

**DISCIPLINARY REVIEW BOARD
OF THE
SUPREME COURT OF NEW JERSEY**



**ANNUAL REPORT
2006**

**Julianne K. DeCore
Chief Counsel
Disciplinary Review Board**

DISCIPLINARY REVIEW BOARD

OF THE

SUPREME COURT OF NEW JERSEY

WILLIAM J. O'SHAUGHNESSY, ESQ., CHAIR
LOUIS PASHMAN, ESQ., VICE-CHAIR
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MATTHEW P. BOYLAN, ESQ.
BONNIE C. FROST, ESQ.
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June 15, 2007

To the Honorable Chief Justice and Associate Justices of the Supreme Court of New Jersey:

I am pleased to submit to the Court the 2006 Annual Report of the Disciplinary Review Board. The Board concluded all matters pending from 2005, resolved 356 matters, and transmitted 123 decisions to the Court. In so doing, the Board completed its appellate review of all disciplinary matters and appeals well within the time goals set out in R. 1:20-8(c).

During calendar year 2006, the Office of Board Counsel (OBC) continued to explore the use of technology to increase its efficiency and effectiveness in all aspects of OBC functions. Our new cost assessment and collection computer program became fully operational in 2006. With the automation of routine assessment, the cost collection unit was able to focus on older outstanding balances, now having time to make additional efforts to locate previously unresponsive debtors, and, where appropriate, to file judgments for failure to pay assessed costs. Overall, these efforts resulted in the collection of \$276,752, which was \$110,155 more than the amount collected in 2005.

As in 2006, the Board will continue to fairly and expeditiously resolve all cases before it, fulfilling its mission within the disciplinary system as established and directed by the Court.

Respectfully submitted,

A handwritten signature in cursive script that reads "Julianne K. DeCore".

Julianne K. DeCore
Chief Counsel

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INTRODUCTION

The Disciplinary Review Board of the Supreme Court of New Jersey (Board) serves as the intermediate appellate level of the attorney disciplinary system in this state.

The district ethics committees investigate, prosecute, and recommend discipline in most disciplinary matters. The Office of Attorney Ethics (OAE) investigates grievances in selected districts and exercises statewide jurisdiction over complex and emergent matters. The Board reviews all recommendations for discipline from the districts and from the OAE. The Board's decisions as to discipline are final in all cases, subject to the Supreme Court's confirming order, except those decisions recommending disbarment. The Board's determinations of appeals from dismissals of ethics grievances and of appeals from Fee Arbitration Committee rulings are absolutely final, with no judicial recourse.

The Supreme Court created the Board in 1978, and the Office of Disciplinary Review Board Counsel (Office of Board Counsel) in 1984. In mid-1994, the Court eliminated all private discipline and opened to the public all disciplinary proceedings after the filing and service of a formal complaint.

As part of the disciplinary system, the Board is funded exclusively by annual assessments paid by all New Jersey attorneys. In 2006, each New Jersey attorney admitted to practice between 1958 and 2002 was assessed a total of \$182 to pay for the disciplinary system. Attorneys admitted to practice in 2003 or 2004 were assessed a total of \$157, while attorneys in the first calendar year of admission were assessed \$28.

All Board members are volunteers, however, its staff is professional. The 2006 budget for the disciplinary system, as approved by the Supreme Court, allocated \$1,670,402 to cover salaries and benefits for Office of Board Counsel employees, and an additional \$201,807 to cover the Board's operating costs.

BOARD FUNCTIONS

The Board's review is de novo on the record, with oral argument at the Board's discretion. The Board hears oral argument on all cases in which a district ethics committee¹ or a special master issues a report recommending discipline greater than an admonition. Occasionally, the Board remands the matter for further proceedings. At the conclusion of oral argument, the Board privately deliberates about the appropriate outcome of each case, voting for either dismissal of the complaint or for the imposition of one of several forms of discipline: admonition, reprimand, censure, suspension, and disbarment. Office of Board Counsel then prepares a formal decision for the Board's review. Upon approval, the decision is filed with the Supreme Court.

In addition to discipline, the Board may impose certain conditions or restrictions, such as, proctorship, course requirements, proof of fitness certified by a mental health practitioner, annual audits of trust account records, and the requirement that the attorney practice in a law firm setting, or continue psychological/substance abuse therapy. In some instances, the Board may require community service.

In matters where the Board recommends disbarment, the Supreme Court automatically schedules oral argument before it. In all other instances, the Board's determination that discipline is warranted is deemed final, subject to the attorney's or the OAE's right to file a petition for review. Occasionally, the Court, on its own motion, schedules oral argument in non-disbarment cases.

¹ References to district ethics committees include the Committee on Attorney Advertising (R. 1:19A-1 et seq.), which considers "all ethics grievances alleging unethical conduct with respect to advertisement and other related communications" R. 1:19A-4(a).

When the district ethics committee recommends an admonition, the Board reviews the matter on the written record, without oral argument. If an admonition is appropriate, the Board may issue a letter of admonition without Supreme Court Review. Alternatively, the Board may schedule the matter for oral argument if it appears that greater discipline is warranted, or dismiss the complaint. R. 1:20-15(f)(3) allows the Board to issue a letter of admonition, without Supreme Court review, in those cases where the district ethics committee recommends a reprimand, but the Board determines that an admonition is the more appropriate form of discipline.

When an attorney has been convicted of a crime or has been disciplined in another jurisdiction, the OAE will file with the Board a Motion for Final Discipline (R. 1:20-13(c)) or a Motion for Reciprocal Discipline (R. 1:20-14), respectively. Following oral argument and the Board's deliberation, the Office of Board Counsel prepares a formal decision for the Board's review and, after Board approval, the decision is filed with the Court. The same post-decision procedures governing cases heard by a district ethics committee or a special master apply.

Effective 1995, the Court adopted two other disciplinary case procedures: motions for discipline by consent and default actions. Both are intended to expedite the resolution of certain matters.

Under R. 1:20-10, motions for discipline by consent are filed directly with the Board, without a hearing below. Discipline by consent is not plea bargaining, which is not permitted in disciplinary matters. In such motions, the parties stipulate the unethical conduct, the specific Rules of Professional

Conduct violated, and the level of discipline required by precedent. Following the Board's review of the motion on the written record, it may either grant the motion, or deny it and remand the case to the district ethics committee or to the OAE for appropriate action.

A matter achieves default status after an attorney fails to file a verified answer to the formal ethics complaint. The district ethics committee or the OAE then certifies the record directly to the Board for the imposition of sanction. R. 1:20-4. If the attorney files a motion to vacate the default, the Board will review the motion simultaneously with the default case. If the Board vacates the default, the matter is remanded to the district ethics committee or to the OAE for a hearing. Otherwise, the Board will proceed with the review of the case on a default basis, deeming the allegations of the complaint admitted. A formal decision is thereafter filed with the Supreme Court.

The Board also reviews direct appeals from grievants who claim that the district ethics committee improperly dismissed their grievance after the investigation or a hearing, and from parties to fee arbitration proceedings who contend that at least one of the four grounds for appeal set out in R. 1:20A-3(c) exists.

BOARD MEMBERSHIP

The Board consists of nine members appointed by the Supreme Court. Board members serve without compensation. Three appointees are non-lawyer, public members; one member is customarily a retired judge of the Appellate Division or of the Superior Court; the remaining five members are attorneys. In 2006, the Board was chaired by Mary J. Maudsley, Esq., until her term expired on March 31, 2006. William J. O'Shaughnessy, Esq., former Vice-Chair, became the Chair on April 1, 2006 and Louis Pashman, Esq., became Vice-Chair.

The Board's members on April 1, 2006 were:

Chair, William J. O'Shaughnessy, Esq.

Chair O'Shaughnessy, of Princeton, is a member of the firm of McCarter & English, LLP. Mr. O'Shaughnessy, who was admitted to the New Jersey Bar in 1968, was appointed to the Board in 2000. He has more than thirty years experience as a trial lawyer and served as a member of the District VA Ethics Committee from 1984 to 1988 (as Chair from 1987 to 1988). Mr. O'Shaughnessy is a fellow of the American College of Trial Lawyers, a fellow of the American Bar Foundation, a member of the American Law Institute, and a Certified Mediator and Arbitrator for the United States District Court, District of New Jersey.

Vice-Chair, Louis Pashman, Esq.

Mr. Pashman, of Upper Saddle River, was admitted to the New Jersey Bar in 1967 and was appointed to the Board in 2001. He is a Certified Civil Trial Attorney and a member of the firm of Pashman Stein, P.C. Mr. Pashman served as a member of the Bergen County Ethics Committee from 1976 to 1981 (as Chair from 1978 to 1981), as a member of the Supreme Court Committee on Matrimonial Litigation and as a member of the Supreme Court Committee on Judicial Performance.

Edna Y. Baugh, Esq.

Ms. Baugh, of Maplewood, is a founding member of Stephens & Baugh, LLC, and is Assistant Director of Clinic Administration at Rutgers School of Law – Newark. In 1983 she was the first African-American woman to earn a Juris Doctor from Vermont Law School and was admitted to the New Jersey Bar in 1984. She was appointed to the Board in 2006. Ms. Baugh was a member of the District V-B Ethics Committee from 1998 to 2002 and has been a member of the Supreme Court Committee on the Tax Court. She was elected the first African-American President of the Girl Scout Council of Greater Essex and Hudson Counties in 1995 and is a past president of the Garden State Bar Association.

Matthew P. Boylan, Esq.

Mr. Boylan, of Wyckoff, is a member of the firm of Lowenstein Sandler, P.C. He was appointed to the Board in 1999. Mr. Boylan was admitted to the bar in 1958 and has more than forty years experience as a litigator before the state and federal courts. He is a former Director of the Division of Criminal Justice in New Jersey, and served on the New Jersey Trial Attorney Certification Board from 1980 to 1984. He is a fellow of the American Bar Association and of the American College of Trial Lawyers, as well as a member of the Trial Attorneys of New Jersey.

Bonnie C. Frost, Esq.

Ms. Frost, of Bernardsville, is a member of the firm of Einhorn, Harris, Ascher, Barbarito, Frost & Ironson, P.C. She was admitted to the bar in 1984 and was appointed to the Board in 2006 after serving on the Morris-Sussex Ethics Committee from 1991 to 1993 and serving as Secretary from 1993 to 2006. She is a Certified Matrimonial Law Attorney and the former chair of the Family Law Section of the New Jersey State Bar Association, Second Vice President of the New Jersey Chapter of the American Academy of Matrimonial Lawyers, member of the Supreme Court Family Practice Committee, member of the Supreme Court Committee for Standardization of Family Law and a member of the New Jersey State Bar Association Appellate Practices Committee. Ms. Frost received her B.A. from Douglass College and her M.Ed. and Ed.S. from Rutgers University.

Ruth Jean Lolla

Mrs. Lolla, of Tuckerton, was appointed to the Board in 1996. She is a former member of the District IIIA Ethics Committee and served a term with the District IIIA Fee Arbitration Committee. Mrs. Lolla is a graduate of the University of Pennsylvania School of Dental Hygiene, a retired dental hygienist, and the mother of six.

Lee Neuwirth

Mr. Neuwirth, of Princeton, was appointed to the Board in 2005. He served on the Disciplinary Oversight Committee from July 2003 until his appointment to the Board. He was a member of the District VII Ethics Committee for four years prior to his joining the Oversight Committee. He is a mathematician and is retired from the Institute for Defense Analyses where he served as Director of their Center for Communications Research in Princeton. He received a BSE in Chemical Engineering in 1955 and a Ph.D. in Mathematics in 1959 from Princeton University.

Hon. Reginald Stanton

Judge Stanton, of Morristown, was appointed to the Board in 2003. He served in the judiciary from 1975 to 2003 when he reached the mandatory retirement age for Superior Court judges. He was the Assignment Judge for the Morris/Sussex Vicinage for the last seventeen years of his judicial service. He is currently of counsel with the firm of Drinker Biddle & Reath in Florham Park.

Spencer V. Wissinger, III

Mr. Wissinger, of Bernardsville, was appointed to the Board in 1999, and is a former member of the District X Ethics Committee. He is a CPA and a principal in the firm of David Fischer & Company. He is a member of the American Institute of Certified Public Accountants and the New Jersey State Society of Certified Public Accountants, as well as a member of the Kiwanis Club of Morristown and its treasurer since 1976.

OFFICE OF BOARD COUNSEL

The Office of Board Counsel functions as a clerk's office (case processing, docketing, calendaring, distribution, and document storage), a legal research staff (providing bench memos to the Board), and a cost assessment and collection agency (assessing administrative and actual costs, collecting payments, and pursuing enforcement alternatives by filing judgments and seeking temporary suspensions for non payment).

In 2006, the Office of Board Counsel was comprised of seven attorneys (Chief Counsel, Deputy Chief Counsel, and five Assistant Counsel), one information technology analyst, one administrative supervisor, two administrative specialists, one technical assistant, and five secretaries.

Since 1991, the Office of Board Counsel had furnished pre-hearing memoranda to the Board in serious disciplinary cases, motions for consent to discipline greater than an admonition, and those other matters (such as defaults) containing novel legal or factual issues. To provide greater assistance to the Board's case review function, this policy was modified. In mid - 2003, the Office of Board Counsel began supplying the Board with memoranda on all matters scheduled for consideration, except motions for temporary suspension, typically within two weeks prior to each Board session. These in-depth memoranda set out the facts relevant to the issues raised, the applicable law, and a pertinent analysis of both, ultimately arriving at a recommendation for appropriate discipline based thereon.

CASELOAD INFORMATION

The DRB carried 77 matters docketed primarily in 2005 into January 2006. See Figure 1. By December 31, 2006, all matters docketed during calendar year 2005 had been resolved. See Figure 2. The Board had retained jurisdiction over three 2004 cases, but remanded them to the OAE for consolidation with a group of related ethics prosecutions, directing that they be heard as a unit and resolved by the same Special Master. At the end of 2006, these consolidated matters were being readied for filing with the Board.

Of the eighty-two matters pending on December 31, 2006, nine (11%) were presentments; three (3.7%) were stipulations; eleven (13.4%) were defaults; two (2.4%) were admonitions; one (1.2%) was a motion for discipline by consent; five (6.1%) were motions for final discipline and six (7.3%) were motions for reciprocal discipline. Slightly more than forty-six percent of the total pending caseload (46.3%) consisted of thirty-eight fee and ethics appeals. Five motions for temporary suspension, one R. 1:20-6(c)(1) matter, and one miscellaneous matter made up the remainder. See Figures 1 and 2. Figure 3 provides a graphic representation of the pending Board caseload at the close of 2006, as compared to year-end pending caseloads for 2002 through 2005.

During calendar year 2006, the Office of Board Counsel docketed 361 matters for review by the Board, nine less than the 370 docketed in 2005. The number of ethics appeals decreased in 2006: seventy-one appeals were filed in 2006, while eighty-three were filed in 2005. The number of fee appeals filed in 2006 also decreased: eighty-four fee appeals were docketed in 2006, as compared to eighty-seven fee appeals docketed in 2005. Admonition filings

were down as well: twelve were docketed in 2006, compared to twenty-one in 2005. See Figure 1.

In all, the Board resolved 356 of the total 438 matters carried into or docketed during calendar year 2006 – a disposition rate of 81%. With the exception of the three 2004-docket remanded/consolidated matters, the eighty-two 2006-docket cases carried into 2007 were filed too late in 2006 to be scheduled for the Board’s consideration before the end of the year. As Figure 4 demonstrates, the Board's disposition rate increased from 74% (2003) to 81% (2006) over the past four years. See Figure 4.

With the March 1, 1995 rule changes, the Court set specific time frames for disposition of matters at all levels of the disciplinary system. At the appellate level, pursuant to R. 1:20-8(c), recommendations for discipline in cases defined as minor misconduct are to be resolved within three months, while all other disciplinary matters have a six-month resolution requirement. See Figure 5.

In 2006, processing times improved or remained the same in all categories when compared to 2005 average processing times. However, in all categories, the Board met the time limits set by the Court Rule. See Figure 5.

CASELOAD INFORMATION: FIGURE 1

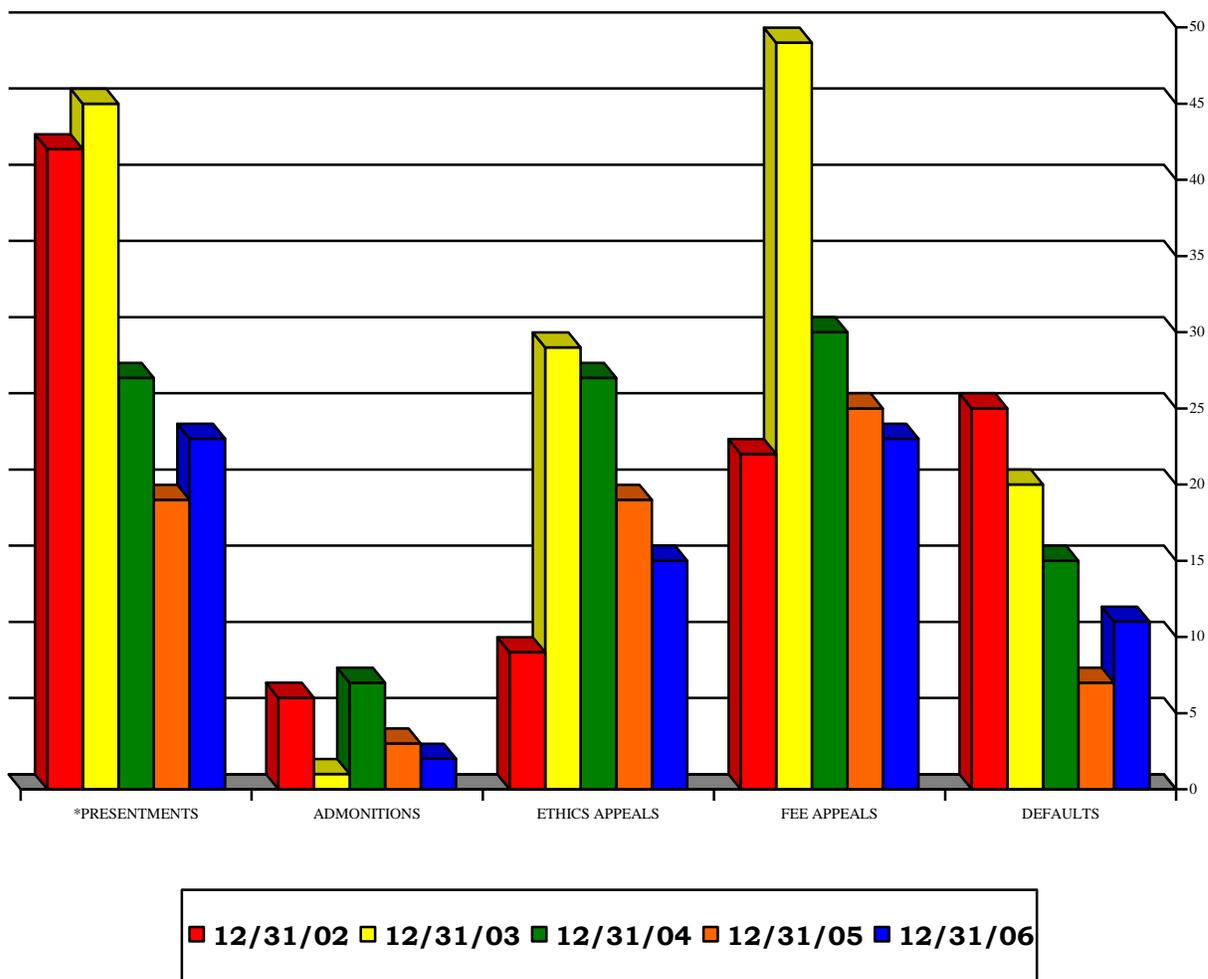
DRB ANNUAL ACTIVITY REPORT					
JANUARY 1, 2006 TO DECEMBER 31, 2006					
Case Type	Carried	Docketed	Total	Disposed	Pending
Presentment	14	36	50	42	8
Stipulation	3	10	13	10	3
Admonition/Presentment	1	3	4	3	1
Motion for Final Discipline	0	17	17	12	5
Motion for Reciprocal Discipline	0	17	17	11	6
Default	7	52	59	48	11
Admonition	3	10	13	11	2
Consent to Admonition	1	2	3	3	0
Consent to Disbarment/Costs	0	10	10	10	0
Consent to Discipline	0	6	6	5	1
Ethics Appeal	19	71	90	75	15
Fee Appeal	24	84	108	85	23
Motion for Temporary Suspension	1	10	11	6	5
Petition for Restoration	2	15	17	17	0
Miscellaneous	2	7	9	8	1
R. 1:20-6(c)(1)	0	6	6	5	1
Motion for Reconsideration	0	5	5	5	0
Totals	77	361	438	356	82

CASELOAD INFORMATION: FIGURE 2

AGE OF PENDING CASES – BY CASE TYPE AS OF DECEMBER 31, 2006				
Case Type	2006	2005	Prior	Total Pending
Presentment	6	0	2	8
Admonition/Presentment	1	0	0	1
Stipulation	3	0	0	3
Motion for Final Discipline	5	0	0	5
Motion for Reciprocal Discipline	6	0	0	6
Default	11	0	0	11
Admonition	2	0	0	2
Consent to Discipline	1	0	0	1
Ethics Appeal	15	0	0	15
Fee Appeal	23	0	0	23
Motion for Temporary Suspension	5	0	0	5
R. 1:20-6(c)(1)	1	0	0	1
Miscellaneous	0	0	1	1
Totals	79	0	3	82

CASELOAD INFORMATION: FIGURE 3

COMPARATIVE CASELOAD ANALYSIS
Pending from 12/31/2002 to 12/31/2006



*Includes Presentments, Stipulations, Motions for Final Discipline, Motions for Reciprocal Discipline and Consents to Discipline.

CASELOAD INFORMATION: FIGURE 4

ANNUAL DISPOSITION RATE FOR YEARS 2002 - 2006					
YEAR	CARRIED	DOCKETED	TOTAL	DISPOSED	DISPOSITION RATE
2002	163	469	632	516	82%
2003	116	458	574	426	74%
2004	147	463	610	497	81%
2005	113	370	483	406	84%
2006	77	361	438	356	81%

CASELOAD INFORMATION: FIGURE 5

AVERAGE RESOLUTION TIMES FOR BOARD CASES										
<i>(in months)</i>										
R. 1:20-8(c)		1998	1999	2000	2001	2002	2003	2004	2005	2006
Discipline:										
Presentment	6	9.6	8.3	10.3	11.3	6.5	5.1	3.9	3.7	3.7
MFD	6	10	10.3	9.7	10	5.7	4.9	4.8	3.6	3.5
MRD	6	10.1	11.5	11.1	8.6	5.8	4.8	4	4.3	3.5
Defaults	6	9.47	8.9	9	8.6	5	4.2	3.2	2.6	2.7
Consents	3	3.8	3.1	3	4	3.9	2.7	1.9	1.6	2.2
Admonitions:										
Standard	3	2.86	2.9	4.1	4.4	2.7	3.1	2.4	2.3	2.6
By Consent	3	3.75	3.2	3.6	3.4	3	2.6	1.8	2.2	2.1
Presentment	6	10.6	10.7	9.9	7.2	6.8	4.8	4.4	2.6	4.6
Appeals:										
Ethics Appeals	3	4.04	3.1	3.7	2.6	3	2.9	2.8	3.1	2.7
Fee Appeals	3	4.15	3.4	3.5	4	2.9	3.8	3.8	3.4	3.4
Other:										
MTS	-	2.07	2	3.4	2.6	1.5	2.4	2.7	3.8	2.5
Petitions to Restore	-	1.45	1	1	1	1	1	1.6	1.9	1.2

BOARD ACTION

Discipline

In 2006, the Board rendered dispositions in forty-two presentments, ten stipulations, eleven motions for reciprocal discipline, and twelve motions for final discipline. In five motions for imposition of discipline by consent considered by the Board, it imposed discipline in two of them and denied the motions in three.

Of the forty-eight defaults resolved by the Board, four were remanded to the district ethics committees, three were vacated, and three were administratively dismissed and returned to the OAE to remedy procedural deficiencies.

The Board reviewed fourteen admonition matters in 2006. Of these, six resulted in letters of admonition, three were heard as presentments (two resulted in reprimands and one is awaiting Supreme Court determination) and two were dismissed. None were remanded to the district ethics committee. Three matters came before the Board as motions for imposition of admonition by consent; two were granted, one was denied.

The Board also reviewed and resolved six motions for temporary suspension, seventeen petitions for restoration, five motions for reconsideration, five R. 1:20-6(c)(1) matters, and eight miscellaneous matters.

Appeals

The Board considered 160 appeals in 2006. Of the seventy-five ethics appeals reviewed in 2006, six cases (8%) were reversed and remanded by the Board to the district ethics committees for further action. The rate of remand on ethics appeals was slightly lower than the 8.8% experienced in 2005.

The rate of remand for fee appeals was higher than for ethics appeals in 2006: of the eighty-five fee appeals reviewed, twelve cases, or approximately 14%, were remanded to the district fee arbitration committees, which was lower than the 18% experienced in 2005. Although the reasons for fee remand varied, the majority resulted from procedural error at the district level, and lack of adequate notice of the hearing.

SUPREME COURT ACTION

A total of 123 attorneys were disciplined in 2006.² Twelve were admonished by the Board and four were admonished by Supreme Court order. The majority, 110 of the 123 sanctions, were the result of Board review and/or action.

In 2006, the Office of Board Counsel transmitted 123 decisions to the Court in presentments, stipulations, admonition-presentments, motions for final discipline, motions for reciprocal discipline, and default matters.

The Court issued final orders in eighty-two of those Board decisions, agreeing with the Board's determination in 86.6% of the matters. In eleven of the eighty-two Board decisions rendered, the Court determined to impose different discipline. See Figure 6. Those cases where the Board and the Court diverged generally reflect differences in the degree of discipline, rather than differences as to factual or legal findings. In five of the eleven divergent decisions, the Court imposed discipline greater than did the Board. Conversely, in six of those decisions, the Court imposed a lesser degree of discipline.

² This number includes admonitions issued by the Board without action by the Supreme Court as well as consents to disbarment.

SUPREME COURT ACTION: FIGURE 6

2006 DISCIPLINE COMPARISON

SUPREME COURT DISCIPLINE GREATER THAN DRB DECISION		
ATTORNEY	DISCIPLINARY REVIEW BOARD DECISION	SUPREME COURT ACTION
Russell Cheek	Censure	3 month suspension
James Gallo	Reprimand	6 month suspension
James Gallo	1 year suspension	Disbar
Samuel Malat	6 month suspension	1 year suspension
Richard Thomas	1 year suspension	Disbar

SUPREME COURT DISCIPLINE LESS THAN DRB DECISION		
ATTORNEY	DISCIPLINARY REVIEW BOARD DECISION	SUPREME COURT ACTION
Susan Dargay	Reprimand	Admonition
Ian Hirsch	3 month suspension	Censure
Peter Jacoby	3 month suspension	Censure
Wilfrid LeBlanc	Reprimand	Censure
Patrick Perone	Reprimand	Admonition
William Yadlon	Reprimand	Admonition

COLLECTION OF ADMINISTRATIVE COSTS

The Board uniformly assesses administrative costs in all discipline cases, including admonitions. The Court's final order of discipline generally includes a requirement that the respondent-attorney pay the administrative costs of the action to the Disciplinary Oversight Committee. Since the adoption of R. 1:20-17 in 1995, administrative costs have included a flat charge for basic administrative costs, ranging from \$650 to \$2,000 per case, depending on case type, plus disciplinary expenses actually incurred, such as payments made by the disciplinary system for transcripts, court reporter services, file reproduction costs, and other out-of-pocket expenditures.

The Office of Board Counsel assesses and collects costs and, in certain cases, monetary sanctions on behalf of the Disciplinary Oversight Committee. R. 1:20-17 provides various avenues of recourse for collection where an attorney fails to pay assessed costs, including automatic temporary suspension and entry of judgment. By the end of 2006, the Office of Board Counsel was current with cost assessment in every case where assessment was Court ordered. In 2006 the Court accepted consents to disbarment in thirteen matters unrelated to Board cases. Nevertheless, Office of Board Counsel staff assessed and collected Court-ordered costs in those matters, pursuant to R. 1:20-17.

During calendar year 2006, Office of Board Counsel's assessments of disciplined attorneys totaled \$439,819. Board Counsel's Office collected \$276,752 representing costs that were assessed in 2006 and prior years. This was \$110,155 more than the amount collected in 2005 (\$166,597).

The Office of Board Counsel filed thirty-seven judgments in 2006, and received payments totaling \$30,132 to either satisfy outstanding judgments, or as partial payments toward satisfying judgments.

The Office of Board Counsel also processes payments of monetary sanctions imposed upon respondents by the Board, most typically when the OAE files a motion for temporary suspension to enforce a fee arbitration award. The Board imposed four such sanctions in 2006; of those, three were paid (\$1,500) and one remains outstanding.

CONCLUSION

During calendar year 2007, the Board will continue to make every reasonable effort to ensure that its caseload remains under control. The Board strives for the prompt and fair disposition of all matters before it in order to effectively serve the primary goals of the attorney disciplinary process -- protection of the public and maintenance of public confidence in the bar.

APPENDIX I
ADMONITION REPORT 2006

ATTORNEY	DOCKET #	DATE
William C. Brummell	06-031	March 28, 2006
Respondent practiced law while ineligible for failure to pay the annual assessment to the New Jersey Lawyers' Fund for Client Protection from September 5, 2003 to January 13, 2004, in violation of <u>RPC</u> 5.5(a).		
Lawrence Callegari	05-326	January 26, 2006
When making disbursements in seven real estate matters conducted between 1996 and 2002, respondent negligently misappropriated client funds totaling over \$100,000, in violation of <u>RPC</u> 1.15 (a). Respondent also failed to prepare monthly reconciliations of his trust account, a violation of <u>RPC</u> 1.15(d) and <u>R.</u> 1:21-6. Respondent also deposited personal funds into his trust account in order to prevent shortfalls (<u>RPC</u> 1.15(a)) and stipulated that his misconduct amounted to gross neglect, pattern of neglect, and lack of diligence in several of the matters (<u>RPC</u> 1.1(a), <u>RPC</u> 1.1(b), and <u>RPC</u> 1.3, respectively).		
Frank D. DeVito	06-116	July 21, 2006
Respondent admittedly failed to cooperate with ethics authorities in 1999, during an investigation into the details of his business relationship (purchase of a law practice) with Jack N. Frost, then a suspended attorney (<u>RPC</u> 8.1(b)). A 1999 audit by the OAE turned up various recordkeeping deficiencies (<u>RPC</u> 1.15(d) and <u>R.</u> 1:21-6). Finally, respondent violated <u>RPC</u> 5.5(a) when he practiced law while on the New Jersey Lawyers' Fund for Client Protection list of ineligible attorneys, for failure to pay the annual attorney assessment for 1997 and 1999.		
Jamie M. Epstein	06-191	September 28, 2006
In a hearing before an administrative law judge, respondent persisted in arguing evidentiary points after the judge had already made his rulings and despite his warnings that respondent's conduct could be met with sanctions. Several days later, respondent appeared again in the same matter before the judge, and again disrupted the proceedings. In both instances, respondent caused the hearings to be delayed (<u>RPC</u> 3.2, <u>RPC</u> 3.5(c), and <u>RPC</u> 8.4(d)).		
April Leslie Katz	06-190	October 5, 2006
Respondent solicited and received a \$1500 loan from a client while she represented him in a matrimonial matter. Respondent received the loan without first advising the client of the desirability of seeking counsel, giving him a reasonable opportunity to seek the advice of counsel, and obtaining his consent in writing (<u>RPC</u> 1.8(a)).		
Joseph Jay Lowenstein	06-016	February 23, 2006
In three matters respondent engaged in gross neglect, pattern of neglect, lack of diligence, and failure to communicate with his clients (<u>RPC</u> 1.1(a), <u>RPC</u> 1.1(b), <u>RPC</u> 1.3, and <u>RPC</u> 1.4(a), respectively).		

APPENDIX II
ADMONITION REPORT 2006
(continued)

ATTORNEY	DOCKET #	DATE
Samuel A. Malat	05-315	March 17, 2006

Respondent filed three lawsuits on behalf of plaintiffs in the United States District Court for the District of New Jersey, Camden Vicinage. In each matter, the United States District Court Judge assigned to the case imposed sanctions upon respondent pursuant to Rule 11 of the Federal Rules of Civil Procedure. The Board determined that respondent violated RPC 3.1 when he asserted baseless New Jersey Tort Claims Act claims in a matter after he already had been sanctioned in another matter for asserting the same baseless state law claims.

Edward G. O’Byrne	06-175	October 27, 2006
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Respondent filed a civil action seeking damages for malicious prosecution and intentional infliction of emotional distress on behalf of his client. The trial court dismissed the lawsuit; the Appellate Division affirmed; and the Supreme Court denied certification. The Appellate Division allowed the defendants \$262 in costs; the Law Division and the Supreme Court allowed the defendants \$267.86 and \$112, respectively, in costs. Respondent did not inform the client that these costs had been allowed and that he was obligated to pay them. Respondent then failed to respond to defense counsel letters seeking payment of the costs. In addition, the client remained unaware of the entry of the costs and his obligation to pay them. Finally, the defendants filed a motion to hold the client in contempt or, in the alternative, for entry of judgment on the \$641.86 in costs. Respondent did not inform the client about this motion until two weeks later. Although respondent eventually paid all but \$25 of the costs, his conduct in failing to communicate to the client that the costs were allowed, and his delay in informing him that the defendants had filed a motion seeking either to hold him in contempt or for the entry of a judgment against him were improper (RPC 1.4(a)).

Filipe Pedroso	06-278	December 6, 2006
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During the three and one half years that respondent represented his client in a medical malpractice litigation, various defendants were forced to file repeated motions in order to spur him to action. Respondent ignored discovery requests for answers to interrogatories, failed to obtain executed medical authorizations from the client for the release of medical records to the defendants, and took little action to make the medical expert available for deposition (RPC 1.3; RPC 3.2).

APPENDIX II
ADMONITION REPORT 2006
(continued)

ATTORNEY	DOCKET #	DATE
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James C. Richardson	06-010	February 23, 2006
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Respondent prepared a will and did some estate planning for a client. The client's will named respondent as the executor of the estate. A portion of the estate was transferred to the client's daughter prior to the client's death. After respondent probated the will, for more than two years the beneficiaries attempted to contact respondent, almost monthly, but many of their telephone calls or faxes went unanswered. Respondent admitted that he lacked diligence in completing work on the estate matter, and failed to reply to a number of the beneficiaries' requests for information about the estate (RPC 1.3; RPC 1.4(a)).

Margaret S. Sullivan	06-129	July 26, 2006
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Respondent prepared a will naming herself as executrix. When the client died a year later, respondent learned that the client had never administered the estate of her late husband. Respondent then became executrix of his estate as well. The husband's estate included a promissory note to him from his mother. The note was secured by a lien against her apartment. The husband's mother died two years later, at which time her apartment became incorporated into the settlement of the client's estate. In the early stages of the administration of the client's estate, respondent was in communication with the beneficiaries. By January 1999, returns had been filed, taxes had been paid, and beneficiaries had received partial distribution of the assets, among other things. After 1999, respondent had less communication with the beneficiaries. By 2003, respondent's communication with them virtually ceased; and, in April of that year, two of the beneficiaries filed a grievance against respondent. At the time, respondent represented to the DEC that an accounting was forthcoming. Yet, as of April 2005, she still had not provided an accounting to the beneficiaries or the DEC. Furthermore, as of May 2005, respondent still had not filed final tax returns, liquidated an account, and made a final distribution to the beneficiaries (RPC 1.3; RPC 1.4(a)).

Gordon Allen Washington	05-307	January 26, 2006
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In a real estate closing, respondent held in escrow approximately \$20,390 for various disbursements. Less than one month later, counsel for the seller informed respondent that certain bills, such as quarterly taxes and an exterminator bill, had already been paid. Respondent was, therefore, requested to release some of the escrow funds. It took seven months and several more letters before respondent finally disbursed the funds (RPC 1.15(b); RPC 1.3).

ADMONITIONS BY SUPREME COURT ORDER

ATTORNEY	DOCKET #	DATE
Michael B. Blacker	05-282	January 24, 2006
<p>Respondent failed to file a complaint in a matrimonial matter and misrepresented the status of the case to his client. (RPC 1.3; RPC 8.4(c)).</p>		
Susan Radford Dargay	06-124	September 19, 2006
<p>Respondent failed to correct an error in a child support order and failed to keep the client informed about the matter. She also failed to complete a form of qualified domestic relations order. The same client also retained respondent to draft several documents, specifically, a will, a power of attorney, and an advance directive. Respondent never completed the documents. (<u>RPC</u> 1.3, <u>RPC</u> 1.1(a), <u>RPC</u> 1.4(a)).</p>		
Patrick N. Perone	06-052	September 6, 2006
<p>The attorney was retained to represent a client in two matters, a consumer fraud case and a petition for post conviction relief from a 1993 conviction. Respondent did not finish either matter. In the consumer fraud case he also failed to notify the client that he was responsible for obtaining an expert, after the expert respondent found proved to be too expensive. He failed to inform the client that he would be responsible for filing fees. Respondent also led the client to believe that the cases were proceeding properly, when they were not. Finally, the client had difficulty communicating with respondent. (<u>RPC</u> 1.3, 1.4(b) and (c), and 8.4(c)).</p>		
William T. Yadlon	06-074	September 19, 2006
<p>Between October 2001 and July 2002, approximately \$363,000 was purloined from respondent's trust account. Respondent had not reconciled his trust and business accounts during this period because of the "high volume of real estate transactions he was handling at the time." Respondent learned of the missing funds in July 2002, when he directed a secretary to review his bank statements to prepare reconciliations for his trust and business accounts. The review established that the trust account was out of trust, that there was a significant shortage of funds, and that there were "numerous unauthorized and apparent counterfeit checks drawn from his trust account." Nevertheless, because of the large volume of real estate closings and multiple deposits into respondent's trust account, no overdrafts had occurred, despite the large amount of money stolen. Respondent contacted the police immediately. He also arranged to replace the missing sums with his own funds, as well as funds borrowed from family members. (RPC 1.15(a), RPC 1.15(d), <u>R.</u> 1:21-6), and <u>R.</u> 1:21-6(c)(1)(H)).</p>		