What's Next?

- ODC is required by rule to establish the PMBR course
- Supreme Court approved hiring of part-time PMBR Program Manager
- ODC will post Program Manager position fall 2023
- 2024: PMBR course development and production
- Early 2025: PMBR course launch
- 2025-2027 registration biennium and beyond
 - Registration will not be permitted if PMBR requirements (insurance or course) are not met
 - Registration suspensions will be in play
- Attorneys who report the lack of a succession plan will receive the BPC's Ethics Guide



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Conference of Chief Justices

PMBR is “principled, proactive, and proportionate regulation which is risk focused, self-assessment based and aimed at protecting the public as well as assisting lawyers.”



**CASE TRENDS
UPDATE**

Miller Becker
Disciplinary Case Trends

Kristi R. McAnaul (Board Counsel) and D. Allan Asbury (Board Senior Counsel)

I. Sex With Clients

[ODC v. Russ, 2023-Ohio-1337](#)

Two-year suspension, one year stayed.

Respondent was appointed to represent C.L. against allegations that her newborn daughter was an abused, neglected, or dependent child. Respondent began communicating with her by text message and offered her a job working in his law office. He offered to serve as a father figure but also expressed solicitations of a sexual relationship and indicated that he was sexually attracted to her. He confessed to her that he wanted a young girlfriend about the age of his daughter to share a father/daughter dynamic in and out of the bedroom. C.L. later disclosed Respondent's sexual advances to a GAL assigned to the case. The GAL filed a grievance. Respondent later alleged that C.L. had initiated the inappropriate communications in an attempt to blackmail or "get leverage" on him. He acknowledged at the hearing that he wanted to hire C.L. to earn her trust and further his efforts to engage in a sexual relationship with her.

[ODC v. Cox, 2022-Ohio-784](#)

Two-year suspension, one year stayed

Respondent's client disclosed to his firm that he had engaged in a sexual relationship with her prior to withdrawing from her divorce case. Respondent initially denied engaging in any misconduct but acknowledged at his hearing of sending "wildly inappropriate" sexual text messages and emails to the client. The panel found Respondent was untruthful about the existence of any inappropriate sexual relationship with the client during Relator's investigation and that he lied in his deposition testimony. Respondent initially denied that an email address that bore his full name belonged to him and also denied using the account to exchange emails with the client. Respondent admitted at hearing that it was possible that he had sent the emails to the client from the email address. The panel also found that Respondent's phone records corroborated the client's testimony and proved that he did not testify truthfully at the hearing. The phone records established that Respondent was in the same small town as the client on the night that she testified that she and Respondent had engaged in sexual intercourse. Respondent also testified that he was entirely responsible for the text messages sent to the client, occasionally stated that he did not dispute the text messages were from him, but more often than not equivocated, stating that he could not say "for sure."

[ODC v. Mager, Case No. 2021-021](#)

Six-month suspension, stayed

Respondent was retained to represent a client in a divorce action. Both she and the client met and spoke on several occasions about the pending divorce. During some of the conversations personal matters were discussed. In October 2019, Respondent and her client exchanged

intimate text messages and engaged in sexual intercourse. Two days after the sexual encounter, the client and his wife had a verbal and physical altercation. Later that day, the client was found deceased in the marital residence and his death was determined to be a suicide.

[ODC v. Noble, 2022-Ohio-2190](#)

One-year suspension, six months stayed

Respondent engaged in a sexual relationship with a divorce client for two years. The spouse's counsel asked Respondent if he was having an affair with his client, which he denied. He later told his client that he had lied to opposing counsel and withdrew from the case. When Respondent was campaigning as a judicial candidate he attempted to reconcile with his ex-wife. He did not tell her that he was dating the client and did not want the information to become public knowledge. Later, the client's husband, D.P., a police officer, confronted Respondent. Respondent's ex-wife found a flirtatious text message on Respondent's cell phone from his client and confronted him. He denied a physical relationship but said that the client's ex-husband had accused him of having an affair. Respondent's ex-wife reached out to D.P. to obtain more information about the alleged affair. Prior to the meeting, a man approached her and said that he knew her and her husband. Later, she received an envelope in her mailbox, containing a letter purportedly written by the client that detailed the affair, a photo of Respondent and the client at a reception table, and a picture of a man and woman engaging in sexual intercourse. Suspecting a connection between the man and D.P., Respondent's ex-wife suggested a meeting between her, Respondent, D.P., and the police chief. During the meeting, Respondent misrepresented the nature of his relationship with the client. Respondent and his ex-wife both filed written personnel complaints against D.P., who was eventually cleared of any wrongdoing. Misdemeanor counts of falsification and making false alarms were filed and later dismissed against Respondent. Respondent's ex-wife pleaded guilty to an amended charge of disorderly conduct, a minor misdemeanor. Respondent later petitioned to seal the record in his dismissed case. When cross-examined, Respondent testified that he did not lie to the police chief. The court denied the petition, noting that Respondent had admitted to lying to the police and that the statute of limitations for the dismissed charges had not elapsed.

[ODC v. Porter, 2021-Ohio-4352](#)

Two-year suspension, one year stayed

Respondent began to exchange inappropriate and sexually suggestive text messages with a divorce client. He filed a motion for contempt against the client's spouse and included an affidavit that he notarized that was purportedly signed by the client. Respondent began a sexual relationship with the client when she flew to Ohio to attend postdecree hearings. The Respondent broke off the relationship and the client informed his law firm of the improper conduct. The firm instructed Respondent to withdraw from the case, reimburse the client, and self-report his violations to Relator. In a second count, Respondent was retained to represent a spouse charged with domestic violence. After a favorable ruling in her case, she invited Respondent to dinner and they later engaged in sex. When Respondent reported his relationship with the first client to his employer, he failed to disclose conduct with another client. After the relationship ended, the client filed a grievance. In response, he falsely and repeatedly stated

that the relationship did not begin until his employer removed him from the case. He later admitted his response was a fabrication.

[ODC v. Carter, Case No. 2023-169](#)

Pending before the Supreme Court.

II. False Statements to Tribunal

Notarization Problems

[ODC v. Porter, 2021-Ohio-4352](#)

Two-year suspension, one year stayed

See discussion *supra*.

[Columbus Bar Assn. v. Davis, 2022-Ohio-1286](#)

Sanction: One-year, stayed suspension.

Respondent filed a dissolution for a client one year after he was retained. The case was dismissed because Respondent failed to file additional financial documents. Respondent initially assured the client that he would get the case reinstated. Thereafter, Respondent stopped taking telephone calls from the client. He eventually told the client that he had mailed the documents to refile the case. When the client contacted the court two weeks later, she was informed that no additional paperwork had been filed. When contacted by the client, he again promised that the paperwork would be filed. In a second count, Respondent admitted that he forged and falsely notarized the signatures of the client and her husband on their financial-disclosure affidavits filed with the court.

[Mahoning Cty. Bar Assn. v. Macejko, 2022-Ohio-322](#)

Dismissed

The Court dismissed the case. Respondent was originally charged with Prof.Cond.R. 8.4(c) for notarizing unsigned powers of attorney, one of which was later signed outside of Respondent's presence.

[ODC v. Jarvis, 2022-Ohio-3936](#)

Eighteen-month, stayed suspension

Frank Balcar's wife Lenore and daughter Karen met with Respondent after Frank suffered a stroke. Respondent told them that he could create an irrevocable trust, apply for Medicaid on Frank's behalf and protect their assets. However, Respondent did not advise Karen of the Medicaid "lookback" or "penalty" period of 16 months, other than to say the period was "very short." Karen paid Respondent \$7,500 but did not enter into a written fee agreement. Respondent drafted an irrevocable trust, wills, durable powers of attorney, and other estate planning documents. One of Respondent's staff members met with Frank at a nursing home and had him sign the power of attorney. At no time did Respondent explain to Lenore the purpose of the estate-planning documents or ascertain if Frank had the capacity to or wanted to sign the documents. Respondent later directed his assistant, who was not an Ohio notary, to meet with Frank to sign some documents. Respondent later backdated and falsely notarized the documents. The Ohio Department of Job and Family Services later determined that the

application filed for Medicaid on Frank's behalf was incomplete. Frank died without qualifying or receiving Medicaid benefits.

[ODC v. Smith, 2022-Ohio-840](#)

Two-year suspension, six months stayed

In one count, Respondent represented a client in multiple criminal cases. He presented her with a standard plea-in-abstentia form to change her pleas in several cases, but she did not sign the document. Respondent later signed his client's name and notarized it. The client testified that she did not give Respondent permission to sign the document for her.

Other False Statements

[Lorain Cty Bar Assn. v. Nelson, 2022-Ohio-1288](#)

Two-year suspension, one year stayed

After Respondent was reinstated to the practice of law in July 2018, he contacted Relator about its Modest Means Program, a referral service intended to provide affordable legal representation. Lawyers participating in the program agree to accept a \$500 retainer and to bill clients at a rate of \$75 per hour. Respondent accepted 18 referrals with the program. In April 2020, Relator served Respondent with a notice advising him of the belief that he had violated the terms of his monitored probation and IOLTA rules. After a meeting with the ethics committee to explain his conduct, Respondent filed an application with the Supreme Court to terminate his probation, falsely stating he had complied with all the conditions of his probation. During the hearing, Respondent maintained that he believed that the retainers in the Modest Means Program were earned upon receipt, and thus he did not deposit the retainers in his IOLTA. He also claimed that he used a fee agreement that designated the funds as earned upon receipt. When Relator requested production of all of Respondent's fee agreements, he claimed that they had been misplaced following his evacuation of his law office in downtown Cleveland in May 2020. The Board dismissed the allegations concerning the production of the fee agreements but found that the allegations constituted aggravating factors.

[ODC v. Jancura, 2022-Ohio-3189](#)

Two-year suspension, one year stayed

Respondent created a revocable trust for her cousin (and his wife) who died two years later. Respondent revised the trust to designate the widow's mother as successor trustee and revised the widow's will to name her mother as guardian of minor children. Respondent was retained to represent the grandmother as trustee and guardian. The paternal grandmother of the minor children, Respondent's aunt, died, making the children the sole heirs to her estate. Respondent applied to administer her aunt's estate. Based on the value of the estate, Respondent would have been entitled to approximately \$6,000 in fiduciary fees and another \$6,000 in attorney fees, but a local rule would have capped all fees incurred to \$9,000. Respondent made a distribution to the heirs and a distribution of \$10,000 to her firm for legal fees related to her representation of the guardian of the children. Later, she issued a \$5,200 check, payable to cash from the estate account, cashed the check, and used the proceeds to purchase a cashier's check payable to James Keplar to purchase a 2003 BMW. Additional withdrawals amounted

to \$27,200 for Respondent's fees. In a later motion for attorney fees, Respondent filed a partial fiduciary account that included a false entry to conceal her \$5,200 misappropriation. The entry stated the amount was paid for work performed for the decedent prior to death. A lawyer was retained by the guardian/trustee to review the estate's record who then requested an accounting of numerous expenses, including the payment to Keplar. Respondent sent a letter to the lawyer knowing the content was false and in response to a request for additional information, provided two fabricated receipts. The guardian/trustee filed a motion seeking Respondent's removal as administrator of the estate and an order refunding fees. Respondent withdrew as administrator, repaid the misappropriated \$5,200, \$12,000 in fees for the administration of the estate, and \$10,000 in fees for work related to the guardianship and trust.

[ODC v. Noble, 2022-Ohio-2190](#)

One-year suspension, six months stayed

See discussion *supra*.

III. Courtroom / Case Misconduct

Case Mismanagement

[ODC v. Stobbs, 2023-Ohio-1719](#)

Eighteen-month suspension, twelve months stayed.

Respondent was retained by Judy Davis who sought a declaratory judgment in Hocking County Common Pleas Court that R.C. 5312 did not apply to property that is part of a campground. The defendant's motion to dismiss was granted because Respondent failed to join all necessary parties. Respondent filed a series of subsequent motions that were all overruled by the court that found they were filed in bad faith, had no basis in law or fact, and ordered Respondent to pay \$5,812.50 in attorney fees. In a separate count, Respondent was retained by another client seeking declaratory relief about the same campground property. Respondent planned to file a complaint against Davis in Franklin County. The complaint contained false statements and contradicted positions Respondent had made in the Hocking County case. Respondent failed to name all affected parties in the Franklin County case, substituted Davis for them, drafted her answer, filed it, and falsely represented that Davis acted pro se, when Respondent represented her at all times. Franklin County Judge Jodi Thomas testified that Respondent approached her as duty judge, presented her with an unfiled joint motion for declaratory judgment and a proposed entry. Based on his answers to questions about whom he represented, she declined to sign the entry and dismissed the case for lack of subject-matter jurisdiction. Respondent later presented the same motion and entry to another judge, who approved, but later vacated the entry. In a second count, Respondent represented a client charged with receiving stolen property, a gun specification, and aggravated possession of drugs. The judge dismissed a motion to dismiss because Respondent cited no legal authority and used his own version of the facts. During a hearing, Respondent interrupted the judge stating, "You do not understand the argument." The judge testified Respondent filed a motion to continue that was a for a dilatory purpose and his tone, demeanor, and interruptions were disrespectful.

Respect for Rights of Third Persons

ODC v. O’Diam, 2023-Ohio-1118

Six-month, stayed suspension

Respondent is the daughter of the county probate judge and was retained to represent an executor in the administration of an estate. Due to the familial relationship, Respondent’s paralegal sent waivers to each beneficiary of the estate. One beneficiary, David Buccalo signed the waiver, but later appeared at a public meeting of the county board of commissioners stating that the judge should recuse himself in matters involving his daughter. The judge learned of the comments, informed his daughter of the comments, and raised concerns about the validity of the waivers. He ordered a status conference of all parties. Respondent indicated in an email to another lawyer that she was not pleased that her ethics were being maligned and that Buccalo had attempted to make her family look bad. At the status hearing, the judge played a recording of Buccalo’s comments, called him to the stand, and placed him under oath. He examined Buccalo for nearly an hour and allowed Respondent to question Buccalo without restriction and at times assisted her. The judge recused himself from the case at the conclusion of the status conference. Buccalo testified that he felt he was being “berated and beaten up” and “humiliated” and that Respondent’s tone and demeanor was aggressive, mean, angry, and demeaning. When the estate was closed, Buccalo failed to deposit two distribution checks that were issued to him and a brother for whom he served as guardian. In copying the magistrate handling the guardianship, Respondent alleged in a letter to coguardians that Buccalo was financially abusive to a ward of the court, breached his fiduciary duties, and ignored his duties as a trustee. The letter triggered a criminal investigation, although Respondent did not believe Buccalo had engaged in criminal conduct.

OLAP Referral to Gain an Advantage in Civil Matter

ODC v. Whipple, 2022-Ohio-510

One-year suspension, six months stayed

Respondent was retained by a client to challenge the validity of a second durable power of attorney signed by Respondent’s friend and former colleague naming other family members as agents and co-trustees. A lawsuit was eventually filed and lawyer Roger Synenberg entered an appearance on behalf of the defendants. A settlement was entered into and the court awaited the filing of a dismissal entry. Synenberg later began to question whether Respondent’s client was competent to sign the agreement and the court directed Respondent to obtain a medical professional’s opinion of the client’s competency. Synenberg later indicated that his clients did not intend to drop the issue. Respondent then filed a motion alleging that Synenberg’s performance and fitness as a lawyer were impaired by a mental or emotional condition as demonstrated by certain acts allegedly undertaken by Synenberg. Some of the statements were false and defamatory statements or clear misrepresentations. The motion recommended that the court refer Synenberg to OLAP. During the hearing, Respondent insisted that if the defendants signed a stipulated dismissal order without further examination of his client’s competency, then the presiding judge would not have to act on his motion. He stated that if the dismissal order was not signed, then he desired to present his motion regarding Synenberg.

IV. Judicial Misconduct

[ODC v. Carr, 2022-Ohio-3633](#)

Indefinite suspension

Respondent refused to follow an administrative order issued by her administrative and presiding judge to delay cases due to the COVID pandemic. She issued capias warrants and issued bonds for defendants who did not appear in court. She later denied to the press that she had issued any warrants. Respondent also stipulated that in 34 cases she had engaged in *ex parte* communication, improper pleading with defendants, and made arbitrary rulings, sometimes without the prosecutor present. In some cases she unilaterally amended charges and issued journal entries that falsely attributed the amendment to the prosecutor. She failed to follow a local court rule for the setting of ability-to-pay hearings, resulting in capias warrants to issue –thereby ensuring that defendants would be arrested and held on bonds. Respondent did not maintain the requisite decorum and demeanor in her courtroom, including her own courtroom attire, and often treated courtroom participants and staff inappropriately. She held a defendant in contempt when she had not engaged in conduct that was an immediate threat to the administration of justice and placed her in the holding cell for several hours. In one instance, she engaged in dialogue with defendants about accepting kickbacks on fines or arranging “hookups” for herself and her staff.

[ODC v. Lemons, 2022-Ohio-3625](#)

Public reprimand

A member of Respondent’s staff was contacted by a school resource officer concerning the well-being of children in custody of D.M. The staff member visited the home with a Scioto County Children Services Board (“SCCSB”) caseworker and found that the water in D.M.’s home had been shut off, the toilet was overflowing, there were no beds, the refrigerator did not work, and the floor was littered with dog feces. The staff member informed Respondent of his observations. SCCSB made an initial decision not to remove the children from the home. Respondent later contacted the SCCSB caseworker. The next day, accompanied by law-enforcement officers, Respondent conducted his own investigation of the residence. He confirmed the same conditions his staff member had observed in addition to other problems. After the investigation, Respondent issued an entry finding that the children in D.M.’s home were in imminent danger and ordered children’s services to place the children in its temporary custody and investigate the matter. A hearing was scheduled for three days later but was not held because SCCSB had not completed its investigation. After a new complaint was filed by SCCSB, Respondent issued an *ex parte* order giving SCCSB custody of the children. At the probable-cause hearing, Respondent never informed the parties that he had visited D.M.’s residence but did mention the conditions of the home. Respondent admitted at hearing that he should not have independently investigated the facts in the matter and should have recused himself from the case.

[ODC v. Berry, 2021-Ohio-3864](#)

Six-month, stayed suspension

Respondent sent a Facebook friend request to a new court reporter, Jane Doe. Doe was not assigned to his courtroom but accepted the request. Respondent and Doe began to exchange messages and Respondent invited her to meet in person in his chambers. Additional messages

were exchanged concerning various topics including their respective divorces. Respondent then asked for Doe's cellphone number and suggested that they talk over the weekend. The parties stipulated that if Doe had testified she would have stated that she gave her phone number because she felt like she could not refuse, considering Respondent's status as judge. Respondent called Doe and she stated that he sounded intoxicated and used profanity. He also asked her out to lunch but she declined. He later sent her a message that he had an "offer you can't refuse" and would have offered her tickets to an event for her and her children. He later sent Doe a message asking her out for lunch or drinks. Doe did not reply to his message. Out of 72 subsequent messages she replied to only 15. The majority of the messages were partisan and vulgar, and some contained videos of offensive or sexually suggestive content. Doe brought the messages to the attention of her supervisor and a colleague, who both informed court administration.

[ODC v. Repp, 2021-Ohio-3923](#)

One-year suspension

A woman, A.O., entered Respondent's courtroom to observe the hearing of her daughters' father, T.D. He had been arrested the day before for violating his probation and failing to appear in a county drug-court program. The judge noticed A.O. in the courtroom and after an unrelated defendant said he did not believe in using drugs, the judge stated "That's good. I wish all of us could say that. Right, A.O.?" Before Respondent called the next case, he stated that he felt A.O. was under the influence and wanted her tested. A bailiff directed her to follow him to the probation department to have a drug test administered. She asked for a lawyer but was denied because she was not under arrest. A.O. declined the drug test and Respondent held her in contempt for ten days. At jail she was forced to take a pregnancy test and undergo two-full-body scans with male officers present. A.O.'s retained defense counsel filed a motion to stay her sentence pending appeal. The prosecutor filed a motion to vacate Respondent's contempt finding on the grounds that it was not supported by law and violated the Ohio and United States Constitutions. After the hearing, A.O. was released from jail. The appeals court reversed Respondent, finding the record to be "devoid of any specific observations or findings by [Respondent] of [A.O.'s] conduct in the courtroom *****" and that his actions were an invalid exercise of contempt power.

V. Judicial Criticism

[Cleveland Metro. Bar Assn. v. Morton, 2021-Ohio-4095.](#)

One-year suspension, six months stayed

Respondent appealed a Board of Tax Appeals decision on behalf of a client to the Eighth District Court of Appeals. Because Respondent failed to present a current value of the subject property's value, the court of appeals held that the BTA's decision was reasonable and lawful. Respondent next sought a discretionary review of the court of appeals' decision. He argued in his memorandum in support of jurisdiction that the Supreme Court's prior decision in *Moskowitz v. Cuyahoga Cty. Bd. of Revision* was wrongly decided, had applied its own burden of proof, and that the Court should have supported its decision with "solid case law." He also stated that the Court intentionally misstated the holdings of cases cited and criticized the Court for accusing him of "being disingenuous in his view" of the BTA's citation to a case. Additionally, he accused the Supreme Court of seeking to achieve its own political agenda in

a prior BTA decision. Respondent also criticized two justices for favoring the government at the expense of the taxpayers and Constitution. He stated that the decision in *Moskowitz* was delayed to permit the retirement of certain justices.

Columbus Bar Assn. v. Bahan, 2022-Ohio-1210

Six-month, stayed suspension

Respondent attended an annual bar association holiday event in December 2018. During the presentation of a “mock award” to a sitting judge, she loudly and rudely interrupted the presentation and called the judge a “piece of shit,” “asshole,” and a “motherfucker.” Respondent had consumed alcohol at the event and appeared to be intoxicated. Over a nine-year period, Respondent had engaged in several incidents of improper conduct while under the influence of alcohol that were prejudicial to the administration of justice, including falsely reporting to the sheriff’s office that her husband had stolen her vehicle, reporting that her son had stolen her iPad, even though he had permission to use the device, and conducting a home visit as a GAL after consuming a glass of wine. Respondent was cited for disorderly conduct for the iPad incident, but the charge was later dismissed.

ODC v. Stobbs, 2023-Ohio-1719

See discussion *supra*.

ODC v. Hoover, 2022-Ohio-769

Two-year suspension

Respondent rented out several units on property he owned. His son managed the rentals. Respondent was diagnosed with bipolar disorder and testified that he had refused to take any medication between 2001-2019. During the summer of 2019 he met Jason Pelfrey while working in one of his garages on the property and was informed that he was renting an apartment from Respondent’s son. In October 2019, Respondent noticed that someone had accessed a building on the property without authorization. He retrieved a 12-gauge shotgun and began shouting for anyone present to identify themselves. He recognized everyone he met as a current tenant until he encountered Pelfrey. He demanded that Pelfrey identify himself, accused him of breaking into buildings, not paying rent, and told him to leave the premises. Pelfrey refused to leave and locked himself in his apartment. Respondent later grabbed a baseball bat and shattered a sliding glass door to the apartment. He was arrested and posted bond. He was later indicted on two first-degree felony counts of aggravated burglary with firearm specifications and a first-degree misdemeanor count of aggravated menacing. Several months later he posted a derogatory message on Facebook about the judge who arraigned him and blamed him for the criminal charges that were pending. He failed to appear for a hearing and a warrant was issued for his arrest. After being transferred and involuntarily held at a behavioral healthcare facility, he underwent treatment to restore his competency. He later pleaded guilty to one third-degree felony count of burglary and a first-degree misdemeanor charge of aggravated menacing. He was sentenced to three years of intensive community control and ordered to remain in counseling and take his prescribed medication.

VI. Odds and Ends/Personal Misconduct

[Butler Cty. Bar Assn. v. Blauvelt, 2022-Ohio-2108](#)

Two-year suspension

Respondent was convicted of three counts of public indecency in September 2020. The same misconduct had been the subject of a prior disciplinary case that resulted in a two-year, stayed suspension. Respondent admitted that during the first seven months of the prior suspension he was charged with three additional incidents of public indecency for driving nude and exposing himself to motorists – twice while masturbating. He was found guilty of all three charges. His sentences included fines, partially or suspended jail terms, and terms of probation. Respondent also admitted that he had engaged in other similar incidents of public indecency but was not apprehended. At the disciplinary hearing, Respondent testified that he intends to complete the full two years of an outpatient treatment program, but recognized that his mental-health disorders will likely persist throughout his life.

[Columbus Bar Assn. v. Jones, 2021-Ohio-4070](#)

Six-month, stayed suspension

Respondent claimed that Sean McKee, who had begun dating his estranged wife, left him a threatening voicemail. McKee was employed in the men's-clothing business and used the brand names "The Haberdasher Club" and "Alphasuit." Respondent, without notifying McKee, incorporated two businesses with the same brand names. Upon discovering the filings, McKee filed a grievance. In response to the grievance, Respondent falsely stated that he had filed the articles of incorporation to protect McKee's business from "trademark bullying" and that one filing was to form a debt purchasing company to purchase charged off automobile loans from banks. Respondent later dissolved the two companies and admitted he had incorporated the entities to retaliate against McKee for dating his wife. After Respondent learned of McKee's grievance, he sent his then ex-wife hostile text messages about the grievance and his financial support of her. One of the messages threatened retaliation against McKee. Another text message stated that his law licenses supported her and their children and that McKee's false allegations threatened the family's security.

[ODC v. Reed, 2023-Ohio-1420](#)

Indefinite suspension

Respondent pleaded guilty to amended counts of attempted burglary (a third-degree felony), trespassing in a habitation (a fourth-degree felony), domestic violence, attempted failure to comply with an order of an officer, and OVI and was sentenced to 24 months and 18 months in prison to be served concurrently. In a second count, Relator alleged Respondent was paid \$7,000 to represent a client in a criminal matter, but did not deposit the payment in his trust account. He did not inform his client of a plea offer. He also did not appear for a pretrial conference for another client because he was "passed-out drunk", but falsely informed the judge he did not attend because he did not have his client's file.

[Cincinnati Bar Assn. v. Ludwig, 2021-Ohio-3971](#)

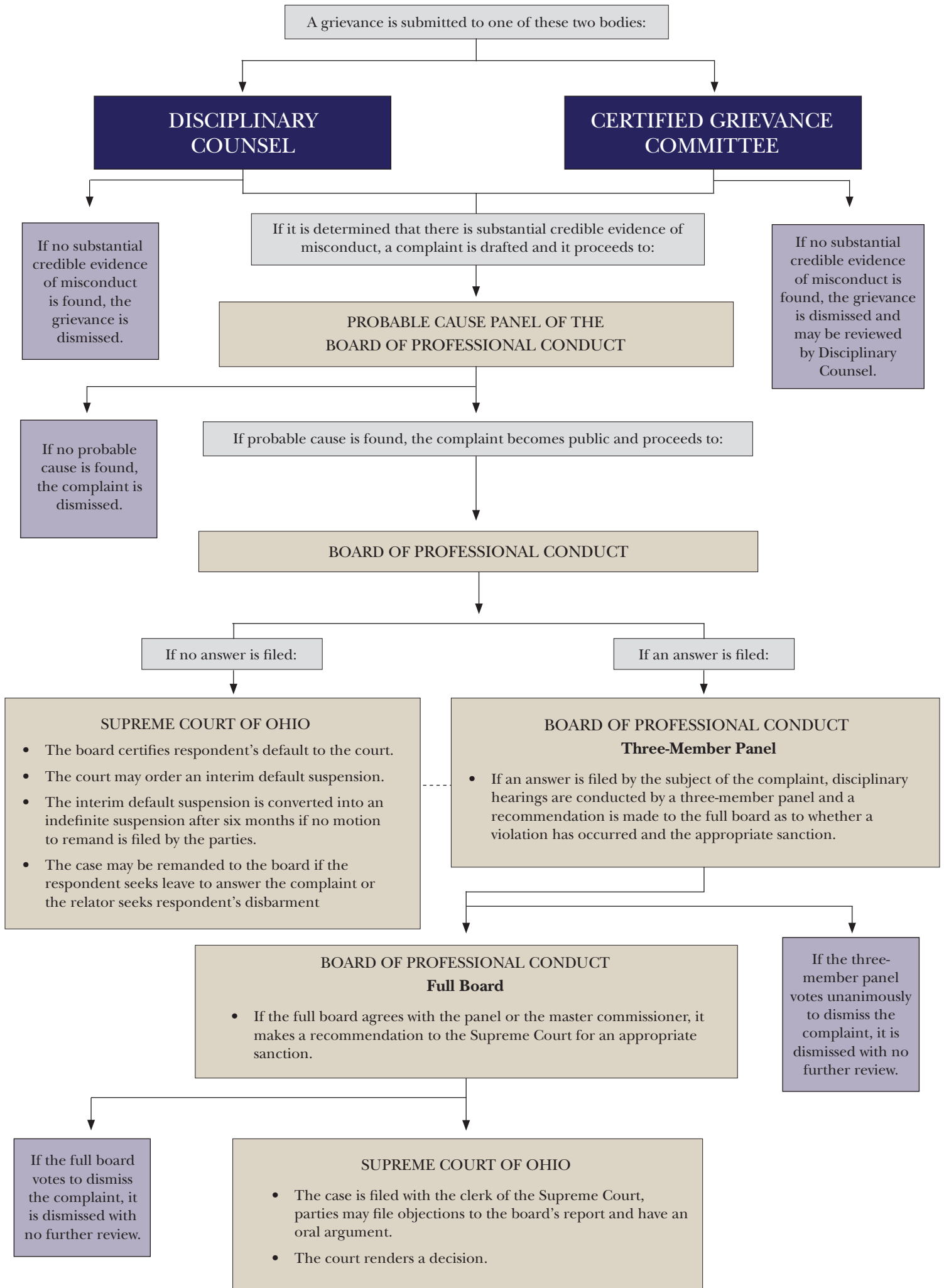
Two-year suspension

Respondent accepted a retainer fee from a client, endorsed, and cashed the check without notifying the firm. She did not attend a hearing with the client, instructing him to attend the hearing alone. Respondent left her firm and began to practice as a sole practitioner. She did not carry malpractice insurance, failed to provide her client with notice of that fact, failed to maintain an IOLTA, and failed to hold her client's retainer in the IOLTA. She later asked her client to help her pay her electric bill and buy school supplies for her children. After her attorney-registration suspension she informed her client that she would withdraw from the case but failed to file a withdrawal or substitution of counsel with the court. She failed to return the client's file until several months later and owed the client restitution. In a second count, Respondent joined a new law firm and signed a fee agreement with a client. She failed to deposit the client's retainer in an IOLTA. The fee and agreement were either lost or stolen. After a month, the client contacted the firm to inquire about the status of her matter. The firm notified the client that Respondent had left the firm and the firm had no record of the client. The file was not returned to the client because Respondent had lost it. In a third matter in juvenile court, Respondent seldom returned the client's phone calls and informed her that she was free to obtain another lawyer. Respondent told the client that she, her child, and fiancé needed to fly to Cincinnati for a hearing. Respondent was 30 minutes late for the hearing. The client would have testified that Respondent was not prepared for the hearing, did not initiate or participate in settlement discussions, nor was prepared to negotiate a settlement on her behalf. During this time, Respondent experienced a serious electrical fire at her home that led to her becoming distracted, tired, and deeply depressed.

**DISCIPLINARY
PROCESS OVERVIEW**
(Optional)

DISCIPLINARY PROCESS

A grievance against a judge or attorney may be submitted to the Disciplinary Counsel or a certified grievance committee of a local bar association. If either of those bodies determines that substantial credible evidence of professional misconduct exists, a formal complaint is drafted. It then moves to a probable cause panel of the Board of Professional Conduct, which determines if there is probable cause. If the panel determines that there is probable cause, the formal complaint becomes public and is filed with the Board of Professional Conduct. Hearings are then conducted by the board and if it finds a violation, a recommendation is made to the Supreme Court of Ohio. The Supreme Court of Ohio makes the final decision as to findings of misconduct, and issues an appropriate sanction.





Ohio Board of Professional Conduct

Disciplinary Case Statistics 2020-2022

Supreme Court Decisions

(excluding defaults and reinstatements)

2020	2021	2022
55	47	31

Sanction Imposed

(excluding defaults)

Public reprimand
 Term suspension
 Indefinite suspension
 Disbarment
 Dismissal

2020	2021	2022
10	10	2
34	29	21
9	5	6
1	3	0
1	0	2

Court Action on Board-Recommended Sanction

Imposed recommended sanction

Modified recommended sanction

- Increased
- Decreased

2020	2021	2022
46 (84%)	46 (98%)	26 (84%)
9 (16%)	1 (2%)	5 (16%)
4	1	2
5	0	3

Court Action on Consent to Discipline Cases

(cases in which the Board recommended acceptance)

Accept with public reprimand
 Accept with term suspension
 Rejected and remanded

2020	2021	2022
2	7	0
5	6	4
0	0	0

Default Cases

Total defaults certified to SCO
 Interim suspension imposed
 Indefinite suspension imposed

2020	2021	2022
9	3	9
11	2	9
13	7	6



Ohio Board of Professional Conduct

Disciplinary Case Statistics 2020-2022

Respondent with Prior Discipline

(includes discipline for misconduct and suspensions for non-compliance with CLE or attorney registration requirements.)

2020	2021	2022
16 (29%)	13 (28%)	6 (19%)

License Reinstatements

Upon application

Upon petition:

- Granted
- Denied
- Withdrawn

2020	2021	2022
11	14	13
1	4	1
0	0	2
1	1	1

Judicial Misconduct Cases (Board Dispositions)

(includes all cases involving violations of the Code of Judicial Conduct when the respondent was a judicial officer or candidate at the time the misconduct occurred.)

Total

Rule V cases

Judicial campaign misconduct (expedited)

Dismissals

2020	2021	2022*
6	4	4
6	3	3
0	1	0
1	0	1

* Four judicial misconduct cases were pending as of 12/31/2022.

Miscellaneous Disciplinary Dispositions

Resignations with discipline pending accepted

Resignations with discipline pending denied

Interim remedial suspension imposed

Child support default suspension imposed

Interim felony suspension imposed

Impairment suspension imposed

Reciprocal discipline imposed

2020	2021	2022
13	12	9
1	0	0
5	3	3
0	1	0
8	3	8
1	0	0
4	4	2



Ohio Board of Professional Conduct

Disciplinary Case Statistics 2020-2022

Top Five Disciplinary Offenses of 2022

(based on total number of grievances opened for investigation and primary misconduct alleged)

1. Neglect/failure to protect client's interest
2. Judicial misconduct
3. Excessive fee
4. Misrepresentation/False Statement
5. Trial misconduct

2022
30%
12%
9%
8%
8%

Active Registered Attorneys

Awards to Victims of Lawyers by Lawyers' Fund for Client Protection

2020	2021	2022
44,387	43,626	44,399
\$387,416	\$545,891	\$998,363

Total Grievances Filed

Disciplinary Counsel (ODC)

Certified Grievance Committees (CGC)

Total Dismissals on Intake*

Dismissed after initial review by ODC

Dismissed after initial review by CGC

Total Grievances Investigated*

Opened for Investigation by ODC

Opened for Investigation by CGC

Complaints filed with the Board

2020	2021	2022**
2,994	3,454	3,697
2,067 (69%)	2,654 (77%)	2,719 (74%)
927 (31%)	801 (23%)	978 (26%)
661	801	668
228 (8%)	447 (13%)	285 (8%)
433 (14%)	354 (10%)	383 (10%)
2,333	2,653	3,029
1,839 (61%)	2,084 (60%)	2,434 (66%)
494 (16%)	570 (16%)	595 (16%)
72	39	45

* Percentages based on total grievances

** 2022 totals do not reflect missing quarterly reports from Miami and Portage grievance committees.

DISCIPLINARY PROCESS OVERVIEW

Richard A. Dove
Director
Board of Professional Conduct

Joseph M. Caligiuri
Disciplinary Counsel



1

GOV. BAR R. V

Three-tiered process:

- **Investigation**—grievance investigated by by Office of Disciplinary Counsel (ODC) or certified grievance committees (CGCs)
- **Adjudication**—formal complaint heard before Board of Professional Conduct (BPC)
- **Review and imposition of discipline**—Supreme Court



2

2022 STATISTICS

- 3,697 grievances filed; 74% with ODC, 26% with CGCs
- 18% of grievances dismissed on intake (DOI); 82% opened for investigation
- 45 formal complaints filed with the Board (pre-Covid average—65-70/year)



3

GRIEVANCE PROCESS

- Letter of Inquiry (LOI)
- Investigation—response to LOI, subpoenas, witness interviews, depositions
- Letter of Dismissal or Notice of Intent



4

LETTER OF INQUIRY

- Includes copy of grievance
- Written response within 2 weeks (may extend)
- Failure to respond—not a good idea
- Duty to cooperate



5

INVESTIGATION

- Response from attorney/judge
- Response may be provided to grievant
- Investigators @ ODC
- Subpoena power
- Witness interviews



6

FORMAL COMPLAINT

- Notice of intent
- Response from attorney/judge
- File with Board:
 - Complaint
 - Response, if any
 - Summary of investigation
 - Exhibits
- Waiver of probable cause



7

PROBABLE CAUSE

- Two, three-member panels, with alternates
- One panel meets each month
- Review materials submitted by relator
- Standard—substantial, credible evidence
- Options—certify, dismiss, certify in part/dismiss in part
- Appeal from dismissal



8

CERTIFICATION OF COMPLAINT

- If probable cause is found:
 - Complaint is certified to Board and served on Respondent
 - Respondent has 20 days to answer
 - Default proceedings, if no answer
- Complaint is public once certified—on-line docket



9

BOARD PROCEEDINGS

- Answer filed—case assigned to 3-commissioner panel
- Prehearing telephone conference with parties
- Time guidelines for Board proceedings:
 - 20 days—initial prehearing conference
 - 150 days—hearing scheduled
 - 40 days—after submission of case to panel, report prepared for submission to full Board



10

BOARD PROCEEDINGS

- Amended complaint—motion for leave to amend (absent Respondent’s consent); no separate probable cause determination
- Stipulations—strongly encouraged, especially as to facts
- Joint exhibits—strongly encouraged
- Consent to discipline



11

DEFAULT PROCEEDINGS

- No answer to formal complaint:
 - Certify respondent’s default to Supreme Court
 - Court issues show cause order
 - No reply, interim default suspension imposed
 - Relator or respondent can seek remand to Board
 - If no remand, second show cause order issued three months after interim default suspension is imposed
 - No reply, indefinite suspension
 - Relator or respondent can seek remand



12

HEARING PROCEDURES

- Formal hearing
- Rules of Evidence and Civil Rules apply
- Relator—BOP by clear and convincing evidence
- CGCs—bar counsel responsible for serving as lead counsel and litigating case to the panel
- Primary issues: (1) facts; (2) rule violations; (3) aggravating & mitigating factors; and (4) sanction



13

PANEL AND BOARD

- Panel questions Respondent
- Panel findings/dismissals
- Panel prepares written report to full Board
- Full Board deliberates and votes
- Approve/modify findings of fact, conclusions of law, aggravating/mitigating factors, and recommended sanction



14

SUPREME COURT OF OHIO

- Board report and record filed with Supreme Court
- Court issues show cause order (except consent to discipline); parties have 20 days to object
- No objections—Court considers on report and record
- Objections—oral argument (except reinstatement)
- Supreme Court is NOT bound by Board recommendation, even if no objections



15

WHAT INFLUENCES SANCTION?

- Aggravating factors:
 - Prior discipline (what is or is not?)
 - Dishonest or selfish motive
 - Pattern of misconduct
 - Noncooperation
 - Failure to make restitution
 - Failure to acknowledge wrongdoing



16

WHAT INFLUENCES SANCTION?

- Mitigating factors:
 - No prior discipline
 - Absence of a dishonest or selfish motive
 - Full and free disclosure
 - Acknowledge wrongdoing
 - Character and reputation
 - Restitution



17

WHAT INFLUENCES SANCTION?

- Disorder—defined in Section 35
- Four requirements for a disorder to be considered in mitigation:
 - Diagnosis*—qualified health care professional
 - Prognosis*—opinion that attorney can engage in competent and ethical professional practice of law
 - Treatment/counseling*—sustained period of successful treatment (mental disorder) or completion of approved treatment program (substance use disorder)
 - Causation*—disorder caused or contributed to misconduct



18

DISPOSITION TIMES

- ODC/CGCs—up to one year to investigate
- Board—6-8 months from filing to disposition
- Supreme Court—8-10 months; faster if consent-to-discipline or no objections to Board report



19

QUESTIONS



20

**PRESENTERS'
BIOS**

PRESENTERS' BIOGRAPHICAL INFORMATION

D.ALLAN ASBURY joined the Ohio Board of Professional Conduct in 2014 as Senior Counsel. Before joining the Board, Allan served as Administrative Counsel for the Supreme Court and Secretary of the Board on the Unauthorized Practice of Law. His primary duties for the Board include researching and drafting advisory opinions, providing ethics advice to Ohio lawyers, judges, and judicial candidates, and assisting in the Board's ethics outreach and education efforts. Allan received his undergraduate and law degrees from Capital University. He began his practice of law as in-house counsel for a regional transit authority where he had primary responsibility for personal injury defense, labor, and employment matters. He is admitted to practice in Ohio, United States District Court for the Southern District of Ohio, and the U.S. Supreme Court. Allan is a Certified Court Manager (CCM) through a certification program of the National Center for State Courts.

JOSEPH M. CALIGIURI is Disciplinary Counsel in the Office of Disciplinary Counsel, where he has worked since 2002. He is responsible for investigating and prosecuting lawyers and judges accused of ethical misconduct. Joe is a frequent lecturer for the Ohio Judicial College, Ohio State Bar Association, and the Association of Judicial Disciplinary Counsel, where he recently completed a three-year term as President. Joe also teaches Professional Responsibility at The Ohio State University's Moritz College of Law. Joe was a former prosecutor in Buffalo, NY, and is a graduate of New England Law and the Clemson University MBA Program.

ALETHA M. CARVER graduated from the University of Akron School of Law in 1992 and was admitted to the practice of law that same year. She began her legal career clerking for the Hon. John W. Wise in the Stark County Court of Common Pleas, General Division, and transitioned with Judge Wise, as his staff attorney, to the Fifth District Court of Appeals in 1994 when Judge Wise was elected to the appellate bench. In 2007, Aletha moved to North Carolina, obtained her North Carolina law license, and worked on developing legislative agendas for a thirteen-county economic development partnership. In 2010, Aletha returned to Ohio where she served as a magistrate in the Stark County Probate Court. In 2011, Aletha joined the law firm of Krugliak, Wilkins, Griffiths & Dougherty Co., L.P.A. where she was a director and practiced in the firm's litigation section, with a focus on appellate law. Aletha returned to the Fifth District Court of Appeals in 2019 to establish the Court's mediation program and serve as the Court's mediator.

ELIZABETH E. CARY is a second term Commissioner on the Board of Professional Conduct, having been first appointed in 2020. Professionally, she is a Litigator at Bailey Cavalieri, LLC in Columbus, Ohio where she represents businesses and individuals in commercial litigation and director-and-officer-liability insurers in coverage disputes at both state and federal levels. Before joining Bailey Cavalieri, Elizabeth worked at law firms in New York City and Columbus and clerked for then-Chief Judge R. Guy Cole, Jr. on the Sixth Circuit Court of Appeals. Elizabeth is licensed to practice law in state and federal courts in Ohio, New York, and New Jersey, and in state courts in her native

Illinois. She received her law degree from Emory University School of Law and her bachelor's degree from Columbia College-Columbia University. Prior to law school, Elizabeth taught elementary school and served as a college counselor. Outside of her legal practice, Elizabeth co-owns an online retail business with her husband. In her spare time, she enjoys traveling and visiting museums with her husband and their two children.

HON. D. CHRIS COOK has served on the Lorain County Court of Common Pleas since 2016. Prior to becoming a judge, Judge Cook's practice involved litigation, specifically in the area of attorney discipline, consumer sales practices, and the defense of automobile dealerships. He has tried numerous civil and criminal cases to juries throughout Ohio in both state and federal courts. Judge Cook is currently Chairman of the Ohio Board of Professional Conduct, Chairman of the Lorain County Bar Association's New Lawyer's Admissions Committee, Chairman of Lorain County Stepping Up Committee, a member of the Ohio Supreme Court's Judicial Curriculum Committee, and a member of the Ohio Supreme Court's Committee on Grievances Against Supreme Court Justices. He is a former member of the Board of Governors of the Ohio State Bar Association, past President of the Lorain County Bar Association, a former member of the Lorain County grievance committee, and former bar counsel to the Lorain County Bar Association.

JONATHAN E. COUGHLAN has worked as a public defender, in private practice, and as a prosecutor. From 1997 until 2013, Jonathan served as Disciplinary Counsel of the Supreme Court of Ohio. During Jon's tenure as Disciplinary Counsel, he managed an active case load, supervised the attorneys in the office and was responsible for training bar counsel and members of the grievance committees. Jon was also appointed to three different Supreme Court Task Forces, including The Rules Task Force which was responsible for recommending an Ohio version of the ABA Model Rules which the Ohio Supreme Court adopted in 2007. In late 2013, Jon re-entered private practice and has limited his practice to professional responsibility matters. Over the last ten years, Jon has represented lawyers and judges facing disciplinary issues and provided services to lawyers needing an ethics expert in a variety of circumstances. Jon also assists bar applicants in character and fitness reviews and between 2005 and 2021 he was an adjunct professor at Ohio State Law School.

TERI R. DANIEL is the appellate division supervisor at the Lake County Prosecutor's Office where she has worked since 2007. She is also an instructor for the bar passage program at Cleveland State University College of Law. Teri has served as a commissioner on the Board of Professional Conduct since the spring of 2018 and has been a member of the advisory opinion and probable cause committees. She graduated magna cum laude from Cleveland-Marshall College of Law and was the research editor of the Cleveland State Law Review. Teri earned an MBA from Cleveland State University and her undergraduate degree from Washington and Jefferson College.

RICHARD A. DOVE is the Director of the Board of Professional Conduct and serves as the Board's chief legal and administrative officer. Prior to his appointment in 2011, Rick served for more than 22 years on the staff of the Supreme Court of Ohio, the last four of which as Assistant Administrative Director. He is past president of the National Council of Lawyer Disciplinary Boards and in 2019 was recognized as Distinguished Alumnus of

the Year by Capital University Law School. Rick is a graduate of Wittenberg University and Capital University Law School and is admitted to practice in Ohio, before the United States District Court for the Southern District of Ohio, and before the Supreme Court of the United States.

KELLY HEILE is Bar Counsel with the Ohio State Bar Association. Since January 2015, Kelly has been a member of the Ohio State Bar Association's Certified Grievance Committee and served as relator's counsel before the Board of Professional Conduct and the Ohio Supreme Court. Prior to becoming Bar Counsel, Kelly spent fifteen years as an assistant prosecuting attorney, mostly in Butler County, where she prosecuted adult sexual assaults, child sexual abuse, child physical abuse, and homicide cases. In that role, she received significant honors including the Ohio Prosecuting Attorneys Association Meritorious Attorney Award, Women Helping Women's Change Agent Award, and was selected to be a part of the Governor's Working Group on Reviewing the Medical Board's Handling of the Investigation Involving Dr. Richard Strauss.

GEORGE D. JONSON is a partner in the Cincinnati law firm of Montgomery Jonson LLP. His practice centers on the representation of Ohio lawyers and judges in disciplinary inquiries/proceedings, giving ethics advice to Ohio lawyers and judges, and defending legal malpractice claims. He is also engaged in general civil litigation. In the last year, Jonson has had the entire text of T. S. Eliot's epic poem *The Waste Land* tattooed on his torso. (He realized too late that Part IV – *Death by Water* generally bums out people he meets on the beach).

MATT KANAI is an Assistant Disciplinary Counsel with the Office of Disciplinary Counsel. Prior to joining ODC, Matt worked at the Columbus City Attorney's Office, the Ohio Attorney General's Office, and Peoples Bank. He was appointed a U.S. Supreme Court Fellow for the National Association of Attorneys General and taught Appellate Advocacy at OSU. He has practiced extensively at the Ohio Court of Appeals and Supreme Court, the U.S. Sixth Circuit Court of Appeals, and the U.S. Supreme Court.

HON. WILLIAM A. KLATT served more than 20 years on the Tenth District Court of Appeals and now and serves as a retired judge by assignment of the Chief Justice. While serving on the court of appeals, Judge Klatt frequently was assigned to served as a substitute justice on the Supreme Court. Judge Klatt served as a commissioner of the Ohio Board of Professional Conduct from 2014-2022.

ALVIN E. MATHEWS, JR. is a partner in the litigation group at Ulmer & Berne, LLP, with Ohio offices in Columbus, Cleveland, and Cincinnati. He also serves as the firm's Chief Diversity Officer. From 1991 to 1997, he served as an Assistant Disciplinary Counsel. He has since devoted a significant part of his practice to helping lawyers. Alvin has been asked to provide representation on hundreds of legal ethics advisory opinions and lawyer discipline case investigations, including nearly 100 lawyer discipline trials and more than 20 oral arguments before the Supreme Court of Ohio. He is a litigator with experience in complex business and professional liability matters. He is also relied upon by other litigators to serve as an expert witness on lawyer conduct questions. Alvin has presented more than 200 continuing legal education seminars and published many

articles on lawyers' ethical responsibilities. He has earned a Preeminent AV rating from Martindale-Hubbell, has been recognized by Ohio Super Lawyers every year since 2011 (Top 50 List, Columbus, 2015-2017) and named to *The Best Lawyers in America*® for Administrative & Regulatory Law (2022 Administrative & Regulatory Law Lawyer of the Year in Columbus). He was designated He received his bachelor's degree from Miami University, and his law degree from Ohio Northern University College of Law.

KRISTI R. McANAU joined the Ohio Board of Professional Conduct in 2018 as counsel. Her primary duties for the Board include researching and drafting advisory opinions, providing ethics advice to Ohio lawyers, and assisting in the Board's ethics outreach and education efforts. Prior to joining the Board, Ms. McAnaul served as a Staff Attorney at the Ohio Department of Education in the Office of Professional Conduct. She also worked in private practice for over nine years with a primary focus on juvenile and domestic law. Ms. McAnaul graduated magna cum laude from Capital University Law School and was a member and Research Editor of the Capital University Law Review. She received her undergraduate degree from Oakland University in Rochester, Michigan.

MONICA A. SANSALONE is the Managing Partner of Gallagher Sharp LLP and also serves as the firm's Professional Liability Practice Group Manager. She represents lawyers in grievance proceedings and defends them against malpractice claims. She consults on ethics and risk management matters, pre-suit evaluation, and claim repair. She provides representation in trial courts and on appeal, including matters before the Supreme Court of Ohio. Additionally, she is a member of the firm's Appellate Practice Group, with a particular focus on professional liability matters. Monica is a graduate of Cleveland-Marshall College of Law and Loyola University of Chicago. She is listed in *Best Lawyers in America*® for Ethics and Professional Responsibility Law, is Martindale-Hubbell, AV® Peer Review Rated, a Fellow of the Litigation Counsel of America, and an Ohio Super Lawyer. She is a former Law Clerk to the Honorable Terrence O'Donnell, Ohio Court of Appeals, Eighth Appellate District. Monica serves on the Advisory Committee of the Solo Practitioner Incubator at Cleveland-Marshall College of Law. She previously served on the Supreme Court of Ohio Lawyers' Fund for Client Protection Board of Commissioners, chairing the Board from 2021-2022, and the Commission on Professionalism of the Supreme Court of Ohio, chairing the Commission from 2007-2008.

HON. JOHN R. WILLAMOWSKI was first elected to the Third District Court of Appeals in 2006 and was re-elected in 2012 and 2018. He earned his undergraduate degree in philosophy from the University of Notre Dame and his law degree from Ohio Northern University. John has served as the Administrative Judge and as the Presiding Judge in the Third Appellate District and is a member of the Council of Chief Judges of the State Courts of Appeal. He is co-Chairman of the Legislative Committee of the Ohio Judicial Conference and sits on its Executive Committee. Judge Willamowski has been assigned by the Chief Justice of the Ohio Supreme Court to sit on cases in the Second, Fifth, Sixth and Seventh Appellate Districts, as well as on the Ohio Supreme Court. In addition to his judicial duties, Judge Willamowski sat for nine years as a Commissioner on the Board of Professional Conduct (fka the Board of Commissioners on Grievances and Discipline).

HON. JOHN W. WISE is a graduate of Ohio Northern University, Petit School of Law, and was admitted to the practice of law in 1979. He graduated from Bowling Green State University in 1974 with a Bachelor of Science degree in Education. Judge Wise was in the private practice of law from 1979 until 1990. His area of concentration included general civil litigation, including personal injury from both the plaintiff and defense sides, real estate, and small business, along with an active probate practice. Judge Wise has served on the Canton Municipal Court, the Stark County Common Pleas Court, and for the past 29 years has served on the Fifth District Court of Appeals, where he is completing his final term. Judge Wise served three terms on the Board of Professional Conduct and served as Chair for two years. Judge Wise also served as the Chief Justice of the Ohio Court of Appeals Judges Association and was an original member and co-chair of the Supreme Court's Commission on Technology and the Courts. Judge Wise has served by assignment on the Supreme Court of Ohio by invitation of the Chief Justice on several occasions.

LISA M. ZARING is a partner Cincinnati Office of Montgomery Jonson LLP. Lisa devotes her practice to representing professionals. She spends a significant portion of her time providing ethics advice and responding to disciplinary grievances and letters of inquiry received by attorneys and judges. She also regularly defends judges and lawyers in cases before the Supreme Court of Ohio's Board of Professional Conduct. She has advocated for law students and out-of-state attorneys seeking admission to the state bar in proceedings before the Board of Commissioners on Character and Fitness. She has also guided a number of professionals charged with the unauthorized practice of law, including real estate agents, accountants, debt collectors, and interpreters, through proceedings before the Board on the Unauthorized Practice of Law.

HEATHER M. ZIRKE is the Principal of the Zirke Law Firm concentrating in lawyer professional responsibility and legal ethics. She represents lawyers in grievance investigations and Ohio Bar applicants and serves as an expert witness in professional responsibility matters. Heather is also the Interim Director of the Miller Becker Center for Professional Responsibility and Senior Lecturer at the University of Akron School of Law.