

# Professional Responsibility Program

## FY 24 Annual Report

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The Professional Responsibility Board is required by Administrative Order No. 9, Rule 1.E.(2) to provide to the Supreme Court “an annual report, including statistics and recommendations for any rule changes, which report shall be public.” The following is submitted in accordance with this mandate.

### PROFESSIONAL RESPONSIBILITY BOARD

**Carolyn Anderson, Esq., Chair**  
**Bonnie Badgewick, Esq., Vice-Chair**  
**Hon. David Howard (Retired Judge)**  
**Mr. Kevin O'Donnell**  
**Ms. Susan Fey**  
**Ms. Caryn Waxman, Esq.**  
**Mr. Larry Cassidy**

#### OFFICE OF BAR COUNSEL

**Michael Kennedy, Esq.**  
Bar Counsel

**Mailing Address:**

32 Cherry Street, Suite 213

Burlington, VT 05401

Telephone: 802-859-3004

[Michael.Kennedy@vermont.gov](mailto:Michael.Kennedy@vermont.gov)

<https://vtbarcounsel.wordpress.com>

#### OFFICE OF SCREENING COUNSEL

**Andrew Strauss, Esq.**  
Screening Counsel

**Mailing Address:**

32 Cherry Street, Suite 213

Burlington, VT 05401

Telephone: 802-859-3004

[Andrew.Strauss@vermont.gov](mailto:Andrew.Strauss@vermont.gov)

#### OFFICE OF DISCIPLINARY COUNSEL

**Jon Alexander, Esq.**  
Disciplinary Counsel

**Mailing Address:**

32 Cherry Street, Suite 213

Burlington, VT 05401

Telephone: 802-859-3000

[Jon.Alexander@vermont.gov](mailto:Jon.Alexander@vermont.gov)

#### *Program Administrator*

**Merrick Grutchfield**  
Program Administrator

**Mailing Address:**

Vermont Supreme Court

109 State Street

Montpelier, VT 05609-0703

Telephone: 802-828-3204

[www.vermontjudiciary.org](http://www.vermontjudiciary.org)

#### **Brandy Sickles**

Administrative Coordinator

Telephone: 802-859-3000

## Report from the Board

In 1999, the Vermont Supreme Court promulgated Administrative Order 9: Permanent Rules Governing Establishment and Operation of The Professional Responsibility Program (PRP). The order, A.O. 9, created the Professional Responsibility Board (Board). Rule 1.E sets out the Board's power and duties. Pursuant to the rule, the Board "shall oversee the program, and implement, coordinate, and periodically review its policies and goals." Rule 1.E.2 requires the Board to make "an annual report, including statistics and recommendations for any rule changes, which report shall be public." This is the Board's annual report for Fiscal Year 2024.<sup>1</sup>

### **I. Staff & Volunteers.**

The Board acknowledges its staff and volunteers. But for the members of the Board's hearing and assistance panels and their steadfast commitment, the program's goals would not be met. The Board expresses its gratitude for each member's service, as well as for the service provided by contract and conflict counsel.<sup>2</sup> The Board welcomed new member, Larry Cassidy, who replaced Christopher Chapman. Mr. Cassidy is a real estate investment owner in southeastern Vermont. The Board also renewed its contract with Hearing Panel Counsel Wendy Chen and thanks her for her dedicated service. Appendix A is a list of hearing panel members, assistance panel members, and lawyers who served as contract or conflict counsel in FY24.

The Board also extends its utmost gratitude to Bar Counsel Mike Kennedy who was diagnosed with cancer, underwent chemotherapy, radiation and surgery during FY24. Thankfully, he is on the mend. We want to recognize his dedication to this program and the legal community, which is so inspiring and was clearly evidenced by his amazing work ethic throughout this ordeal. He worked continuously during his chemotherapy and radiation and only took leave for his surgery. He also worked extensively and tirelessly with the Board to ensure that all bases were covered during his absence. Thank you, Mike Kennedy, and we hope and pray for your continued good health.

### **II. Board Work.**

The Board met four times in FY24. Much of the Board's work involved its supervisory role over the staff attorneys and their respective workloads. Their reports are adopted as part of this one. The Board's additional work is summarized below.

#### **A. In-person Annual Meeting**

Held in June at the Hilton Lake Champlain in Burlington, 47 PRP volunteers attended. The program included seminars on emotional intelligence, professionalism, civility and

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<sup>1</sup> July 1, 2023 through June 30, 2024.

<sup>2</sup> Appendix A is a list of hearing panel members, assistance panel members, and lawyers who served as contract or conflict counsel in FY24.

wellness, the disciplinary process and views from the Bench and from mediators on these topics. We thank all of the mediators, board members, and program volunteers who participated and helped plan this very successful meeting. The Board especially thanks the members of the bench who participated in the seminars: Judge Mary Morrissey, Judge John Valente, Justice William Cohen and Justice Nancy Waples (who also inspired us with her keynote address); and Chief Justice Paul Reiber for his insightful lunchtime remarks.

## **B. Rule Changes & Amendments**

1. Administrative Order 9. In FY24, the Board recommended that the Court amend Rule 14.D of Administrative Order 9 to authorize a hearing panel member whose term expires to continue to serve on a matter that was assigned to the panel before the member's term expired.
2. The Board expressed support for the idea of adopting a rule that would authorize lawyers and law firms to destroy client files at some point.
3. The Board reviewed Bar Counsel's outline of a potential amendment to Rule 1.10(a)(2) of the Vermont Rules of Professional Conduct. For now, the Board is not comfortable with a rule as "relaxed" as ABA Model Rule 1.10. Rather, the Board supports the concept of a "hybrid" that falls somewhere between the ABA Model Rule and Vermont's current rule. The Board understands the impact that Vermont's current rule has on attorneys who are new to the practice. However, if amended, the rule must continue to protect the confidences of a lateral transfer's former clients. Therefore, any proposed amendment should include comments that provide detailed guidance on the steps firms must take to screen lateral transfers. The Board will not support an amendment that works for big firms, but not for small and medium-sized firms. The Board asked Bar Counsel to seek input from small and medium-sized firms as to whether screening lateral transfers is practical given how closely together lawyers in those firms may work with each other.
4. The Board received a request from the Chair of the Vermont House Judiciary Committee that it consider whether to amend the Vermont Rules of Professional Conduct to require financial institutions to pay interest on pooled interest-bearing trust accounts at rates comparable to the rates paid on other accounts offered by the institution. The Board reviewed information from other jurisdictions and heard from representatives from the Vermont Bar Association, the Vermont Bar Foundation, and the Vermont Bankers Association. The issue remained under consideration as the fiscal year ended.

5. The Board considered Bar Counsel's related suggestion that Rule 28 of Administrative Order 9 should be amended to specify the duties and responsibilities of lawyers who are appointed to serve as inventory counsel. The issue remained under consideration as the fiscal year ended.

### **C. Program Continuity**

As discussed later in this report, while Bar Counsel was out, inquiries were directed to and responded by the three lawyer members of the Professional Responsibility Board.

## **III. Disciplinary Opinions & Decisions**

### **A. Hearing Panels.**

The Board maintains 10 hearing panels. By rule, each panel must include two lawyers and one person who is not a lawyer. In each case in which formal disciplinary charges are presented, a hearing panel must make findings of fact, conclusions of law, and, upon finding a violation, impose a disciplinary sanction. By rule, either Disciplinary Counsel or the respondent-lawyer may appeal a hearing panel decision to the Vermont Supreme Court. Even if no appeal is taken, the Supreme Court may review a hearing panel decision its own motion. Hearing Panel and Supreme Court decisions are summarized below in Disciplinary Counsel's Report.

## **Bar Counsel's Report**

### **A. Introduction**

As bar counsel,<sup>3</sup> I have long believed in [proactive attorney regulation](#). The goal of proactive regulation is for the regulator to work with the regulated to reduce risk and avoid problems. I view my job as to assist lawyers to comply with their professional responsibilities.<sup>4</sup>

I perform my job through the administration of the Bar Assistance Program. Everything that I do is meant to assist lawyers to develop and maintain the tools necessary to provide competent representation and to meet the high standards of professionalism and civility expected of attorneys admitted to the bar of the Vermont Supreme Court.

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<sup>3</sup> The position of bar counsel exists pursuant to Rule 2 of [Supreme Court Administrative Order 9](#), with the incumbent's duties set out in Rules 4, 5, 6, and 7.

<sup>4</sup> See, Administrative Order. 9, Purpose, (1): A purpose of the Professional Responsibility Program is "to assist attorneys and the public by providing education, guidance, referrals, and other information designed to achieve, maintain, and enhance professional competence and professional responsibility."

This is the report of my activities in fiscal year 2024.<sup>5</sup>

## 1. Ethics Inquiries

Bar Counsel responds to ethics inquiries.<sup>6</sup> Inquiries are confidential and bar counsel is exempt from the mandatory reporting rule.<sup>7</sup> Here are my [Policies on Ethics Inquiries](#).

I received 1,055 inquiries in FY24. The total is a marked decline from prior years. I attribute the decline to my diagnosis and lawyers not knowing whether I was working<sup>8</sup>. Appendix A shows the inquiry statistics. A few highlights:

- 74% of the inquiries were resolved on the same day that they were received.
- 93% of the inquiries were resolved within 2 business days of being received.
- 90% of the inquiries were from lawyers.
- Of the inquiries from lawyers:
  - ~ 38% were from lawyers who work in firms that have 1 or 2 lawyers;
  - ~ 27% were from lawyers who work in firms that have more than 5 lawyers;
  - ~ 22% were from lawyers who do not work in private practice; and,
  - ~ 9% were from public defenders.
- I track the five most common inquiry topics each month.
  - ~ Conflicts were in the top 5 each month.
  - ~ Confidentiality was in the top 5 each month.
  - ~ The next most common topic was “communicating with a represented person,” which appeared in the top 5 in six different months.

## 2. Education and Outreach

Rule 5 of Administrative Order 9 requires Bar Counsel to:

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<sup>5</sup> The Judiciary’s fiscal year ran from July 1, 2023, thru June 30, 2024.

<sup>6</sup> A.O. 9, Rule 6. Rule 6 includes the following language: “**(A) Legal Ethics Inquiries.** In response to an inquiry related to the Rules of Professional Conduct, law practice management, or a lawyer or judge’s professionalism or professional responsibilities, Bar Counsel will provide the inquirer with: (1) the appropriate referral, educational materials, or guidance; or (2) the preventive advice and information necessary to assist lawyers and judges to achieve, maintain, and enhance professional competence and professional responsibility.” (emphasis in the original).

<sup>7</sup> See, A.O. 9, Rule 8, and V.R.Pr.C. 8.3(c).

<sup>8</sup> As discussed later in this report, while I was out, inquiries were directed to the three lawyer members of the Professional Responsibility Board. My statistics include the inquiries responded to by these lawyers.

*“D. Develop and present programs related to the Rules of Professional Conduct, legal ethics, and a lawyer’s professional competence and professional responsibilities; and,*

*E. Develop and present programs concerning lawyer wellness and on issues related to the signs, symptoms, causes, and prevention of behavioral health issues that affect lawyers’ and judges’ professional competence.”*

In FY24, my education and outreach were done through CLE presentations, law firm consults, and my blog.

***a. CLE Presentations***

In FY24, I presented or co-presented at 14 seminars that totaled 15.75 credit hours. As with the inquiries, I did far fewer presentations in FY24 than in prior years. The reduction was due to my treatment. The seminars were sponsored or arranged by:

- Conservation Law Foundation
- Intellectual Property Owners Association
- New England Association of Treatment Courts
- New England Bar Association
- South Royalton Legal Clinic
- Vermont Bar Association
- Vermont Bar Association’s Bankruptcy Section
- Vermont Bar Association’s Young Lawyers Division
- Vermont Law School
- Washington County Bar Association
- Williston/Richmond Rotary Club
- Windham County Bar Association

***b. Law Firm Consults***

A few years ago, I started a project that melds ethics inquiries with a CLE presentation. I visit offices to discuss legal ethics and professional responsibility with both the lawyers and the non-lawyer staff.

I begin with a short presentation that is identical to a CLE. Then, given that all in attendance work together, attendees can ask questions as if making a confidential ethics inquiry of bar counsel. In FY24, I provided in-house CLE/ethics consults for 4 firms and offices.

**c. Blog**

I created [Ethical Grounds](#) in 2015. I use it to raise awareness on issues related to legal ethics and professional responsibility.

In FY24, I authored 90 posts. There were 24,296 distinct visits to the blog, with the visitors combining for 55,202 page views. Generally, the most popular posts are, by far, [the Friday quizzes](#) and the [Was That Wrong?](#) posts.

**B. The Bar Assistance Program**

3. History & Purpose.

The Bar Assistance Program (BAP) grew out of the Vermont Supreme Court’s 2019 decision to make clear that [wellbeing is an aspect of a lawyer’s duty of competence](#). The Court’s decision followed several years of study, reflection, and discussion in response to the troubling findings reported in 2016 by the American Bar Association and Hazelden Betty Ford Clinic.<sup>9</sup> The findings prompted formation of the National Task Force on Lawyer Well-Being. In 2017, the Task Force [The Path to Lawyer Well-Being: Practical Recommendations for Positive Change](#). *In it, the Task Force acknowledged that:*

“To be a good lawyer, one has to be a healthy lawyer. Sadly, our profession is falling short when it comes to well-being. [Studies] reveal that too many lawyers and law students experience chronic stress and high rates of depression and substance abuse. These findings are incompatible with a sustainable legal profession, and they raise troubling implications for many lawyers’ basic competence.”

The Task Force recommended that each state supreme court create its own commission to study ways to address (and improve) the legal profession’s wellbeing.

In response, the Court created the Vermont Commission on the Well-Being of the Legal Profession. In 2018, the Commission issued a [State Action Plan](#). The plan played a significant role in the eventual creation of the Bar Assistance Program.

Nationally, the consensus is that many disciplinary violations involve lawyers with behavioral health issues.<sup>10</sup> BAP’s goal is to reach lawyers before a complaint is filed. BAP stresses:

1. It is okay to seek help.
2. Help is available.

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<sup>9</sup> I first blogged about the findings [here](#).

<sup>10</sup> See, Jerome M. Organ, [The Relationship between Attorney Discipline and Attorney Impairment: The Need for Better Information to Protect Clients and to Help Attorneys](#), 17 U. ST. THOMAS L.J. 941, 942-946 (2022)

BAP began on April 1, 2021. Before then, bar counsel screened complaints, responded to ethics inquiries, and presented continuing legal education seminars. When BAP began, bar counsel's duties expanded to include assisting lawyers to address behavioral health issues. Reflecting a concern that lawyers in need of assistance would be wary of contacting bar counsel, BAP's creation resulted in a decision to remove bar counsel from the process by which disciplinary complaints are screened.

As bar counsel, I am committed to the notion that low-level or benign misconduct should be diverted from the disciplinary process. I am as committed to the positions that help-seeking behavior should be destigmatized, and that behavioral health assistance must be decoupled from both the disciplinary process and the bar admission process.

### 1. BAP Referrals

Administrative Order 9 contemplates three types of referrals to BAP: (a) informal behavioral health referrals; (b) formal behavioral health referrals; and (c) referrals for the non-disciplinary resolution of disciplinary complaints that have nothing to do with behavioral health.

#### *a. Informal Behavior Health Referrals.*

Informal behavioral health referrals are governed by Rule 6.B of Administrative Order 9. The rule authorizes bar counsel to provide guidance, advice, and referrals to the lawyer who is the subject of the informal referral and, if the lawyer consents, to refer the matter to an Assistance Panel. The rule also allows the lawyer to enter a "compliance agreement" with bar counsel.

In FY24, there were 19 informal referrals to BAP, compared to 21 in the prior fiscal year. Of the 19, 17 were self-referrals, while two were referred by others who requested that bar counsel perform a wellness check.<sup>11</sup> I provided each of the 19 with guidance, advice, and referrals, sometimes over the course of several discussions. None of the lawyers accepted a referral to an Assistance Panel or opted to enter into a compliance agreement with bar counsel.

Special thanks to Josh Simonds. Josh runs the Vermont Lawyer Assistance Program and is an invaluable resource to the Bar Assistance Program.

Remember: it is okay to ask for help and help is available. There is a list of resources [here](#). There are even more resources on the [VBA's Attorney Well-Being page](#)

#### *b. Formal Behavioral Health Referrals.*

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<sup>11</sup> I try to keep requests for wellness checks anonymous. Sometimes, however, the lawyer who is the subject of the request can determine who contacted me.

Formal behavioral health referrals are governed by Rule 6.C of Administrative Order 9. The rule authorizes screening counsel, disciplinary counsel, a hearing panel<sup>12</sup>, the Character and Fitness Committee, and the Judicial Conduct Board to make behavioral health referrals to BAP. If made, bar counsel must assign the matter to an Assistance Panel for resolution consistent with Rule 7 of Administrative Order 9.

BAP did not receive a formal referral in FY 24. In FY23, BAP only received one formal referral. It was made by a lawyer who had been retained as special disciplinary counsel to investigate a complaint.

I find the lack of formal referrals concerning. We know the numbers that affect the profession. Absent formal referrals, I do not think it makes sense to continue to keep bar counsel from the screening process.

***c. Nonbehavioral Health Referrals.***

A nonbehavioral health referral is when Screening Counsel or Disciplinary Counsel refers a disciplinary complaint to BAP for non-disciplinary dispute resolution and for reasons that, as the label suggests, have nothing to do with behavioral health. The process is like “diversion,” with many of the referrals being assigned to an assistance panel. These types of referrals are most often complaints that are too serious to dismiss out of hand but that are not serious enough to warrant a disciplinary prosecution. The Reporter’s Notes to the 2021 Amendments to A.O. 9 indicate that “[t]he Court and Board support the notion that Assistance Panels play an important role in building and maintaining the public’s confidence in the legal profession.”

In FY24, BAP received one referral. This marked the fewest Assistance Panel referrals since I started as deputy disciplinary counsel in 1998. The net effect is that our non-disciplinary dispute resolution program is essentially dormant.

**C. Other**

I was diagnosed with pancreatic cancer in September of 2023. I underwent chemotherapy and radiation, then had Whipple surgery on June 11. I cannot adequately express my gratitude for the outpouring of support from the Vermont legal community, the Vermont Judiciary, and the Professional Responsibility Program. Special thanks to the attorney members of the Professional Responsibility Board who responded to ethics inquiries when I was out following surgery.

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<sup>12</sup> A “hearing panel” is the Professional Responsibility Board’s version of a “trial court.” Hearing panels consider and decide matters in which formal disciplinary or disability charges are commenced against a lawyer’s license. See, A.O. 9, Rule 14. There are 10 standing panels.

In FY24, I screened 10 complaints in which Screening Counsel had a conflict. All ten were dismissed at screening.

In FY24, I served as a member of the:

- Vermont Commission of the Well-Being of the Legal Profession (Chair, Regulators Committee)
- National Organization of Bar Counsel Website Committee
- Vermont Judiciary Committee on Artificial Intelligence and the Courts

In January of 2024, the Vermont Bar Association's Young Lawyers Division honored me with the Peter W. Hall Integrity Award.

## Screening Counsel's Report

By rule, Screening Counsel screens complaints. The screening process involves conducting a limited investigation to determine the nature of a complaint and whether it can be resolved via non-disciplinary means. Upon concluding the limited investigation, Screening Counsel may dismiss or resolve the complaint, refer the complaint for non-disciplinary dispute resolution, or refer the complaint to Disciplinary Counsel for an investigation.

There are exceptions to the rule. Screening Counsel does not screen notices from financial institutions that a trust account has been overdrawn. Overdraft notices are automatically referred to Disciplinary Counsel for investigation. In addition, Disciplinary Counsel has the authority to open an investigation into any conduct that comes to his attention. Finally, Screening Counsel is prohibited from screening a complaint in which Screening Counsel has a conflict of interest.

In FY 2024, we docketed 175 new cases (18 more than last year). The results of screening those files are as follows:

- IOLTA Overdraft Notices (referred directly to Disciplinary Counsel): 8
- Referred to Conflict Screening Counsel: 12
- Referred for Non-Disciplinary Resolution: 3 (fee arbitration)
- Resolved or Dismissed after Limited Investigation: 125
  - ~ Appealed: 43
  - ~ Dismissed: 36
  - ~ Reversed: 7
- Referred to Disciplinary Counsel for Investigation: 34

- Reciprocal Discipline matter referred to Disciplinary Counsel: 0
- Dismissed after opened in error: 2
- Withdrawn by complainant: 3

Here is some attorney-type information on these cases:

- Cases brought against own attorney: 59
- Cases brought against opposing or other attorney: 104

Here is some subject matter information on all cases:

- Administrative: 9
- Bankruptcy: 1
- CHINS/TPR: 5
- Civil (general): 48
- Criminal: 53
- Family: 13
- Landlord/Tenant: 5
- Probate/Trusts & Estates: 19
- Other: 9

Here is some subject matter and attorney-type information on cases referred for investigation by Screening Counsel or by the Chair after a request from the complainant for review of Screening Counsel's decision:

- Administrative: 2
- Bankruptcy: 0
- CHINS/TPR: 0
- Civil (general): 23
- Criminal: 3
- Family: 4
- Landlord/Tenant: 0
- Probate/Trusts & Estates: 4
- Other: 5
- Cases brought against own attorney: 12
- Cases brought against opposing or other attorney: 29

## **Disciplinary Counsel**

### **A. Introduction and Year In Review**

Disciplinary Counsel administers the disciplinary side of the Professional Responsibility Disciplinary Program, pursuant to A.O. 9, Rule 9. The office of disciplinary counsel is staffed by one full-time attorney. The Office of Disciplinary Counsel is staffed by one attorney . Disciplinary Counsel utilizes additional contract resources as necessary, such as an investigator, certified public accountant, Special Appointed Disciplinary Counsel, and court-appointed trustees for deceased, suspended or disabled attorneys.

Disciplinary Counsel's core functions are to investigate, charge, and litigate disciplinary complaints and disability matters from the stage of an initial complaint up to and including appeals before the Vermont Supreme Court. Numerical statistics do not necessarily provide an accurate snapshot of resource allocation or enforcement priorities in a given year in the Office of Disciplinary Counsel. One primary reason for this is that a single investigation may take anywhere from a few hours to several months of work. The length of time a matter takes to investigate may not necessarily correlate to whether or not a lawyer is ultimately charged with a violation of the Rules of Professional Conduct.

### **B. Investigation**

Complaints come to Disciplinary Counsel for investigation in three main ways. The majority are written complaints received by the Program. These complaints are screened initially by Screening Counsel. Disciplinary Counsel also receives and investigates all automated notices from approved financial institutions of any overdrafts in attorney trust (IOLTA) accounts. Finally, Disciplinary Counsel may open an investigation on any other matter that comes to his attention which, if true, might constitute a violation of the Rules of Professional Conduct.

When a complaint is referred for investigation, Disciplinary Counsel will generally first request a written response from the attorney under investigation. Disciplinary Counsel then reviews the written response and conducts whatever additional investigation is appropriate. In many investigations, Disciplinary Counsel conducts an in-person or video interview of the lawyer under investigation. A large portion of matters are investigated but no charge or disability proceeding results from the investigation. Some matters may be referred to non-disciplinary resolution and some are closed out without further action. In all instances, complainants and respondent attorneys are notified in writing of the disposition of the matter with a brief explanation.

*Referrals to Non-Disciplinary Resolution*

Upon concluding an investigation, and as an alternative to commencing formal disciplinary or disability proceedings, Disciplinary Counsel may refer cases to Bar Counsel for non-disciplinary resolution, including an Assistance Panel or the Bar Assistance Program. In FY24, no cases were referred by Disciplinary Counsel to Bar Counsel for non-disciplinary resolution.

*Dismissals*

Disciplinary Counsel investigated and dismissed 23 matters in FY24. The reasons for the dismissals usually relate to inability to prove a specific Rule violation by clear and convincing evidence or other considerations such as enforcement priorities

*Investigative Docket Status*

During the fiscal year, 21 new files were referred by Screening Counsel to Disciplinary

Counsel for further investigation based upon Screening Counsel’s evaluation of a written complaint. Eight files were referred to Disciplinary Counsel for further investigation by the Board Chair following Screening Counsel’s initial dismissal. An additional nine files were opened that related to bank reports or attorney self-reports, and one investigative file was opened by Disciplinary Counsel on his own initiative. In total, 39 files were opened as new investigations.

The table below shows a numerical breakdown of general categories of issues raised in new investigations opened in FY24.

<b>Issue</b>	<b>Number of matters*</b>
Competence, diligence, and/or communication	13
Trust accounting related	9
Misrepresentation to court or other party	10
Billing related	1
Conflicts of interest	6
Incivility/harassment	7
Unauthorized practice of law	1
Criminal Conduct	3
Disability-related	1
Breach of confidentiality	1
Mishandling of funds	2

\* Note the sum exceeds 39 because some matters raised multiple issues.

## **C. Litigation**

When Disciplinary Counsel charges a lawyer, the case begins by filing either in the Supreme Court or with the Professional Responsibility Board for assignment to one of its Hearing Panels, depending on the type of action or issue. Matters assigned to a PRB Hearing Panel are subject to direct appeal to the Supreme Court. Procedure in lawyer discipline matters is governed by A.O. 9. Proceedings are neither civil nor criminal. Violations must be proved by clear and convincing evidence.

### **Supreme Court Original Jurisdiction Matters**

Several types of lawyer discipline matters begin with original jurisdiction in the Supreme Court. These categories are set out below.

#### **a. Consent to Disbarment under A.O. 9, Rule 23**

In cases where an attorney consents to disbarment under A.O. 9, Rule 23, Disciplinary Counsel sends documentation to the Board for review, and the Board makes a recommendation to the Supreme Court. The Court then issues a decision. In FY24, there were no consents to disbarment.

#### **b. Petitions for Reciprocal Discipline under A.O. 9, Rule 24**

Vermont-licensed attorneys who are disciplined in other jurisdictions are subject to reciprocal discipline in Vermont. A.O. 9 requires that Disciplinary Counsel file notice of any discipline of a Vermont attorney. The Court then generally provides opportunity for briefing on whether identical discipline should be imposed. In FY24, Disciplinary Counsel received one notice of a Vermont-licensed attorney being disciplined in another jurisdiction through disbarment, filed notice of this discipline with the Supreme Court and petitioned on a stipulated basis for imposition of identical reciprocal discipline in Vermont. In FY24, the Court granted this stipulated petition and imposed the identical reciprocal discipline of disbarment on the Vermont-licensed attorney.

#### **c. Petitions for Interim Suspension under A.O. 9, Rule 22**

Upon the receipt of sufficient evidence showing that an attorney has either committed a violation of the Rules of Professional Conduct, or is under a disability as set forth in A.O. 9 Rule 25, and presently poses a substantial threat of serious harm to the public, Disciplinary Counsel is required to transmit the evidence to the Supreme Court, along with a proposed order for the interim suspension of the attorney's license to practice law. In FY24, Disciplinary Counsel filed one such petition for interim suspension based on the attorney's failure to cooperate with Disciplinary Counsel's investigation. After a contested hearing before the Supreme Court, also in FY24, the petition of interim suspension was granted. This interim suspension was lifted by the

Court later in FY24 when the suspended attorney resumed cooperation with Disciplinary Counsel's investigation.

**d. Trustee proceedings under A.O. 9, Rule 28**

The Court or the Superior Court Civil Division in the county where a lawyer is located may appoint a lawyer to act as a trustee of a deceased, suspended or disabled lawyer's practice to inventory files and to protect the interests of the lawyer's clients. In FY24, no such trustees were appointed at Disciplinary Counsel's request.

**e. Disability Proceedings under A.O. 9, Rule 25**

No disability matters were initiated in FY24. One disability matter initiated in FY22 that resulted in the respondent attorney being placed on disability inactive status was dismissed in FY24 after a stipulated determination, adopted by a Hearing Panel designated by the Program and later approved by the Supreme Court, that the respondent attorney was no longer incapacitated.

**Hearing Panel Matters**

All other types of lawyer discipline and disability matters begin by filing with the Program Administrator and assignment to Hearing Panels.

**a. Probable Cause Review, A.O. 9, Rule 13(C)**

Before a case is charged publicly by petition of misconduct, Disciplinary Counsel must file a non-public request for finding of probable cause. One Hearing Panel serves as the probable cause panel for a term of one year. In FY24, no requests for finding of probable cause were filed.

**b. Petitions of Misconduct, Stipulations, and Hearings**

Disciplinary Counsel may charge a case by filing either a petition of misconduct or a stipulation of facts. The matter is assigned to a Hearing Panel by rotation, and the Panel may take evidence on violations, sanctions, or both. Charges, hearing notices, and pleadings are posted to the Board's webpage under the tab [Pending Public Disciplinary Matters](#). In FY24, Disciplinary Counsel charged one new case by petition of misconduct which at the end of FY24 was pending before a Hearing Panel. At the close of FY24, a total of four cases remained pending before hearing panels into the next fiscal year.

**c. Reinstatement Petitions under A.O. 9, Rule 26**

In FY24, one reinstatement petition was filed, heard by a Hearing Panel on November 27, 2023 and denied in a March 7, 2024 written decision.

## Hearing Panel Decisions

During FY24, Hearing Panels issued five decisions involving four matters. All decisions are posted to the Program [Webpage](#). If no appeal is taken and the Supreme Court does not undertake review of an unappealed decision *sua sponte*, the decision become final. Below is a chart listing decision numbers, rule violations, and sanctions resulting.

Decision Number	Title	Rule violations found	Sanction
256	001-2024 In re William W. Cobb	N/A – Reinstatement Petition	N/A – Reinstatement Denied
255	130-2022 In re Unidentified Attorney	N/A – Disability Matter	N/A –Disability Petition Dismissed
254	102-2019, 011-2020 In re Norman Watts*	1.15(d), 1.15, 1.15A(a), 1.4, 8.4(c), 1.5, 8.1	1 year suspension
253	021-2022 In re Theodore Studdert-Kennedy	3.4, 3.1	Public Reprimand**
252	021-2022 In re Unidentified Attorney	1.1, 3.1	Private Admonition**
251***	123-2023 In re Lisa Wellman-Ally	N/A – Reciprocal Discipline	Disbarment

\*Pending on appeal at close of FY24

\*\* Reversed and remanded after *sua sponte* review by the Supreme Court in FY24

\*\*\* This decision was issued by the Supreme Court, rather than a PRB Hearing Panel. Nevertheless, the Supreme Court decision was assigned a PRB Decision Number.

## Appeals

When a Hearing Panel issues a decision, either party may appeal that decision to the Supreme Court. The Court may also, upon its own motion, order review of the Hearing Panel’s decision whether or not either party appeals. One appeal of a FY24 decision was initiated by a Respondent attorney which remained pending in the Supreme Court at the close of FY24. The Court ordered review upon its own motion of two other FY24 Hearing Panel decisions which the Court then reversed and remanded in FY24 for further proceedings before a PRB Hearing Panel.

## D. Education and Other Activities

In FY24, Disciplinary Counsel delivered a Continuing Legal Education (“CLE”) presentation on the Program to the 2023 Annual Meeting of the Rutland County Bar Association. In addition, Disciplinary Counsel was a scheduled presenter in FY24 at the Vermont Bar Association Bankruptcy Section’s 2023 Holiday CLE. Finally, in FY24 Disciplinary Counsel collected and

summarized recent Vermont attorney disciplinary decisions for a meeting of the National Organization of Bar Counsel.

**E. Compliance with the Trust Account Rules**

In FY24, disciplinary counsel opened nine IOLTA overdraft related cases. All nine cases were investigated.

**F. Approved Financial Institutions**

Rule 1.15B(a)(1) of the Vermont Rules of Professional Conduct requires lawyers to maintain their trust accounts only in financial institutions approved by the Professional Responsibility Board. Disciplinary Counsel oversees the written agreements with all approved financial institutions on an annual basis. By agreement, approved institutions agree to the requirements set forth in the rules. The current list of approved financial institutions is updated as needed and can be viewed under the Attorney Trust Accounts tab on the program [webpage](#).

**Contract Certified Public Accountants**

Disciplinary Counsel assigns trust account compliance exams to contract CPAs. The attorneys who are examined are generally selected at random. The CPAs are also assigned to conduct compliance exams when need becomes apparent as part of a disciplinary or disability investigation, and they consult with Disciplinary Counsel on an ongoing basis. For each exam, the CPA examines the lawyer's records, conducts inquiry, and produces a written report analyzing compliance with trust accounting rules.

## Appendix A

### **PROFESSIONAL RESPONSIBILITY BOARD VOLUNTEERS**

In addition to our Board Member, the Professional Responsibility Program is comprised of other volunteers. The program is indebted to their contribution of time and expertise.

### **HEARING PANELS**

As FY24 ended, the following individuals served as members of Hearing Panels:

Panel 1:	Anthony Iarrapino	Emily Tredeau	Scott Hess
Panel 2:	James Valente	Amelia Darrow	Brian Bannon
Panel 3:	Gary Karnedy	Ashley Taylor	Peter Zuk
Panel 4:	Mary Parent	Cara Cookson	Thad Richardson
Panel 5:	Devin McLaughlin	Sarah Star	Traci Cherrier
Panel 6:	Dave Berman	Elizabeth Miller	Nicole Junas Ravelin
Panel 7:	Rick Goldsborough	Megan Manahan Bliss	Carl Rosenquist
Panel 8:	Jennifer McDonald	Jonathan Rose	Beth Anderson
Panel 9:	Mary Kay Lanthier	Shannon Lamb	TJ Sabotka
Panel 10:	Katherine Lamson	Michael Munson	Kelly Legacy

### **ASSISTANCE PANELS**

In addition to Board members, all of whom may serve on Assistance Panels, the following volunteers served as Assistance Panel members during FY24:

#### **Attorney Members**

Steve Adler	Honorable Thomas Durkin
Carolyn Anderson	Jennifer Emens-Butler
Shannon Bertrand	Ed French
Fred Bethel	Leslie Hanafin
Sandra Bevans	Michael Hanley
Gavin Boyles	Honorable David Howard
Amy Butler	Deb Kirchwey
Joe Cahill	Andrew Manitsky
Liz Ryan Cole	Lon McClintock
Phil Danielson	Liz Miller

Mark Oettinger

Bob O'Neill

Susan Palmer

Alan Rome

Josh Simonds

Martha Smyrski

Alfonso Villegas

Caryn Waxman

**Lay Members**

Chris Chapman

Lori Cohen

Lynn Dunton

Susan Fay

Kevin O'Donnell

Quaron Pinckney

Neal Rodar

Linda Joy Sullivan

Erik Wheeler

Lucia White

Peter Zuk

**CONTRACT COUNSEL**

The following Attorneys served the program as screening and/or disciplinary counsel as needed in FY 24.

Ian Carleton

Hannah Waite

Kevin Lumpkin

Francesca Bove

Samantha Lednicky

Tom McCormick

Ben Battles

David Seff

Navah Spero

Jessica Burke

Lisa Shelkrot

Ed Adrian

