

**2007-2008
ANNUAL REPORT
OF THE
DISCIPLINARY COMMISSION
OF THE
SUPREME COURT OF INDIANA**

PUBLISHED BY THE

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TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	HISTORY AND STRUCTURE OF THE DISCIPLINARY COMMISSION	1
III.	THE DISCIPLINARY PROCESS.....	3
	A. The Grievance Process	3
	B. Preliminary Investigation	3
	C. Further Investigation	4
	D. Authorizing Charges of Misconduct	4
	E. Filing Formal Disciplinary Charges	4
	F. The Evidentiary Hearing	4
	G. Supreme Court Review	5
	H. Final Orders of Discipline	5
	I. Resolution By Agreement	6
	J. Temporary Suspension	7
	K. The License Reinstatement Process	7
	L. Lawyer Disability Proceedings	8
IV.	COMMISSION ACTIVITY IN 2007-2008.....	8
	A. Grievances and Investigations.....	8
	B. Non-Cooperation	9
	C. Trust Account Overdraft Reporting	12
	D. Litigation	12
	1. Overview	12
	2. Verified Complaints for Disciplinary Action	12
	3. Final Dispositions.....	13
V.	SUMMARY OF DISCIPLINARY COMMISSION ACTIVITIES	16
VI.	AMENDMENTS TO RULES AFFECTING LAWYER DISCIPLINE	16
VII.	OTHER DISCIPLINARY COMMISSION ACTIVITIES	17
VIII.	FINANCIAL REPORT OF THE DISCIPLINARY COMMISSION	17
IX.	APPENDICES:	
	APPENDIX A Biographies of Commission Members	
	APPENDIX B Number of Grievances Filed	
	APPENDIX C Grievance Rates	
	APPENDIX D Grievances by Case Type and Misconduct Alleged	
	APPENDIX E Grievances by Case Type	
	APPENDIX F Grievances by Misconduct Alleged	
	APPENDIX G Disciplinary Sanctions Ordered	
	APPENDIX H Other Disciplinary Commission Activities	
	APPENDIX I Statement of Revenues and Expenses	

I. INTRODUCTION

This is the annual report of the activities of the Disciplinary Commission of the Supreme Court of Indiana for the period beginning July 1, 2007 and ending June 30, 2008. The Disciplinary Commission is the agency of the Supreme Court of the State of Indiana charged with responsibility for investigation and prosecution of charges of lawyer misconduct. The Indiana Rules of Professional Conduct set forth the substantive law to which lawyers are held accountable by the Indiana lawyer discipline system. The procedures governing the Indiana lawyer discipline system are set forth in Indiana Supreme Court Admission and Discipline Rule 23. The broad purposes of the Disciplinary Commission are to "protect the public, the court and the members of the bar of this State from misconduct on the part of attorneys and to protect attorneys from unwarranted claims of misconduct." Admission and Discipline Rule 23, section 1.

The Disciplinary Commission is not a tax-supported agency. It is funded through an annual fee that each lawyer admitted to practice law in the State of Indiana must pay in order to keep his or her license in good standing. The current annual registration fee for lawyers in active status is \$115.00. After paying the costs of collecting annual fees, the Clerk of the Supreme Court distributes the balance of fees to the Disciplinary Commission, the Commission for Continuing Legal Education and the Indiana Judges and Lawyers Assistance Committee to support the work of those Court agencies. In this fiscal year, of each \$115 annual registration fee, approximately \$79.72 was distributed to the Disciplinary Commission, \$18.95 to the Continuing Legal Education Commission and \$16.33 to the Judges and Lawyers Assistance Committee.

The annual registration fee for lawyers in inactive status is \$57.50. The annual registration fee is due on or before October 1st of each year. Failure to pay the required fee within the established time subjects the delinquent lawyer to suspension of his or her license to practice law until such time as the fee and any delinquency penalties are paid.

Out-of-state lawyers who received court permission to practice law temporarily in the state of Indiana are required to pay a \$115 registration fee for each year they are participating as counsel in an Indiana case.

On May 21, 2008, the Supreme Court issued an order suspending **205** lawyers on active and inactive status, effective June 20, 2008, for failure to pay their annual attorney registration fees.

II. HISTORY AND STRUCTURE OF THE DISCIPLINARY COMMISSION

The Indiana Supreme Court has original and exclusive jurisdiction over the discipline of lawyers admitted to practice law in the State of Indiana. Ind.Const. art. 7, § 4. On June 23, 1971, the Indiana Supreme Court created the Disciplinary Commission to function in an investigatory and prosecutorial capacity in lawyer discipline matters.

The Disciplinary Commission is governed by a board of commissioners, each of whom is appointed by the Supreme Court to serve a term of five years. The Disciplinary Commission consists of seven lawyers and two lay appointees.

The Commission meets monthly in Indianapolis, generally on the second Friday of each month. In addition to acting as the governing board of the agency, the Disciplinary Commission

considers staff reports on claims of misconduct against lawyers and must make a determination that there is reasonable cause to believe that a lawyer is guilty of misconduct which would warrant disciplinary action before formal disciplinary charges can be filed against a lawyer.

The officers and members of the Disciplinary Commission during the reporting year were:

<u>Name</u>	<u>Hometown</u>	<u>First Appointed</u>	<u>Current Term Expires</u>
Anthony M. Zappia, Chair	South Bend	September 9, 2001	June 30, 2011
Sally Franklin Zweig, Vice-Chair	Indianapolis	September 2, 2001	June 30, 2011
Corinne R. Finnerty, Secretary	North Vernon	July 1, 2003	June 30, 2008
J. Mark Robinson	New Albany	April 11, 2001	June 30, 2011
Robert L. Lewis	Gary	July 1, 1999	June 30, 2009
Diane L. Bender	Evansville	July 1, 1999	June 30, 2009
Fred Austerman	Richmond	July 1, 2003	June 30, 2008
R. Anthony Prather	Indianapolis	July 1, 2004	June 30, 2009
Maureen Grinsfelder	Fort Wayne	July 1, 2005	June 30, 2010

Biographies of Commission members who served during this reporting year are included in **Appendix A**.

The Disciplinary Commission's work is administered and supervised by its Executive Secretary, who is appointed by the Commission with the approval of the Supreme Court. The Executive Secretary of the Commission is Donald R. Lundberg.

The staff of the Disciplinary Commission during this year included:

Greg N. Anderson, Staff Attorney
 Allison S. Avery, Staff Attorney
 Rom Byron, Staff Attorney
 David B. Hughes, Trial Counsel (part-time)
 Laura B. Iosue, Staff Attorney
 Charles M. Kidd, Staff Attorney
 Carol Kirk, Staff Attorney/Investigator
 Dennis K. McKinney, Staff Attorney
 Seth T. Pruden, Staff Attorney
 Fredrick L. Rice, Staff Attorney
 Robert C. Shook, Staff Attorney
 Robert D. Holland, Investigator
 Sharon F. Scholl, Office Manager
 Judy E. Whittaker, Secretary
 Ronda Johnson, Secretary

In addition, the Disciplinary Commission employs law students as part-time clerks to assist in the work of the Commission. Law clerks employed during this reporting period included Dea C. Lott, Donald E. Thomas, Jr. and Caroline Richardson.

The Disciplinary Commission relocated its offices on January 1, 2008 from 115 West Washington Street to 30 South Meridian Street, Suite 850, Indianapolis, Indiana 46204.

III. THE DISCIPLINARY PROCESS

A. The Grievance Process

The purpose of the Disciplinary Commission is to inquire into claims of attorney misconduct, protect lawyers against unwarranted claims of misconduct, and prosecute cases seeking attorney discipline when merited. Action by the Disciplinary Commission is not a mechanism for the resolution of private disputes between clients and attorneys, but rather is independent of private remedies that may be available through civil litigation.

An investigation into lawyer misconduct is initiated through the filing of a grievance with the Disciplinary Commission. Any member of the bench, the bar or the public may file a grievance by submitting to the Disciplinary Commission a written statement on a form prescribed by the Disciplinary Commission. There are no formal standing requirements for the filing of a grievance. Any individual having knowledge about the facts relating to the complaint may submit a grievance. A form for submission of grievances approved by the Disciplinary Commission is readily available from the Commission's office, from bar associations throughout the state, and on the Internet.

The Disciplinary Commission may also initiate an inquiry into alleged lawyer misconduct in the absence of a grievance from a third party. Acting upon information that is brought to its attention from any credible source, the Disciplinary Commission may authorize the Executive Secretary to prepare a grievance to be signed and issued by the Executive Secretary in the name of the Commission.

B. Preliminary Investigation

The Commission staff reviews each newly filed grievance to initially determine whether the allegations contained therein raise a substantial question of misconduct. If a grievance does not present a substantial question of misconduct, it may be dismissed by the Executive Secretary with the approval of the Commission, and written notice of dismissal is mailed to the grievant and the lawyer.

A grievance that is not dismissed on its face is sent to the lawyer involved, and a demand is made for the lawyer to submit a mandatory written response within twenty days of receipt. Additional time for response is allotted in appropriate circumstances. Other investigation as appropriate is conducted in order to develop the facts related to a grievance. The Executive Secretary may call upon the assistance of bar associations in the state to aid in the preliminary investigation of grievances. The bar associations that maintain Grievance Committees of volunteer lawyers to assist the Disciplinary Commission with preliminary investigations are: the Allen County Bar Association, the Evansville Bar Association, the Indianapolis Bar Association, the Lake County Bar Association, and the St. Joseph County Bar Association. Upon petition by the Commission, the Supreme Court may suspend the law license of a lawyer who fails to respond in writing to a grievance that has been opened for investigation.

Upon completion of the preliminary investigation and consideration of the grievance and the lawyer's response, the Executive Secretary, with the approval of the Commission, may dismiss the grievance upon a determination that there is not reasonable cause to believe that the lawyer is guilty of misconduct. The grievant and the lawyer are notified in writing of the dismissal.

Lawyers must cooperate with the Commission's investigation by answering grievances in writing and responding to other demands for information from the Commission. The Commission may seek an order from the Supreme Court suspending a non-cooperating lawyer's license to practice until such time as he or she cooperates. If after being suspended for non-cooperation, the lawyer does not cooperate for a period of six months, the Court may indefinitely suspend the lawyer's license. An indefinitely suspended lawyer will be reinstated only after successfully completing the reinstatement process described in paragraph K below.

C. Further Investigation

Those grievances that the Executive Secretary determines present reasonable cause are docketed for further investigation and, ultimately, for full consideration by the Disciplinary Commission. Both the grievant and the lawyer are notified of this step in the process. Upon completion of the investigation, the results of the investigation are summarized in written form by Commission staff, and the matter is presented to the Disciplinary Commission for its consideration at one of its monthly meetings.

D. Authorizing Charges of Misconduct

After a grievance has been investigated, the Executive Secretary reports on it to the Disciplinary Commission, together with his recommendation about the disposition of the matter. The Commission makes a determination whether or not there is reasonable cause to believe the lawyer is guilty of misconduct that would warrant disciplinary action. If the Commission finds that there is not reasonable cause, the matter is dismissed with written notice to the grievant and the lawyer. If the Commission finds that reasonable cause exists, it directs the Executive Secretary to prepare and file with the Clerk of the Supreme Court a verified complaint charging the lawyer with misconduct.

E. Filing Formal Disciplinary Charges

Upon a finding by the Disciplinary Commission that there is reasonable cause to believe the lawyer is guilty of misconduct that would warrant disciplinary action, the Executive Secretary files a verified complaint with the Clerk of the Supreme Court setting forth the facts related to the alleged misconduct and identifying those provisions of the Rules of Professional Conduct that are alleged to have been violated by the lawyer's conduct. The respondent must file an answer to the verified complaint, or else the allegations set forth in the complaint will be taken as true.

F. The Evidentiary Hearing

Upon the filing of a verified complaint, the Supreme Court appoints a hearing officer who will preside over the case and who will submit recommended findings to the Supreme Court. The hearing officer must be an attorney admitted to practice law in the State of Indiana and is frequently a sitting or retired judge. Typically, the hearing officer is from a county close to the county in which the respondent lawyer practices law. The hearing officer's responsibilities include supervising the pre-hearing development of the case including discovery, conducting an evidentiary hearing, and reporting the results of the hearing to the Supreme Court by way of written findings of fact, conclusions of law and recommendations. A hearing may be held at any location determined to be appropriate by the hearing officer.

G. Supreme Court Review

After the hearing officer has issued a report to the Supreme Court, either or both of the parties may petition the Court for a review of any or all of the hearing officer's findings, conclusions and recommendations. In every case, even in the absence of a petition for review by one of the parties, the Court independently reviews the matter and issues its final order in the case.

H. Final Orders of Discipline

The conclusion of a lawyer discipline proceeding is an order from the Supreme Court setting out the facts of the case, determining the violations (if any) of the Rules of Professional Conduct that are supported by the facts, and assessing a sanction in each case where it finds misconduct. The sanction ordered by the Court is related to the seriousness of the violation and the presence or absence of mitigating or aggravating circumstances. The available disciplinary sanctions include:

- **Private Administrative Admonition.** A private administrative admonition is a disciplinary sanction that is issued by the Disciplinary Commission as an administrative resolution of cases involving minor misconduct. A private administrative admonition is issued as a sanction only when the Disciplinary Commission and the respondent lawyer agree to that disposition of a case. Unlike other disciplinary sanctions, the Supreme Court does not directly issue the admonition. However, the Court receives advance notice of the parties' intent to resolve a case by way of a private administrative admonition and may act within a period of 30 days to set aside such a proposed agreement. There is a public record made in the Office of the Clerk of the Supreme Court of every case resolved by a private administrative admonition, although the facts of the matter are not included in the public record.
- **Private Reprimand.** A private reprimand consists of a private letter of reprimand from the Supreme Court to the offending lawyer. The case does not result in a publicly disseminated opinion describing the facts of the case. The Court's brief order resolving the case by way of a private reprimand is a public record that is available through the office of the Clerk of the Supreme Court. In rare cases where a private reprimand is assessed, the Court may issue a *per curiam* opinion for publication styled *In the Matter of Anonymous*. While the published opinion does not identify the offending lawyer by name, the opinion sets out the facts of the case and the violations of the Rules of Professional Conduct involved for the edification of the bench, the bar and the public.
- **Public Reprimand.** A public reprimand is issued in the form of a publicly disseminated opinion or order by the Supreme Court setting forth the facts of the case and identifying the applicable Rule violations. A public reprimand does not result in any direct limitation upon the offending lawyer's license to practice law.
- **Short Term Suspension.** The Court may assess a short-term suspension of a lawyer's license to practice law as the sanction in a case. When the term of suspension is six months or less, the lawyer's reinstatement to the practice of law is generally automatic upon the completion of the term of suspension. The Court may, and does from time to

time, require that a lawyer who is suspended for a period of six months or less be reinstated to practice only after petitioning for reinstatement and proving fitness to practice law. The procedures associated with reinstatement upon petition are described later in this report. Even in cases of suspension with automatic reinstatement, for proper cause, the Disciplinary Commission may enter objections to the automatic reinstatement of the lawyer's license to practice law.

- **Long Term Suspension.** The Court may assess a longer term of suspension, which is a suspension for a period of time greater than six months. Every lawyer who is suspended for more than six months must petition the Court for reinstatement and prove fitness to re-enter the practice of law before a long-term suspension will be terminated.
- **Disbarment.** In the most serious cases of misconduct, the Court will issue a sanction of disbarment. Disbarment revokes a lawyer's license to practice law permanently, and it is not subject to being reinstated at any time in the future.

The lawyer discipline process in Indiana is not a substitute for private and other public remedies that may be available, including criminal sanctions in appropriate cases and civil liability for damages caused by lawyer negligence or other misconduct. Accordingly, the sanctions that are issued in lawyer discipline cases do not generally provide for the resolution of disputed claims of liability for money damages between the grievant and the offending lawyer. However, a suspended lawyer's willingness to make restitution may be considered by the Court to be a substantial factor in determining whether or not the lawyer will be reinstated to the practice of law at the conclusion of a term of suspension.

From time to time, the Court includes in a sanction order additional provisions that address aspects of the lawyer's misconduct in the particular case. Examples of these conditions include participation in substance abuse or mental health recovery programs, specific continuing legal education requirements, and periodic audits of trust accounts.

I. Resolution By Agreement

In cases of minor misconduct, if the Disciplinary Commission and the respondent lawyer agree before the filing of a formal complaint charging misconduct, a case may be disposed of by way of the issuance of a private administrative admonition. Unlike other disciplinary sanctions, this is an administrative sanction that is issued by the Disciplinary Commission rather than by the Supreme Court, although the Supreme Court does receive notice of a proposed administrative admonition and may act to set it aside.

In some cases that have resulted in the filing of a formal complaint charging misconduct, the respondent lawyer and the Disciplinary Commission are able to reach an agreement concerning the facts of a case, the applicable rule violations and an appropriate sanction for the misconduct in question. In these instances, the parties submit their agreement to the Supreme Court for its consideration. Any such agreement must include an affidavit from the lawyer accepting full responsibility for the agreed misconduct. The Court is free to accept the agreement of the parties and issue a final order of discipline in conformity with the agreement, or reject the agreement if the Court does not concur with the proposed sanction.

A lawyer charged with misconduct may also tender his or her written resignation from the practice of law. A resignation is not effective unless the lawyer fully admits his or her misconduct and the Court accepts the resignation as tendered. A lawyer who has resigned with misconduct allegations pending may not seek reinstatement of his or her license until a period of at least five years has elapsed and only after successfully petitioning the Court.

J. Temporary Suspension

While a disciplinary complaint is pending against a lawyer, the Disciplinary Commission may seek the temporary suspension of the lawyer's license to practice law pending the outcome of the proceeding. Temporary suspensions are generally reserved for cases of serious misconduct or on-going risk to clients or the integrity of client funds. The hearing officer is responsible for taking evidence on a petition for temporary suspension and making a recommendation to the Supreme Court. The Court then issues an order granting or denying the petition for temporary suspension.

In addition to the temporary suspension procedure described above, whenever a lawyer licensed to practice law in Indiana is found guilty of a crime punishable as a felony, the Executive Secretary must report the finding of guilt to the Supreme Court and request an immediate temporary suspension from the practice of law. The Court may order the temporary suspension without a hearing, but the affected lawyer has the opportunity to submit to the Court reasons why the temporary suspension should be vacated. A temporary suspension granted under these circumstances is effective until such time as there is a resolution of related disciplinary charges or further order of the Court. Trial judges are required to send a certified copy of the order adjudicating criminal guilt of any lawyer to the Executive Secretary of the Commission within ten days of the date of the order.

Finally, the Executive Secretary is required to report to the Supreme Court any time he receives notice that a lawyer has been found to be delinquent in the payment of child support as a result of an intentional violation of a support order. After being given an opportunity to respond, the Supreme Court may suspend the lawyer's license to practice law until the lawyer is no longer in intentional violation of the support order.

K. The License Reinstatement Process

When any lawyer resigns or is suspended without provision for automatic reinstatement, the lawyer may not be reinstated into the practice of law until he or she successfully petitions the Supreme Court. The petitioning lawyer must successfully complete the Multi-State Professional Responsibility Examination, a standardized examination on legal ethics, prove by clear and convincing evidence that the causes of the underlying misconduct have been successfully addressed, and demonstrate that he or she is otherwise fit to re-enter the practice of law.

Lawyer reinstatement proceedings are heard in the first instance by a member of the Disciplinary Commission appointed as hearing officer by the Court, who after hearing evidence, makes a recommendation to the full Disciplinary Commission. The Disciplinary Commission, acting upon the recommendation of the hearing officer, makes its recommendation to the Supreme Court. The Court reviews the recommendation of the Disciplinary Commission and ultimately issues its order granting or denying the petition for reinstatement.

L. Lawyer Disability Proceedings

Any member of the public, the bar, the Disciplinary Commission, or the Executive Secretary may file with the Commission a petition alleging that a lawyer is disabled by reason of physical or mental illness or chemical dependency. The Executive Secretary is charged with investigating allegations of disability and, if justified under the circumstances, prosecuting a disability proceeding before the Disciplinary Commission or a hearing officer appointed by the Court. The Court ultimately reviews the recommendation of the Commission and may suspend the lawyer from the practice of law until such time as the disability has been remediated.

IV. COMMISSION ACTIVITY IN 2007-2008

A. Grievances and Investigations

An investigation into allegations of lawyer misconduct is commenced by the filing of a grievance with the Disciplinary Commission. During the reporting period, the Commission directly provided **3,180** grievance forms to members of the public. Additionally, forms are made available for distribution through local bar associations, service organizations, governmental offices and on the Commission's web site: www.in.gov/judiciary/discipline.

During the reporting period, **1,582** grievances were filed with the Disciplinary Commission. Of this number, the Disciplinary Commission initiated **58** grievances. The total number of grievances filed was slightly less than the number filed the previous year. **Appendix B** presents in graphical form the number of grievances filed for each of the past ten years.

There were **16,950** Indiana lawyers in active, good-standing status and **2,673** lawyers in inactive, good-standing as of June 30, 2008. In addition, **1,126** lawyers regularly admitted to practice in other jurisdictions were granted temporary admission to practice law by trial court orders in specific cases during the year, pursuant to the provisions of Indiana Admission and Discipline Rule 3. The total grievances filed represent **10.7** grievances for every one-hundred actively practicing lawyers. **Appendix C** presents in graphical form the grievance rate for each of the past ten years.

Distribution of grievances is not even. Far fewer than 1,582 separate lawyers received grievances during the reporting period, because many lawyers were the recipients of multiple grievances. It is important to note that the mere filing of a grievance is not, in and of itself, an indication of misconduct on the part of a lawyer.

During the reporting period, **939** of the grievances received were dismissed without further investigation upon a determination that, on their face, they presented no substantial question of misconduct.

Upon receipt, each grievance that is not initially dismissed is classified according to the type of legal matter out of which the grievance arose and the type of misconduct alleged by the grievant. The table in **Appendix D** sets forth the classification by legal matter and by misconduct alleged of all grievances that were pending on June 30, 2008, or that were dismissed during the reporting year after investigation. Many grievances arise out of more than one type of legal matter or present claims of more than one type of alleged misconduct. Accordingly, the total numbers presented in Appendix D represent a smaller number of actual grievances.

Ranked in order of complaint frequency, the legal matters most often giving rise to grievances involve *Criminal, Domestic Relations, Tort, Personal Misconduct, Bankruptcy, Probate, and Administrative Law*. To understand the significance of this data, it is important to keep in mind that criminal cases make up, by far, the largest single category of cases filed in our trial courts. With the exception of civil plenary filings, domestic relations cases account for the next highest category of cases filed. Thus, in part, the high rates of grievances filed that pertain to criminal and domestic relations matters merely reflect the high number of cases of those types handled by lawyers in Indiana. The predominant types of legal matters out of which grievances arose during the reporting period are presented graphically in **Appendix E**.

Ranked in order of complaint frequency, the alleged misconduct types most often giving rise to grievances are *Poor Communications or Non-Diligence, Improper Withdrawal, Not Acting With Competence, Exercising Improper Influence, Misinforming and Conflicts of Interest*, with complaints about poor communications or non-diligence being more than twice as frequent as the next category of alleged misconduct. The predominant types of misconduct alleged in grievances during the reporting period are presented graphically in **Appendix F**.

The following is the status of all grievances that were pending before the Disciplinary Commission on June 30, 2008, or that had been dismissed during the reporting period:

	<u>DISMISSED</u>	<u>OPEN</u>
Grievances filed before July 1, 2007	292	559
Grievances filed on or after July 1, 2007	1,183	379
Total carried over from preceding year:		972
Total carried over to next year:		938

B. Non-Cooperation

A lawyer’s law license may be suspended if the lawyer has failed to cooperate with the disciplinary process. The purpose of this is to promote lawyer cooperation to aid in the effective and efficient functioning of the disciplinary system. The Commission brings allegations of non-cooperation before the Court by filing petitions to show cause. During the reporting year, the Disciplinary Commission filed **32** petitions to suspend the law licenses of **23** lawyers with the Supreme Court for failing to cooperate with investigations. The following are the dispositions of the non-cooperation matters that the Commission filed with the Court during the reporting year or that were carried over from the prior year:

Show cause petitions filed.....32

<u>Name</u>	<u>City of Practice</u>	<u>Date of Admission</u>
Banik, Michael K.	Elkhart	Jun3 8, 1987
Beach, Steven A., Jr.	Anderson	May 20, 2005
Beach, Steven A., Jr.	Anderson	May 20, 2005
Brenman, Jeremy S.	Merrillville	September 28, 2001
Burch, Mark A.	Greenwood	June 9, 2000
Burch, Mark A.	Greenwood	June 9, 2000
Burkett, Bradley K.	Portland	January 24, 1984

Burkett, Bradley K.	Portland	January 24, 1984
Chamberlain, Philip H.	Indianapolis	October 15, 1990
Clark, Andrew E.	Indianapolis	October 16, 2000
Clark-Reynolds, Heather	Columbus, OH	June 15, 2990
Doyle, Timothy A.	Indianapolis	December 21, 1999
Fulkerson, Anna E.	Fort Wayne	November 8, 2001
Harshey, Kenneth A.	Indianapolis	May 26, 1999
Johnson, Theodore J.	Valparaiso	October 22, 1993
Johnson, Theodore J.	Valparaiso	October 22, 1993
Kias, Michael J.	Greenwood	September 19, 1962
Kilburn, James R.	Austin	October 9, 1981
Kniess, October S.	Indianapolis	November 16, 1982
Molin, Emil J.	Tucson, AZ	October 14, 1988
Moss, John O., III	Indianapolis	June 4, 1999
Moss, John O., III	Indianapolis	June 4, 1999
Perry, Teresa L.	Evansville	November 13, 2000
Powell, Kimberly O.	Indianapolis	May 19, 2003
Powell, Kimberly O.	Indianapolis	May 19, 2003
Powell, Kimberly O.	Indianapolis	May 19, 2003
Powell, Kimberly O.	Indianapolis	May 19, 2003
Roberts, Robert E.	New Castle	November 3, 1997
Schrems, Patrick M.	Bloomington	October 7, 1983
Schrems, Patrick M.	Bloomington	October 7, 1983
Smith, Michael Jay	Wabash	October 8, 1993
Wolfe, Stephen P.	Marion	October 10, 1980

Dismissed as moot after cooperation without show cause order0

Petition pending on June 30, 2008 without show cause order0

Show cause orders with no suspension.....21

Dismissed after show cause order due to compliance17

- Banik, Michael K.
- Beach, Steven A, Jr.
- Brenman, Jeremy S.
- Chamberlain, Philip H.
- Clark-Reynolds, Heather
- Fulkerson, Anna E.
- Kias, Michael J.
- Kilburn, James R.
- Moss, John O., III
- Moss, John O., III
- Perry, Teresa L.
- Powell, Kimberly O.
- Ryan, Mark A. (from prior year petition

Schrems, Patrick M.
 Schrems, Patrick M.
 Schrems, Patrick M. (from prior year petition)
 Wolfe, Stephen P.

Dismissed due to resignation from practice.....1

Knies, October S.

Show cause orders pending on June 30, 20083

Clark, Andrew E.
 Doyle, Timothy A.
 Smith, Michael Jay

Suspensions for non-cooperation.....19

Suspensions still in effect on June 30, 200812

Burch, Mark
 Burch, Mark
 Burkett, Bradley K.
 Burkett, Bradley K.
 Harshey, Kenneth A.
 Johnson, Theodore J.
 Johnson, Theodore J.
 Johnson, Theodore J. (from prior year petition)
 Molin, Emil J.
 Powell, Kimberly O.
 Powell, Kimberly O.
 Roberts, Robert E.

Reinstatements due to cooperation after suspension7

Beach, Steven A., Jr.
 Eley, Derrick D. (from prior year petition)
 Eley, Derrick D. (from prior year petition)
 Eley, Derrick D. (from prior year petition)
 Hosinski, John S. (from prior year petition)
 Powell, Kimberly O.
 Rawls, William J. (from prior year petition)

Non-Cooperation Suspensions Converted to Indefinite Suspensions3

<u>Name</u>	<u>City of Practice</u>	<u>Date of Admission</u>
Burch, Mark A. (from prior year petition)	Greenwood	June 9, 2000
Johnson, Theodore J. (from prior year petition)	Valparaiso	October 22, 1993
Miller, Timothy J. (from prior year petition)	Indianapolis	June 6, 1997

C. Trust Account Overdraft Reporting

Pursuant to Admis.Disc.R. 23, section 29, all Indiana lawyers must maintain their client trust accounts in financial institutions that have agreed to report any trust account overdrafts to the Disciplinary Commission. Upon receipt of a trust account overdraft report, the Disciplinary Commission sends an inquiry letter to the lawyer directing that the lawyer supply a documented, written explanation for the overdraft. After review of the circumstances surrounding the overdraft, the investigation is either closed or referred to the Disciplinary Commission for consideration of filing a disciplinary grievance.

The results of inquiries into overdraft reports received during the reporting year are:

Inquiries Carried Over From Prior Year	26
Overdraft Reports Received In Current Year.....	128
Inquiries Closed In Current Year	118
Reasons for Closing:	
Bank Error.....	27
Deposit of Trust Funds to Wrong Trust Account.....	2
Disbursement From Trust Before Deposited Funds Collected.....	8
Referral for Disciplinary Investigation	24
Disbursement From Trust Before Trust Funds Deposited	10
Overdraft Due to Bank Charges Assessed Against Account.....	6
Inadvertent Deposit of Trust Funds to Non-Trust Account	8
Overdraft Due to Refused Deposit for Bad Endorsement.....	4
Law Office Math or Record-Keeping Error.....	20
Death, Disbarment or Resignation of Lawyer.....	3
Inadvertent Disbursement of Operating Obligation From Trust	4
Non-Trust Account Inadvertently Misidentified as Trust Account....	2
Inquiries Carried Over Into Following Year	36

D. Litigation

1. Overview

In 2007-2008, the Commission filed **47** Verified Complaints for Disciplinary Action with the Supreme Court. These Verified Complaints, together with amendments to pending Verified Complaints, represented findings of reasonable cause by the Commission in **91** separate counts of misconduct during the reporting year.

Including dismissals and findings for the respondent, in 2007-2008, the Supreme Court issued **53** final dispositive orders, compared to 60 in the previous year, representing the completion of **66** separate discipline files compared to the completion of 89 discipline files by court order in the previous year. Including private administrative admonitions, **55** lawyers received final discipline in the reporting year, compared to 63 in the previous year. **Appendix G** provides a comparison of disciplinary sanctions entered for each of the past ten years.

2. Verified Complaints for Disciplinary Action

a. Status of Verified Complaints Filed During the Reporting Period

The following reports the status of all verified complaints filed during the reporting period:

Verified Complaints Filed During Reporting Period.....47
 Number Disposed Of By End Of Year16
 Number Pending At End Of Year31

In addition, the Disciplinary Commission authorized the filing of **15** verified complaints during the reporting period that had not yet been filed by June 30, 2008.

The Commission also filed **5** Notices of Foreign Discipline and Requests for Reciprocal Discipline with the Supreme Court pursuant to Admission and Discipline Rule 23, §28(b).

During the reporting year, the Disciplinary Commission filed Notices of Felony Guilty Findings and Requests for Suspension pursuant to Admission and Discipline Rule 23, Sec. 11.1(a) in **3** cases.

b. Status of All Pending Verified Complaints

The following reports the status of all formal disciplinary proceedings pending as of June 30, 2008:

Cases Filed; Appointment of Hearing Officer Pending9
 Cases Pending Before Hearing Officers29
 Cases Pending On Review Before the Supreme Court..... 10
 Total Verified Complaints Pending on June 30, 2008.....48

During the course of the reporting year, **12** cases were tried on the merits to hearing officers at final hearings, **27** cases were submitted to the Supreme Court for resolution by way of Conditional Agreement for Discipline, and **1** case was submitted by hearing officer findings on an Application for Judgment on the Complaint.

3. Final Dispositions

During the reporting period, the Disciplinary Commission imposed administrative sanctions and the Supreme Court imposed disciplinary sanctions, made reinstatement determinations, or took other actions as follows:

Dismissals of Verified Complaint1
Findings for Respondent After Trial1
Private Administrative Admonitions2
Private Reprimands4
Public Reprimands.....9

<u>Name</u>	<u>City of Practice</u>	<u>Date of Admission</u>
Barrett, Bryan E.	Rushville	October 18, 1985
DeVane, Kimberly A.	Indianapolis	June 14, 1996
Doty, Mark W.	Elkhart	June 3, 1985
Doyle, Timothy A.	Indianapolis	December 21, 1999
Humphrey, Mary J.	Evansville	October 10, 1980
Hurst, Donald H.	Anderson	November 4, 1996

Kinnard, Terrance L.	Indianapolis	October 16, 2000
Meisenhelder, Jay	Indianapolis	October 21, 1997
Schuyler, Stephen W.	Anderson	June 4, 1982

Suspensions With Automatic Reinstatement.....7

<u>Name</u>	<u>City of Practice</u>	<u>Date of Admission</u>	<u>Suspension</u>
Foster, Michael T.	Fort Myers, FL	May 15, 1990	30 days
Raquet, Steven K.	Kokomo	June 3, 1983	30 days
Richardson, Scott I.	Indianapolis	August 13, 1982	90 days
Sniadecki, Rodney P.	Mishawaka	October 26, 1992	6 months
Staggs, Timothy E.	Indianapolis	October 18, 2005	90 days
Toth, Gregory D.	South Bend	October 10, 1986	60 days
Woods, James A.	Franklin	October 26, 1992	120 days

Suspensions With Reinstatement on Conditions.....7

<u>Name</u>	<u>City of Practice</u>	<u>Date of Admission</u>	<u>Suspension</u>
Bergdoll, John C.	Whiteland	May 30, 1980	30 days ¹
Boulac, Patrick G.	South Bend	January 11, 2004	6 months ²
Cueller, Daniel	Indianapolis	October 10, 1986	6 months ³
Gambill, Janice R.	Portage	October 23, 1995	6 months ⁴
Haynie, Kenneth G.	Fort Wayne	October 21, 1975	90 days ⁵
McClellan, Donald K.	Muncie	October 9, 1981	180 days ⁶
Zoeller, Christopher C.	Indianapolis	October 9, 1974	180 days ⁷

¹ 30-day suspension, all stayed conditioned on compliance with terms of probation for 1 year.

² 6-month suspension, all stayed conditioned on compliance with terms of probation for 2 years.

³ 6-month suspension, 30 days active, with balance stayed with terms of probation for 18 months.

⁴ Six-month suspension, 60 days served, balance stayed with terms of probation for 18 months.

⁵ 90-day suspension, stayed conditioned on compliance with terms of probation for 24 months.

⁶ 180-day suspension, 30 days served, balance stayed with terms of probation for 2 years.

⁷ 180-day suspension, 90 days served, balance stayed with terms of probation for 180 days.

Suspensions Without Automatic Reinstatement17

<u>Name</u>	<u>City of Practice</u>	<u>Date of Admission</u>	<u>Suspension</u>
Bash, Richard M.	Pendleton	May 30, 2000	180 days
Beerbower, Douglas O.	Fort Wayne	May 5, 1976	2 years
Burch, Mark A.	Greenwood	June 9, 2000	Indefinite
Colman, David J.	Bloomington	September 16, 1970	3 years
Garvin, Mark A.	Fort Wayne	October 18, 1985	6 months
Durham, Vanessa M.	Louisville, KY	June 4, 1999	Indefinite ⁸
Graddick, Charles H.	Gary	April 9, 1974	1 year
Haigh, Christopher E.	Indianapolis	June 9, 2000	2 years
Harper, Paul, Jr.	Indianapolis	April 4, 2001	12 months
Hutchinson, Alan D.	Chicago, IL	June 8, 1987	Indefinite ⁹

⁸ Not eligible to seek reinstatement until readmitted in Illinois.

⁹ Not eligible to seek reinstatement until readmitted in Kentucky.

Johnson, Theodore	Valparaiso	October 22, 1993	Indefinite
Knuth, Randall J.	Murfreesboro, TN	October 25, 1991	Indefinite ¹⁰
McCartney, R. Allen	Louisville, KY	May 30, 1986	Indefinite ¹¹
Miller, Timothy J.	Indianapolis	June 6, 1997	Indefinite
Moss, John O., III	Indianapolis	June 4, 1999	6 months
Patterson, Douglas W.	Evansville	June 9, 1989	3 years
Shula, Timothy A.	Indianapolis	May 31, 1977	90 days

¹⁰ Not eligible to seek reinstatement until readmitted before U.S. Office of Patent and Trademark.

¹¹ Not eligible to seek reinstatement until readmitted in Kentucky.

Accepted Resignations6

<u>Name</u>	<u>City of Practice</u>	<u>Date of Admission</u>
Adams, Darrell	Charlestown	October 13, 1976
Ault, Kevin S.	Rushville	June 3, 1985
Carlock, Steve	Greenfield	October 9, 1981
Kniess, October S.	Indianapolis	November 16, 1982
Kummerer, James M.	Columbus	May 1, 1974
Leung, David W.	Fort Wayne	December 31, 2003
Nehrig, Brian L.	Indianapolis	June 7, 1991

Disbarments0

Other1

<u>Name</u>	<u>City of Practice</u>	<u>Date of Admission</u>
Fieger, Geoffrey N. ¹²	Southfield, MI	Pro Hac Vice

¹² Barred from applying for temporary admission in Indiana for two years.

Reinstatement Proceedings

Disposed of by Final Order12

Granted 9

- Carl, Christopher, Evansville
- Cheslek, James A., Michigan City
- Drook, Jerry T., Marion
- Gotkin, Jonathan S., Indianapolis (with 2 years probation)
- Gowdy, Robert L., Terre Haute
- Jones, Richard A., Indianapolis
- Partenheimer, Robert S. (with 2 years probation)
- Ragland, Michael A., Indianapolis
- Stanton, Dennis J., Schererville

Denied 0

Petition Withdrawn..... 0

Dismissed 3

Brown, Thomas A., Hartford City
 Hoogland, Eric S., Indianapolis
 Kirke, James D., McKinney, TX

Emergency Interim Suspension.....1

<u>Name</u>	<u>City of Practice</u>	<u>Date of Admission</u>
Kummerer, James M.	Columbus	May 1, 1974

Temporary Suspensions (Guilty of Felony).....3

<u>Name</u>	<u>City of Practice</u>	<u>Date of Admission</u>
Carlock, Steve	Greenfield	October 9, 1981
Harris, Willie	Gary	October 4, 1979
Stites, Michael G.	Rockville	November 8, 2002

V. SUMMARY OF DISCIPLINARY COMMISSION ACTIVITIES

	2007-08	2006-07	2005-06	2004-05	2003-04
Matters Completed	1,541	1,463	1,599	1,692	1,765
Complaints Filed	47	34	42	41	54
Final Hearings	12	10	15	8	10
Final Orders	53	60	52	60	54
Reinstatement Petitions Filed	5	11	8	4	4
Reinstatement Hearings	6	6	3	4	3
Reinstatements Ordered	9	1	1	4	0
Reinstatements Deny/Dismiss	3	7	2	2	2
Income	\$1,765,488	\$1,984,450	\$1,870,208	\$1,785,247	\$1,731,521
Expenses	\$1,706,111	\$1,814,736	\$1,766,748	\$1,629,153	\$1,638,797

VI. AMENDMENTS TO RULES AFFECTING LAWYER DISCIPLINE

A. Admission and Discipline Rules

Admission and Discipline Rule 3: On September 10, 2007, effective January 1, 2008, the Supreme Court amended Admission and Discipline 3 to add a new section 2(f), pertaining to temporary admission to practice by foreign attorneys. It provides that when a temporarily admitted attorney fails to keep his or her registration current and is automatically excluded from practice in Indiana as a result, any further law practice in Indiana constitutes the unauthorized practice of law. It goes on to set out a readmission procedure for automatically excluded temporary attorneys.

Admission and Discipline Rule 23, Section 27: On September 10, 2007, effective January 1, 2008, the Supreme Court amended Admission and Discipline Rule 23, Section 27, to provide

that all non-exempt lawyers should designate an attorney surrogate on their annual registration statement. If they fail to do so, they are deemed to have agreed to the appointment of a lawyer or senior judge as surrogate by the judge of the circuit court. An attorney surrogate is appointed to step in and handle the orderly wind-down of the law practice of a lawyer who has died, become disabled or disappeared. A detailed discussion of the attorney surrogate rule can be found at: Lundberg, *My Brother's Keeper: The New Attorney Surrogate Rule*, Vol. 51, No. 9 RES GESTAE 29 (May 2008).

Admission and Discipline Rule 23, Section 10(f)(5): On August 15, 2006, effective January 1, 2007, the Supreme Court amended Admission and Discipline Rule 10(f)(5) to add a provision requiring a lawyer who is suspended for not paying the costs taxed in a non-cooperation proceeding to pay a \$200 administrative fee in addition to payment of the delinquent costs in order to get reinstated.

Admission and Discipline Rule 23, Section 16: On August 15, 2006, effective January 1, 2007, the Supreme Court amended Admission and Discipline Rule 16 to add a provision requiring a lawyer who is suspended for not paying the costs taxed in a lawyer discipline proceeding to pay a \$200 administrative fee in addition to payment of the delinquent costs in order to get reinstated.

Admission and Discipline Rule 23, Section 21: Much of the rule content of Indiana Admission and Discipline Rule 23(21) pertaining to annual registration fees was moved to Indiana Admission and Discipline Rule 2, described above, which is now titled "Registration and Fees."

The other change effected by the Admission and Discipline Rule 2 amendments was to integrate the annual registration fees for the Disciplinary and Continuing Legal Education Commissions. The single integrated fee will now be allocated among the Disciplinary Commission, the Continuing Legal Education Commission and the Judges and Lawyers Assistance Committee as the Supreme Court decides from time-to-time.

VII. OTHER DISCIPLINARY COMMISSION ACTIVITIES

Members of the Disciplinary Commission and its staff spent many hours during the reporting year engaged in education efforts related to the lawyer discipline process and professional responsibility. Some of those activities are highlighted in **Appendix H**.

VIII. FINANCIAL REPORT OF THE DISCIPLINARY COMMISSION

A report setting forth the financial condition of the Disciplinary Commission Fund is attached as **Appendix I**.

IX. APPENDICES

BIOGRAPHIES OF DISCIPLINARY COMMISSION MEMBERS

Fred Austerman is from Wayne County, Indiana. He is one of two non-lawyer members of the Disciplinary Commission. He is the President and CEO of Optical Disc Solutions, Inc. in Richmond, a company that provides DVD and compact disc replicating services and project management for a wide variety of media developers. Mr. Austerman attended Indiana University East and graduated from Indiana University/Purdue University in Indianapolis in 1983 receiving an undergraduate degree in business, specializing in accounting. He is married and has twin sons. He is serving his first five-year term on the Commission, ending on June 30, 2008.

Diane L. (Wolf) Bender is a sole practitioner in Evansville, Indiana. She received a B.B.A. degree, with highest honors, from the University of Notre Dame in 1977. She received her law degree, cum laude, from the Notre Dame Law School in 1980. Ms. Bender was admitted to practice law in the State of Indiana in 1980 and is also admitted to practice in the United States District Court for the Southern District of Indiana and the Supreme Court of the United States. She is a member of the Evansville Bar, Indiana State Bar, and American Bar Associations. She served as president of the Evansville Bar Association in 1992 and was recipient of the Evansville Bar Association's James Bethel Gresham Freedom Award in 1991. She served as Chair of the Probate, Trust and Real Property Section of the Indiana State Bar Association in 1996. Ms. Bender is a Fellow of the Indiana Bar Foundation and a Fellow of the American College of Trust and Estate Counsel. She was initially appointed to a five-year term on the Disciplinary Commission effective July 1, 1999 and was reappointed to a second term expiring on June 30, 2009. She has previously served as Secretary, Vice-Chair and Chair of the Commission.

Corinne R. Finnerty, a Jennings County native, practices law in the partnership of McConnell Finnerty Waggoner PC in North Vernon. She received her undergraduate degree from Indiana University in Bloomington. In 1981, she graduated magna cum laude from Indiana University School of Law in Bloomington, where she was selected for membership in the Order of the Coif. She was admitted to practice law in Indiana that same year. She is also admitted to practice before the United States Supreme Court, the United States Court of Appeals for the Seventh Circuit, and the United States District Courts for the Northern and Southern Districts of Indiana. Her bar association memberships include the Jennings County Bar Association, of which she is a past president, the Indiana State Bar Association, and the American Bar Association. Other professional memberships include the Indiana Bar Foundation, of which she is a Patron Fellow, the Indiana Trial Lawyers Association, and the American Association for Justice. Ms. Finnerty has previously been employed as Chief Deputy Prosecuting Attorney for Jennings County and the city attorney for North Vernon. In 1993, she was selected as one of forty-three outstanding women in the law at the annual meeting of the Indiana State Bar Association. Effective July 1, 2003, she was appointed by the Indiana Supreme Court to serve a five-year term on the Indiana Supreme Court Disciplinary Commission. Ms. Finnerty served as Secretary of the Disciplinary Commission during this reporting year.

Maureen I. Grinsfelder, a native of Whitley County, is Executive Director of the Questa Foundation for Education, Inc., a non-profit foundation that helps finance college for Allen County students. She is a graduate of the University of Michigan, where she was selected for membership in Scroll and Wyvern women's honor societies. For twenty-two years, she was employed by NBD Bank, NA and its predecessor banks in Fort Wayne, administering trusts,

guardianships and estates. She was appointed to the Board of Trustees of the Indiana State Museum and Memorials and has served numerous boards of social service and arts organizations in Fort Wayne. She is a past president of Congregation Achduth Vesholom in Fort Wayne and a past vice-president of the Union for Reform Judaism Northeast Lakes Regional Council. She and her husband, Alan Grinsfelder, have four sons and nine grandchildren. She is serving her first five-year term on the Disciplinary Commission, which will expire on June 30, 2010.

Robert L. Lewis is a member of the three-person law firm of Robert L. Lewis & Associates, in Gary, Indiana. Two other attorneys in the office are of counsel. He attended Indiana University in Bloomington where he received his B.A. in 1970 and his law degree in 1973. He also obtained a Masters in Public Administration from Western Kentucky University in 1980. He is a retired JAG Corps Lieutenant Colonel in the U.S. Army Reserves with prior active duty service in Viet Nam as a U.S. Marine. He is admitted to practice before the U.S. Supreme Court, the U.S. Seventh Circuit Court of Appeals, the Northern and Southern U.S. District Courts of Indiana, and the U.S. Court of Military Appeals. He is also a member of the Indiana and Kentucky Bars. He served as a part-time public defender in the Lake Superior Court, Criminal Division, for nine years before becoming a Magistrate in the same Superior Court system. He served there for four years and is currently a civil referee in the Gary City Court. He is a life member of the NAACP, Phi Alpha Delta Legal Fraternity, Omega Psi Phi Fraternity, Indiana University Alumni Association and the U.S. Reserve Officer's Association. Mr. Lewis is also a member of the American Bar Association, National Bar Association, Indiana State Bar Association, Lake County Bar Association, the James Kimbrough Bar Association, and the American and Indiana Trial Lawyers Associations. He was commissioned a Kentucky Colonel by former Kentucky Governor Julian Carroll. He was initially appointed to a five-year term on the Disciplinary Commission effective July 1, 1999 and was reappointed to a second term expiring June 30, 2009. He has previously served as Secretary, Vice-Chair and Chair of the Disciplinary Commission.

R. Anthony Prather is a partner in the Indianapolis office of Barnes & Thornburg LLP. He represents management interests exclusively in both labor and employment law and litigation matters in state courts and federal courts, including charges of employment discrimination. He handles matters that include alternative dispute resolution, discovery, bench and jury trials, and appeals. He also advises employers on various employment laws. Prior to joining Barnes & Thornburg, Mr. Prather was in-house counsel for Ameritech Corporation, Firestone Building Products Company, Firestone Industrial Products Company, and Firestone Polymers. Additionally, Mr. Prather served as the media relations spokesperson for Bridgestone/Firestone, Inc., in all federal class action and personal injury litigation against Bridgestone/Firestone, Inc. consolidated before Judge Sarah Evans Barker, and Ford Motor Company in the United States District Court for the Southern District of Indiana. Mr. Prather received his B.A. from Indiana University in 1980 and his J.D. from Indiana University School of Law-Bloomington in 1983. He is admitted to practice before the U.S. District Courts for the Northern and Southern Districts of Indiana and the U.S. Court of Appeals for the Seventh Circuit. He is a member of the American Corporate Counsel Association, the Indiana State Bar Association, and the National Bar Association. He was appointed to a five-year term on the Disciplinary Commission effective July 1, 2004.

J. Mark Robinson is the managing attorney of the New Albany office of Indiana Legal Services, Inc. He received his B.S. in Civil Engineering from Purdue University in 1969, his law degree

APPENDIX A

from the University of Louisville School of Law in 1973, and a Master of Divinity from the Louisville Presbyterian Theological Seminary in 1974. He was admitted to practice in the Commonwealth of Kentucky in 1974, the State of Indiana in 1975, and the United States District Courts for the Southern District of Indiana and the Western District of Kentucky. Mr. Robinson has served as in-house counsel to Chemetron Corporation, a staff attorney for the U.S. Army Corps of Engineers, and has spent the past twenty-nine years with Indiana Legal Services. His professional memberships include the Clark and Floyd County Bar Associations; the Indiana State, Kentucky, and American Bar Associations. He is the current president of the Clark County Bar Association, past president of the Clark County Board of Public Defenders, has served Clark County in the Indiana State Bar Association House of Delegates for the past ten years, and has served on the Indiana State Bar Association Board of Governors (2004-2006). He is also a Master Fellow of the Indiana Bar Foundation and present member of its board of directors. He was appointed a Sagamore of the Wabash in 1999. In his civic life, he serves as President of the Board of Directors of the River Ridge Development Authority, and is past trustee of the Southern Indiana Economic Development Council. As a Presbyterian minister, Mr. Robinson served small rural parishes in southeastern Indiana for thirty-two years. He served for six years on the Indiana Pro Bono Commission, and was appointed to a five-year term as a member of the Disciplinary Commission that expired on June 30, 2006. He was re-appointed to a second term on the Commission beginning July 1, 2006. He has previously served as Secretary, Vice-Chair and Chair of the Disciplinary Commission.

Anthony M. Zappia is the senior member of the 4-person law firm of Zappia Zappia & Stipp, located in South Bend, Indiana. He attended the University of Notre Dame where he received his B.A. in 1972, cum laude, in the School of Economics, and earned his law degree in 1976 from Valparaiso University. He is admitted to practice before the Supreme Court of Indiana and the United States District Court for the Northern District of Indiana. Mr. Zappia was a Deputy Prosecuting Attorney in St. Joseph County from 1976 to 1986. He was also the attorney for the Mishawaka City Council from 1981 to 1986. He has served St. Joseph County as its County Attorney from 1986 until the present. He has been a member of the St. Joseph County Judicial Nominating Committee on two separate occasions, and presently serves on the St. Joseph County Public Defender's Advisory Committee, and is a member of the Indiana Supreme Court Committee on Character and Fitness. Mr. Zappia was President-Elect in 1989-1990 and President in 1990-1991 of the St. Joseph County Bar Association. He is a member of the Indiana State and American Bar Associations, Indiana Trial Lawyers Association, and Association of Trial Lawyers of America. Mr. Zappia's principal areas of practice are personal injury, criminal defense, domestic relations and civil litigation. He was appointed to an initial five-year term on the Disciplinary Commission that expired on June 30, 2006, and was reappointed to a second term beginning July 1, 2006. A former Secretary and Vice-Chair of the Disciplinary Commission, Mr. Zappia served as Chair of the Commission in this reporting year.

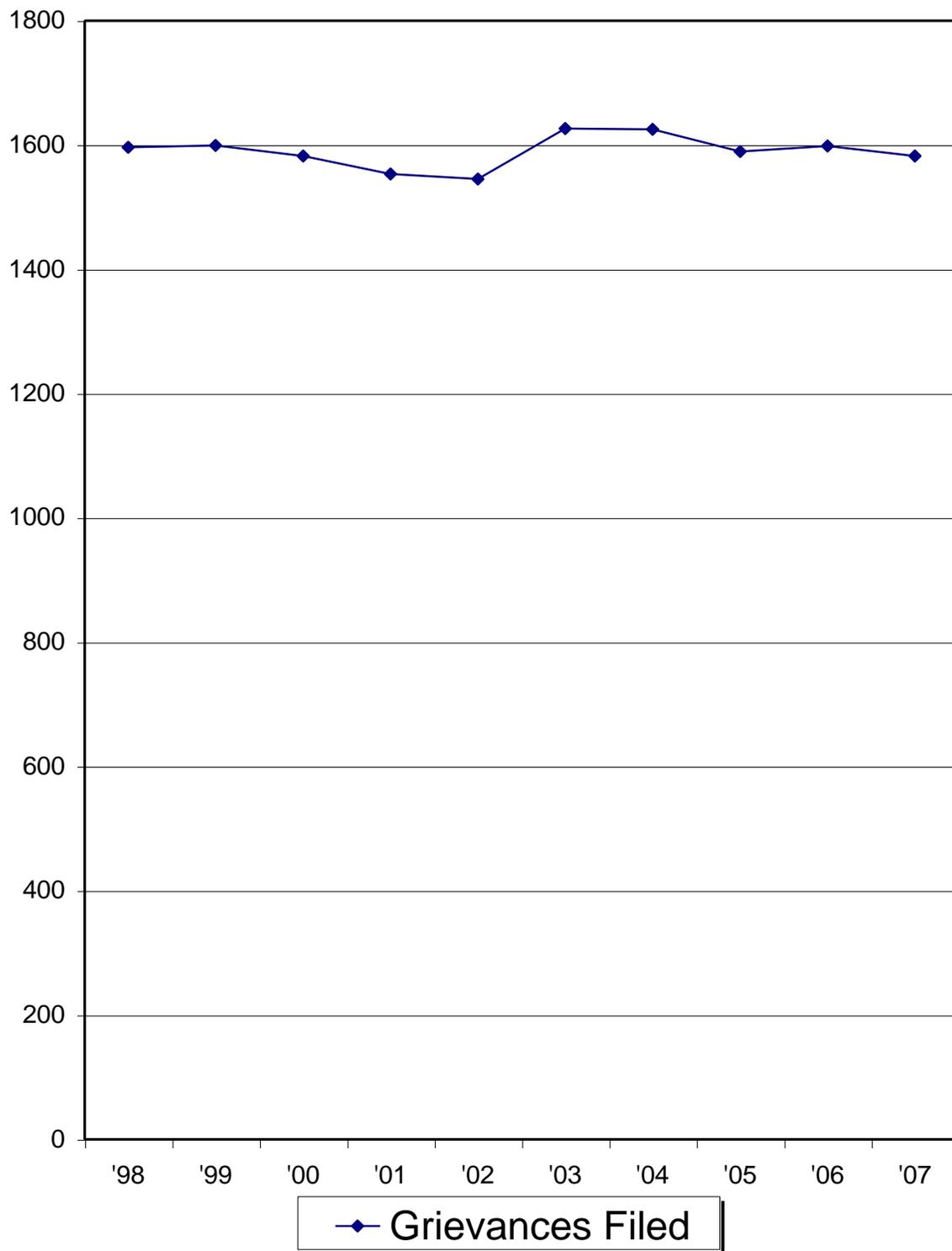
Sally Franklin Zweig is a partner of the law firm of Katz & Korin P.C. in Indianapolis. She obtained her undergraduate degree from Washington University in St. Louis in 1971 and received her law degree from Indiana University School of Law at Indianapolis in 1986 and was admitted to practice that same year. Prior to her current affiliation she was a partner at Johnson Smith LLP where she chaired the Health Care Practice Group. She is admitted to practice in all Indiana state courts and both Indiana federal court districts, as well as the Seventh Circuit Court of Appeals and the Supreme Court of the United States. Ms. Zweig is a past President of the Board of

APPENDIX A

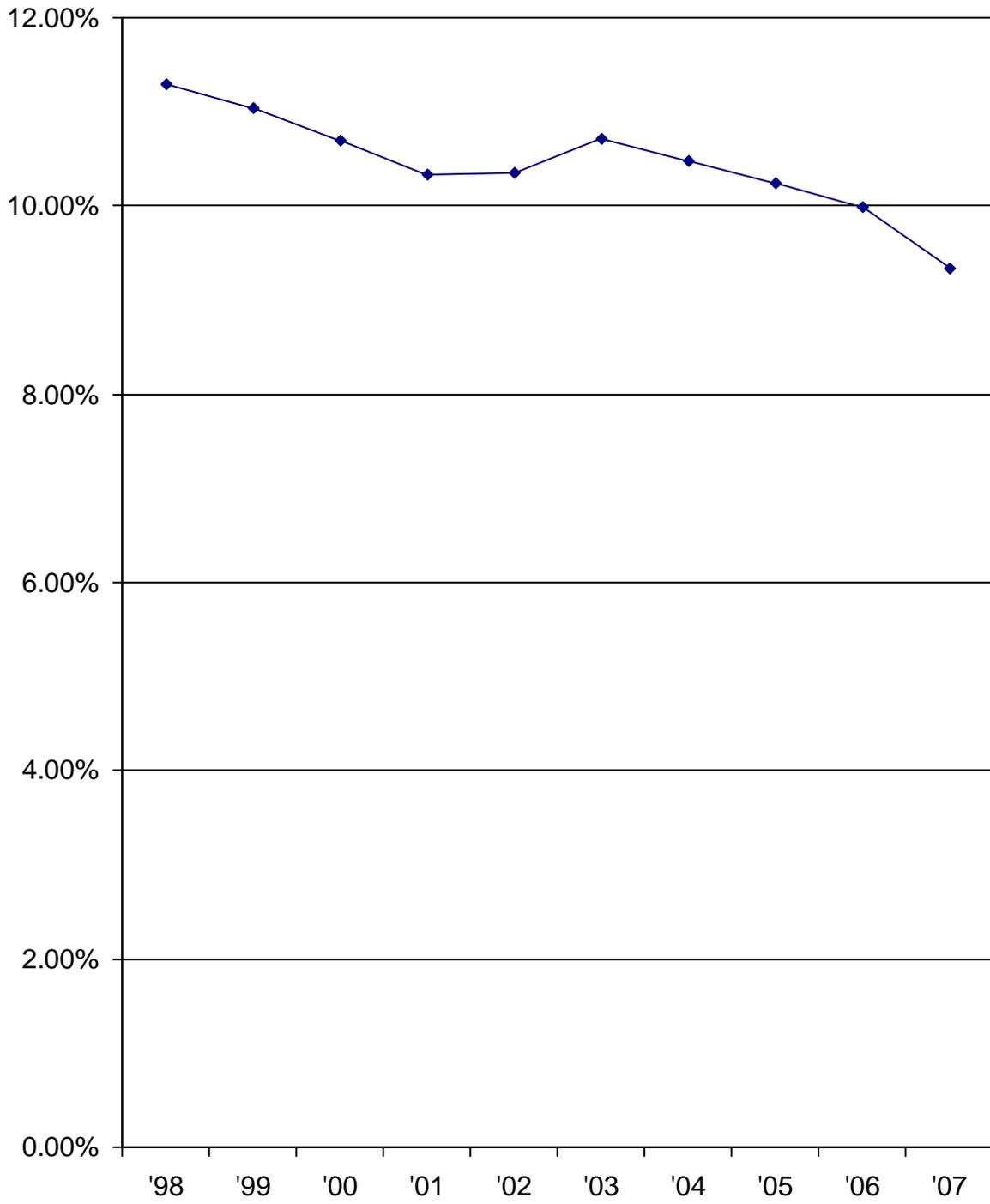
Directors of the Indiana University-Indianapolis Law School Alumni Association and a past President of the Indianapolis Chapter of the American Inns of Court. She has been recognized as a Distinguished Fellow of the Indianapolis Bar Foundation and has served as a lecturer for the Bar Review presented by the Indianapolis Bar Association. She is also a Fellow of the Aspen Institute [1997] and the Oxford Center for Social Justice [1998]. Her civic service includes mayoral appointments to the Executive Board of the Greater Indianapolis Progress Committee and as past co-chair of the Race Relations Leadership Counsel of Indianapolis. She also presently serves on the boards of directors of the Festival Musical Society and At Your School Services. She was appointed to a first five-year term as a member of the Disciplinary Commission expiring on June 30, 2006, and reappointed to a second term beginning July 1, 2006. A former Secretary of the Disciplinary Commission, Ms. Zweig served as Vice-Chair of the Commission in this reporting year.

APPENDIX A

NUMBER OF GRIEVANCES FILED 1997-2007



GRIEVANCE RATES 1998-2007



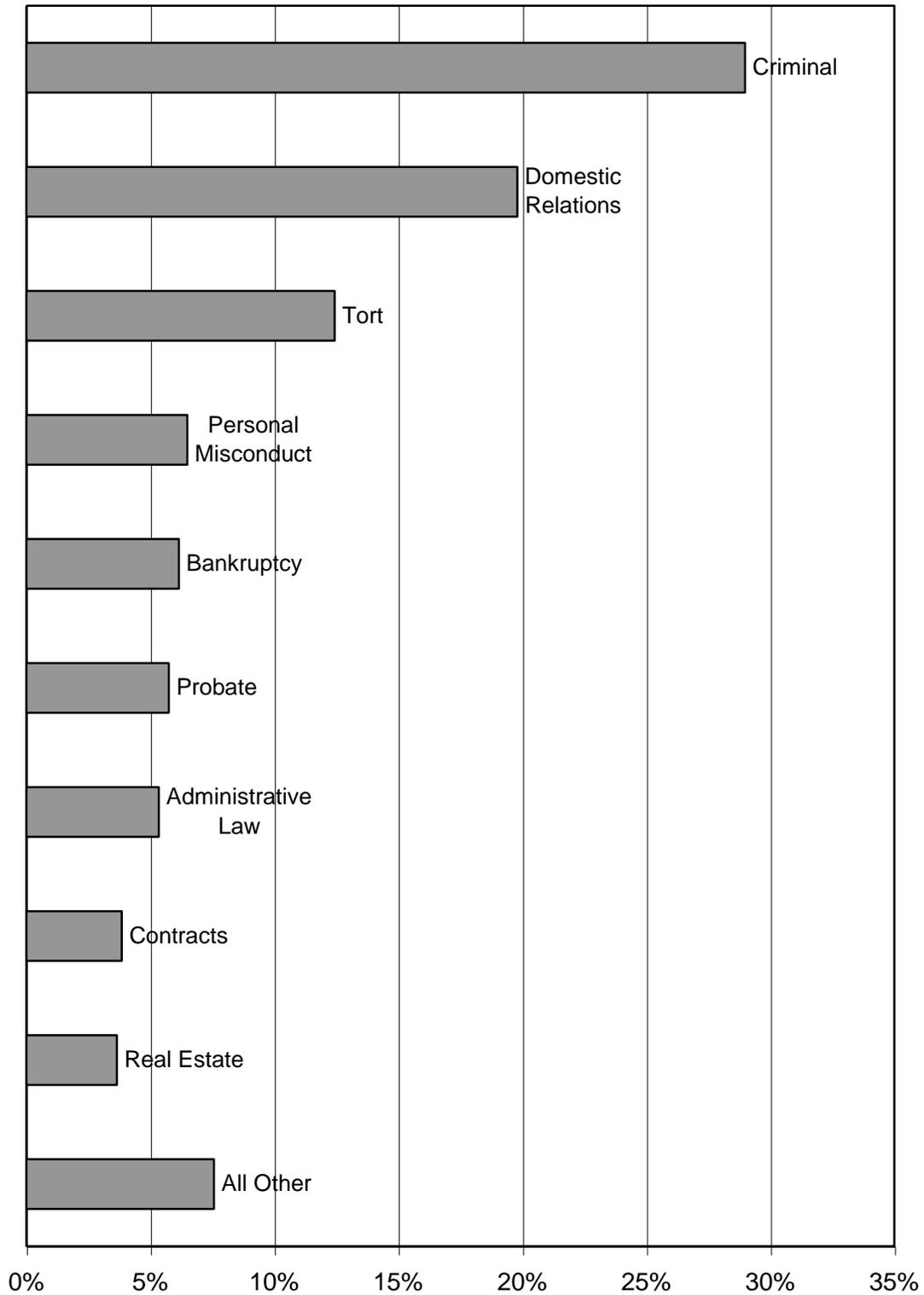
—◆— Grievances as % of Active Lawyers

GRIEVANCES BY CASE TYPE AND MISCONDUCT ALLEGED (2007-2008)

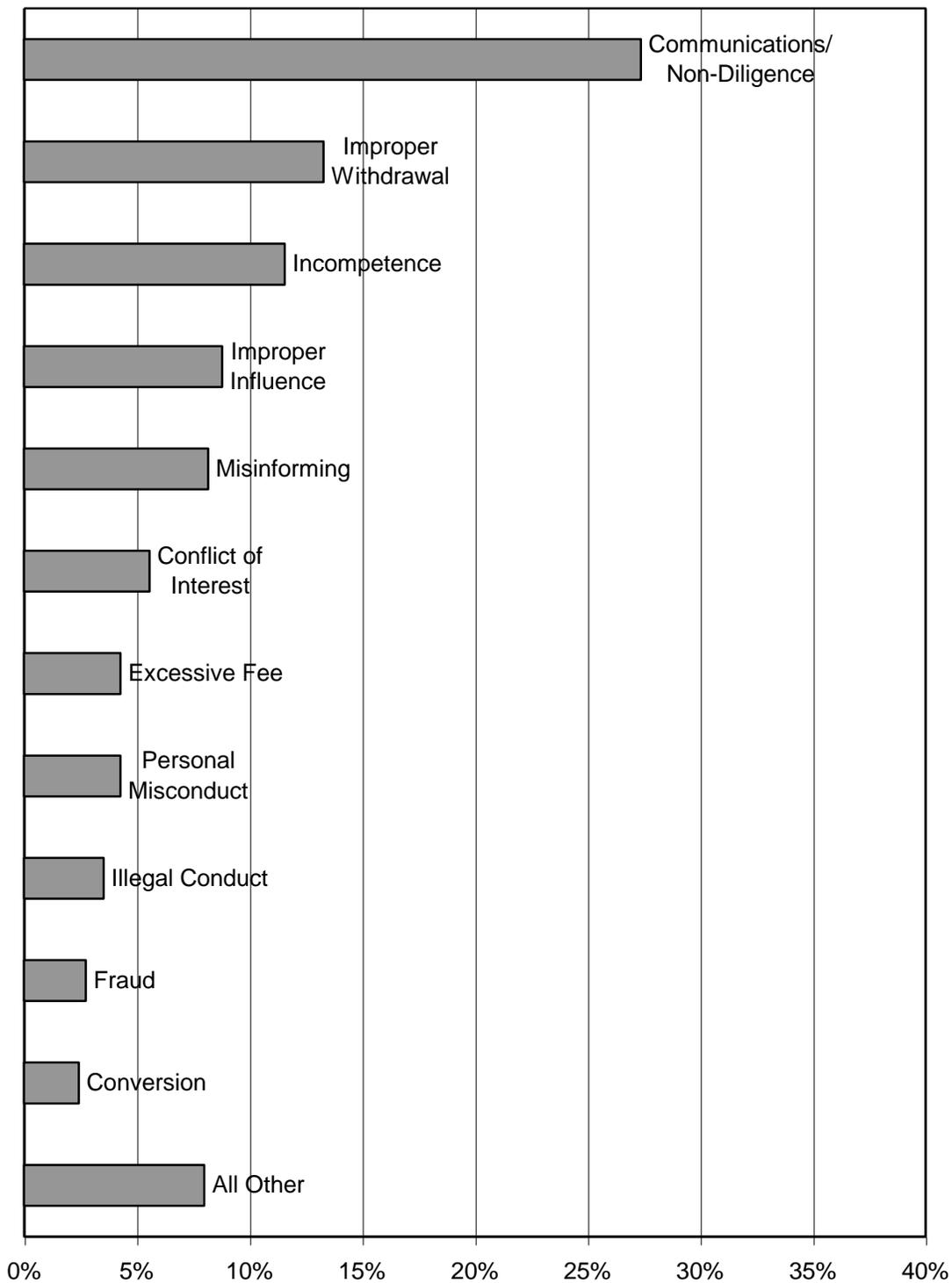
Type of Legal Matter	Number	% of Total
Administrative Law	79	5.3%
Adoption	14	0.9%
Bankruptcy	91	6.1%
Collection	28	1.9%
Condemnation	0	0.0%
Contracts	57	3.9%
Corporate	24	1.6%
Criminal	429	29.0%
Domestic Relations	293	19.8%
Guardianship	14	0.9%
Other Judicial Action	3	0.2%
Patent, Copyright	1	0.1%
Personal Misconduct	96	6.5%
Real Estate	54	3.6%
Tort	184	12.4%
Probate	85	5.7%
Worker's Compensation	20	1.4%
Zoning	1	0.1%
Other	7	0.5%
TOTAL	1480	100.0%

Alleged Misconduct	Number	% of Total
Action in Bad Faith	17	0.8%
Advertising	31	1.4%
Bypassing Other Attorney	23	1.0%
Communications/ Non-Diligence	620	27.4%
Conflict of Interest	126	5.6%
Conversion	55	2.4%
Disclosure of Confidences	31	1.4%
Excessive Fee	97	4.3%
Fraud	62	2.7%
Illegal Conduct	80	3.5%
Improper Influence	199	8.8%
Improper Withdrawal	301	13.3%
Incompetence	262	11.6%
Minor Disagreement	7	0.3%
Minor Fee Dispute	28	1.2%
Misinforming	185	8.2%
Overreaching	36	1.6%
Personal Misconduct	97	4.3%
Solicitation	8	0.4%
TOTAL	2265	100.0%

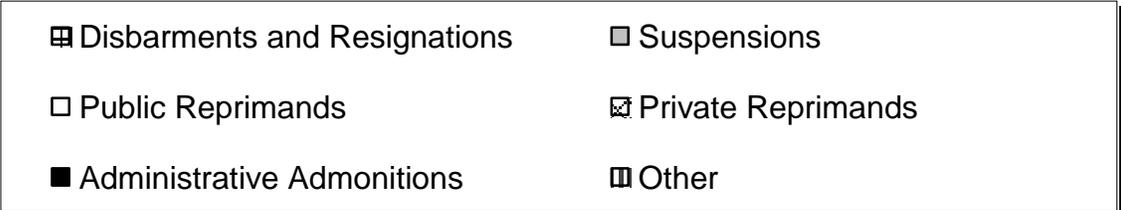
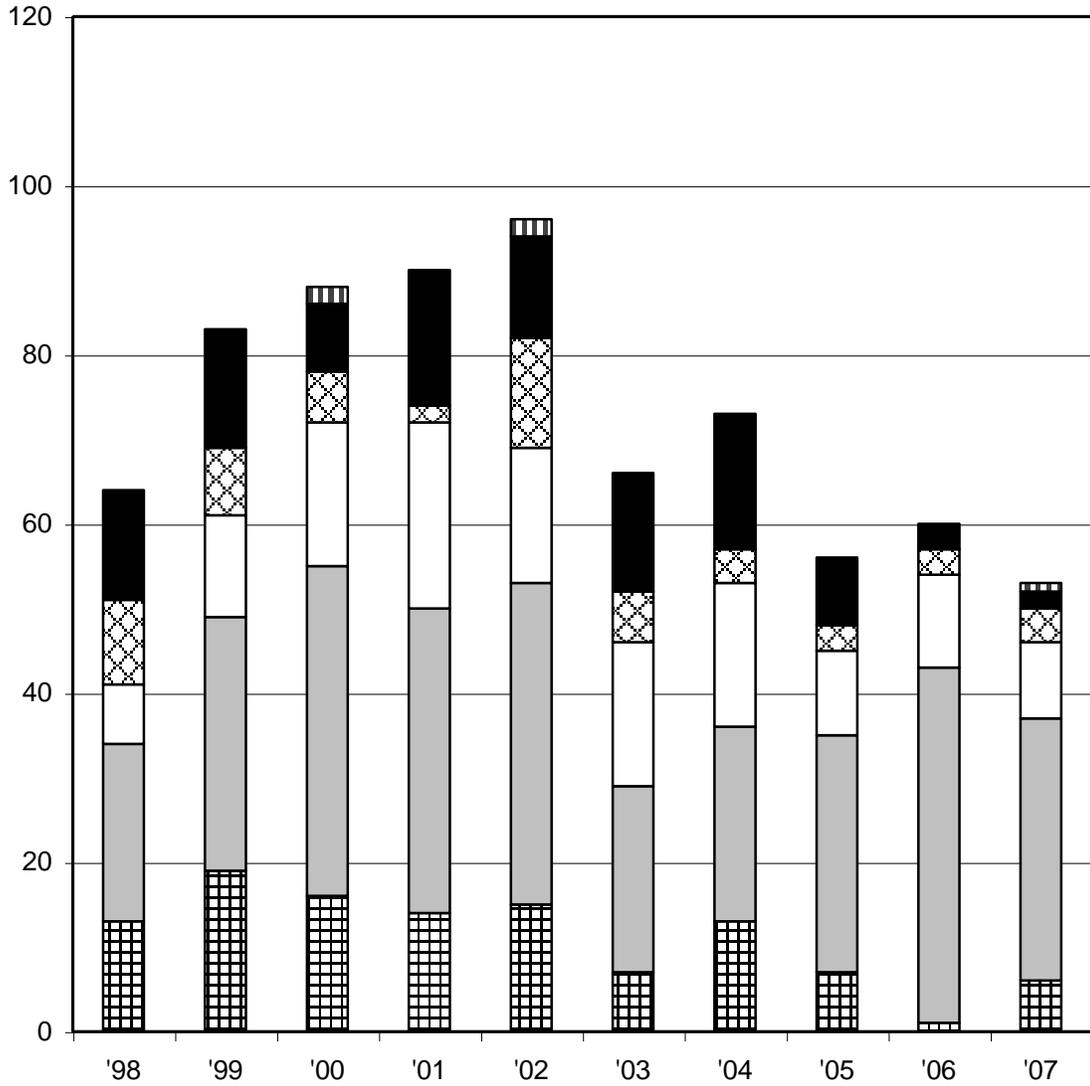
GRIEVANCES BY CASE TYPE 2007-2008



GRIEVANCES BY MISCONDUCT ALLEGED 2007-2008



SANCTIONS ORDERED 1998-2007



**PUBLIC AND BAR IMPROVEMENT AND EDUCATION ACTIVITIES
2007-2008**

Author	<i>Survey of the Law of Professional Responsibility</i> , 41 INDIANA LAW REVIEW 1213 (2008)	Anderson
Author	<i>Making the World Safe for Medical Malpractice Cases</i> , Vol. 51, No. 1 RES GESTAE 22 (July/August 2007)	Lundberg
Author	<i>File, File, Who's Got the File? Client Rights to Return of Property</i> , Vol. 51, No. 2 RES GESTAE 29 (September 2007)	Lundberg
Author	<i>The Graying of the Legal Profession</i> , Vol. 51, No. 3 RES GESTAE 26 (October 2007)	Lundberg
Author	<i>Sale of Living Trusts and the Role of Lawyers</i> , Vol. 51, No. 4 RES GESTAE 38 (November 2007)	Lundberg
Author	<i>Zealotry v. Zeal: Thoughts About Lawyer Civility</i> , Vol. 51, No. 5 RES GESTAE 32 (December 2007)	Lundberg
Author	<i>Neither Fish Nor Fowl: The Prospective Client</i> , Vol. 51, No. 6 RES GESTAE 32 (January/February 2008)	Lundberg
Author	<i>Top Ten 2007 Professional Responsibility Stories</i> , Vol. 51, No. 7 RES GESTAE 22 (March 2008)	Lundberg
Author	<i>Economic Entanglements Between Lawyers and Clients</i> , Vol. 51, No. 8 RES GESTAE 36 (April 2008)	Lundberg
Author	<i>My Brother's Keeper: The New Attorney Surrogate Rule</i> , Vol. 51, No. 9 RES GESTAE 29 (May 2008)	Lundberg
Author	<i>Unbundled Legal Services or Limited Scope Representation</i> , Vol. 51, No. 10 RES GESTAE 19 (June 2008)	Lundberg
JUL 20, 2007	Presenter: "Ethics Update," Indiana Civil Rights Commission, Indianapolis	Kidd
AUG 8, 2007	Co-Presenter: "What Judges Want," Indianapolis Bar Association, Indianapolis	Kidd
AUG 30, 2007	Panelist: "Indiana Ethics: The Top Five," Indiana Continuing Legal Education Forum & Indiana Conference for Legal Education Opportunity, Indianapolis	Lundberg & Prather
SEP 20, 2007	Presenter: "Ethical Issues Involving Office Succession, the Surrogate Rule & Current Ethics Concerns," Senior Counsel Division, Indianapolis Bar Association, Indianapolis	Lundberg
SEP 21, 2007	Panelist: "Ethical Considerations for Bankruptcy Trustees," Bankruptcy Institute for Trustees, Indianapolis	Pruden
SEP 27, 2007	Co-Presenter: "Professional Responsibility," Annual Law Update, Indiana Continuing Legal Education Forum, Indianapolis	Lundberg
OCT 5, 2007	Presenter: "Trust Account Management," Applied Professionalism Course, Indianapolis Bar Association, Indianapolis	Pruden
OCT 7, 2007	Presenter: "Avoiding Trouble in the First Place," Applied Professionalism Seminar, Indiana Bar Association	Iosue
OCT 16, 2007	Presenter: "Ethics Update," In-house seminar Kreig DeVault LLP, Indianapolis	Kidd

APPENDIX H

OCT 17-19, 2007	Faculty: 2007 Mid Central Region Program, National Institute for Trail Advocacy, Indianapolis	Rice
OCT 18, 2007	Co-Presenter: "Vignettes of Legal Ethics," Indiana Continuing Legal Education Forum, Indianapolis	Kidd
OCT 29, 2007	Presenter: "The Rules of Professional Conduct and the CHINS/TPR Lawyer," Marion County Public Defender Agency	Iosue
NOV 2, 2007	Presenter, "New Disciplinary Rule Amendments," Johnson County Bar Association, Franklin, Indiana	Shook
NOV 8, 2007	Presenter: "Two Year (Plus) of Ethics Curbstone: The Highlights and the Lowlights," St. Joseph County Bar Association, South Bend	Lundberg
NOV 8, 2007	Panelist: "Ethical Considerations," Practical Skills Summit, Indiana State Bar Association, Indianapolis	Pruden
NOV9, 2007	Presenter: "Two Year (Plus) of Ethics Curbstone: The Highlights and the Lowlights," Boone County Bar Association, Lebanon	Lundberg
NOV 14, 2007	Co-Presenter: "Vignettes of Legal Ethics," Indiana Commission on Continuing Legal Education, Lafayette	Lundberg
NOV 20, 2007	Presenter: "Lawyers and Law Students and Alcohol," University of Notre Dame School of Law, South Bend	Lundberg
NOV 28, 2007	Presenter: "Two Year (Plus) of Ethics Curbstone: The Highlights and the Lowlights," District XIV Pro Bono Committee, New Albany	Lundberg
NOV 29, 2007	Co-Presenter: "Vignettes of Legal Ethics," Indiana Commission on Continuing Legal Education, Muncie	Lundberg
NOV 30, 2007	Presenter: "Unbundling of Legal Services," Access to Justice Conference, Indiana Legal Services, Indianapolis	Lundberg
NOV 30, 2007	Presenter: "Ethics Questions About Metadata," Access to Justice Conference, Indiana Legal Services, Indianapolis	Lundberg
DEC 4, 2007	Presenter: "Trust Account Management," Applied Professionalism Course, Lake County Bar Association, Merrillville	Pruden
DEC 4, 2007	Presenter, "Top 10 Litigation Practice Tips For Young Lawyers," Indianapolis Bar Association, Indianapolis	Shook
DEC 5, 2007	Presenter: "Trust Account Management," Applied Professionalism Course, Allen County Bar Association, Fort Wayne	Pruden
NOV 30, 2007	Presenter: "The Rules of Professional Conduct and the Mortgage Foreclosure Lawyer," Heartland Pro Bono Counsel	Iosue
DEC 7, 2007	Presenter: "Ethics Issues in Representing Same Sex Families," American Civil Liberties Union of Indiana, Indianapolis	Lundberg
DEC 7, 2007	Panelist: Lake County Bar Association Ethics Luncheon, Merrillville, Indiana	McKinney

APPENDIX H

DEC 12, 2007	Presenter: "Keeping Your Client and the Disciplinary Commission Happy," Marion County Bar Association, Indianapolis	Lundberg
DEC 14, 2007	Co-Presenter: "Ethics," Federal Criminal Defense Update, Federal Community Defenders, Indianapolis	Lundberg
JAN 7, 2008	Presenter: "Program on Law and State Government," Indiana University School of Law Indianapolis	Kidd
FEB 20, 2008	Guest Lecturer, Criminal Practice Clinic, Prof. Lancaster, Indiana University School of Law, Indianapolis	Lundberg
FEB 29, 2008	Presenter: "Lawyer Advertising," Women In The Law Conference, Culver Cove	Kidd
MAR 4, 2008	Guest Lecturer, Civil Practice Clinic, Prof. Wolf, Indiana University School of Law, Indianapolis	Lundberg
MAR 18, 2008	Presenter: "Issues Related to Legal Ethics in Elections," Indiana Continuing Legal Education Forum, Indianapolis	Lundberg
MAR 18, 2008	Co-Presenter: "The Hazard of 'Harmless' Cocktail Banter," Sagamore American Inn of Court, Warren Team, Indianapolis	Rice
APR 18, 2008	Presenter: "Trust Accounting and Ethics Issues for Prosecutors," Applied Professionalism for Prosecutors, Indiana Prosecuting Attorneys Council, Indianapolis	Lundberg
APR 18, 2008	Panelist: "If I Knew Then What I Know Now," Applied Professionalism, Indianapolis Bar Association, Indianapolis	Lundberg
APR 24, 2008	Presenter: "Ethical Issues Regarding Attorney Fees," Allen County Bar Association, Fort Wayne	Pruden
MAY 14, 2008	Presenter: "Civility," Ratliff-Cox American Inn of Court, Muncie	Lundberg
MAY 23, 2008	Presenter: "Staying Out of Trouble With Your Clients and the Disciplinary Commission," Litigation Department, Bose McKinney, LLP, Indianapolis	Lundberg
MAY 31, 2008	Panelist: "Regulating 21 st Century Advertising: Time to Throw in the Towel?" 34 th ABA National Conference on Professional Responsibility, Boston, MA	Lundberg
JUN 20, 2008	Panelist: "Collecting Your Attorney's Fees," Bench- Bar Conference, Indianapolis Bar Association, Louisville, KY	Rice
JUN 20, 2008	Presenter: "Lawyer and Judge Civility," Bench-Bar Conference, Indianapolis Bar Association, Louisville, KY	Lundberg

APPENDIX H

INDIANA SUPREME COURT DISCIPLINARY COMMISSION FUND
Statement of Revenues and Expenses (Unaudited)
Fiscal Year Ending June 30, 2008

BEGINNING DISCIPLINARY FUND BALANCE		\$1,283,802
REVENUES:		
TOTAL REGISTRATION FEES COLLECTED		\$1,686,637
REVENUE FROM OTHER SOURCES:		
Court Costs	\$23,973	
Reinstatement Fees	2,000	
Investment Income	41,773	
Rule 7.3 Filing Fees	10,300	
Other	805	
TOTAL REVENUE FROM OTHER SOURCES		\$78,851
TOTAL REVENUE		\$1,765,488
EXPENSES:		
OPERATING EXPENSES:		
Personnel	\$1,399,000	
Investigations/Hearings	33,501	
Postage and Supplies	24,141	
Utilities and Rent	141,809	
Travel	47,453	
Equipment	25,416	
Other Expenses	34,801	
TOTAL OPERATING EXPENSES		\$1,706,121
TOTAL EXPENSES		\$1,706,121
NET INCREASE (DECREASE) IN FUND BALANCE		\$59,367
ENDING DISCIPLINARY FUND BALANCE		\$1,343,169