

## Public Discipline in 2019

by

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Since we have entered a new decade, I thought it would be interesting to start the annual review of public discipline with a look back at discipline numbers by decade. From 2010-2019, a total of 403 attorneys were publicly disciplined, an average of approximately 40 per year. During this decade, the yearly number of publicly disciplined lawyers ranged from a low of 26 (in 2010 and 2011) to a high of 65 in 2015.

For reasons that remain unclear, this number is significantly higher than numbers for the prior decade. From 2000-2009, 327 lawyers were publicly disciplined, an average of 33 a year (from a low of 19 in 2004 to a high of 48 in 2006). The '90s saw more discipline than the '00s, but still produced numbers notably lower than the most recent decade. From 1990-1999, 365 attorneys were publicly disciplined—from a high of 55 in 1990 to a low of 20 in 2004. One thing to note about the '90s, however, is the total number of disbarments compared to the other decades. In the '90s, 74 lawyers were disbarred, compared to 52 in the '00s, and 62 in the '10s. To date, the '90s have been the high point for disbarments, but the most recent decade saw the highest volume of public discipline overall. It will be interesting to see where the next decade trends—if it yields a trend at all. Due to the vagaries of human nature, I'm never sure what to expect.

### **Discipline in 2019**

Thirty-five attorneys received discipline in 2019. Public discipline is imposed not to punish the attorney, but to protect the public, the profession, and the judicial system, and to deter misconduct by the attorney and others. As I wrote in last year's column on this subject, the most notable trends in 2018 involved the high number of disbarments and a higher than usual number of disability transfers. This past year saw a year-over-year decrease in disbarments (down from eight to five), as well as a significant decrease in disability transfers. In 2019, only one attorney was transferred to disability inactive status, compared to six in 2018—a welcome change, although we still see wellbeing issues playing a prominent role in discipline cases.

The most visible trend in 2019 was reciprocal discipline. If an attorney licensed in Minnesota is disciplined in another jurisdiction, Minnesota will impose reciprocal discipline to ensure that the lawyer is not able to avoid the consequences of misconduct in another state by simply moving their practice. In 2019, eight reciprocal disciplines were imposed, as compared to the typical one or two annually. The discipline imposed spanned the gamut from disbarment to reprimands. The basis for this significant year over-year increase is unknown, but perhaps it speaks to the increased mobility and multijurisdictional practice of lawyers. It's too soon to see what 2020 will bring for reciprocal discipline, although once again we have several such cases in the office as I write.

Five attorneys were disbarred in 2019:

- Craighton Boates was disbarred based upon his felony bank fraud conviction in Arizona (one of the reciprocal discipline cases mentioned above);
- Boris Gorshteyn was disbarred for abandoning his practice, settling client claims without authorization, and misappropriating hundreds of thousands of dollars in client funds;
- Thomas Laughlin was disbarred for misappropriating client funds, a misappropriation that came to light during a trust account audit by the Director's office;
- Murad Mohammad was disbarred for misconduct in 11 client cases, including misappropriation of client funds, failing to return unearned fees, lack of communication and diligence in multiple client matters, and making false statements to the Director; and
- Israel Villanueva, a lawyer licensed in Mexico who was licensed in Minnesota as a foreign legal consultant—authorized to provide advice in Minnesota regarding the laws of Mexico—was disbarred from practice in Minnesota for abandoning several client matters, misappropriating client funds, and failing to cooperate with the Director's investigation.

Misappropriation is the common thread through the disbarments. Two lawyers—Gorshteyn and Mohammad—also accounted for more than 45 complaints between them, illustrating the widespread impact some lawyers have on clients.

## **Suspensions**

Twenty-two attorneys were suspended in 2019, very similar to 2018. In reviewing the 22 cases, there is no particularly noteworthy trend. The misconduct ranged from filing frivolous claims or arguments (Wendy Nora and Lori Sklar) and failing to diligently handle client matters (Daniel Westerman) to more serious conduct,

such as the two lawyers who received lengthy suspensions for criminal felony convictions involving solicitation of sex with minors (Mark Lichtenwalter and Mark Lorentzen). In contrast to 2018, when an additional five cases involving misappropriation also resulted in suspensions, only one additional misappropriation case was decided in 2019 that resulted in a suspension, not disbarment (Christine Middleton). Accordingly, year over year, instances of misappropriation were down significantly.

As in 2018, we continue to see misconduct involving serious lack of candor issues. For example, Bobby Onyemeh Sea received a four-month suspension for lack of candor to the court regarding the reason for his absence at trial. Matthew McCollister received a 90-day suspension for making false statements to his client and opposing counsel regarding a settlement, in addition to additional misconduct, with evidence of mitigation. David Izek received a lengthy suspension for misconduct that included making a false statement to a prosecutor in a matter. Daniel Miller received a lengthy suspension for misconduct that included lying to a client and the court. I know it is human nature to lie, and that it is also human nature to attempt to protect yourself when things go wrong, but it goes without saying that honesty is fundamental for lawyers, as attested by the discipline involving such misconduct.

### **Public reprimands**

Eight attorneys received public reprimands in 2019 (four reprimands only, four reprimands and probation), down from 14 reprimands in 2018. A public reprimand is the least severe public sanction the court generally imposes. In 2018, the majority of public reprimands related to trust account errors that resulted in shortages and negligent misappropriation. I'm pleased to report that only one of the public reprimands in 2019 was for trust account books and records violations, a significant year-over-year decline. Please continue to focus on your trust account books and records if you are in private practice. You cannot just assume a trusted employee has it under control. Our website contains a lot of relevant information, including a link to a free CLE on trust accounting at the state law library's website.

### **Conclusion**

The OLPR maintains on its website ([lprb.mncourts.gov](http://lprb.mncourts.gov)) a list of disbarred and currently suspended attorneys. You can also check the public disciplinary history of any Minnesota attorney by using the "Lawyer Search" function on the first page of the OLPR website. Fortunately, very few of the more than 25,000 active lawyers in Minnesota have disciplinary records.

As they say, “there but for the grace of God go I.” May these public discipline cases remind you of the importance of maintaining an ethical practice, and may these cases also motivate you to take care of yourself, so that you are in the best position possible to handle our very challenging jobs; much is expected of us. Call if you need us—651-296-3952.