



OFFICE OF BAR COUNSEL

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BAR COUNSEL

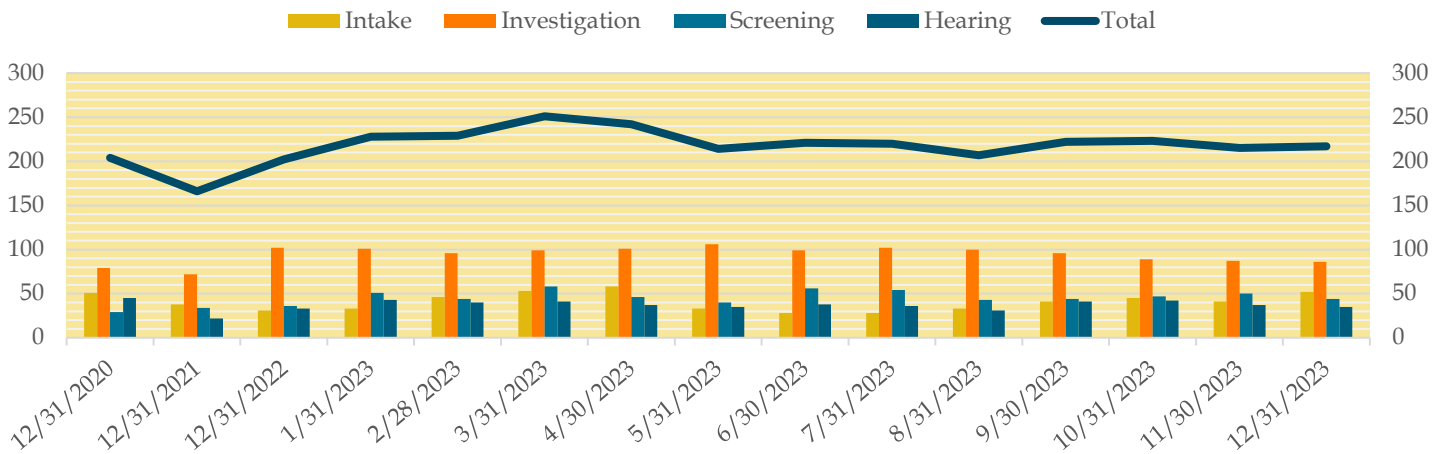


BOARD REPORT

January 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 continued to trend upward in early 2023. This was a bounce that started in 2022 as we came out of the pandemic. But active cases dropped around the summer and leveled out for the remainder of the year.

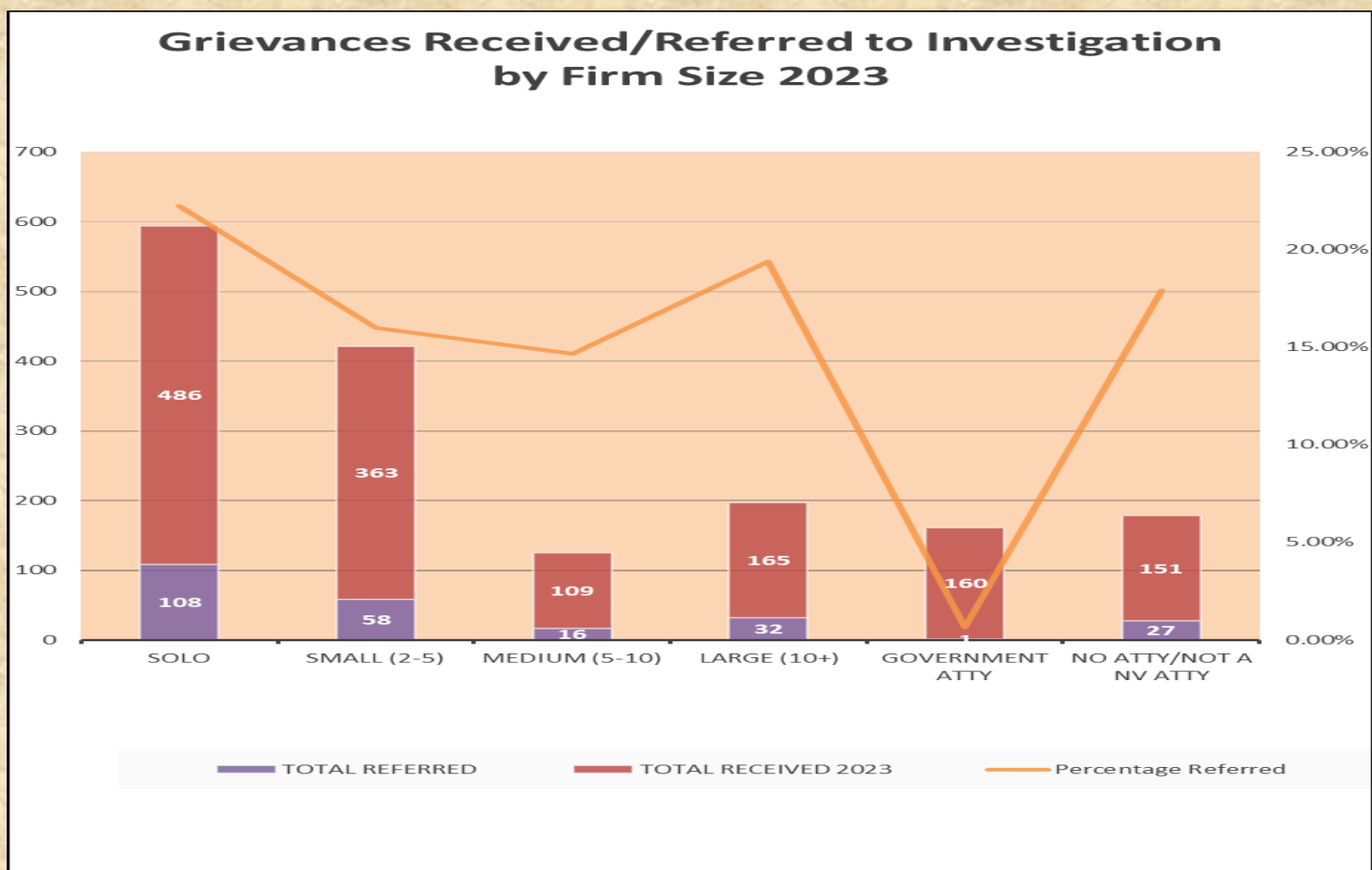
INTAKE

	New Grievances	Grievances Reviewed	Grievances Pending	Over 90 Days
End of 2021			38	0
<u>2022</u>	<u>1353</u>	<u>1360</u>	<u>31</u>	<u>0</u>
January	105	103	33	1
February	101	88	46	0
March	154	101	53	0
April	98	93	58	1
May	152	177	33	1
June	108	113	28	0
July	121	121	28	0
August	127	122	33	0
September	124	116	41	0
October	121	117	45	0
November	116	120	41	0
December	106	95	52	0
2023	1433	1366	40.91 (avg)	3

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

- Intake staff processes files efficiently to keep pending grievances well below 100.
- The number of new grievances that OBC receives in any given month can be unpredictable. New grievances jumped significantly in March and May causing pending grievances to rise. But pending grievances in intake remained at healthy levels throughout 2023.
- Total grievances rose from 1353 to 1433 from 2022 to 2023, respectively.

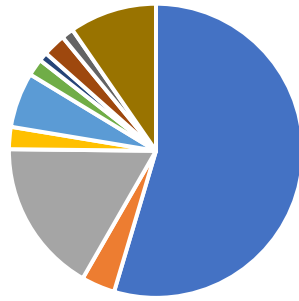
GRIEVANCE DEMOGRAPHICS



- Of the 1433 grievances the OBC has processed through December 31, 2023, 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.¹ This has been consistent throughout 2023.
- As reflected in the chart above, the percentage of grievances naming solo firms referred to investigation is approximately 2% higher than those naming large firms.

¹ 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 in 2023?



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

- Of the grievances received through December 31, 2023, clients have consistently submitted the most at 55%. Opposing parties submitted the second most at 17%. The OBC self-initiated 1%.
- 85% of grievances named lawyers in the Southern District. 15% named lawyers in the Northern District.
- The most common issue raised in grievances referred to investigation across all firm categories is diligence.
- The second most prevalent issue raised in grievances referred to investigation against solo/small firms is communication, while against large firms it is failure to supervise non-lawyer staff.

INVESTIGATION

	New Invest.	Invest. Completed	Invest. Pending	Over 6 Months
End of 2021			72	2
<u>2022</u>	<u>250</u>	<u>220</u>	<u>102</u>	<u>5</u>
January	25	26	101	5
February	17	22	96	9
March	29	26	99	9
April	22	20	101	8
May	37	32	106	6
June	20	27	99	6
July	22	19	102	4
August	20	21	101	3
September	16	20	97	7
October	12	19	89	9
November	20	22	87	6
December	14	15	86	9
2023	254	269	97 (avg)	6.75 (avg)

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.
- We currently have 9 investigations aged over 6 months. 90% of pending investigations are younger than 6 months.
- These prolonged investigations are either complex cases or a residual effect of the high number of cases added in May. 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.

HEARINGS

	New Filings	Hearings Resolved	Hearings Pending	Over 8 Months
End of 2021			14 (21 files)	1
<u>End of 2022</u>			<u>26 (33 files)</u>	<u>1</u>
January	7	3	30 (44 files)	2
February	2	4	30 (43 files)	2
March	9	8	28 (41 files)	2
April	4	6	26 (37 files)	3
May	1	3	24 (35 files)	3
June	4	6	22 (38 files)	3
July	3	3	22 (36 files)	2
August	3	7	18 (31 files)	3
September	6	0	24(41 files)	4
October	2	4	22 (42 files)	3
November	4	7	19 (38 files)	4
December	1	3	17 (35 files)	3
2023	46	54	23.5 (25 files avg)	2.8 (avg)

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.
- The OBC presses for a hearing within 8 months whenever possible. It has 3 pending hearings over 8 months.
- Approximately half of respondents are now requesting in-person hearings but will often agree to convert back to a remote hearing if the parties reach a guilty plea agreement.

OTHER OBC ACTIVITIES

- The OBC monitors 47 attorneys: 12 in diversion, 23 on probation, and 12 conditional admittees.

2023 DISCIPLINE

DISBARMENT (5)

John MacDonald – consented to irrevocable disbarment for multiple rule violations including RPC 1.15 (Safekeeping Property) and RPC 8.4 (Misconduct).

Scott Cantor – consented to irrevocable disbarment for multiple rule violations including RPC 1.15 (Safekeeping Property) and RPC 8.4 (Misconduct).

Kevin Holtman – for violations of RPC 1.4 (Communication), RPC 1.15 (Safekeeping property) and RPC 8.4 (Misconduct).

Douglas Nicholson - for violations of RPC 1.3 (Diligence), RPC 1.4 (Communication), RPC 5.5 (Unauthorized Practice of Law) and SCR 115 (Notice of change in license status)

Eric Lipman – for violation of 8.4(b) reciprocal to his license revocation in Florida for conviction of a serious crime

SUSPENSION (11)

Mitchell Wright (2) – 6 months and concurrent 6 months + 1 day (appearing in multiple matters while administratively suspended/failing to advance client's case)

Elaine Dowling – 1 year (assisting a disbarred attorney in the unauthorized practice of law and failing to properly manage her client trust account)

Brent Blanchard – 18 months (failing to complete conditions of reinstatement and diligently represent a client)

Randal Leonard – 1 day (revocation of stayed portion of suspension for violating terms of probation)

Steven Szostek – 1 year (revocation of stayed suspension for violating terms of probation)

David Sanders - 2 years (failing to communicate with 3 clients or advance their cases and failing to respond to the State Bar)

Kerry Faughnan – 6 months actual/3 years stayed (criminal conviction for conspiracy to commit theft)

Vladimir Gagic - 1 year (reciprocal discipline to AZ for making unprofessional, insulting or false comments in writing about 3 judges and opposing counsel)

Andrew Wasielewski – 5 years (criminal conviction for reduced offenses of theft and disorderly conduct based on misappropriation of client money)

Kent VanderSchuit - 6 months and 1 day (reciprocal discipline to CA/client abandonment)

Brian J. Smith – 18 months (6 months actual, 1 yr stayed) (failing to adequately represent 2 clients, comingling trust funds and convictions for misdemeanor DUI and felony reckless driving)

STAYED SUSPENSION (5)

Carrie Hurtik – 2 years stayed for 2 years (improper accounting practices/conversion of client funds)

Christine Owen – 6 month + 1 day suspension stayed for 1 year (improper accounting practices/conversion of client funds)

Daniel Allen – 1 year stayed for 18 months (failure to diligently represent or communicate with 4 clients)

Brandon Phillips – 1 year stayed for 2 years (failure to prepare orders directed by the court and failed to comply with bankruptcy court rules)

Nicholas Wajda - 6 months stayed (failing to comply with bankruptcy court rules)

TEMPORARY SUSPENSION (3)

Kerry Faughnan – criminal conviction for conspiracy to commit theft

Christopher Henderson – criminal conviction for assault with a deadly weapon

Brian Smtih – criminal conviction for reckless driving causing serious bodily harm and driving under the influence

PUBLIC REPRIMAND (14)

Leila Hale – for violations of RPC 1.15 (Safekeeping Property) and RPC 1.16 (Declining or Terminating Representation)

Randal Leonard – for violations of RPC 1.3 (Diligence) and RPC 3.2 (Expediting Litigation)

Steven Szostek – for violations of RPC 1.3 (Diligence), RPC 3.1 (Meritorious Claims and Contentions), RPC 3.3 (Candor Toward the Tribunal) and RPC 5.4 (Professional Independence of a Lawyer)

Rueben Gardner – for violations of RPC 1.5 (Fees), RPC 1.7 (Conflict of Interest: Current Clients), and RPC 8.4 (Misconduct)

Thomas Gibson – for violations of RPC 1.3 (Diligence), RPC 1.15 (Safekeeping Property), RPC 5.3 (Responsibilities Regarding Nonlawyer Assistants), RPC 5.4 (Professional Independence of a Lawyer), RPC 5.5 (Unauthorized Practice of Law) and RPC 8.4 (Misconduct)

Byron Bergeron – for violation of SCR 73 (Attorney Oath)

Brian Green for violations of RPC 1.3 (Diligence), RPC 3.4 (Fairness to Opposing Party and Counsel) and RPC 1.16 (Declining or Terminating Representation)

K. Alexandra Monaco – for violations of RPC 1.15 (Safekeeping Property) and RPC 1.4 (Communication)

Joseph Houston – for violations of RPC 1.16 (Declining or Terminating Representation)

Robert Lueck – for violations of RPC 8.2 (Judicial and Legal Officials)

Preston Kerr – for violations of RPC 1.7 (Conflict of Interest: Current Clients) and RPC 1.8 (Conflict of Interest: Current Clients: Specific Rules)

Leila Hale – for violations of RPC 1.7 (Conflict of Interest: Current Clients) and RPC 1.15 (Safekeeping Property).

Alda Anderson – for violation of RPC 1.16 (Declining or Terminating Representation)

Curtiss Chamberlain - for violation of RPC 1.3 (Diligence) and RPC 1.16 (Declining or Terminating Representation)

RESIGNATIONS (42)

PENDING WITH THE COURT (12)