

IN THE
SUPREME COURT OF MISSOURI
EN BANC

MAY SESSION, 2007

REPORT OF THE OFFICE OF CHIEF DISCIPLINARY COUNSEL FOR THE YEAR 2006 TOGETHER WITH THE
FINANCIAL REPORT OF THE TREASURER OF THE ADVISORY COMMITTEE FUND FOR 2006

To the Honorable Judges of The Court:

Comes now the Office of Chief Disciplinary Counsel, and respectfully reports to the Court on matters concluded during calendar year 2006 or pending on December 31, 2006.

I.

DISCIPLINARY ACTIONS BEFORE THE COURT

In the calendar year 2006, the following disciplinary matters were before the Supreme Court

ADAMS, PHILIP EDWARD #41161, St. Louis, MO. Information for Interim Suspension pursuant to Rule 5. 24 filed June 2, 2005. Interim suspension by order of the Court on June 7, 2005. Rule 5. 21-Motion for Final Discipline filed January 10, 2006. Disbarred on February 7, 2006.

ANDRE, PATRICK F. #38680, St. Louis, MO. Disciplinary Hearing Panel* Decision and Record filed on December 5, 2005. Briefs filed and oral argument held April 12, 2006. Disbarred by order of the Court on May 2, 2006.

BARDING, JAMES D. #46302, Jefferson City, MO. Joint Stipulation of Concurrence and DHP's Decision with Findings of Fact & Recommendations filed on January 17, 2006. Public Reprimand by order of the Court on February 28, 2006.

BATTERN, TIMOTHY H. #25594, St. Louis, MO. Information with Notice of Failure to Attend Hearing and Motion for Final Order of Discipline filed November 15, 2006. Default disbarment by order of the Court on November 15, 2006.

BRATTEN, STEVEN J. #30110, Jefferson City, MO. Information with Notice of Default filed on March 8, 2006. Default disbarment by order of the Court on March 8, 2006.

BROOKS, PHILLIP A. #42099, Lee's Summit, MO. Rule 5. 21 – Information and Motion for Final Discipline filed December 28, 2005. Suspended on January 31, 2006. Suspension stayed and Respondent placed on probation to extend to February 1, 2009.

SUPREME COURT #87088. DHP Decision and Record filed on September 6, 2005. Briefs filed and oral argument held January 31, 2006. Information dismissed on February 28, 2006, following issuance of admonition by DHP.

CARNES, THOMAS R. #41570, St. Louis, MO. Joint Stipulation of Facts; Conclusions of Law & Recommended Discipline filed on March 28, 2006. Public Reprimand by order of the Court on April 7, 2006.

CASH, JOHN E. #22898, Kansas City, MO. Information with Notice of Default filed March 31, 2006. Default disbarment by order of the Court on March 31, 2006.

CHURCH, DANA N. #30547, Blue Springs, MO. Information with Notice of Failure to Attend Hearing and Motion for Final Order of Discipline filed January 18, 2006. Default disbarment by order of the Court on January 18, 2006.

COX, ROBERT A. #25940, St. Louis, MO. Suspended on August 30, 2005. Suspension stayed and Respondent placed on probation for 2 years from August 30, 2005. Probation Show Cause Order filed May 24, 2006. Probation revoked; suspended with no application for reinstatement for two years from September 15, 2006.

CRANK, DONALD W. #49996, St. Louis, MO. Joint Stipulation; Conclusions of Law, recommended discipline and DHP Record filed on November 30, 2005. Public reprimand by order of the Court on February 28, 2006.

CROSBY, WILLIAM K. #39025, Rogersville, MO. Voluntary surrender of license filed on May 25, 2006. This matter was referred to the Chief Disciplinary Counsel for report and recommendation. Surrender of license accepted and Respondent disbarred by order of the Court on July 27, 2006.

DAVIS, CARLETON WAYNE KEITH #44870, St. Louis, MO. Rule 5. 21-Information and Motion for final discipline filed August 7, 2006. Disbarred by order of the Court on September 6, 2006.

DEVKOTA, TARAK A. #51604, Kansas City, MO. Joint Stipulation of Facts, Conclusions of Law and Joint Recommendation of Discipline filed August 21, 2006. Suspended on September 26, 2006. Suspension stayed and Respondent placed on probation for twelve months from September 26, 2006.

DICKHAUS, KARL W. #47951, St. Louis, MO. Joint Stipulation and DHP Record filed on November 17, 2006. Suspended for six months by order of the Court on December 19, 2006. Suspension stayed and Respondent placed on probation for six months from December 19, 2006.

DOCHERTY, SCOTT ROCKEFELLER #52522, Branson West, MO. Information with Notice of Default filed August 2, 2006. Default disbarment by order of the Court on August 2, 2006.

DONNELLY, CHRISTINE #46317, Blue Springs, MO. Information with Notice of Failure to Attend Hearing and Motion for Final Order of Discipline filed January 10, 2006. Default disbarment by order of the Court on January 11, 2006.

DUBIN, AARON #34123, Clayton, MO. Stipulation of Facts, Joint Recommendation and DHP Decision filed on May 15, 2006. Public Reprimand by order of the Court on August 7, 2006.

SUPREME COURT #87064. DHP Record filed on August 23, 2005. Briefs filed and oral argument conducted January 11, 2006. Disciplinary action dismissed with no discipline imposed on January 31, 2006.

FLETCHER, MICHAEL R. #47495, Kansas City, MO. Rule 5. 20-Information & Motion for Discipline filed in Supreme Court on July 1, 2004. (Discipline by US District Court for the Western District of MO). Suspended by order of the Court on August 11, 2006, and no application for reinstatement entertained by the Court until Respondent has been reinstated to practice in the US District Court for the Western District of Missouri.

GACKLE, THOMAS E. #34775, Humble, TX. Joint Stipulation of Facts, Conclusions of Law and Recommended Discipline filed on January 18, 2006. Suspended by order of the Court on February 1, 2006, and no application for reinstatement entertained by the Court for a period of 6 months.

GRAMMER, SUSAN F. #51631, East Alton, IL. Information and Motion for Discipline filed September 26, 2006. Public Reprimand by order of the Court on October 30, 2006.

HAHN, JAMES W. II, #31728, Cape Girardeau, MO. DHP Decision and Record filed on July 11, 2005. Briefs filed. Interim suspension until further order of the Court with Trustee appointed on January 13, 2006. Suspended on November 21, 2006, with no petition for reinstatement to be entertained by the Court prior to July 19, 2007.

SUPREME COURT #87448. Information with Notice of Default filed on February 3, 2006. Information dismissed by order of the Court on February 28, 2006.

SUPREME COURT #87065. DHP Decision and Record filed August 23, 2005. Briefs filed and oral argument conducted January 11, 2006. Disciplinary action dismissed on January 31, 2006, no discipline imposed.

HARNEY, DENNIS J. #55026, St. Louis, MO. Complete DHP Record filed on January 31, 2006. Briefs filed. Suspended on May 30, 2006. Suspension stayed and Respondent placed on probation for two years from May 30, 2006.

HELDER, JAN P. JR. #39666, Kansas City, MO. Information and Motion for Interim Suspension filed on October 5, 2006. Interim suspension until further order of the Court on October 30, 2006.

HUDSPETH, GEORGE E. , JR. #44524, Florissant, MO. Information with Notice of Default filed on August 1, 2006. Default disbarment by order of the Court on August 1, 2006.

JACO, WENDELL GEARY #26009, Hoschton, GA. Information with Notice of Default and Motion for Final Order of Discipline filed August 23, 2006. Default disbarment by order of the Court on August 24, 2006.

KAELKE, LEROY W. #44140, Rogersville, MO. Information with Notice of Default and Motion for Final Order of Discipline filed August 29, 2006. Default disbarment by order of the Court on August 29, 2006.

LAWRENCE, MICHAEL I. #38863, St. Louis, MO. Information for Interim Suspension and appointment of trustee in the alternative filed July 1, 2006. Interim suspension until further order of the Court with Trustee appointed on July 14, 2006.

LEVIN, STEPHEN A. #31853, Ellisville, MO. Rule 5. 21(c)-Information and Motion for Final Discipline filed November 15, 2006. Disbarred by order of the Court on November 17, 2006.

LOVELACE, DALE E. #39123, Kansas City, MO. Information and Motion for Final Discipline filed April 21, 2006. Suspended by order of the Court on April 28, 2006, with no petition for reinstatement to be entertained by the Court for a period of two years.

MCGRAW, TODD A. #49806, Independence, MO. Rule 5. 21(c)-Information and Motion for Final Discipline filed February 24, 2006. Suspended by order of the Court on February 28, 2006, with no petition for reinstatement to be entertained by the Court for a period of one year.

MCGREEVY, JACQUELINE #36758, Carbondale, CO. Information with Notice of Default filed August 1, 2006. Default disbarment by order of the Court on August 1, 2006.

MCKINSEY, BRIAN C. #30779, St. Louis, MO. DHP Decision and Record filed on August 22, 2005. Briefs filed and oral argument conducted on January 25, 2006. Disbarred by order of the Court on January 31, 2006.

MOHS, DANIEL L. #44495, Kirkwood, MO. Voluntary Surrender of License filed on July 10, 2006. Surrender of license accepted and Respondent disbarred by order of the Court on September 26, 2006.

NALICK, DENNIS F. #23378, St. Louis, MO. Rule 5. 20-Information and Motion for Discipline filed on March 3, 2006. (Reciprocal-Illinois). Suspended by order of the Court on April 10, 2006, with no petition for reinstatement to be entertained by the Court for a period of one year.

NEAL, DEBORAH A. #33367, Ft. Worth, TX. Voluntary Surrender of License filed on December 9, 2005. Disbarred by order of the Court on March 8, 2006.

PHILLIPS, DEL F. #39419, St. Peters, MO. Joint Motion to Submit for Discipline & DHP Decision filed on June 13, 2006. Suspended indefinitely from the practice of law on August 22, 2006, with no petition for reinstatement to be entertained by the Court for six months.

POLK, CHARLES E. , JR. #35839, Creve Coeur, MO. Rule 5. 21-Information and Motion for Interim Suspension filed May 1, 2006. Interim suspension on June 14, 2006, pending the final disposition of any disciplinary proceeding based on conviction. Motion for final discipline filed September 15, 2006. Disbarred by order of the Court on September 19, 2006, and no petition for reinstatement shall be entertained by the Court until restitution has been satisfied in full.

PORZENSKI, JOSEPH J. #42754, St. Charles, MO. DHP Decision and Record filed on September 19, 2005. Briefs filed and oral argument conducted on April 27, 2006. Public Reprimand by order of the Court on May 2, 2006.

POSTON, SAM E. #40589, Bloomington, IN. Information with Notice of Default filed on September 25, 2006. Default disbarment by order of the Court on September 25, 2006.

PRICE, JOHN E. #31163, Stillwell, KS. Rule 5. 24-Information for Interim Suspension and Appointment of Trustee filed on May 27, 2005. Interim suspension on June 16, 2005; suspension to remain in place until further order of the Court. Trustee appointed. Information with Notice of Default filed February 27, 2006. Default disbarment by order of the Court on February 27, 2006.

RATLIFF-CONNOR, LYNISE M. #39311, Kansas City, MO. Rule 5. 21-Motion for Interim Suspension filed August 21, 2006. Suspended on September 26, 2006. Suspension stayed and Respondent placed on probation for a period of one year from September 26, 2006.

RICH, THOMAS C. #42912, Fairview Heights, IL. Rule 5. 20-Information and Motion for Discipline filed on October 6, 2006. (Reciprocal-Illinois) Public Reprimand by order of the Court on December 19, 2006.

RUFFIN-HUDSON, LINDA C. #36650, St. Louis, MO. Information with Notice of Default filed May 12, 2006. Default disbarment by order of the Court on May 12, 2006.

RUKCIC, SHIRLEY #46920, St. Louis, MO. Voluntary Surrender of License filed on July 17, 2006. Surrender of license accepted and Respondent disbarred by order of the Court on August 29, 2006.

SCHUETZ, JAMES A. #38567, St. Louis, MO. DHP Decision and Stipulation of Concurrence filed on April 25, 2006. Public Reprimand by order of the Court on May 5, 2006.

SINCLAIR, SUSAN W. #46132, Irvine, CA. Rule 5. 21-Information and Motion for Final Discipline filed May 5, 2006. Disbarred by order of the Court on June 30, 2006.

SMITH, RODERICK #45574, Kansas City, MO. Information for Interim Suspension and appointment of Trustee filed January 3, 2006. Interim suspension on January 23, 2006; suspension to remain in place until further order of the Court. Trustee appointed.

SOWLES, DANISE K. #42373, Independence, MO. Stipulation of Concurrence filed on February 2, 2006. Suspended from the practice of law on February 7, 2006, with no petition for reinstatement to be considered for three years from February 7, 2006, and Respondent to comply with the terms of the Stipulation regarding prerequisites.

SPENCE, SUSAN F. #32017, Clever, MO. Information for Interim Suspension and appointment of trustee filed on June 12, 2006. Interim suspension on June 12, 2006. Trustee appointed.

SUTTON, LEON M. , SR. #50525, St. Louis, MO. Complete DHP Record filed on February 27, 2006. Briefs filed. Disbarred by order of the Court on May 30, 2006.

TOLIN, JOSH P. #35836, Wildwood, MO. DHP Decision and Record filed on December 27, 2005. Briefs filed and oral argument conducted on April 6, 2006. Disbarred by order of the Court on April 11, 2006.

TRUESDALE, BRUCE H. #29030, Jefferson City, MO. Rule 5. 21-Information and Motion for Interim suspension filed on May 5, 2006. Interim suspension on May 24, 2006. Voluntary Surrender of License filed on June 9, 2006. Surrender of License accepted and Respondent disbarred by order of the Court on July 20, 2006.

SUPREME COURT #87521/SUPREME COURT #87630. Voluntary Surrender of License filed on February 24, 2006. Dismissed as moot; request to be placed on inactive status granted on May 30, 2006. Information filed on April 21, 2006. Information dismissed as moot on May 30, 2006.

WATKINS, THOMAS D. #21518, St. Joseph, MO. DHP Decision and Record filed on November 14, 2005. Briefs filed and oral argument conducted on March 6, 2006. Suspended on April 11, 2006. Suspension stayed and Respondent placed on probation for two years from April 11, 2006.

WILKINSON, DONALD R. #42894, Lee's Summit, MO. Stipulation of Concurrence and DHP Decision filed on May 3, 2006. Informant's brief filed. Suspended from the practice of law on November 21, 2006, with no petition for reinstatement to be entertained by the Court for six months from November 21, 2006.

WOODLEY, PATRICK A. #31459, St. Louis, MO. Information for Interim Suspension and appointment of trustee pursuant to Rule 5. 24 filed on April 11, 2006. Interim suspension by order of the Court with Trustee appointed on April 14, 2006. Record of DHP and Joint Stipulation of Facts and Joint Recommended Discipline filed on November 21, 2006. Suspended on November 21, 2006, with no petition for reinstatement to be entertained by the Court for 18 months.

YOUNG, CHRISTOPHER M. #33878, Portland, OR. Information with Notice of Default filed on July 14, 2006. Default disbarment by order of the Court on July 14, 2006.

ZEPP, DALE D. #47158, St. Louis, MO. Rule 5. 21-Information and Motion for Interim Suspension filed on May 23, 2006. Interim suspension by order of the Court on June 15, 2006. Motion for final discipline filed August 7, 2006. Disbarred by order of the Court on September 12, 2006, and no petition for reinstatement shall be entertained by the Court until restitution to the State of Missouri is paid in full.

II

PENDING COURT MATTERS AS OF 12/31/06

HALEY, LANCE M. #37896, Kansas City, MO. Rule 5. 20-Information and Motion for discipline filed on December 15, 2006. Pending before the Court on December 31, 2006. (Suspended on January 30, 2007, with no application for reinstatement to be entertained by the Court until Respondent has been reinstated to practice in the United States Court of Appeals for the Eighth Circuit.)

HAMBRICK, JOHN C. #28165, Branson, MO. DHP Decision and Record filed on August 2, 2006. Briefs filed and oral argument held on December 12, 2006. Pending before the Court on December 31, 2006. (Disbarred by order of the Court on February 27, 2007.)

LIM, EDGAR E. #24838, St. Louis, MO. DHP Decision and Record filed on July 17, 2006. Briefs filed and oral argument held November 2, 2006. Pending before the Court on December 31, 2006. (Public Reprimand in conformity with the opinion of the Court on January 25, 2007.)

POLLARD, W. SCOTT #19281, O'Fallon, MO. Stipulation of Facts, Conclusions of Law & Joint Recommendation of Discipline with DHP Decision and Record filed on December 8, 2006. Pending before the Court on December 31, 2006. (Public Reprimand by order of the Court on May 14, 2007.)

TURNER, RICHARD L. #17946, St. Louis, MO. DHP Decision and Record filed December 20, 2006. Pending before the Court on December 31, 2006. (Suspended on January 30, 2006; suspension stayed and Respondent placed on probation from January 30, 2006 through July 29, 2007.)

III.

REINSTATEMENT PROCEEDINGS

DISCIPLINARY MATTERS

At the beginning of the year, 11 Missouri lawyers who had previously been disciplined had applications for reinstatement pending for processing by the Chief Disciplinary Counsel. During the year 11 additional applications for reinstatement were filed and referred to the Chief Disciplinary Counsel for processing. The OCDC processed a total of 22 disciplinary reinstatement applications during 2006.

The status of those 22 applications is as follows:

Reinstated	6
Denied	5
Dismissed	1
Pending with OCDC	10

Six Disciplined Petitioners Were Reinstated By The Supreme Court

- 1) John C. Carnes, Independence, MO, Missouri Bar #30560, reinstated on January 31, 2006. Petitioner surrendered license and was disbarred on August 1, 1989.
- 2) Stephen W. Taliaferro, Ozona, TX, Missouri Bar #40005, reinstated on September 5, 2006. Petitioner was suspended on October 16, 2000.
- 3) Gerhardt Lehmkuhl, St. Louis, MO, Missouri Bar #3105, reinstated on September 26, 2006. Petitioner was disbarred on August 20, 1996.
- 4) Peter H. Schultz, Peoria, AZ, Missouri Bar #44703, reinstated on August 4, 2006, Petitioner was suspended on December 18, 2001.
- 5) Frederick H. Schwetye, Columbia, MO, Missouri Bar #23498, reinstated on December 4, 2006. Petitioner was suspended on January 25, 2005.
- 6) Gerald P. Konohia, Chattanooga, TN, Missouri Bar #41205, reinstated on December 11, 2006. Petitioner was suspended on May 28, 2002.

Five Disciplined Petitioners Were Denied Reinstatement By The Supreme Court

- 1) Spencer Edwards, Missouri Bar #39044, denied reinstatement. Petitioner was suspended on January 22, 2002.
- 2) Marc J. Healey, Missouri Bar #39144, denied reinstatement. Petitioner was suspended on September 7, 2000.
- 3) Thomas M. Utterback, Missouri Bar #23288, denied reinstatement. Petitioner was disbarred June 30, 1998.
- 4) Robert E. Wilson, Jr., deceased, Missouri Bar #13459, reinstatement posthumously denied. Petitioner was disbarred June 14, 1965.
- 5) Dan J. Kazanas, Missouri Bar #31056, denied reinstatement. Petitioner disbarred March 4, 2003.

One Petition Was Dismissed By The Supreme Court

- 1) Carol A. Coe, Missouri Bar #25240, cause dismissed on June 30, 2006. Petitioner was disbarred on December 23, 1997.

NON-DISCIPLINARY REINSTATEMENTS

Lawyers may be automatically suspended under Rule 6. 01(f) upon non-payment of annual enrollment fees. If their non-payment exceeds three years, they must apply for reinstatement under Rule 5. 28. In 2006, the OCDC investigated and processed ten applications for reinstatement by those lawyers. All were reinstated. One application remained pending at the end of 2006.

Lawyers may elect to become inactive under Rule 6. 03. Per Rule 6. 06, the OCDC investigated and processed 15 inactive lawyers' applications for return to active status. Three applications remained pending at the end of 2006.

IV.

COMPLAINTS RECEIVED AND ACTED UPON IN 2006

2,394 complaints of attorney misconduct were received in 2006.

During 2006, the following actions were taken on complaints received in 2006 and in late 2005:

- 784 Formal Investigations opened
- 579 Cases investigated by Regional Disciplinary Committees
- 205 Cases investigated by OCDC
- 123 Cases were placed in the Informal Resolution Program of OCDC [**See Paragraph A (below)*]
- 1,106 Investigations not opened (*In certain instances, OCDC does not open an investigation until after related litigation is completed.*) Approximately 142 complaints were provided a further review and response by senior OCDC staff, following complainants' requests. Some of those reviews led to an investigation being opened.
- 171 Insufficient information to proceed
- 29 Referred to Fee Dispute Committees
- 49 Referred to Complaint Resolution Committee (**See Missouri Bar Complaint Resolution Activity Report attached.*)

27 Placed in "Inquiry" status (*These cases were not opened but were monitored to determine whether an investigation should be opened in the future.*)

(Complaints received in late 2006 but processed in early 2007 are not reflected in these numbers.)

A. Informal Resolution Program

In this program, intake counsel assigns appropriate cases to a paralegal to contact the complainant, the respondent, or both, to assist in resolving the complaint rather than proceeding with a formal investigation. The program is used most often in response to complaints that the client has not had adequate communication from the lawyer or where the client has been unable to obtain file documents. It may also be used in a case where the complainant has trouble articulating the nature of the complaint, or seems confused about the lawyer’s responsibilities or the legal process. The program has been successful in reducing complaint processing time while preserving the attorney/client relationship. Most cases in the program were resolved without opening an investigation; processing time for cases in this program averaged 11 days.

B. Advisory Committee Review

Rule 5. 12 permits complainants to seek review by the Advisory Committee in cases in which the OCDC or a Regional Disciplinary Committee investigates and finds no probable cause that a violation occurred. In 2006, 55 complainants requested review. The Advisory Committee upheld the findings on 24 of these files but issued cautionary letters to 8 lawyers. The Committee assigned 8 of the review files for further investigation. Fifteen review files were pending with the Committee at the end of the year.

C. Fee Disputes

The Missouri Bar, Kansas City Metropolitan Bar Association and the Bar Association of Metropolitan St. Louis continued to provide fee dispute resolution programs. These programs are valuable to lawyers and legal consumers by providing a forum for fee-related complaints to be addressed through a non-disciplinary structure. During the year, 33 complainants were referred to Fee Dispute Committees.

**V.
DISCIPLINE ACTION INITIATED**

A. Admonitions

The OCDC administered 33 written admonitions and the Regional Disciplinary Committees administered 75 written admonitions to Missouri lawyers. (Total: 108 admonitions). In addition, 95 cautionary letters were sent to lawyers by OCDC and the Regional Committees. Cautionary letters are not disciplinary action, but are used to educate the attorney on ethical responsibilities or to alert the attorney that a particular course of conduct, if unchecked in the future, may cause additional complaints to be filed.

B. Investigation Summary

Region	Investigations Pending 1/1/06	Investigations Referred 2006	Investigations Disposed in 2006
IV	209	218	190
X	117	203	150
XI	74	95	92
XV	22	63	30
OCDC	385	328*	367*

* Includes Informal Resolution

Region	Admonitions Issued in 2006	Cautionary Letters Issued in 2006
IV	46	28
X	17	1
XI	6	0
XV	6	16
OCDC	33	50

C. Filed Hearing Matters

FILING INFORMATIONS

In 2006, the OCDC and the Regional Disciplinary Committees filed 34 Informations (the formal charging document) on 95 files. "Files" indicate individual complaints against attorneys. An Information against one attorney may include charges involving multiple files.

Twenty-four Informations, representing 72 complaint files, were pending before the Advisory Committee and Disciplinary Hearing Panels at the beginning of 2006. Disciplinary Hearing Panels conducted 19 hearings involving 59 files. Default Informations were filed directly in the Supreme Court against 15 attorneys.

D. Cases Filed at the Supreme Court

RULE 5. 19

Informant's briefs were filed, pursuant to Rule 5. 19(d), in the Supreme Court in seven cases in 2006. Of those seven cases, one was heard by the Court because the OCDC did not concur in a DHP's recommended sanction, five were heard because the Respondent did not concur in a DHP's recommended sanction and one was heard after the Court rejected a joint stipulation. In addition, Informant's reply briefs were filed in three cases. Eleven disciplinary cases appeared on the Court's oral argument calendar in 2006.

RULE 5. 20

Four reciprocal discipline cases, based on adjudications of misconduct in other jurisdictions, were filed in 2006: *In re Nalick*, SC87530, *In re Grammer*, SC88047, *In re Rich*, SC88060, and *In re Haley*, SC88191.

RULE 5. 21

Informations were filed under Rule 5. 21 against eleven attorneys who had pled guilty, had been found guilty, or pled nolo contendere to violations of criminal laws: *In re Adams*, SC87404, *In re McGraw*, SC87516, *In re Lovelace*, SC87629, *In re Polk*, SC87648 and SC88027, *In re Sinclair*, SC87656, *In re Truesdale*, SC87657, *In re Zepp*, SC87705 and SC87900, *In re Davis*, SC87901, *In re Ratliff-Connor*, SC87954, *In re Helder*, SC88059, and *In re Levin*, SC88140.

RULE 5. 24

Four Informations requesting interim suspensions for threat of harm were filed in 2006: *In re Smith*, SC87372, *In re Woodley*, SC87613, *In re Spence*, SC87736, and *In re Lawrence*, SC87843.

RULE 5. 25

In 2006, five attorneys applied to surrender their licenses under Rule 5. 25. The OCDC filed Reports and Recommendations on each of these in 2006: *In re Turner*, SC87521, *In re Crosby*, SC87711, *In re Truesdale*, SC87738, *In re Mohs*, SC87823, and *In re Rukcic*, SC87844.

VI.

UNAUTHORIZED PRACTICE OF LAW

The Office of Chief Disciplinary Counsel opened complaint files on approximately 39 individuals and organizations alleged to have engaged in the unlawful practice of law.

Some of these cases were referred to local prosecuting attorneys or to the Consumer Protection Division of the Missouri Attorney General's office. Others were resolved through communication with the company or individual.

Due to the workload and staff resources of OCDC, the office limited its efforts to conducting in-depth investigations only when there appeared to be widespread consumer fraud occurring. Where appropriate, the office conducted investigations of complaints, and the office referred the materials to law enforcement for criminal prosecution as OCDC is only authorized to seek a civil injunction against a party for engaging in the unauthorized practice of law.

VII.

PRESENTATIONS BY OCDC STAFF

During 2006, OCDC staff gave 25 presentations at Continuing Legal Education (CLE) seminars. The OCDC staff gave presentations to the following organizations: BAMSLS; Bar Association of Eastern Jackson County; Lawyers Association of Kansas City; Mid-Missouri Paralegal Association; Missouri Association of Criminal Defense Lawyers; Missouri Bankers Association; Missouri Council of School Association; Missouri Paralegal Association; MO Bar telephone seminars; Organization of Bar Investigators (training conference); Regional Committee Training Meetings; St. Joseph Bar Association; St. Louis Association of Legal Assistants; St. Louis University; Taney County Bar Association; University of MO-Kansas City; William Woods University. The OCDC staff also spoke at the MO Bar Annual Meeting, the MO Bar telephone CLE, the Solo and Small Firm Conference, and many other CLE presentations.

VIII. SIGNIFICANT ACTIVITIES IN 2006

Staff Changes

In September 2006, Maridee Edwards, Chief Disciplinary Counsel, resigned her position. Following a nationwide search process, the Missouri Supreme Court named Alan D. Pratzel as the new Chief Disciplinary Counsel. He took office on April 2, 2007.

Prior to his appointment, Mr. Pratzel was in private practice in the City of St. Louis. He also served for twenty-two years as the Special Representative for the Region X and XI Disciplinary Committee, with administrative responsibility for the investigation and prosecution of disciplinary cases in St. Louis County and the City of St. Louis.

Financial Needs

Increased expenses incurred at the end of a dues cycle have led to depleting reserves. A dues increase will be requested for 2008. In support of the requested dues increase, the Advisory Committee and the Chief Disciplinary Counsel completed a two year budget and five year financial projections in July 2007.

Physical Facilities

The following building projects have been proposed for the OCDC building, to be completed in 2008:

- Provide ADA access to the building's only meeting area.
- Add adequate parking space for existing staff, visitors, and proposed staff increases. (Currently, the building has 13 parking spaces; the OCDC has 17 employees.)
- Add carpet over concrete, add dropped ceiling to cover exposed insulation, complete wiring, and paint walls in an unfinished area of the basement, providing additional office space (or file storage if existing storage area is better suited for adding office space.)
- Additionally, the front door and front columns require repair or replacement.

Long-Term Building Needs

After careful consideration and with regard to the somewhat speculative nature of the projections, we believe that we will be able to remain in the existing OCDC facility without additional space during the next five years. It is likely, however, that we will be required to consider during the latter part of the 5-year projection period whether the existing facility will be adequate after 2012.

Creation of Regional Disciplinary Committee in Springfield

In February 2006, following a successful one-year test project, the Region XV Disciplinary Committee was activated. The new Committee and Special Representative have responsibility for the investigation and prosecution of disciplinary cases in Southwest Missouri, primarily in the Springfield metropolitan area.

Training Regional Disciplinary Committees and Special Representatives

The OCDC is an accredited MCLE provider. In 2006, we continued to host training sessions and MCLE presentations for the benefit of lawyer and non-lawyer volunteers and special representatives who participate in the disciplinary system at the Regional Disciplinary Committee level. The OCDC presented CLE presentations on current issues in the disciplinary system at luncheons honoring the Regional Disciplinary Committee members in Kansas City and St. Louis. A full day training

session conducted by the OCDC was held in Columbia for members of active Regional Disciplinary Committees from across the state. This was the fifth annual training session hosted by the OCDC.

Staff Training

In 2006, the OCDC attorney staff participated in training by attending conferences offered by The Missouri Bar, the National Organization of Bar Counsel and the American Bar Association – Center for Professional Responsibility. Paralegals in the office attended and presented training through the Missouri Paralegal Association and the nationwide Organization of Bar Investigators, an affiliate of the National Organization of Bar Counsel.

Significant Amendments to Rules 4, 5, and 6

Rule 4 (Rules of Professional Conduct)

The ABA promulgated its latest version of the Model Rules of Professional Conduct through its Ethics 2000 project. Following a thorough review of the ABA model rules by a special committee of The Missouri Bar, the Supreme Court Advisory Committee, and OCDC staff, the Supreme Court adopted a new Rule 4, effective July 1, 2007. The OCDC staff and The Missouri Bar have made numerous presentations to the bar, attempting to highlight the most significant amendments to the Rules.

Rule 4-8. 5 (Disciplinary Authority, Choice of Law)

Supreme Court Rule 4-8. 5 (Jurisdiction) was amended in 2005 (effective January 1, 2006), to address issues involving disciplinary jurisdiction in a modern multi-jurisdictional practice environment. The amendment provides for disciplinary jurisdiction over non-Missouri licensed lawyers whose conduct raises ethical concerns in Missouri. It also clarifies choice of law questions bound to arise in multi-jurisdictional transactions. The Rule 4-8. 5 Rule amendment works in tandem with changes made to Rule 4-5. 5.

Rule 5. 085 (Period of Limitation)

On January 31, 2006, the Missouri Supreme Court adopted a new Rule 5. 085, effective January 1, 2007, relating to a period of limitation for disciplinary complaints. The rule, with normal exceptions for tolling, requires that investigations into disciplinary cases commence within five years after disciplinary counsel knows or should know of the misconduct. The provision does not apply to discipline following: (a) felonies or (b) discipline in other jurisdictions.

Rule 5. 28 (Reinstatement)

On March 1, 2006, the Missouri Supreme Court amended sub-divisions (a) and (d) of Rule 5. 28, which became effective April 3, 2006. The amended subdivision (a) requires a person who has been suspended for three years or more for failure to comply with the MCLE requirements of Rule 15 to seek reinstatement pursuant to Rule 5. 28. Amended subdivision (d) provides that the requirements of Rule 5. 28(b)(4) and (5) do not apply to a person seeking reinstatement if the person's license was suspended for more than three years for failure to comply with the MCLE requirements of Rule 15.

Rule 6. 05 (MCLE)

On March 1, 2006, the Missouri Supreme Court ordered that, effective April 3, 2006, Rule 6. 05 is amended to explicitly provide that a lawyer who is suspended for failing to comply with the MCLE requirements of Rule 15 and who engages in the practice of law is guilty of the unauthorized practice of law.

Rule 5. 245 (Tax Suspension)

In 2006, the Missouri Supreme Court adopted new Rule 5. 245 establishing a process to enforce recent Missouri legislation that was intended to automatically suspend the licenses of professionals, including attorneys, upon notice that the professional had failed to pay his or her Missouri state income tax. The Court also amended Rule 5. 28, creating a specific procedure for reinstatement of attorneys suspended under Rule 5. 245.

New Case Management and Document Management System

In November, 2005, after months of preparatory work and staff training, a new case management system, Justware, was implemented to store disciplinary records and to allow for efficient disciplinary case tracking. The official database of The Missouri Bar and the Supreme Court provides a continuous feed into Justware. In this manner, OCDC has current

confidential computer records for each Missouri attorney to which it can add specific data about complaints, actions taken, notices sent, and discipline imposed. These records are only accessible by the OCDC. The system also allows for electronic storage of materials related to each attorney and each case. A two-year project to backload relevant disciplinary records into the system has been initiated to make the database complete. This process will also assist in reducing physical file storage requirements for the OCDC.

Until this new system was adopted, each attorney's "official disciplinary record" had been contained in a physical file folder. As the bar population increased, the paper files became a less efficient way of retrieving and storing attorney disciplinary history.

Likewise, until the implementation of Justware in November, 2005, OCDC staff was required to obtain current attorney addresses, dues and MCLE compliance status, and any other official record of an attorney's history, by accessing The Missouri Bar's database on an individual basis or by calling the Supreme Court to find out particulars. Integration of the database into the OCDC's system has created significant efficiencies in processing cases.

Regional Disciplinary Committees

The disciplinary system in Missouri utilizes volunteer lawyers and non-lawyers to investigate and consider cases in the three metropolitan areas. Cases involving attorneys practicing in other areas of the state are investigated by the OCDC staff in Jefferson City. In 2006, there were 74 volunteers serving as Regional Disciplinary Committee members in the Kansas City, St. Louis and Springfield areas. Fifty-four of those were lawyers and twenty were non-lawyers. The regional disciplinary committees are divided into ten divisions – three in Kansas City, two in St. Louis City, four in St. Louis County, and one in Springfield. The committees are assisted by attorneys (Special Representatives of OCDC) who contract with the OCDC to assist the committees with their respective investigative responsibilities on a part-time basis. These attorneys may also act as trial counsel at disciplinary hearings if formal charges are filed following a probable cause determination.

Investigative Timelines

The Chief Disciplinary Counsel established case processing guidelines at the direction of the Supreme Court. The established goals provide that 75% of all investigations are to be completed within six months and that 90% of all investigations are to be completed within twelve months. The goals have been achieved as of June 30, 2007. The OCDC will continue to work to ensure that these investigative timelines are maintained in the future.

SUMMARY OF DISCIPLINE ACTIONS

During 2006:

Twenty-nine lawyers were disbarred;

Twenty-six lawyers were suspended; six of those suspensions were stayed and attorneys placed on probation with conditions;

Eight lawyers received public reprimands;

One-hundred eight written admonitions were administered by the Regional Disciplinary Committees and the OCDC; and

Six additional matters were dismissed by the Court.

These figures include proceedings initiated by Regional Committees and the OCDC.

On occasion, other pending complaints against a lawyer are dismissed upon that lawyer's disbarment or suspension.

In 2006, there were a total of (171) disciplinary actions including admonitions and formal discipline matters.

The total number of complaints opened as formal investigations during 2006 was 851. The 14 most common complaints and the fields of practice most likely to produce complaints are:

NATURE OF VIOLATIONS *	NO.
Rule 1. 4 (Communication)	295
Rule 1. 3 (Diligence)	188
Rule 8. 4(c) (Dishonesty, Fraud, Deceit, Misrepresentation)	54
Rule 1. 7 (Conflicts)	53
Rule 1. 5 (Excessive Fees)	41
Rule 1. 15 (Safekeeping Property)	32
Rule 8. 4(b) (Criminal Activity)	26
Rule 5. 5 (Unauthorized Practice)	25
Rule 1. 16 (Improper Withdrawal)	23
Rule 7. 2 (Advertising)	17
Rule 1. 1 (Competence)	12
Rule 3. 3 (Truth to Tribunal)	10
Rule 3. 5(b) (Ex Parte Contacts)	4
Rule 5. 3(b) (Supervisory Responsibility)	3

* Many complaints included more than one allegation.

The most prevalent areas of law which resulted in investigations are shown below.

AREA OF PRACTICE	NO.
Domestic	161
Criminal	112
Other	108
Torts	87
Estate/Probate	71
Bankruptcy/Receivership	63
Litigation	31
Workers Compensation	29
Contracts	27
Traffic	21
Real Property	20
Administrative/Governmental	17
Collections	13
Labor Law	13
Immigration/Naturalization	11
Corporate Banking	6
Landlord/Tenant	4
Consumer Law	4

Dated at the Office of Chief Disciplinary Counsel at Jefferson City, Missouri this 10th day of July, 2007.

Respectfully Submitted,
SAM S. PHILLIPS
Interim Chief Disciplinary Counsel

ALAN D. PRATZEL
Chief Disciplinary Counsel

2006 LEGAL ETHICS COUNSEL ANNUAL REPORT

LEGAL ETHICS COUNSEL ROLE

Informal Advisory Opinions

Pursuant to Rule 5. 30(c), the Legal Ethics Counsel issues nonbinding informal advisory opinions.

The Legal Ethics Counsel office provided informal advisory opinions in response to 1223 oral contacts. Some of the contacts involved multiple, separate questions and therefore multiple opinions. Opinions given in conjunction with informal contact at bar meetings and CLE programs are generally not included in this count. Opinions provided at the “Legal Ethics Counsel Booth” at the Solo and Small Firm Conference are included.

The Legal Ethics Counsel also provided 96 written informal advisory opinions. Some of these were summarized and published with the approval of the Advisory Committee.

CLE Presentations

The Legal Ethics Counsel prepared and gave 26 CLE presentations for various groups, including: The Missouri Bar, Lawyers Association of Kansas City, University of Missouri at Kansas City Law School, Kansas City Metropolitan Bar Association, the National Bar Association, Association for Women Lawyers of Greater Kansas City, St. Louis University Law School, Missouri Association of Criminal Defense Lawyers, Pulaski County Bar Association, and the National Organization of Bar Counsel.

COUNSEL TO ADVISORY COMMITTEE ROLE

Rule 5. 07(b) provides that the Legal Ethics Counsel shall serve as staff to the Advisory Committee.

Review Summaries

Pursuant to Rule 5. 12, the Advisory Committee reviews investigation files if the ODC or a Regional Disciplinary Committee finds no probable cause and the complainant requests review. The Legal Ethics Counsel office summarized and distributed 64 review files.

Hearings

The Legal Ethics Counsel office provided assistance with arrangements for hearings, as requested, to Disciplinary Hearing Officers.

Meetings

The Legal Ethics Counsel office coordinated arrangements for four regular Advisory Committee meetings.

Formal Opinions

The Legal Ethics Counsel provided assistance in relation to final drafting, issuance, and distribution of formal opinions 121, 122, and 123.

Other Matters

The Legal Ethics Counsel revived and maintained a website for the Advisory Committee and Legal Ethics Counsel. The website included a public area and a private area accessible only to Disciplinary Hearing Officers. The public area included articles and CLE materials on legal ethics issues and Supreme Court Rules 4 and 5, prepared by the Legal Ethics Counsel.

The Legal Ethics Counsel served on the membership and program committees and the current developments panel of the National Organization of Bar Counsel.

The Legal Ethics Counsel served on The Missouri Bar's Special Committee on Limited Scope Representation. The Advisory Committee had asked The Missouri Bar to study the advisability of rule modifications to facilitate providing legal services through limited scope representation, also known as unbundling.

The Legal Ethics Counsel assisted with compiling and organizing the proposed Rules of Professional Conduct for review by the Supreme Court.

**MISSOURI BAR
COMPLAINT RESOLUTION PROGRAM ACTIVITY REPORT**

	2006
Total Open Cases in 2006	80
New Cases referred from OCDC	49
2005 Cases carried over	30
2005 Cases re-opened	1
Meetings Scheduled/Held	46
Agreements Reached*	30
Agreements Not Reached	8
Complainant Did Not Appear at Scheduled Mtg.	3
Pending Conference Report	5
Cases Closed	64
Complainant withdrew consent to meet w/Resp.	1
Complainant Did Not Respond or Consent	14
Respondent Did Not Consent or Respond	2
Respondent Did Not Consent But Did Respond	4
Parties Resolved without Conference*	9
 Total Resolutions*	 39

**MISSOURI BAR
COMPLAINT RESOLUTION PROGRAM**

NATURE OF COMPLAINT	NO.
Attorney v Attorney	2
Client Communication	21
Client's Directive	11
Diligence	2
Fees	8
Improper Withdrawal	1
Other	3
Rude Behavior	1

TYPE OF MATTER	NO.
Attorney v Attorney	2
Bankruptcy	1
Collections	3
Domestic	13
Estate/Probate	2
Guardianship	1

Insurance	2
Litigation	1
Personal Injury	2
Other	10
Real Estate	5
Traffic	2
Workers' Comp	5

**MISSOURI BAR
COMPLAINT RESOLUTION PROGRAM**

LOCATION OF ATTY. NO.	NO.	LOCATION OF ATTY.
Bethany 1	1	Monett
Bolivar 1	1	New Madrid
Cape Girardeau 2	2	O'Fallon
Chesterfield 1	1	Pacific
Clayton 1	3	Poplar Bluff
Columbia 1	1	Rolla
Festus 4	1	Springfield
Florissant 10	2	St. Louis
Hillsboro 1	1	Warrensburg
Hollister 1	1	Warsaw
Kansas City 1	8	Waynesville
Liberty 1 Out State		2