

A year of public discipline

by

Susan M. Humiston

Susan.Humiston@courts.state.mn.us

Office of Lawyers Professional Responsibility

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Each year a summary of the prior year's public discipline appears in this column. The purpose of this summary is largely a cautionary tale for lawyers—one of the reasons for public discipline, after all, is to deter misconduct by other lawyers. Public discipline also demonstrates to the public that the profession takes ethical misconduct seriously. The legal system's standing in the eyes of the public is harmed when lawyers do not follow the rules, and individual lawyers acting unethically can cause great harm.

Determining the appropriate discipline for misconduct is often difficult. The Minnesota Supreme Court has decades of case law on discipline in particular cases. The abundance of case law, however, does not always yield clear answers. Perspectives on the adequacy of disciplinary measures change over time. Determining the level of discipline to recommend to the Court in public cases is one of the more challenging tasks of the Director's Office, and something that is not approached lightly. Let's review some matters resolved in 2023.

The numbers

The Court issued 46 decisions in public matters in 2023, the majority involving the imposition of discipline. Three lawyers were disbarred, 24 suspended, one reprimanded, and two placed on disability inactive status in lieu of discipline. Four attorneys had their reinstatement petitions denied, while another 12 were reinstated to the practice of law: two following resignations, two after a reinstatement hearing process, and most from short suspensions.

The 2023 numbers are generally in line with the prior year's numbers, but one in particular stands out—there was only one public reprimand, the lowest form of public discipline. Usually there are a handful of public reprimands, often for trust account misconduct. Another notable number involved the reinstatements denied by the Court in 2023. While two lawyers were reinstated following reinstatement proceedings, four

were unable to meet the heavy burden of moral change and a renewed commitment to the ethical practice of law that the Court imposes on petitioners.

Disbarment

The three lawyers who were disbarred in 2023 were John Hernandez, Brad Ratgen, and Ignatius Udeani. Mr. Hernandez was disbarred for the type of misconduct that typically leads to disbarment—misappropriation of client funds and dishonest conduct. Across 11 matters, Mr. Hernandez violated numerous ethics rules. Notably, Mr. Hernandez was only admitted to the practice of law in 2017, but in his short legal career, he caused a lot of havoc. He did not have prior discipline, but once complaints started arriving, the situation escalated fairly quickly into several public matters that ultimately culminated in his disbarment.

Mr. Ratgen once enjoyed an extensive personal injury practice, but was indicted and pleaded guilty to conspiracy to commit health care fraud relating to his law practice. In 2023, he was sentenced to 16 months in federal prison for participating in a scheme where he used runners to recruit auto accident victims, who were then billed for chiropractor services not needed or incurred through chiropractors who participated in the scheme.

Mr. Udeani was disbarred for misconduct related to his representation of clients in immigration matters. At one point or another, I believe that Mr. Udeani violated all or almost all of the ethics rules; Mr. Udeani was a particularly troubling case because he was an immigrant to the United States himself and ended up creating havoc in a lot of vulnerable immigrant clients' lives. Mr. Udeani was suspended for three years in 2020, but after his suspension, additional misconduct came to light that led to his ultimate disbarment. The Director's Office was also appointed trustee of Mr. Udeani's client files (which he mostly abandoned after his suspension and subsequent disbarment) and is still in the process of getting hundreds of files back to clients. Even after he was disbarred, we continued to hear from clients who had complaints against Mr. Udeani, and the Minnesota Client Security Board is handling claims from his clients.

Suspensions

Twenty-four lawyers were suspended for periods ranging from 30 days to five years (the maximum suspension short of disbarment). A couple of the matters stand out. Julie Bruggeman was suspended for 90 days for misconduct that occurred in private practice before she became the Mahnomen County Attorney. The misconduct included multiple acts of dishonesty to cover up delay and mistakes in a civil matter.

Ms. Bruggeman offered mitigation evidence that reduced the length of the suspension, but given the extent and nature of the misconduct, a reinstatement hearing was appropriate. The old saying that the coverup is worse than the crime often holds true in discipline cases, and I cannot emphasize enough the advice that if something happens, just acknowledge it. The harm can always be managed, and it is often not as bad as you think. But dishonesty has a way of taking on a life of its own.

Samuel McCloud has been a lawyer in Minnesota since 1977. During his career, Mr. McCloud has received seven admonitions, a public reprimand, one private probation, and two suspensions—one for his conviction for tax evasion, and one for intentional failure to attend court hearings. Mr. McCloud was suspended for 90 days in 2023 for engaging in the unauthorized practice of law while suspended, failing to act with competence and diligence in a matter, and disclosing client confidences in a matter. This misconduct, standing alone, might not warrant a 90-day suspension, but in light of Mr. McCloud's history of misconduct, the Director felt strongly (and the Court agreed) that Mr. McCloud should be required to petition for reinstatement to show moral change and a renewed commitment to the ethical practice of law. Some lawyers are a constant challenge for the discipline system, demonstrating a pattern of failing to follow the rules, while at the same time engaging in the type of misconduct that typically warrants discipline but perhaps not severe discipline. This case is an example of why the Court considers prior discipline to be an aggravating factor in determining discipline.

Ryan McLaughlin was suspended for two years for misappropriation of client funds and dishonest conduct. Although Mr. McLaughlin was admitted to practice in 2012, he did not begin practicing until 2018. When he began practicing, he had a trust account but chose not to use it; instead, he put funds that should have been in trust in his business account, and then, at various points in time, spent the funds he should have been holding in trust, thus misappropriating client funds. Mr. McLaughlin also made false and misleading statements to a judge and during the Director's investigation. This misconduct was particularly serious and often results in disbarment. Mr. McLaughlin offered mitigating factors, and stipulated to a two-year suspension, which the Court approved. Mr. McLaughlin did not have any prior misconduct, and as is often the case, the Director learned of Mr. McLaughlin's trust account violations—the most serious misconduct—while investigating another complaint.

Reinstatement denied

When a lawyer is suspended for a period that meets or exceeds a stipulated length of time (currently 90 days, soon to be 180 days), the lawyer must petition for reinstatement and undergo a rigorous process to be reinstated to the practice of law, not unlike the original character and fitness review required for application to the bar. Reinstatements are different from original admission, however, because the lawyer must not only prove good character and fitness, but also rehabilitation through a showing of moral change and a renewed commitment to the practice of law, to a panel of the Lawyers Professional Responsibility Board, and ultimately to the Court. Last year was notable because the Court denied four reinstatement petitions—those of Mark Greenman, Adam Klotz, Michelle McDonald, and William Mose. Each petition was denied for different reasons, but each shows the care that is taken by the Court and the Board in considering these petitions and ensuring that those who are reinstated following serious misconduct once again merit the court’s confidence. Having a law license is a privilege. By that license, the Court represents to the public that the licensed lawyer can be trusted with the client’s most personal and serious legal matters.

Conclusion

There are more than 25,000 lawyers in Minnesota with active licenses. Out of those thousands, 28 received public discipline for violations of the ethics rules in 2023. Each year, 1,000-plus complaints are filed with the Director’s Office. Most do not result in discipline because most lawyers take very seriously their ethical obligations. Thank you to all who do. The lawyers who receive public discipline are definitely outliers in the profession; at the same time, it could be any one of us. If you need assistance understanding your ethical obligations, please do not hesitate to call our Office. In 2023 we provided 1,792 ethics opinions, and we’re available every weekday to help.