



**OFFICE OF BAR COUNSEL**

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*Daniel Hooge*  
**BAR COUNSEL**

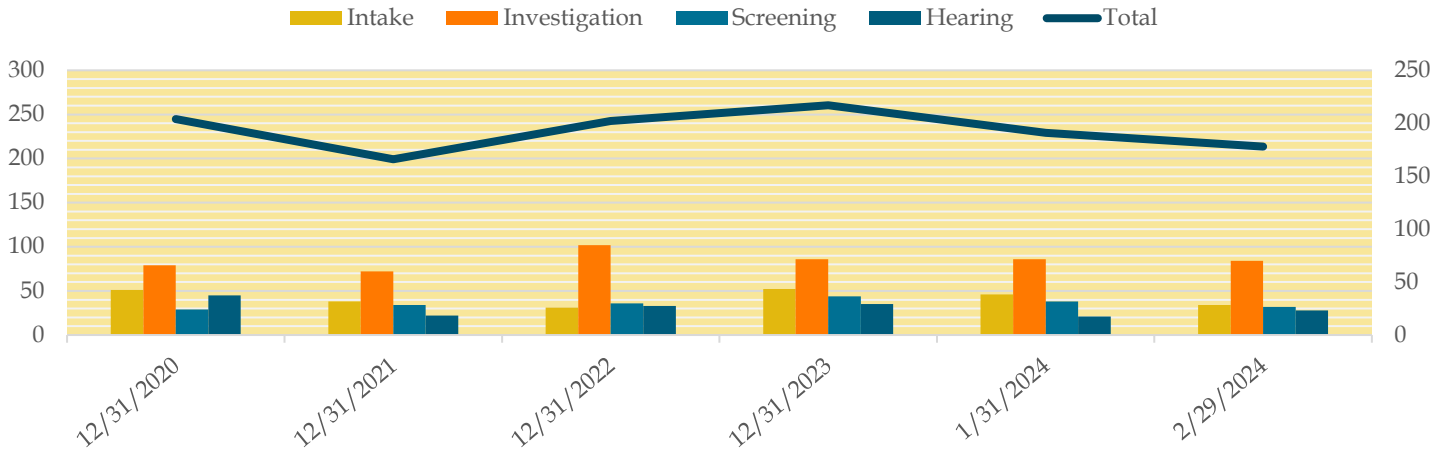
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**BOARD REPORT**

**March 2024**

# DISCIPLINE STATISTICS

## ALL ACTIVE CASES



- The OBC aims to keep active cases under 250. This allows for about half (125) in investigations and half (125) split between intake, screening, and hearing.
- The OBC works efficiently with active cases below 250. We are within that range.
- Active cases in 2023 rose in the first quarter, then dropped and leveled out for the remainder of the year. During the first quarter of 2024, the OBC's active case load dropped. Bar counsel attributes the decline in part to seasonal drops in grievances, long-term reductions in grievances, and increased efficiency in investigations.

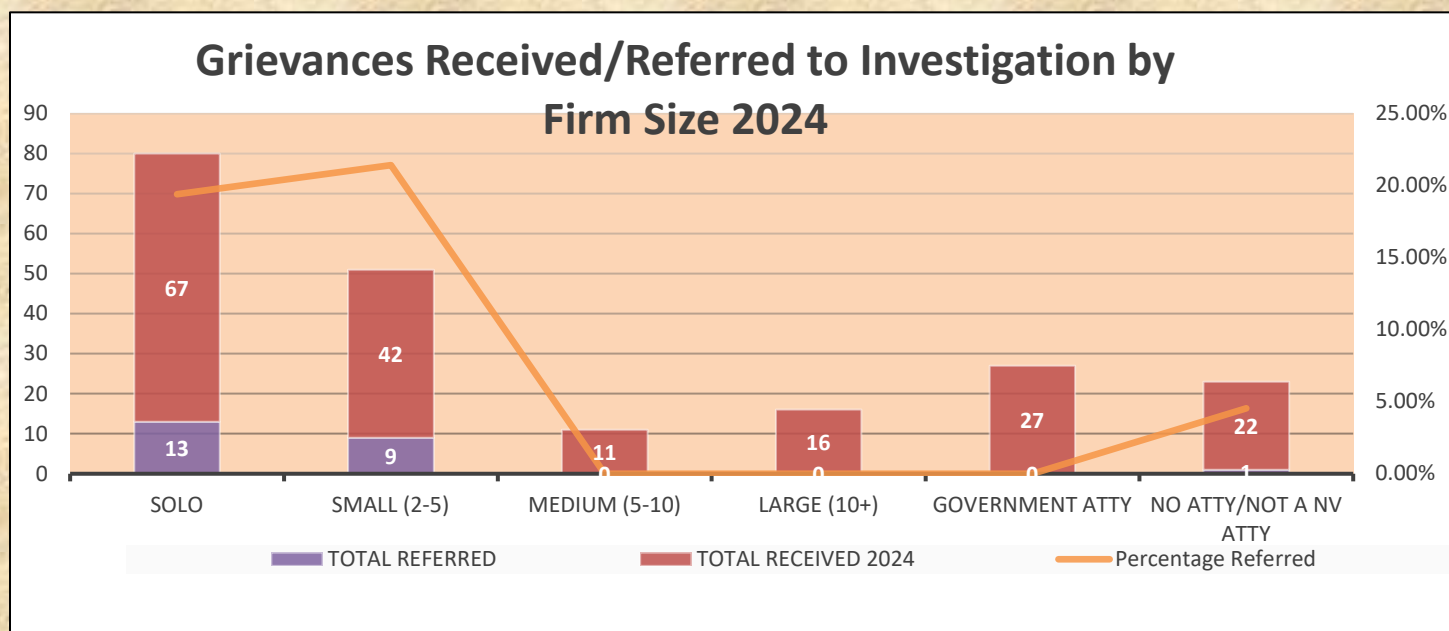
## INTAKE

	New Grievances	Grievances Reviewed	Grievances Pending	Over 90 Days
End of 2023			52	0
January	106	112	46	0
February	79	91	34	0

**GOAL – Review grievances within 90 days and have no more than 100 pending at any time.**

- Intake staff continues to process files efficiently to keep pending grievances well below 100.
- The number of new grievances that OBC receives in any given month is unpredictable. The OBC received significantly fewer grievances in February than it did in January. As mentioned above, bar counsel attributes the decline in part to seasonal conditions and in part to long-term reductions in grievances.

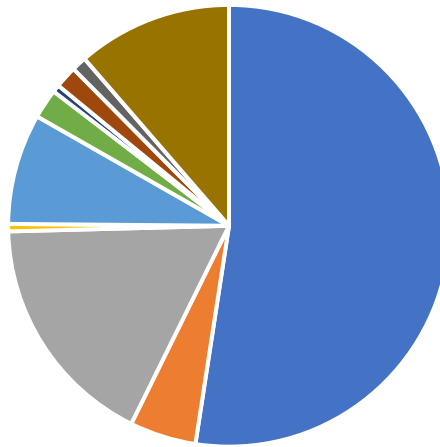
## GRIEVANCE DEMOGRAPHICS



- Of the 185 grievances the OBC has processed through February 29, 2024, 59% named solo and small firms, with the remainder split between medium to large firms, government attorneys, or grievances that do not name a Nevada licensed attorney.<sup>1</sup> This is consistent with the data gathered for 2023.
- Of the 23 grievances referred to investigation through February 29, 2024, 95% related to solo or small firms.
- Grievances referred to investigation on solo or small firms remain consistent at around 20% of total grievances received.

<sup>1</sup> The State Bar does not collect information on firm size from its members. The OBC is collecting this data using information available from the Internet and Membership Services, so there is a margin of error.

### Where have grievances come from 2024?



■ Client      ■ Client's Relative      ■ Opposing Party      ■ Opposing Counsel      ■ Concerned Citizen  
■ Judge      ■ Lienholder      ■ Bank/Overdraft      ■ SBN Initiated      ■ Other

- Of the grievances received through February 28, 2024, clients have consistently submitted the most at 52% with opposing parties second at 17%.
- 82% of grievances received relate to the Southern District, with 18% to the Northern District.
- The most common issues raised in grievances referred to investigation across all firm categories are diligence and communication.
- The second most prevalent issue raised in grievances referred to investigation against solo/small firms so far in 2024 is safekeeping property.

INVESTIGATION				
	New Invest.	Invest. Completed	Invest. Pending	Over 6 Months
End of 2023			86	2
January	18	18	86	12
February	16	18	84	11

**GOAL – Investigate grievances within 6 months and keep active investigations under 125.**

- Six-month investigations keep an efficient balance in the active caseload.
- Pending investigations continue to remain below 125. Overall investigation numbers are trending down.
- But the OBC has 11 investigations aged over 6 months. Bar counsel focused on these prolonged investigations during annual reviews and in weekly team meetings. Investigators had success in concluding these investigations. However, they continue to increase.
- These prolonged investigations are complex cases. Complex cases address grievances of misappropriation, fraud, or criminal conduct, which can require more time. OBC investigators will continue to prioritize and complete these investigations.
- Another cause for this increase is the related increase in hearings on complex cases. Investigations peaked in late 2022 and early 2023. Investigators worked with diligence to conclude these investigations. However, this spike funneled into screenings and hearings. A secondary effect of these increased hearings is increased time spent by investigators. Investigators work with the attorneys to prepare witnesses, prepare discovery and court exhibits, and to prepare their own testimony and evidence. Investigators pushed through the spike in investigations but did not free up their time as early as bar counsel anticipated. They continue to devote significant time to these same cases through the hearing phase. Fortunately, intake and investigations are down. Bar counsel predicts that as these complex cases process through hearing investigators will have more time to focus on and conclude these prolonged, complex investigations.

## HEARINGS

	New Filings	Hearings Resolved	Hearings Pending	Over 8 Months
End of 2022			26 (33 files)	1
End of 2023			17 (35 files)	3
January	4	5	16 (21 files)	3
February	9	2	23 (28 files)	4

### GOAL – Prosecute 80 % of disciplinary hearings within 8 months

- After a screening panel approves a formal hearing, Bar Counsel files a complaint and the case moves into the prosecution/pending hearing stage.
- Total hearing numbers are healthy if not low.
- The OBC presses for a hearing within 8 months whenever possible. It has 4 cases pending over 8 months. The delays in these 4 cases have been out of the OBC’s control in large part.
- In two of the cases over 8 months, the respondents filed extensive pre-hearing motions. They also involve multiple grievants and require 5-day in-person hearings. The Supreme Court remanded the third. And the fourth involves an incarcerated respondent, which has complicated the hearing process.
- These cases make up 14% of the total hearing cases. So, the OBC is within its goal. But it will continue to press the disciplinary board and opposing parties for a hearing.

### OTHER OBC ACTIVITIES

- The OBC monitors 41 attorneys: 11 in diversion, 20 on probation, and 10 conditional admittees.
- OBC’s attorneys have answered approximately 150 ethics calls this year. Callers seek guidance on a wide range of ethical concerns. The two most prevalent inquiries are regarding the unauthorized practice of law (RPC 5.5) or conflicts of interest (RPCs 1.7 and 1.8).

# 2024 DISCIPLINE

## **S U S P E N S I O N ( 2 )**

**David Mann** – 6 months + 1 day (insufficient representation of a client)

**Jeffrey Thomas** – 5 years + 1 day (disobeying court rules and orders – reciprocal to disbarment in California)

## **R E P R I M A N D ( 1 )**

**Douglas Fermoile** – for violations of RPC 1.4 (communication).

## **A D M O N I T I O N S ( 1 1 )**

## **R E S I G N A T I O N S ( 7 )**

## **P E N D I N G W I T H T H E C O U R T ( 1 4 )**