

**OFFICE OF DISCIPLINARY COUNSEL
OF THE
SUPREME COURT OF OHIO**

2007 ANNUAL REPORT

by
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2007 ANNUAL REPORT

OFFICE OF DISCIPLINARY COUNSEL OF THE SUPREME COURT OF OHIO

The position of Disciplinary Counsel and the Office of Disciplinary Counsel ("ODC") are established by The Supreme Court of Ohio pursuant to Gov. Bar R. V(3)(B). Under that rule, Disciplinary Counsel is authorized to investigate allegations and initiate complaints concerning misconduct and/or mental illness of judges or attorneys under the *Code of Professional Responsibility*, the *Ohio Rules of Professional Conduct*, the *Code of Judicial Conduct*, and rules governing the Unauthorized Practice of Law, pursuant to The Ohio Supreme Court Rules for the Government of the Bar and the Government of the Judiciary. The ODC staff of 2007 was comprised of nine attorneys (one Disciplinary Counsel, one First Assistant Disciplinary Counsel and seven Assistant Disciplinary Counsels), one administrative officer, one administrative assistant, two paralegals, two full-time and one part-time investigators, four legal secretaries, one receptionist, one clerical support and one part-time student law clerk.

This report to The Supreme Court of Ohio and the Board of Commissioners on Grievances and Discipline ("Board") concerning the activities for calendar year 2007 (*Tables 1-5*) and FY2007 expenses (*Table 6*) of ODC is made pursuant to the requirements of Gov. Bar R. V(3)(B)(3).

At the beginning of 2007, there were 678 grievances pending with ODC. As of December 31, 2007, there were 795 grievances pending and/or under investigation.

A total of 3,552 new matters for consideration were received by ODC in 2007. That includes all relevant categories such as grievances filed against both Attorneys and Judges, Appeals from Certified Grievance Committees, Bar cases, Board cases, Unauthorized Practice of Law cases, UPL Board cases, Child Support, Reciprocals and Resignations. Of that total, 2,460 represented grievances filed against Attorneys and 571 grievances filed against Judges.

In 2007, a total of 1,652 grievances were dismissed on intake or after initial investigation, and 1,216 were opened for investigation. For procedural reasons, 111 grievances which were initially received by ODC, were transferred to local bar associations for investigation. Under that same rationale, another 50 grievances were forwarded to the Board for reassignment and one was forwarded for a Judicial Review II(2)(B)(1) Investigation. A geographic distribution by Ohio county of the matters filed with ODC in 2007, based on the location of the Respondents' principal offices is provided. (*Table 5*). For a detailed presentation of those grievances which were received in 2007 and opened for investigation, please refer to Table 2. The data identifies the alleged primary violation. Table 2 also includes data

from the prior three calendar years to assist in tracking trends in the state. One violation category, "Failure to maintain funds in a trust", has experienced a dramatic increase in the past three years since the new requirement in the Fall of 2005 that banks which hold IOLTA accounts must notify ODC in each instance where an account is overdrawn. The number of such grievances reported in 2004 was 72, increasing to 110 in 2005, 243 in 2006 and most recently to 289 in 2007.

A total of thirty-five formal complaints were filed by ODC in 2007 with the Board, of which three alleged judicial misconduct. In the past five years (2003-2007), 200 formal complaints have been filed with the Board by ODC.

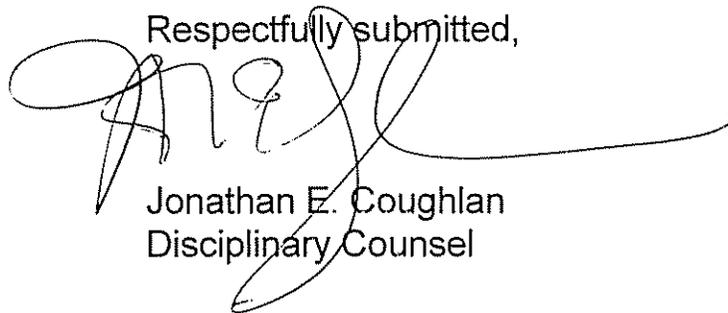
Appeals received by ODC in 2007 totaled 337, an increase of six from the 2006 figure. During the year, 326 Appeals were closed and as of December 31, 2007, 51 appeals were pending.

The number of UPL grievances received by ODC in 2007 totaled 67, virtually identical compared to the 66 received in 2006. During the year, 53 UPLs were closed and as of December 31, 2007, there were 47 UPL grievances pending in the ODC office. In other categories, four Reciprocal grievances were received by our office in 2007, none were pending at the end of the year and four were sanctioned by the Court. No Child Support grievances were filed with our office in 2007, and none were pending at the close of the year.

Twenty-four resignation applications were received for review by ODC and there were 21 resignations accepted by this Court during 2007, 14 of which were Resignations Pending Discipline and seven were regular Resignations (*Table 3*). There was a total of 15 resignations in 2006.

In 2007 ODC attorneys appeared in 21 hearings before the Board and participated in eight oral arguments before The Supreme Court of Ohio. As of December 31, 2007, there were 34 cases awaiting hearing dates before the Board and 4 cases awaiting reports from the Board; 6 cases pending oral argument before the Supreme Court; and 11 cases pending decision by the Supreme Court of Ohio (*Table 4*). In 2007, The Supreme Court of Ohio issued formal sanctions in 52 cases represented by ODC. (*Tables 1 & 3*).

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. E. Coughlan', with a long horizontal flourish extending to the right.

Jonathan E. Coughlan
Disciplinary Counsel

TABLE 1

	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>
<u>Disposition of Grievances Received:</u>					
Dismissed on Intake or after Investigation	2668	2747	2603	2698	2862
Pending at End of Year	506	381	515	678	795
<u>Caseload Comparison:</u>					
Number of Grievances Received	2669	2683	2720	2937	3031
Number of Appeals Received	326	346	359	331	337
Number of UPLs Received	95	82	86	66	67
Number of Formal Complaints Filed	46	40	39	42	35
<u>Sanctions Issued:</u> <i>(see Table 3 for details)</i>					
Public Reprimands	2	2	1	5	2
Six-Month Suspensions	4	5	2	4	4
One-Year Suspensions	7	2	2	4	4
Eighteen-Month Suspensions	1	1	2	0	1
Two-Year Suspensions	0	8	5	8	7
Indefinite Suspensions	3	5	3	7	7
Interim Remedial Suspensions ¹	--	--	1	0	1
Mental Health Suspensions ²	--	--	--	1	0
Disbarments	3	5	5	9	1
Reciprocal Disciplines	4	9	9	8	4
Resignations (includes Resignations Pending Discipline)	17	20	10	15	21

¹ 2005 is the first year Interim Remedial Suspensions were included in the ODC Annual Report

² 2006 is the first year Mental Health Suspensions were included in the ODC Annual Report

TABLE 2

GRIEVANCES RECEIVED AND OPENED FOR INVESTIGATION

Alleged Primary Violation	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>
Neglect/Failure to protect interests of the client	326	343	351	303
Failure to account or turn over file	57	57	43	41
Improper withdrawal (refusal to withdraw)	9	9	13	10
Excessive fees	70	60	90	84
Personal misconduct	115	115	92	108
Misrepresentation/false statement/concealment	19	39	54	42
Criminal conviction	6	12	5	4
Failure to file income tax returns	1	2	0	1
Commingling of funds	1	2	2	1
Conversion	29	18	25	27
Embezzlement	4	3	2	1
Failure to maintain funds in trust ¹	72	110	243	289
Breach of client confidence	14	9	6	9
Conflict of lawyer's interest	22	23	40	26
Conflict of client's interest	50	52	43	63
Communication with adverse party represented by counsel	6	14	8	9
Trial misconduct	92	70	65	77
Failure to register	12	2	8	2
Practicing while under suspension	5	8	16	14
Assisting in the Unauthorized Practice of Law	6	9	7	9
Advertising/Solicitation	27	34	18	6
Judicial misconduct	78	89	104	74
Mental illness	5	2	3	4
Substance abuse	2	8	4	4
Other	5	8	7	8
TOTAL	1033	1098	1249	1216

¹ Dramatic increase in "Failure to maintain funds in trust" violation is due to legislation effective in the Fall of 2005 which requires banks holding IOLTA accounts to file reports with ODC anytime these accounts are overdrawn.

TABLE 3

**SANCTIONS ISSUED IN 2007 BY THE SUPREME COURT OF OHIO
PURSUANT TO CASES FILED BY DISCIPLINARY COUNSEL**

Name of Respondent and Supreme Court Case Number

PUBLIC REPRIMANDS — 2

Ariana Elizabeth Niemi (a/k/a Tarighati) 2007-0337
Thomas Lawrence Sartini 2007-0337

SIX MONTH SUSPENSIONS — 4

P. Robert Broeren, Jr. 2007-0333
James Albert Hofelich 2007-0748
Lawrence Joseph Kramer, Jr. 2006-2332
Joseph F. Rafidi 2006-2334

ONE YEAR SUSPENSIONS — 4

Walter Peter Bubna 2007-1115
William Mark Fumich, Jr. 2007-0733
Bryan Bright Johnson 2006-1197
Mark Michael Simonelli 2006-1190

EIGHTEEN MONTH SUSPENSIONS — 1

George Matthew Parker 2007-1157

TWO YEAR SUSPENSIONS — 7

Benjamin Stuart Friedman 2006-2341
Loren Jonathan Margolis 2006-2331
Ronald Clark Morgan 2007-0342
Bernard Redfield 2007-1117
David John Scacchetti 2006-2264
Fred Louis Scurry 2007-0841
Carol Hutchins Squire 2007-0492

INDEFINITE SUSPENSIONS — 7

Marion Neal Cox 2006-1906
John Gregory Gosling 2007-0735
Thomas George Mathewson 2006-2287
Christopher James McCauley 2007-0336
Jerry Dale Robertson 2006-1638
Tim M. Watterson 2006-1198
James Cornell Young 2006-1261

INTERIM REMEDIAL SUSPENSIONS — 1

Kenneth Lavon Lawson 2007-0800

TABLE 3 (continued)

**SANCTIONS ISSUED IN 2007 BY THE SUPREME COURT OF OHIO
PURSUANT TO CASES FILED BY DISCIPLINARY COUNSEL**

Name of Respondent and Supreme Court Case Number

MENTAL HEATH SUSPENSIONS — 0

<NONE>

DISBARMENTS — 1

John Albert Lord 2007-0346

RECIPROCAL DISCIPLINES — 4

Lester William Firstenberger 2007-1349

Lawrence Arthur Fuller 2006-2218

Lowell John Gettman 2006-1938

Valerie Jamella Glover (a/k/a Tonwe) 2007-1454

RESIGNATIONS — 7

Roland Neal Barton 2006-2243

Louis Harry Groen 2007-0103

Robert Allen Kreiss 2007-0573

Jan Kipp Kreutzer 2007-0501

Vincent M. Moyer 2007-0530

Nicholas John Peterson 2007-0088

Donald Joseph Trybus 2006-1600

RESIGNATIONS PENDING DISCIPLINE — 14

Maridee Lynn Costanzo 2007-1052

Mark Paul Glassman 2006-1852

Gary Richard Greer 2007-0302

Andrew Ryan Haney 2007-1093

Howard Alan Henkin 2007-0556

George Charles Kovacs 2006-2068

Theodore Thomas Macejko 2007-0621

James Louis Major, Jr. 2007-1210

Wallace James Mayer 2007-1346

Daniel Lloyd O'Brien 2006-1887

Mark Dennis Schnitkey 2007-0973

Cynthia Darlene Smith 2007-1521

Richard Paul Ziegler 2007-0902

Dale Paul Zucker 2007-0352

TABLE 4

**STATUS OF FORMAL MATTERS PENDING
AS OF DECEMBER 31, 2007**

Reinstatements 1

Before the Probable Cause Panel

Awaiting Certification to Board 1

Appeal of Panel Dismissal to Full board 0

**Before the Board of Commissioners
on Grievances and Discipline**

Awaiting Hearing 34

Awaiting Board Report 4

Before The Supreme Court of Ohio

Awaiting Oral Argument 6

Awaiting Supreme Court Decision 11

TOTAL PENDING 57

TABLE 5

ALL MATTERS RECEIVED BY ODC FROM OHIO COUNTIES IN THE YEAR 2007

Based on County of Respondent's Principal Ohio office location

Adams _____	7	Hamilton _____	218	Noble _____	1
Allen _____	40	Hancock _____	13	Ottawa _____	17
Ashland _____	6	Hardin _____	3	Paulding _____	5
Ashtabula _____	23	Harrison _____	5	Perry _____	15
Athens _____	16	Henry _____	5	Pickaway _____	10
Auglaize _____	7	Highland _____	11	Pike _____	3
Belmont _____	14	Hocking _____	12	Portage _____	35
Brown _____	4	Holmes _____	7	Preble _____	9
Butler _____	82	Huron _____	15	Putnam _____	3
Carroll _____	8	Jackson _____	12	Richland _____	26
Champaign _____	11	Jefferson _____	29	Ross _____	12
Clark _____	41	Knox _____	23	Sandusky _____	12
Clermont _____	65	Lake _____	39	Scioto _____	46
Clinton _____	7	Lawrence _____	14	Seneca _____	12
Columbiana _____	28	Licking _____	42	Shelby _____	5
Coshocton _____	1	Logan _____	5	Stark _____	131
Crawford _____	12	Lorain _____	63	Summit _____	191
Cuyahoga _____	681	Lucas _____	138	Trumbull _____	43
Darke _____	5	Madison _____	11	Tuscarawas _____	17
Defiance _____	9	Mahoning _____	91	Union _____	7
Delaware _____	26	Marion _____	17	Van Wert _____	7
Erie _____	22	Medina _____	48	Vinton _____	2
Fairfield _____	42	Meigs _____	5	Warren _____	45
Fayette _____	8	Mercer _____	3	Washington _____	10
Franklin _____	446	Miami _____	15	Wayne _____	20
Fulton _____	5	Monroe _____	3	Williams _____	2
Gallia _____	8	Montgomery _____	148	Wood _____	20
Geauga _____	11	Morgan _____	4	Wyandot _____	3
Greene _____	17	Morrow _____	10	Other _____	0
Guernsey _____	16	Muskingum _____	22	TOTAL _____	3,408

TABLE 6

**FISCAL YEAR 2007
REPORT OF OPERATIONAL EXPENSES
OF THE OFFICE OF DISCIPLINARY COUNSEL
OF THE SUPREME COURT OF OHIO**

I.	Payroll (Salaries & Benefits)	\$ 1,561,352.02
II.	Personal Services (Consultants)	\$ 72,493.82
III.	Education, Tuition and Training	\$ 6,019.45
IV.	Supplies and Materials	\$ 38,919.35
V.	Automobile and Parking	\$ 1,801.57
VI.	Travel and Conferences (In-State & Out-of-State)	\$ 43,476.62
VII.	Postal and Shipping Expenses	\$ 23,001.70
VIII.	Communication Expenses	\$ 13,932.98
IX.	Maintenance and Repair Services	\$ 17,760.84
X.	Building, Utilities and Facilities	\$ 248,607.83
XI.	Insurances, Licenses and Permits	\$ 736.85
XII.	Dues and Memberships	\$ 3,414.25
XIII.	Books and Subscriptions	\$ 25,565.83
XIV.	Investigation and Discovery	\$ 58,340.98
XV.	Equipment	<u>\$ 10,694.15</u>
	ODC - Operational Expenses for Fiscal Year 2007	<u>\$ 2, 126,118.24</u>

Jonathan E. Coughlan, Disciplinary Counsel