

## STATISTICS, STATISTICS

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Continuing a trend that started several years ago, the number of complaints received against lawyers fell from 1,168 in 2003 to 1,147 in calendar year 2004. At the same time, the number of advisory opinions requested continued to increase from 1,889 in 2003 to 1,974 in 2004. The statistical correlation over the past several years between complaints filed and advisory opinions issued continues to support the conclusion that advisory opinions reduce or prevent complaints against lawyers. The statistical correlation between complaints and advisory opinions is reflected below:

<b>YEAR</b>	<b>Advisory Opinions Issued</b>	<b>Complaints Filed</b>
1991 .....	1292 .....	1380
1992 .....	1398 .....	1399
1993 .....	1627 .....	1405
1994 .....	1765 .....	1456
1995 .....	1795 .....	1290
1996 .....	1783 .....	1438
1997 .....	1757 .....	1314
1998 .....	1632 .....	1275
1999 .....	1635 .....	1278
2000 .....	1770 .....	1362
2001 .....	1824 .....	1246
2002 .....	1825 .....	1165
2003 .....	1889 .....	1168
2004 .....	1974 .....	1147

Beyond advisory opinions, the office has continued its mission to educate the bar by speaking at numerous CLE presentations. Both of these efforts are aimed at increasing awareness of professional standards and improving the delivery of legal services.

The areas of law practice generating the most complaints were:

- Family Law ..... 243
- Criminal Law ..... 242
- Litigation ..... 222
- Probate ..... 82
- Real Estate ..... 74
- Collection ..... 60

A sampling of the identity of persons who filed complaints against lawyers in 2004 broke down as follows:

- Clients ..... 554
- Adverse Parties ..... 283
- Other Lay Persons ..... 99
- Opposing Counsel ..... 46
- Other Lawyers ..... 32
- Creditors ..... 29

Complaint allegations clustered in several key areas as follows:

- Communication, Diligence &  
Competence ..... 401
- Dishonesty & Criminal  
Conduct ..... 209
- Allegations Not Constituting an  
Offense ..... 109
- Contact with Parties, Frivolous  
Litigation ..... 94
- Fees ..... 84
- Candor to the Tribunal, Ex Parte  
Contacts ..... 75

- Conflicts of Interest ..... 62

During 2004 there were 1,109 complaints resolved as follows:

- Dismissal Without Investigation..... 537
- Dismissal After Investigation ..... 395
- Admonition ..... 94
- Panel Admonition ..... 4
- Private Probation ..... 17
- Public Reprimand & Probation ..... 9
- Suspension ..... 19
- Disbarment ..... 11
- Disability Inactive Status ..... 4
- Resignation ..... 10
- Reinstatement Cases ..... 8
- Trusteeship Proceeding ..... 1

### PUBLIC DISCIPLINE CASES

The Supreme Court in calendar year 2004 entered disciplinary orders involving 39 different lawyers. Among the Supreme Court lawyer discipline cases decided in the last half of 2004 and during the first six months of 2005 were:

**James J. Boyd** of St. Paul was disbarred for commingling personal funds in his client trust account and a client estate account in order to shelter the funds from creditors, including tax authorities. Boyd had a significant discipline history that included three private admonitions, a 1988 suspension for preparing and filing a false deed, and a 2003 suspension for failing to timely file income tax returns.

**Samuel M. Vaught** of St. Paul was disbarred for misappropriating client funds, making false statements, and failing to cooperate in the disciplinary investigation. At the time of his disbarment, Vaught had been suspended since 2002 for misappropriation of client funds. Vaught had also been reprimanded in 1998 for failing to timely file income tax returns.

**Alfred Perez, Jr.** of California was disbarred after it was discovered he had been convicted in California Federal District Court in 1993 of mail fraud and money laundering in his California law practice. Perez did not report his conviction to the Minnesota bar and after his conviction the California lawyer discipline authorities allowed Perez to resign rather than be disbarred. Perez had been using his Minnesota license between 1995 and 2004 to practice law before federal immigration tribunals in California and Arizona.

**Winston W. Borden** of St. Paul was indefinitely suspended after he was criminally convicted of willful failure to file federal income tax returns for the tax years 1997 through 2002.

**Harvey C. Ginsburg** of St. Louis Park was suspended for one year as a lawyer and ordered to be placed on disability inactive status after the one-year suspension period. Ginsburg's discipline resulted from a judicial misconduct proceeding in which he was removed from office and retired based on disability. Ginsburg's misconduct included criminal convictions for fifth-degree assault and criminal damage to property and five instances of improper conduct occurring during legal proceedings over which he presided as a judge.

**Steven F. Soronow** of Minnetonka was suspended for an additional period of 30 months. Soronow had been indefinitely suspended from practice in 2002 for neglect, failure to return files and unearned fees, failure to cooperate, and committing a misdemeanor involving dishonesty. The additional 30-month suspension resulted from Soronow's attempt to coerce a former client who had filed an ethics complaint against him to cease cooperating with the disciplinary investigation. Soronow's misconduct also included posting misleading statements on the law firm Web site used by Soronow prior to his suspension, and by his wife who is also a lawyer, after Soronow's suspension.

**James M. Burseth** of Minneapolis was indefinitely suspended with no right to apply for reinstatement until he has provided one year of negative nondilute random urinalysis test results for alcohol and drugs. Burseth's suspension occurred when he violated a previous disciplinary order requiring him to remain abstinent and to submit to random urinalysis. Burseth's misconduct included appearing in court with alcohol on his breath, testing positive for alcohol in a random urinalysis, having to be replaced as trial counsel in a murder trial because he failed to appear for jury selection, and making misrepresentations to his employer and the Director's Office about his sobriety.

**Jane E. Brooks** of Roseville was indefinitely suspended for a minimum of two years for neglecting client matters, misusing her trust account, and failing to cooperate with the discipline process. Brooks had previously been publicly reprimanded in 1993 for trust account violations.

**Chester D. Swenson** of Albert Lea was suspended for 60 days with reinstatement limited to permanent retired status for making misleading statements to his client and child support authorities. Swenson had previously been suspended for 30 days in 1995.

**Jeff D. Bagniefski** of Rochester was suspended for 90 days with the requirement that he petition for reinstatement to the practice of law after the expiration of the suspension. Bagniefski failed to file a brief, filed a frivolous motion resulting in a \$1,500 sanction, had his client sign a blank signature page that was later improperly notarized and attached to an inaccurate affidavit that was filed with the court without consulting the client, and entering into a contingent fee agreement in a marriage dissolution case.

## **ANNUAL REPORT**

Each year the Lawyers Professional Responsibility Board and Office of Lawyers Professional Responsibility issues an annual report covering statistics and other developments in the lawyer discipline system. Statistics like those found in this article and many more are available in the annual report that can be accessed on the Lawyers Board Web site [www.courts.state.mn.us/lprb](http://www.courts.state.mn.us/lprb).