

# *2003 Annual Report*

*Arkansas Supreme Court*

*Committee on Professional Conduct  
&  
Office of Professional Conduct*

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Arkansas Judiciary Homepage  
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Arkansas Attorney Discipline Homepage  
<http://courts.state.ar.us/courts/cpc.html>



and Panel C Vice-Chair  
Beverly Morrow, Pine Bluff, Non-attorney at Large  
Sylvia Orton, Little Rock, Non-attorney at Large

2003 Executive Committee:

Ken R. Reeves, Harrison, Attorney, Committee Chair  
Dr. Patricia Youngdahl, Little Rock, Committee Secretary  
Gwendolyn Hodge, Little Rock, Panel A Chair  
Richard A. Reid, Blytheville, Panel A Vice-Chair  
John L. Rush, Pine Bluff, Panel B Chair  
Richard F. Hatfield, Little Rock, Panel B Vice-Chair  
Justice (Ret.) David Newbern, Little Rock, Panel C Chair  
Robert D. Trammell, Little Rock, Panel C Vice-Chair

Panel C primarily serves: (1) as the review panel for dismissals of complaints by the staff, (2) as a third hearing panel as needed, and (3) individual Panel C members are used as substitute panel members when a member of Panel A or B is not available or has disqualified in any case on a ballot vote or a hearing.

**2004 COMMITTEE MEETING CALENDAR:**

January 16, 2004	Panel A
February 20, 2004	Panel B
March 19, 2004	Panel A
April 16, 2004	Panel B
May 21, 2004	Panel A
June 18, 2004	Panel B
July 16, 2004	Panel A
August 20, 2004	Panel B
September 17, 2004	Panel A
October 15, 2004	Panel B
November 19, 2004	Panel A
December 10, 2004	Panel B

**2. OFFICE OF PROFESSIONAL CONDUCT**

The Committee employs an attorney Executive Director and staff who function as the Office of Professional Conduct, and are housed in the Justice Building located on the Arkansas State Capitol grounds in Little Rock. The Office of Professional Conduct receives all complaints involving attorneys licensed to practice law in the State of Arkansas, investigates the complaints, provides assistance in the preparation of formal complaints, and processes formal complaints for submission to the Committee. The Executive Director for the Committee is Stark Ligon.

The Office of Professional Conduct is staffed by four staff attorneys, an administrative assistant, a secretary, and an investigator. The staff attorneys perform all duties and possess such authority of the Executive Director as the Executive Director may delegate, except for the final determination of sufficiency of formal complaints. The staff attorneys during 2003 were Nancie M. Givens, Deputy Director, Michael E. Harmon, Senior Staff Attorney, and Ann R. Dodson, Staff Attorney.

In calendar 2003, the staff presented twenty-five (25) CLE programs or speeches on law-related topics across the state. A listing of the programs is attached as Appendix A.

The Arkansas Supreme Court has not authorized the Office of Professional Conduct to give advice or legal opinions, formal or informal, on legal or ethical issues.

The total budget of the Committee and Office for 2003-04 is slightly more than \$587,000, funded by a portion of the annual license fee paid by Arkansas-licensed attorneys to the Arkansas Supreme Court.

The Office of Professional Conduct also provides staff support for the Supreme Court Unauthorized Practice of Law Committee and the Supreme Court Client Security Fund Committee.

### ***III. Administration***

The Office of Professional Conduct receives telephone calls, letters, e-mails and faxes from individuals across the country requesting information on how to initiate complaints against attorneys licensed to practice law in the State of Arkansas. During the 2003 calendar year, the office sent 1,916 grievance forms to complainants requesting one, down from 1,927 in 2002.

During the 2003 calendar year, the Office received 1082 written complaints, down from 1114 in 2002. The great majority of these consisted of informal complaints involving alleged lawyer misconduct. The remainder consisted of reports of alleged unauthorized practice of law, applications for financial relief from the client security fund, and administrative matters.

Following assigned review by staff attorneys of 824 disciplinary complaints received in calendar year 2003 (down from 843 in 2002), or pending from previous years:

438 complaints were found not to have a sufficient basis for a formal complaint;  
88 complaints were closed after investigation by staff attorneys;  
41 complaints were closed following an informal letter to the reported attorney;  
25 complaints were withdrawn by the complaining party;  
20 complaints had no affidavit from the complaining party returned to the Office;  
6 complaints were referred to outside agencies;  
19 complaints were merged into petitions of surrender of license by the attorney;  
3 were abated by the death of the attorney;  
9 reinstatement petitions were filed;  
3 interim suspension petitions were filed;  
1 petition for transfer to inactive in lieu of discipline was filed;  
5 petitions for surrender were received and approved;  
2 disbarment actions were initiated from filed complaints; and,  
181 new formal complaints were filed. (21.8% of files reviewed by staff attorneys, up from 21.5% in 2002)

#### ***IV. Formal Actions Initiated***

In 2003, there were 200 total formal cases opened for the Committee on Professional Conduct for action, up from 186 in 2002. Of the 200 cases, 181 became new formal complaints, 9 were Petitions for Reinstatement, 3 were Petitions for Interim Suspension, 5 were Petitions to Surrender Law License, and 2 became disbarment actions.

#### ***V. Final Committee Actions***

Final discipline was imposed in 195 different files involving Arkansas attorneys during Calendar Year 2003 by the Committee on Professional Conduct or, in cases of disbarment, by the Circuit Court or Arkansas Supreme Court. Of the 195 finalized cases in 2003, 1 file was from 1996, 1 was from 1997, 1 file was from 2000, 7 were from 2001, 65 were from 2002, and 121 were from 2003. Nine (9) files opened involved reinstatement petitions. There are six primary forms of action that the Committee on Professional Conduct may take. Actions of the Committee are shown below. A warning is non-public. The other forms of sanction are public.

#### **1. 2003 COMMITTEE DISPOSITION STATISTICS - see Appendix A for case summaries**

Type Action	Panel A	Panel B	Panel C	Total
No Actions	9	6	0	15
Warnings	21	30	3	54
Cautions	15	9	4	28
Reprimands	16	18	3	37
Suspensions	9	11	0	20
Interim Suspensions	9	0	0	9
Surrenders	3 *	2 **	0	5
Merged into Surrender	4	8	0	12
Initiate Disbarment	2 ***	0	0	2
Abated by death				0
Voluntary Inactive	0	0	0	0
Consents	19	24	11	54?
ARLAP Referral	2	0	0	2

Disposition	No.	%
No Action	15	9%
Warning	54	32%
Caution	28	16%
Reprimand	37	22%
Suspension	20	12%
Interim Suspension	9	5%
Surrender	5	3%
Disbarment	2	1%
Total 170		

\* There were actually 8 files on which a surrender was accepted but only three attorneys.

\*\* There were actually 5 files on which a surrender was accepted but only two attorneys.

\*\*\* There were a total of 5 files on which a vote was made to initiate disbarment but they involved only two attorneys

(Note: Beginning in 2002, surrender is an option available in lieu of disbarment proceedings or for any voluntary reason.)

**2. FOUR YEAR STATISTICAL COMPARISON 2000-2003**  
(Unofficial)

Category	2000	2001	2002	2003
Written complaints received	985	1,114	1,186	1,082
Closed by staff action	832	691	737	825
Formal Complaints filed	149	149	186	200
Supreme Court Referrals	38	34	45	50
Other Judicial Complaints	10	13	12	12
Formal Complaints closed	132	135	178	185
No Actions	15	12	30	15
Warnings	43	45	53	54
Cautions	29	14	31	28
Reprimands	24	26	35	37
Suspensions	12	19	14	20
Surrenders	5	13	5	5
Complaints merged into surrender			1	14
Disbarments initiated	4	6	3	3
Reinstatements granted	3	3	3	8
Consent dispositions	N/R	13	35	54
ArLAP Referrals	N/A	N/A	2	0
Number of Attorneys Disciplined *	148	81	111	121

\* includes multiple separate sanctions against some attorneys

## ***VI. Common Rule Violations***

In the 2003 findings of the Committee on Professional Conduct Panels, the most common rule violations involved Arkansas Model Rules 1.3 and 8.4(d). Model Rule 1.3 states that a lawyer shall act with reasonable diligence and promptness in representing a client. Model Rule 8.4(d) states that a lawyer shall not engage in conduct that is prejudicial to the administration of justice. The following listing contains the Arkansas Model Rule alleged, the number of times the Committee found the rule to have been violated, and ranking of the ten most frequently violated Rules.

Arkansas Rule #	# Alleged	# Found	Rank (# Found)
1.1	32	22	6
1.2(a)	16	10	9
1.3	116	61	1
1.4(a)	62	43	2
1.4(b)	46	30	3
1.5(a)	6	2	
1.5(b)	6	2	
1.5(c)	3	1	
1.5(e)	0	0	
1.6	2	1	
1.7(b)	7	2	
1.8(a)	3	2	
1.8(b)	2	1	
1.8(c)	0	0	
1.8(e)	2	2	
1.8(j)	2	1	
1.9(a)	3	1	
1.9(b)	1	0	

1.9(c)	1	1	
1.10(a)	1	0	
1.15(a)	14	9	10
1.15(b)	11	7	
1.15(c)	1	1	
1.15(d)	0	0	
1.15(f)	1	1	
1.16(a)	2	0	
1.16(b)	2	1	
1.16(d)	27	17	7
2.1	1	0	
3.1	2	0	
3.2	19	12	8
3.3(a)(1)	6	4	
3.4(a)	1	1	
3.4(b)	1	1	
3.4(c)	30	26	5
3.5(a)	1	0	
4.1(a)	4	1	
4.1(b)	1	1	
4.2	3	1	
4.4	3	2	
5.1	0	0	
5.2	0	0	
5.3(b)	1	0	
5.4(a)	1	0	

5.4(b)	1	0	
5.5(a)	4	4	
5.5(b)	4	2	
7.1(a)	1	0	
7.2(d)	3	1 (3)	
7.3(d)	2	2 (2)	
8.1	0	0	
8.2(a)	2	1	
8.2(b)	1	0	
8.4(a)	17	8	
8.4(b)	10	7	
8.4(c)	46	29	4
8.4(d)	116	61	1
8.5	0	0	

### ***VII. Number of Attorneys Disciplined (2003)***

Of the 195 final disciplinary actions by the Committee, fifty-six (56) involved attorneys who had been licensed for ten years or less; forty-seven (47) involved attorneys who had been licensed for eleven to twenty years; fifty-nine (59) involved attorneys who had been licensed for twenty-one to thirty years; twenty-six (26) involved attorneys who had been licensed for thirty-one to forty years and six (6) involved attorneys who had been licensed for more than forty years.

Years licensed	# of attorneys disciplined	Percentage
1-10	56	29%
11-20	47	24%
21-30	59	31%
31-40	26	13%
40+	6	3%

## ***VIII. 2003 Trust Account “Overdraft” Reporting***

Reports received in 2003

48	Total reports received from all banks and reporters
33	Closed by private letter disposition
10	Still under investigation
2	Formal complaints filed
3	Formal complaint likely to be filed
0	Public sanction

Reasons for reports (some of above reports were on the same attorney trust account for repeated problems in close proximity to each other, usually caused by the same triggering event)

2	Caused by admitted Bank error
10	Caused by Attorney/office bookkeeping error
2	Caused by attorney error - bank fees not taken into account
4	Attorney used wrong account or wrong account number
7	“Late” deposits into trust account
4	Deposited funds not yet cleared by bank for use
2	Trust account checks stolen - forged
0	Attorney closed practice and started using account as personal account
1	Formal complaint abated by attorney death, license surrender or disbarment
1	IOLTA error
1	Credit card fee payment “reversed” out of trust account

## ***IX. FINES, RESTITUTION & COSTS ASSESSED***

1. Fines	\$46,400.00
2. Restitution	\$29,761.50
3. Costs	\$2,778.34
Total	\$78,939.84