

# DISCIPLINARY REVIEW BOARD

## OF THE SUPREME COURT OF NEW JERSEY

BONNIE C. FROST, ESQ., CHAIR  
EDNA Y. BAUGH, ESQ., VICE-CHAIR  
BRUCE W. CLARK, ESQ.  
HON. MAURICE J. GALLIPOLI  
THOMAS J. HOBERMAN  
EILEEN RIVERA  
ANNE C. SINGER, ESQ.  
ROBERT C. ZMIRICH



**RICHARD J. HUGHES JUSTICE COMPLEX  
P. O. BOX 962  
TRENTON, NEW JERSEY 08625-0962  
(609) 292-1012**

ELLEN A. BRODSKY  
CHIEF COUNSEL  
  
MELISSA URBAN  
FIRST ASSISTANT COUNSEL  
  
TIMOTHY M. ELLIS  
LILLIAN LEWIN  
BARRY R. PETERSEN, JR.  
COLIN T. TAMS  
KATHRYN ANNE WINTERLE  
ASSISTANT COUNSEL

August 5, 2015

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

I am pleased to submit to the Court the 2014 Annual Report of the Disciplinary Review Board. The Board concluded all matters pending from 2013. In 2014, the Board resolved 411 matters and transmitted to the Court 130 decisions in disciplinary cases.

In calendar year 2014, the Office of Board Counsel made significant technological strides toward achieving e-filing of documents, an interface with the Supreme Court disciplinary database, and revising our public decisions database to increase search functionality. Building on those enhancements will allow us to complete those important projects in 2015.

In addition, in 2014, the Office of Board Counsel collected \$252,273 in disciplinary costs assessed against attorneys.

The Office of Board Counsel also expanded the number of disciplinary cases available on the Internet. Board decisions with accompanying Supreme Court orders entered between 1988 and 2014 are posted on the website of the law library of Rutgers Law School – Newark.

Finally, effective May 3, 2014, Ellen A. Brodsky was appointed Chief Counsel, having previously served as a staff attorney, First Assistant Counsel, and Acting Deputy Chief Counsel.

Chief Justice and Associate Justices  
DRB 2014 Annual Report  
August 5, 2015  
Page Two

As in 2014, 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 black ink, reading "Ellen A. Brodsky". The signature is written in a cursive style with a large initial "E".

Ellen A. Brodsky  
Chief Counsel

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



**ANNUAL REPORT  
2014**

**Ellen A. Brodsky  
Chief Counsel  
Disciplinary Review Board**

## TABLE OF CONTENTS

Introduction .....	1
Board Functions .....	3
Board Membership .....	7
Office of Board Counsel .....	11
Caseload Information .....	12
Board Action .....	19
Supreme Court Action .....	21
Collection of Administrative Costs .....	23
Conclusion .....	25

## TABLE OF FIGURES

<b>1</b>	DRB Annual Activity Report (January 1, 2014 to December 31, 2014).....	14
<b>2</b>	Age of Pending Cases - By Case Type (As of December 31, 2014).....	15
<b>3</b>	Comparative Caseload Analysis - Pending (2010-2014).....	16
<b>4</b>	Annual Disposition Rate (2010-2014).....	17
<b>5</b>	Average Resolution Times for Board Cases (2011-2014).....	18
<b>6</b>	2014 Discipline Comparison.....	22

## **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) oversees the districts and exercises statewide jurisdiction over complex and emergent matters. In some cases, the Supreme Court appoints special masters to hear disciplinary matters. The Board reviews all recommendations for discipline from the districts and from special masters. 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. In contrast, the Board's determinations of appeals from dismissals of ethics grievances and of appeals from Fee Arbitration Committee rulings are 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 Supreme 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 2014, New Jersey attorneys admitted in their fifth to forty-ninth year of practice were assessed a total of \$212 to pay for the disciplinary system. Attorneys in their third and fourth years of practice were assessed a total of \$183. Attorneys in their

second year of admission were assessed \$35. Attorneys in their first year of admittance and attorneys practicing fifty or more years are not charged a fee.

All Board members are volunteers; however, its staff is professional. The 2014 budget for the disciplinary system, as approved by the Supreme Court, allocated \$2,390,453 to cover salaries and benefits for Office of Board Counsel employees and an additional \$265,825 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 committee<sup>1</sup> or a special master issues a report recommending discipline greater than an admonition. 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. Occasionally, the Board will remand a matter for further proceedings. 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, return of unearned fees, 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

---

<sup>1</sup> 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 advertisements and other related communications . . . ." R. 1:19A-4(a).



Supreme Court, on its own motion, schedules oral argument in non-disbarment cases.

When a 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 issues 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 may 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 a 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 approval, the decision is filed with the Supreme Court. The same post-decision procedures governing cases heard by a district ethics committee or a special master apply.

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.

If an attorney fails to timely file a verified answer to a formal ethics complaint, the district ethics committee or the OAE certifies the record directly to the Board for the imposition of discipline. R. 1:20-4(f)(2). The Board treats the matter as a default. 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. R. 1:20-4(f)(1). A formal decision is thereafter filed with the Supreme Court.

A disciplinary matter may also come to the Board in the form of a disciplinary stipulation. In these cases, the attorney and the ethics investigator jointly submit a statement of the attorney's conduct and a stipulation specifying the Rules of Professional Conduct that were violated. The Board may accept the stipulation and impose discipline by way of formal decision filed with the Supreme Court, or it may reject it and remand the matter either for a hearing or for other appropriate resolution.

In addition, the Board reviews cases, pursuant to R. 1:20-6(c), in which the pleadings do not raise genuine disputes of material fact, the respondent does not request to be heard in mitigation, and the presenter does not request to be heard in aggravation. In those cases, the Board reviews the pleadings

and a statement of procedural history in determining the appropriate sanction to be imposed.

The Board also reviews direct appeals from grievants who claim that a district ethics committee improperly dismissed their grievance after an investigation or a hearing and from parties (both clients and attorneys) 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 who serve without compensation for a maximum of twelve years (four three-year appointments). 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 2014, the Board was chaired by Bonnie C. Frost, Esq., and Edna Y. Baugh, Esq., was Vice-Chair.

The Board's members in 2014 were:

### **Chair, 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 New Jersey Bar in 1984 and was appointed to the Board in 2006 after serving on the Morris-Sussex Ethics Committee from 1991 to 2006 (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, a former Second Vice-President of the New Jersey Chapter of the American Academy of Matrimonial Lawyers, a member of the Supreme Court Family Practice Committee, a member of the Supreme Court Committee for Standardization of Family Law, a member of the Supreme Court Special Committee on Ethics and Admissions, and a member of the New Jersey State Bar Association Appellate Practices Committee. Ms. Frost received her B.A. from Douglass College, her M.Ed. and Ed.S. from Rutgers University, and her J.D. from Seton Hall University School of Law.

**Vice-Chair, Edna Y. Baugh, Esq.**

Ms. Baugh, of East Orange, 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 VB Ethics Committee from 1998 to 2002 and is a past 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. She is a member of the board of trustees of Vermont Law School. In 2012 she received the president's award from the NAACP of the Oranges and Maplewood.

**Bruce W. Clark, Esq.**

Mr. Clark, of Pennington, is a partner at Clark Michie, LLP in Princeton. Mr. Clark concentrates in corporate and complex civil litigation, including consumer class action and mass tort defense. He was a member of the District VII Ethics Committee and was appointed to the Board in April 2008. Mr. Clark is a graduate of the University of Virginia and the George Washington University National Law Center.

**Jeanne N. Doremus**

Jeanne N. Doremus, of Bridgeton, is a retired educator. She is a graduate of Connecticut College with a major in government, received a master's degree from Fairleigh Dickinson University, and has taken post graduate courses related to social studies education. She taught high school social studies for sixteen years in the Vineland School District and served as a supervisor of instruction and curriculum development for nine years. She was a member of the District I Ethics Committee for four years before being appointed to the Disciplinary Review Board in 2008. In addition to serving as a public member of the Board, Ms. Doremus is a volunteer for several local organizations. Ms. Doremus completed her term with the Board on March 31, 2014.

**Hon. Maurice J. Gallipoli**

Judge Gallipoli, of Mountainside, was appointed to the Board in 2012 to fill the unexpired term of Judge Reginald Stanton and then to a full term in his own right thereafter. He served in the judiciary for 25 years from 1987 to 2012, when he reached the mandatory retirement age for Superior Court judges. He served as the Presiding Judge, Civil Part, Hudson County for many years and was the Assignment Judge for the Hudson vicinage for the last eight years of his judicial service. He is currently associated with the firm of Porzio, Bromberg & Newman, P.C., in Morristown in an "of counsel" capacity.

**Thomas J. Hoberman, CPA**

Thomas J. Hoberman, CPA/ABV/CFF, of Princeton, was appointed to the Board in November 2013. A graduate of the University of Maryland, Mr. Hoberman is a partner in the Business Valuation and Forensic Accounting Services Department at the accounting and consulting firm WithumSmith+Brown.

**Anne C. Singer, Esq.**

Anne C. Singer, of Cherry Hill, is a partner in the Haddonfield firm of Jacobs Singer Kivitz & Herman, LLC. She was admitted to the New Jersey Bar in 1973, and was appointed to the Board in November 2013, after serving on the District IIIB Ethics Committee for several years. Her practice focuses on commercial litigation, federal criminal defense, and appeals. She served as an Assistant United States Attorney in the civil and criminal divisions of New Jersey's U.S. Attorney's Office from 1978 to 1990, clerked for Justice Robert L. Clifford of the New Jersey Supreme Court, is past Chair of the State Bar Association's Criminal Law Section, and is a member of the New Jersey Law Journal Editorial Board and of the New Jersey Supreme Court's Advisory Committee on Professional Ethics. Ms. Singer is a graduate of the University of Chicago (B.S.), University of Alabama (M.S.) and University of Cincinnati Law School, where she was editor-in chief of the law review.

**Morris Yamner, Esq.**

Morris Yamner, a member of the New Jersey Bar since 1962, was appointed to the Board in May 2009. He is a partner at Sills Cummis and Gross, Newark. He started his career as a judicial clerk and was then appointed a deputy attorney general. Thereafter, he practiced law in Paterson as a partner at a law firm that became Cole Yamner and Bray. He joined Sills Cummis and Gross in 1990. Mr. Yamner completed his service on the Board on December 12, 2014.

**Robert C. Zmirich**

Robert C. Zmirich, of Mt. Laurel, was appointed to the Board in April 2009. A graduate, with honors, of the U.S. Naval Academy, he is President of Insurance Review Service, a diversified financial services and insurance firm. Prior to his appointment to the Board, Mr. Zmirich was a member of the District IIIB Ethics Committee, for four years, serving as its designated public member.

**Eileen Rivera**

Eileen Rivera, of Belleville, was appointed to the Board in June 2014. A Rutgers-Newark graduate, she is a career social worker and is employed in the Juvenile Justice system. Prior to her appointment to the Board, Ms. Rivera was a member of the District VB Ethics Committee, for four years, serving as its designated public member.

## **OFFICE OF BOARD COUNSEL**

The Office of Board Counsel functions as a clerk's office (docketing, case processing, calendaring, distribution, and document storage), in-house counsel to the Board (providing legal research and legal advice to the Board), and a cost assessment and collection agency (assessing administrative and actual costs, collecting payments, and enforcing assessments by filing judgments and seeking temporary suspensions for non-payment).

In 2014, the Office of Board Counsel comprised seven attorneys (Chief Counsel, Deputy Chief Counsel, and five Assistant Counsel)<sup>2</sup>, one information technology analyst, one administrative supervisor, two administrative specialists, one technical assistant, and five secretaries. Effective May 3, 2014, Ellen A. Brodsky, who had previously served as a staff attorney, First Assistant Counsel, and Acting Deputy Chief Counsel, was appointed Chief Counsel. Prior to May 3, 2014 Deputy Chief Counsel Isabel Frank served as Acting Chief Counsel.

Since 1991, the Office of Board Counsel has furnished pre-hearing memoranda to the Board in serious disciplinary cases, motions for consent to discipline greater than an admonition, and 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. These

---

<sup>2</sup> The First Assistant Counsel position was vacant in 2014 while the attorney who held that position served as Acting Deputy Chief Counsel and then as Chief Counsel. Following recruitment, that position was filled in January 2015.



in-depth memoranda set out the facts relevant to the issues raised, the applicable law, a pertinent analysis of both, and a recommendation of the appropriate level of discipline.

## **CASELOAD INFORMATION**

The Board carried 114 matters into January 2014, twenty-five fewer than it carried into 2013. See Figure 1. By December 31, 2014, all of those matters had been resolved. See Figure 2.

Of the 104 matters pending on December 31, 2014, sixteen (15.4%) were presentments; one (1%) was a stipulation; eleven (10.6%) were defaults; five (4.8%) were admonitions; nine (8.7%) were motions for discipline by consent; two (1.9%) were motions for final discipline; four (3.8%) were motions for reciprocal discipline; forty-six were fee and ethics appeals (44%); and one miscellaneous matter, three remand matters, and one R.1:20-6(c)(1) case made up the remainder. See Figures 1 and 2. Figure 3 provides a graphic representation of the pending Board caseload at the close of 2014, as compared to year-end pending caseloads for 2010 through 2013.

During calendar year 2014, the Office of Board Counsel docketed 401 matters for review by the Board, fifteen fewer than the 416 docketed in 2013. The number of ethics appeals decreased in 2014: seventy-nine appeals were filed in 2014, while 112 were filed in 2013. The number of fee appeals filed in 2014 also decreased slightly: ninety-eight fee appeals were docketed in 2014, compared to 100 fee appeals docketed in 2013. Admonition filings also

decreased slightly: ten were docketed in 2014, while twelve were docketed in 2013.

In all, the Board resolved 411 of the 515 matters carried into or docketed during calendar year 2014 – a disposition rate of 79.8%. Figure 4 compares the Board's disposition rates from 2010 to 2014.

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 are to be resolved within six months of the docket date, while all ethics and fee arbitration appeals have a three-month resolution time goal. See Figure 5.

Ethics and fee appeals processing times continued to show improvement in 2014 and were below or at the allotted resolution times. Similarly, the disposition rate in all but one case-type category was well below the resolution time guidelines.

**CASELOAD INFORMATION: FIGURE 1**

<b>DRB ANNUAL ACTIVITY REPORT</b>					
<b>JANUARY 1, 2014 TO DECEMBER 31, 2014</b>					
<b>Case Type</b>	<b>Carried</b>	<b>Docketed</b>	<b>Total</b>	<b>Disposed</b>	<b>Pending</b>
Admonition/Presentment	2	1	3	3	0
Admonition	5	10	15	10	5
Appeal/Presentment	0	1	1	1	0
Consent to Admonition	1	3	4	4	0
Consent to Discipline	7	30	37	28	9
Consent to Disbarment/Costs	0	16	16	16	0
Default	14	51	65	54	11
Ethics Appeal	22	79	102	83	19
Fee Appeal	28	98	126	99	27
Motion for Disability Inactive Status	0	1	1	1	0
Motion for Final Discipline	9	8	17	15	2
Motion for Reciprocal Discipline	3	6	9	5	4
Motion for Temporary Suspension	1	5	6	6	0
Motion for Temporary Suspension-Costs	0	5	5	5	0
Miscellaneous	1	13	14	13	1
Motion for Medical Examination	0	1	1	1	0
Motion for Reconsideration	0	2	2	2	0
Petition for Restoration	0	14	14	9	5
Presentment	16	47	63	47	16
<u>R.</u> 1:20-6(c)(1)	1	1	2	1	1
Remand	0	3	3	0	3
Stipulation	3	6	9	8	1
<b>Totals</b>	<b>114</b>	<b>401</b>	<b>515</b>	<b>411</b>	<b>104</b>

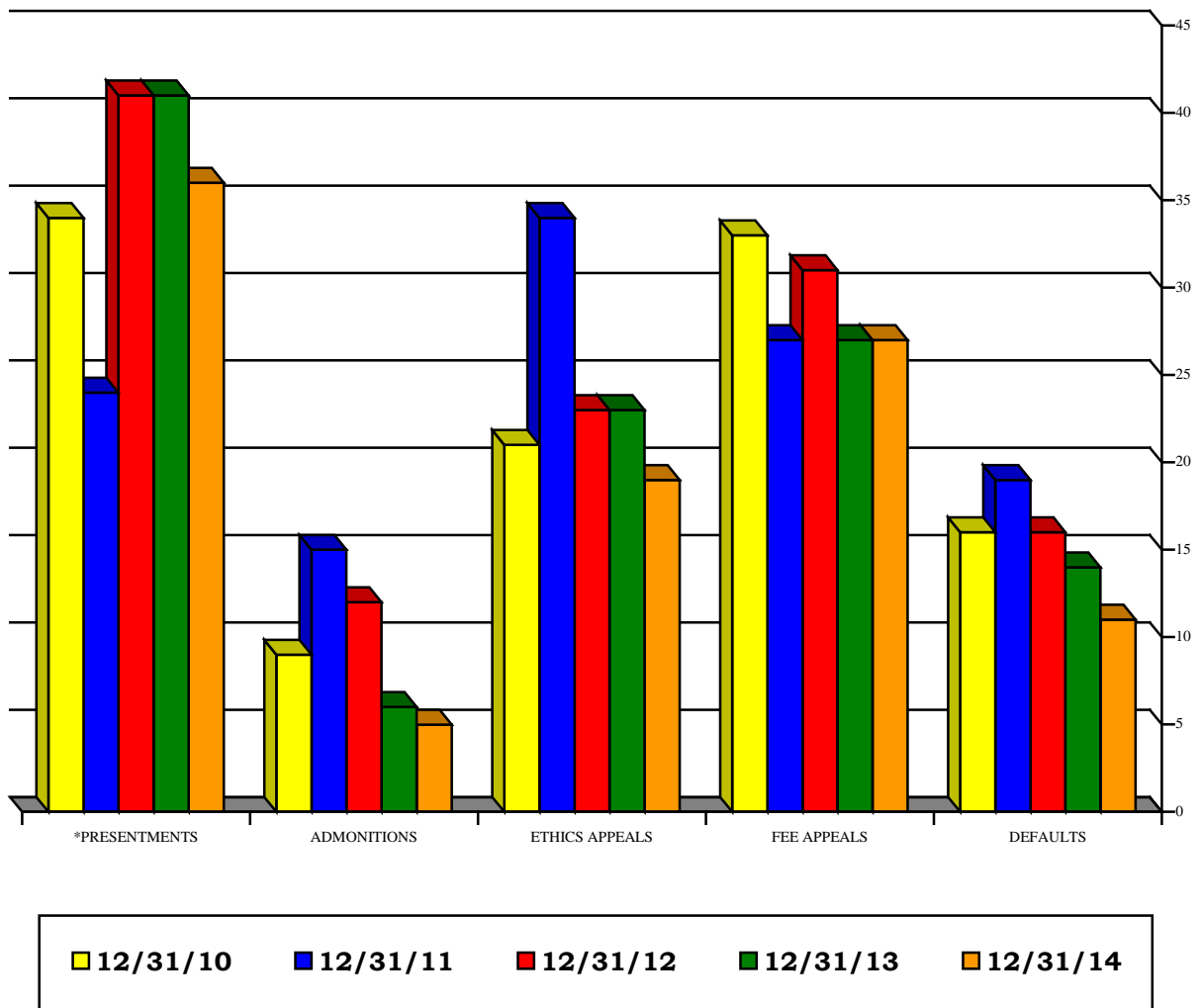
**CASELOAD INFORMATION: FIGURE 2**

<b>AGE OF PENDING CASES – BY CASE TYPE</b>				
<b>As of December 31, 2014</b>				
<b>Case Type</b>	<b>2014</b>	<b>2013</b>	<b>Prior</b>	<b>Total Pending</b>
Admonition	5	0	0	5
Consent to Discipline	9	0	0	9
Default	11	0	0	11
Ethics Appeal	19	0	0	19
Fee Appeal	27	0	0	27
Motion for Final Discipline	2	0	0	2
Motion for Reciprocal Discipline	4	0	0	4
Miscellaneous	1	0	0	1
Petition for Reinstatement	5	0	0	5
Presentment	16	0	0	16
<u>R.</u> 1:20-6(c)(1)	1	0	0	1
Remand	3	0	0	3
Stipulation	1	0	0	1
<b>Totals</b>	<b>104</b>	<b>0</b>	<b>0</b>	<b>104</b>

**CASELOAD INFORMATION: FIGURE 3**

**COMPARATIVE CASELOAD ANALYSIS**

**Pending from 12/31/2010 to 12/31/2014**



\*Includes Presentments, Stipulations, Motions for Final Discipline, Motions for Reciprocal Discipline, Consents to Discipline, Remand, and R. 1:20-6(c)(1) matters.

**CASELOAD INFORMATION: FIGURE 4**

<b>ANNUAL DISPOSITION RATE</b>					
<b>2010 - 2014</b>					
<b>YEAR</b>	<b>CARRIED</b>	<b>DOCKETED</b>	<b>TOTAL</b>	<b>DISPOSED</b>	<b>DISPOSITION RATE</b>
<b>2010</b>	119	455	574	456	<b>79.4%</b>
<b>2011</b>	118	465	583	458	<b>78.6%</b>
<b>2012</b>	125	433	558	419	<b>75.1%</b>
<b>2013</b>	139	416	555	442	<b>79.6%</b>
<b>2014</b>	114	401	515	411	<b>79.8%</b>

**CASELOAD INFORMATION: FIGURE 5**

<b>AVERAGE RESOLUTION TIMES FOR BOARD CASES (IN MONTHS)</b>						
<u>R. 1:20-8(c)</u>		2011	2012	2013	2014	
<b>Discipline:</b>						
Presentments	6	5.6	5.2	5.4	5.8	
MFD	6	4.9	3.8	6.3	5.3	
MRD	6	6	4.1	6.5	5.4	
Defaults	6	4.9	4.2	5.5	4.9	
Consents	6	3.6	3	5.2	3.1	
Stipulations	6	5	4.5	5.5	4.8	
<u>R. 1:20-6(c)(1)</u>	6	-	-	6.4	6.2	
<b>Admonitions:</b>						
Standard	6	3.9	3.4	4.9	3.9	
By Consent	6	2.7	3.1	5.3	2.6	
<b>Appeals:</b>						
Ethics Appeals	3	2.6	2.8	2.25	2.65	
Fee Appeals	3	2.85	2.75	2.9	3	
<b>Other:</b>						
MTS	-	.9	.8	2.1	1	
Petitions to Restore	-	1.7	3.3	1.8	1	

## **BOARD ACTION**

### **Discipline**

In 2014, the Board rendered dispositions in fifty-two presentments, eight stipulations, five motions for reciprocal discipline, and fifteen motions for final discipline. The Board decided twenty-eight motions by consent for the imposition of discipline greater than an admonition that were filed with the Board.

Of the fifty-four defaults resolved by the Board, eleven were remanded or vacated, four were administratively dismissed (one because of due process problems, one to allow the respondent to file a more comprehensive verified answer, and two because the respondents were disbarred) and one was withdrawn by the OAE.

The Board reviewed sixteen admonition matters in 2014. Of these, seven resulted in letters of admonition after review on the papers; one was transmitted to the Supreme Court with another matter recommending that the respondent be reprimanded, and one was dismissed; and three were forwarded to the Supreme Court with a determination that the respondents receive more than an admonition, after they were scheduled for oral argument as presentments: two reprimands, and one three-month suspension.<sup>3</sup> In addition, the Board resolved four motions for imposition of admonition by consent: two were granted, one was denied, and one was remanded.

---

<sup>3</sup> Because cases that initially were docketed as admonitions were again docketed as “admonition to presentment” cases, they were counted in both categories to arrive at the total of sixteen admonition matters.



The Board also reviewed and resolved six motions for temporary suspension, nine petitions for restoration, two motions for reconsideration, and thirteen miscellaneous matters.

### **Appeals**

The Board considered 182 appeals in 2014, thirty-four fewer than in 2013. Of the eighty-three ethics appeals reviewed in 2014, seventeen cases (20.5%) were remanded by the Board to the district ethics committees for further action or for a new investigation. The 2014 percentage of remand on ethics appeals was higher than the 14.3% experienced in 2013.

The rate of remand for fee appeals was lower than for ethics appeals in 2014: of the ninety-nine fee appeals reviewed, nineteen cases (19.2%) were remanded to the district fee arbitration committees, a rate lower than the 28.2% experienced in 2013. Although the reasons for fee remand varied, the majority resulted from palpable mistake of law at the district level.

## **SUPREME COURT ACTION**

In 2014, the Office of Board Counsel transmitted to the Supreme Court a total of 103 formal decisions in presentments, stipulations, motions for final discipline, motions for reciprocal discipline, and default matters. In addition to those decisions, nine recommendations on petitions for reinstatement, four recommendations on motions for temporary suspension, and fourteen determinations on motions for discipline by consent were sent to the Supreme Court.

Of the 103 formal decisions, the Supreme Court agreed with the Board's determination in 94% of the 84 cases for which it issued final orders in 2014. In five instances, the Supreme Court determined to impose a lesser degree of discipline. See Figure 6. In the cases where the Board and the Supreme Court diverged, the differences were as to the degree of discipline, rather than factual or legal findings.

**SUPREME COURT ACTION: FIGURE 6**

**2014 DISCIPLINE COMPARISON**

<b>SUPREME COURT DISCIPLINE LESS THAN DRB DECISION</b>		
<b>ATTORNEY</b>	<b>DISCIPLINARY REVIEW BOARD DECISION</b>	<b>SUPREME COURT ACTION</b>
Carl Gensib	3 month suspension	Censure
Joseph Lane	3 month suspension	Censure
Cynthia Matheke	Reprimand	Admonition
Michael Resnick	Censure	Reprimand
Scott Sigman	Disbar	30 month suspension

## **COLLECTION OF ADMINISTRATIVE COSTS**

The Board uniformly assesses administrative costs in all discipline cases, including admonitions. The Supreme Court's final order of discipline generally includes a requirement that the respondent 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 2014, the Office of Board Counsel was current with cost assessment in every case where the Supreme Court ordered costs to be paid. In 2014, the Supreme Court accepted consents to disbarment in sixteen matters unrelated to Board cases. Nevertheless, Office of Board Counsel staff assessed and began the collection process for Court-ordered costs in those matters, pursuant to R. 1:20-17.

During calendar year 2014, the Office of Board Counsel assessed disciplined attorneys a total of \$386,759. In 2014, the Office of Board Counsel collected \$252,273 which represented costs that were assessed in 2014 and

prior years. Although this was \$169,155 less than the amount collected in 2013 (\$421,428), it was more consistent with amounts collected in prior years (\$249,711 in 2012, \$233,975 in 2011, and \$289,681 in 2010).

The Office of Board Counsel filed five motions for temporary suspension in 2014 against respondents who failed to satisfy their cost obligations. The amount due from those respondents was \$11,558 and a total of \$6,126 was collected as a result of the motions. Fifty-six judgments were filed in 2014 totaling \$143,555. Payments totaling \$53,205 were received toward judgments filed prior to 2014.

The Office of Board Counsel also processes and collects payments of monetary sanctions that the Board imposes on respondents, typically when the OAE files a motion for temporary suspension to enforce a fee arbitration award. The Board imposed three such sanctions in 2014, totaling \$1,500. No payments were received to satisfy those sanctions.

## **CONCLUSION**

During calendar year 2015, the Board will continue to make every effort to manage its caseload both qualitatively and quantitatively. 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.