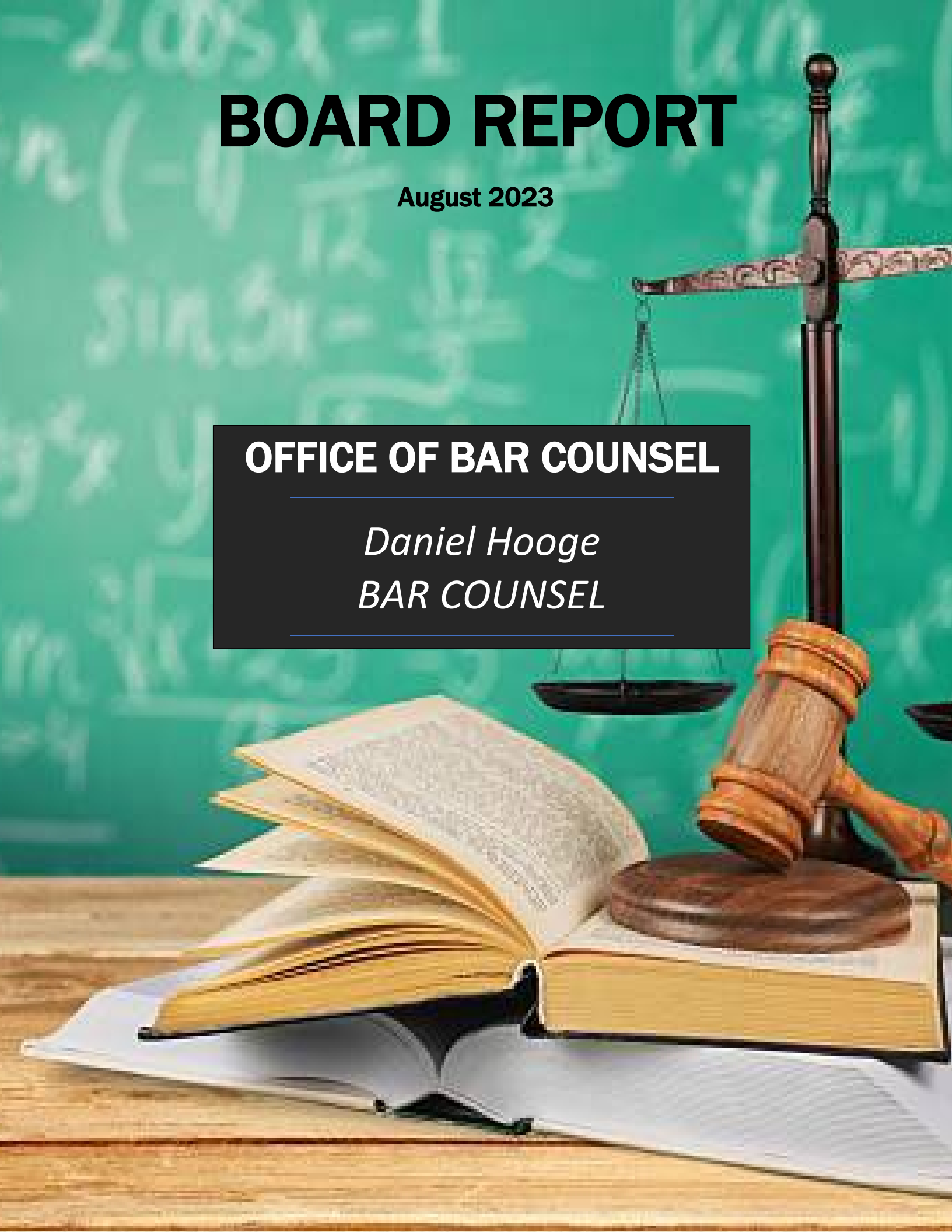


BOARD REPORT

August 2023

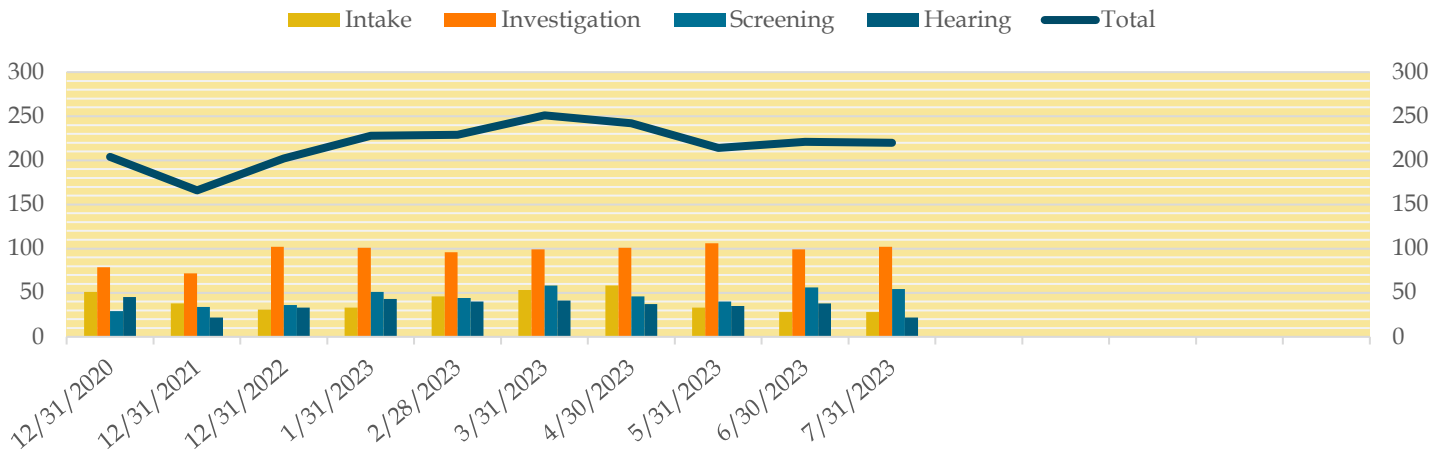
OFFICE OF BAR COUNSEL

Daniel Hooge
BAR COUNSEL



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 trended upward in 2022 as we came out of the pandemic. Active cases in 2023 continued to rise in the first quarter, but dropped in the second quarter, and remained at a healthy level during the third quarter.

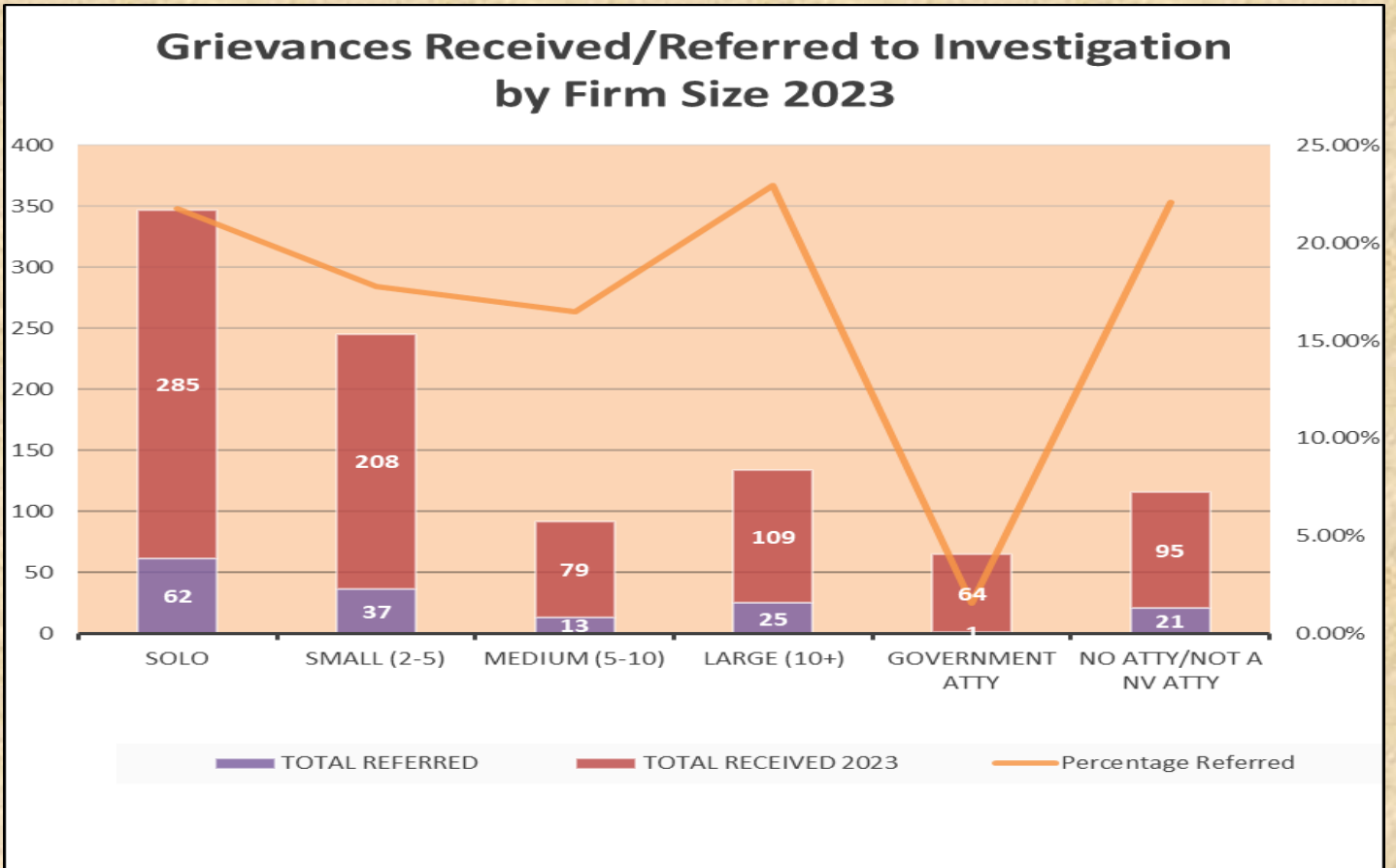
INTAKE

	New Grievances	Grievances Reviewed	Grievances Pending	Over 90 Days
End of 2021			38	0
2022	1353	1360	31	0
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

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.
- New grievances jumped significantly in March and May causing pending grievances to rise. But pending grievances in intake remained at healthy levels throughout 2023.

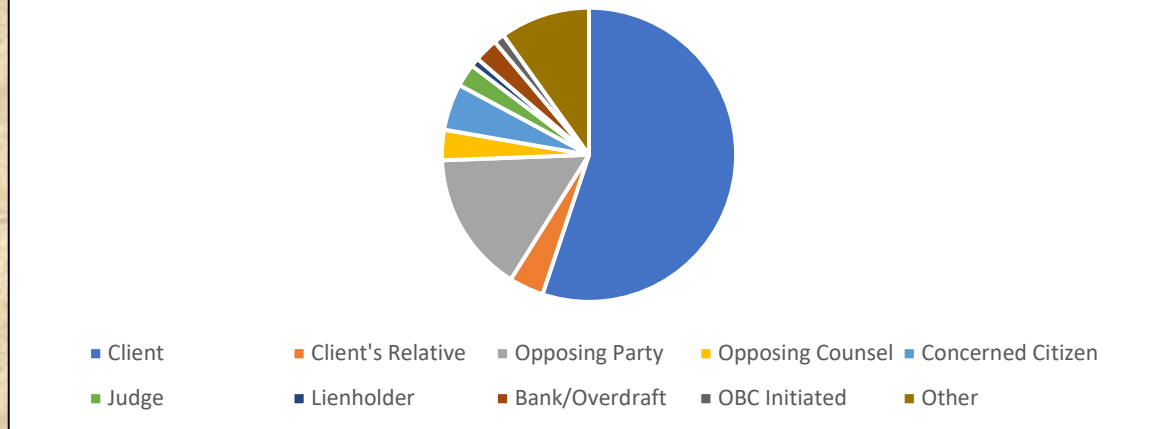
GRIEVANCE DEMOGRAPHICS



- After the OBC received board feedback from its June 2023 report, the OBC created a new “firm” category for government attorneys and re-categorized all relevant files for 2023.
- Of the 840 grievances the OBC has processed through July 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
- As reflected in the chart above, approximately the same percentage of grievances naming solo firms are referred to investigation as 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?



- Of the grievances received through July 31, 2023, clients continue to submit the most at 55% with opposing parties second at 15.5%. The OBC self-initiated just over 1%.
- 85% of grievances received relate to the Southern District, with 15% to 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
2022	250	220	102	5
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

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.
- Investigators have worked to reduce the number of prolonged investigations. We currently have 4 investigations aged over 6 months. This is a significant improvement over the peak of 9 in March. 90% of pending investigations are younger than 6 months.
- 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.

HEARINGS

	New Filings	Hearings Resolved	Hearings Pending	Over 8 Months
End of 2021			14 (21 files)	1
End of 2022			26 (33 files)	1
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

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 2 cases pending 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: 13 in diversion, 23 on probation, and 11 conditional admittees.
- OBC educates the bar. During July, OBC attorneys presented CLEs for the Clark County Bar Association on marketing and civility.
- Since March 1, 2023, the OBC has answered approximately 350 ethics calls. Approximately 70% are received from solo or small law firms. Callers ask questions on a variety of issues, but the most popular questions relate to declining or terminating representation, conflicts of interest, safekeeping property, and the unauthorized practice of law.

2023 DISCIPLINE

DISBARMENT (3)

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).

SUSPENSION (5)

Mitchell Wright – 6 months (appearing in multiple matters while administratively suspended)

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)

STAYED SUSPENSION (2)

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)

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 (11)

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)

RESIGNATIONS (37)

PENDING WITH THE COURT (12)