

2003 ANNUAL REPORT



**The Departmental Disciplinary Committee
of the Appellate Division of
the Supreme Court of
the State of New York,
First Judicial Department**

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SUPREME COURT, APPELLATE DIVISION
FIRST JUDICIAL DEPARTMENT
DEPARTMENTAL DISCIPLINARY COMMITTEE

PAUL J. CURRAN, Esq.
CHAIRMAN

61 BROADWAY
NEW YORK, N.Y. 10006

April 12, 2004

To the Bar and the Public:

The mission of the Departmental Disciplinary Committee (the "Committee") and its Staff is to protect the public from unethical conduct by lawyers and, equally important, to ascertain that lawyers accused of such conduct receive due process and basic fairness.

This Report of the Committee for 2003 reflects that, just as in past years, the Committee has adhered to this mission and to its obligations to the bar and the public. This Report also reflects that the Committee has been able to continue to reduce its caseload.

Caseload reductions, however, while important, cannot be the principle test of the Committee's performance. The thoroughness of its investigations and its fairness to the public and to lawyers accused of unethical conduct are more important than the statistics.

Credit for the Committee's signal accomplishments in 2003 goes to the dedicated work of our Committee members, who are appointed by the Court and who serve without pay, and to the work of the Committee's Chief Counsel, Thomas J. Cahill, and to the talented and committed professional Staff that he supervises. This Report reflects the Committee's and the Staff's contributions.

Justice John T. Buckley, the Court's Presiding Justice and his judicial colleagues in the First Department, the Court's Liaison Committee with this Committee as well as Chief Clerk Catherine O'Hagan Wolfe and her staff all contributed meaningfully to the Committee's work in 2003.

Sincerely,



Paul J. Curran
Chairman

CHIEF COUNSEL'S REPORT

In 2003, the Committee's staff was able to stabilize our productivity and maintain the reduction in caseload reached in 2002. Although the Committee received slightly more complaints last year (3495) than in 2002, the caseload at the end of 2003 was reduced by 85 matters to 1346 matters; half of those were received after June of 2003.

The goal of course is to resolve complaints against attorneys in a fair and thorough manner and do so expeditiously. With a full complement of attorneys and staff, we are near to achieving that goal on a consistent basis. Staff would not have been able to achieve these results without the dedication, cooperation and enthusiastic assistance of the members of the Committee.

Finally, the staff and I wish to acknowledge our appreciation to the Court, particularly the members of the Liaison Committee, and especially to Presiding Justice John T. Buckley, for the encouragement and constant support given us during 2003.


Thomas J. Cahill
Chief Counsel

COMMITTEE MEMBERS

Committee members are unpaid volunteers appointed by the Court who fulfill both adjudicative and executive functions. Most significantly, they decide, after appropriate investigation by the staff, whether formal charges should be brought against an attorney, whether a private admonition should be issued, or whether the complaint should be dismissed. If it is decided to formally charge an attorney with misconduct, a Referee will be appointed by the Court to hear evidence, determine whether the attorney violated the Lawyer's Code of Professional Responsibility, and make a recommendation as to sanction. Committee Hearing Panels then review the Referee's report and recommendation, hear argument by the parties on the issues, and make an independent recommendation to the Court as to liability and sanction.

In 2003, forty-nine Committee members served on ten different Hearing Panels of five members each, usually four lawyers and one non-lawyer.

Eleven other members of the Committee, two non-lawyers, served on the Policy Committee, which reviews proposed admonitions and recommendations to file formal charges. The Policy Committee also considers a wide variety of other matters,

including possible rule changes, setting priorities and administrative issues. Included on the Policy Committee, as Special Counsel appointed by the Court, are Hon. Thomas B. Galligan, Haliburton Fales, 2d, Esq., Denis McInerney, Esq., Stephen L. Weiner, Esq., Martin R. Gold, Esq., and Roy L. Reardon, Esq.

This year's Committee consists of 49 members of the New York Bar, drawn from all areas of the profession and law firms of varying sizes, plus 11 non-lawyer members. The latter, including business executives, a banker, a contractor, a journalist, an artist, and former educators, served the Committee with dedication and energy. Below are brief biographies of all Committee members, highlighting their diverse accomplishments:

Paul J. Curran (Chairman)

Mr. Curran is Special Counsel with the firm of Kaye Scholer, LLP. He graduated from Georgetown University and Fordham University Law School (LL.B.). He has an honorary L.L.D. from New York Law School. He has served as United States Attorney, Southern District of New York; Special Counsel, U.S. Department of Justice; Chairman, Mayor's Advisory Committee on the Judiciary and is a fellow of the American College of Trial Lawyers.

Lawrence J. Banks

Mr. Banks is a life member of the California Alumni Association, University of California. He is a graduate of New York University. He served as president of the Military Reserve Officers Association of US - Brooklyn Chapter. He also served on the Board of Governors at Brooklyn Children's Museum; Kiwanis International - International Committee, and the American Institute of Parliamentarians - Long Island Chapter as President/Treasurer.

Sally W. Berg

Ms. Berg is a founder of the Catalog For Giving. She is a graduate of Wheaton College. Ms. Berg has done volunteer work at New York Cornell Hospital - Westchester Division, and was hired as a mental health counselor. While there, she founded the Friends of New York-Cornell. She was the Associate Director of Service and Rehabilitation for the American Cancer Society. To draw attention to the issue of breast cancer, she planned an Outward Bound course for women with breast cancer and arranged for CBS's "Sixty Minutes" to cover the trip. She received a Courage Award from President Reagan for this project. Ms. Berg joined SHARE, a non-profit organization offering emotional and

educational support for women with breast and ovarian cancer. She soon became co-director.

Jane Eisner Bram, PhD

Doctor Bram is in private practice as a psychoanalytic psychotherapist, specializing in adults and couples. She is a graduate of New York University and received her doctorate from the New York University School of Social Work. She serves on the New York University Board of Trustees and is an executive of the Alumni Council.

Douglas W. Brandrup

Mr. Brandrup is a senior partner in the firm of Griggs, Baldwin & Baldwin. He graduated from Boston University Law School. He has served on private charitable organizations, such as The Baldwin Foundation and is the current president of the Metropolitan Club of New York. Mr. Brandrup is a member of the American and New York State Bar Associations.

Christopher E. Chang

Mr. Chang is in private practice in his own firm. He was an Assistant District Attorney in New York County from 1978 to 1982. He is a graduate of New York University and Cornell Law School.

He served as a member of the Chief Judge's Committee on the Profession and the Courts ("The Craco Commission") from 1993 through 1995. He is a member of the Board of Directors of the Legal Aid Society, the New York County Lawyers' Association and the New York State Bar Association.

Ann J. Charters

Ms. Charters is an economic and political writer. She graduated from the University of Illinois (M.A. Political Science Major). Her areas of expertise involve covering presidential elections, major economic policy shifts, political upheavals and corporate activities. Ms. Charters served as Venezuelan correspondent for the international edition of Business Week, and as correspondent for Financial Times, among others.

Brian M. Cogan

Mr. Cogan is a partner with the firm of Stroock & Stroock & Lavan, in the litigation department. He is a graduate of the University of Illinois and received his law degree from Cornell Law School.

Lisa D. Correll

Ms. Correll is a graduate of Tulane University and received a Masters Degree in Education from New York University. She served as the administrator, office manager and paralegal for the Law Offices of P. Kent Correll from 1993 to 2004. Prior to this position, she worked as a teacher at Montessori Schools.

Denis F. Cronin

Mr. Cronin is a partner with the firm of Cronin & Vris. He graduated from Fordham University School of Law. Mr. Cronin is currently a member of Colgate University Board of Trustees and past Chairman of the National Special Gifts Committee; Chairman, Board of Trustees, Buckley Country Day School and former Chairman of its Capital Campaign; President (2002-) of Fordham Law Alumni Association and Trustee of Fordham Law School Alumni Association.

Cheryl Davis

Ms. Davis is Vice President and Counsel to AXA Financial Inc. She is a graduate of Bard College and of Yale Law School. She serves on the New York State Bar Association Committee on Lawyer Alcoholism and Substance Abuse and on the ABCNY Committee on Lawyer Alcoholism.

Telesforo Del Valle, Jr.

Mr. Del Valle is a sole practitioner in New York County, primarily involved in criminal trial practice. He is a graduate of Fordham University and New York Law School and a member of its Alumni Board of Directors. He is the president of the Puerto Rican Bar Association of the State of New York, and the former president for the northeast region, of the Hispanic National Bar Association. He is also a member of the Judiciary Committee of the Association of the Bar of the City of New York, and a former member of the Mayor's Committee on the Judiciary for the City of New York (1991-1994). He is a member of the Advisory Council of the New York State Franklin H. Williams Judicial Commission on Minorities. He is a member of the United States Second Circuit Task Force on Gender, Racial and Ethnic Fairness in the Courts. He is also Vice President of the New York State Association of Criminal Defense Lawyers.

Charles E. Dorkey, III

Mr. Dorkey is a member of TORYS, where he is a litigator. He is a graduate of Dartmouth College and received his law degree from the University of Pennsylvania. He is a member of the Association of the Bar of the City of New York, the New York State Bar Association, the American Bar Association, New York

County Lawyers' Association and also serves on the Governor's Judicial Screening Committee for the Appellate Division, First Department.

Paul F. Doyle

Mr. Doyle is a graduate of the College of the Holy Cross and New York University School of Law. He is a member of the firm of Kelley Drye & Warren. He is an instructor for the National Institute of Trial Advocacy, a Master of the New York County Lawyers' Association American Inn of Court, a member of the President's Council of the College of the Holy Cross, and former referee for the Departmental Disciplinary Committee.

Haliburton Fales, 2d (Special Counsel to the Policy Committee)

Mr. Fales is a retired partner of the law firm of White & Case. He is a graduate of Columbia Law School where he was on the Board of Editors of the Law Review. From 1991 to 1996, Mr. Fales was Chair of the Departmental Disciplinary Committee. In 1983-84 he was President of the New York State Bar Association, and in 1977-78 Vice President of the Association of the Bar of the City of New York. He serves as a Special Master at the Appellate Division, First Department, and is a Fellow of the American College of Trial Lawyers.

Patricia Farren

Ms. Farren is a member of the firm of Cahill Gordon & Reindel. She graduated from Fordham University. She was Editor, Fordham Law Review; a member of the Board of Directors, the Legal Aid Society of New York; member, Executive Board, New York County Lawyers' Association, and American Inns of Court.

Steven N. Feinman

Mr. Feinman graduated from Fordham University School of Law. He is a sole practitioner in the Law Offices of Steven N. Feinman, practicing real estate, estate litigation and appellate litigation. He served as law assistant in the Supreme Court, Appellate Division, First Department for three years.

Rosalind S. Fink

Ms. Fink practices employment law in her own firm and as counsel to the firm of Brill & Meisel. She is a graduate of Barnard College and Yale Law School. She served as an Assistant Attorney General in New York and was the Director of the Office of Equal Opportunity and Affirmative Action at Columbia University. She is a member of the Association of the Bar of the City of New York, the New York State Bar Association and the New York County Lawyers' Association where she has served as a member

of the Board of Directors, the Executive Committee and as President.

Charlotte Moses Fischman

Ms. Fischman is a litigation partner at Kramer, Levin, Naftalis & Frankel, LLP. She is a graduate of Brandeis University and the Columbia Law School, where she was a member of the Columbia Law Review. She has served on the boards of the Legal Aid Society, the New York Community Trust, the September 11th Fund, the Mexican American Legal Defense Fund, the National Alliance for the Mentally Ill - NYC Metro and was a Commissioner of the Ethics Commission for the Unified Court System. As an active member of the Association of the Bar of the City of New York, she has been a member of the Executive Committee, Judiciary Committee and Committee on Professional and Judicial Ethics. In addition, she served as an Adjunct Professor of Law at Columbia Law School in the field of ethics and is presently on its Board of Visitors. She is a member of the American Law Institute.

Maranda E. Fritz

Ms. Fritz is a partner in the firm of Fritz & Miller, practicing in white-collar and complex criminal and civil litigation. She graduated from Tulane University School of Law,

New Orleans, Louisiana. She served as Senior Investigative Counsel, Bureau of Frauds, New York County District Attorney's Office. She is currently a member of the American Bar Association, American Inns of Court, New York State Bar Association, New York Council of Defense Lawyers and Women Criminal Defense Lawyers.

Thomas B. Galligan (Special Counsel to the Policy Committee)

Justice Galligan retired in 1994 after serving since 1977 as an Acting Supreme Court Justice for New York County. He is a past member of the Board of Advisors of Marist College, and currently a member of the Board of Trustees of Daytop Village and of the New York Foundling Hospital. He is also a member of the First Department Screening Panel for Capital Defenders and serves on the Indigent Defense Organization Oversight Committee for the First Department.

William A. Gallina

Mr. Gallina graduated from St. John's University Law School. He is currently a sole practitioner whose practice is in the exclusive area of personal injury, medical malpractice and products liability. He has been a long-standing member of the American Bar Association, New York State Bar Association,

American Trial Lawyers Association and Bronx County Bar Association.

Paul G. Gardephe

Mr. Gardephe is a member of the firm of Patterson, Belknap, Webb & Tyler, LLP, with a focus on white collar criminal defense, internal corporate investigations, and appeals. Previously he served as Vice President and Deputy General Counsel of Time, Inc. He is a graduate of the University of Pennsylvania and Columbia University School of Law where he was a Harlan Fiske Stone Scholar. He served as an Assistant United States Attorney in the Southern District of New York where he was Chief of the Appeals Unit of the Criminal Division. He has also served as Special Counsel to the Department of Justice on sensitive investigations.

Alfred G. Gerosa

Mr. Gerosa earned a BCE degree from the University of Virginia. He is Chairman of the New York College of Podiatric Medicine and the Executive Committee of the Building Trades Employers' Association. Mr. Gerosa also serves on the following trust funds as employer representative: Local 780 Cement Masons, Local No. 46 Metal Furring and Lathing, the Cement & Concrete Workers and the Operating Engineers Local 14. He is President of

the New York Concrete Construction Institute, Inc. and the Concrete Alliance and he is Chairman of the Executive Committee of the Cement League.

Martin R. Gold (Special Counsel to the Policy Committee)

Mr. Gold is a partner in the firm of Sonnenschein Nath & Rosenthal. From 1965 to 1968 he was an Assistant U.S. Attorney in the Southern District of New York. Mr. Gold has been an adjunct Professor of Law at Cardozo Law School and is a member of the boards of the Lawyers Committee for Civil Rights Under Law and New York Lawyers for the Public Interest.

Robert L. Haig

Mr. Haig is a partner at the law firm of Kelley Drye & Warren. He was the President of the New York County Lawyers' Association from 1992 to 1994. Mr. Haig was the chair of the Committee on the Judiciary of the Association of the Bar of the City of New York from 1989 to 1992 and currently chairs that Association's Council on Judicial Administration. He was a member of the New York State Bar Association's Executive Committee from 1991 to 1994, was the founder and first Chair of that association's Commercial and Federal Litigation Section, and also chaired its Committee on Federal Courts. Mr. Haig is the

Co-Chair of the Commercial Courts Task Force established by Chief Judge Judith S. Kaye to create the Commercial Division of the New York State Supreme Court. He is the Editor-in-Chief of a three volume book, published by West Publishing Company in 1995, entitled Commercial Litigation in New York State Courts.

William E. Hammond

Mr. Hammond is with the firm of Warshaw Bernstein Cohen Schlesinger & Kuh LLP where he is engaged in corporate law. He is a graduate of Yale University, Columbia University Business School, and the Benjamin N. Cardozo School of Law. He is a member of the Association of the Bar of the City of New York where he serves as Chairman of the Committee on Alcoholism and Substance Abuse and is a member of the New York State Bar Association Committee on Lawyer Alcoholism and Drug Abuse.

Susan M. Karten

Ms. Karten graduated from Brooklyn Law School, and is President of the Brooklyn Law School Alumni Association. She is a partner in the firm of Castro & Karten, where she practices in the areas of personal injury and medical malpractice litigation. She served on a Blue Ribbon Panel established by Chief Judge Kaye of the State of New York, and as Executive Assistant in the New

York State Court of Appeals. She currently serves on the Executive Board of the New York State Trial Lawyers Association.

John J. Kenney

Mr. Kenney graduated from Fordham University School of Law. He is a member of the firm of Simpson, Thacher & Bartlett. Mr. Kenney served as an Assistant United States Attorney, Southern District of New York and Executive Assistant United States Attorney. He is a member of the Association of the Bar of the City of New York, New York State and the American Bar Associations, and the New York County Lawyers' Association.

David G. Keyko

Mr. Keyko is a partner in the firm of Pillsbury Winthrop where he practices in the areas of antitrust law and related litigation. He is a graduate of Yale University and received his law degree from New York University. He is a member of the board of directors of MFY Legal Services, Inc.

Myron Kirschbaum

Mr. Kirschbaum is a partner in the firm of Kaye Scholer, LLP where he is engaged in complex business litigation and securities and insurance law. He received his law degree from Harvard

University where he was editor of the Harvard Law Review. After graduation, he served as a law clerk in the United States Court of Appeals for the Second Circuit. He is a member of the Policy Committee.

Lenore Kramer

Ms. Kramer is a partner in the firm of Kramer & DeVries where she practices plaintiffs' personal injury and medical malpractice litigation. She graduated from Boston University School of Law. She is a past president of the Women's Bar Association of the State of New York, the Bronx County Bar Association and the Metropolitan Women's Bar Association. She is the immediate past president of the New York State Trial Lawyers Association and has been a member of the board of directors for many years. She is a past chair of the Committee on Tort Litigation of the Association of the Bar of the City of New York. Ms. Kramer is a Commissioner on the Franklin H. Williams Judicial Commission on Minorities and a member of the Office of Court Administration Advisory Committee on Civil Practice, Committee on Case Management and Task Forces and Professionalism and Conduct. She previously served as a member of the Mayor's Committee on the Judiciary.

William Francis Kuntz, III

Mr. Kuntz is a partner in the firm of TORYS. He graduated from Harvard Law School. He is a member of the New York County Lawyers' Association, New York State Bar Association; Chair of the Association of the Bar of the City of New York; a member of American Bar Association; Metropolitan Black Bar Association and Brooklyn Bar Association. He is involved in pro bono activities as a member of the board of directors, MFY Legal Services, Inc., and Legal Services for New York City and Advisory Committee on Civil Practice in the State of New York. He is director of Brooklyn Navy Yard Development Corporation; Federal Bar Foundation for the Second Circuit; trustee, Packer Collegiate Institute, and Citizen's Union and Practicing Law Institute.

Deborah E. Lans

Ms. Lans is a partner in the firm of Cohen Lans LLP and was formerly Executive Director of Mentoring, USA which matches mentors with New York City school children. She graduated from Boston University School of Law. She is a member of the American Bar Association, Association of the Bar of the City of New York, Federal Bar Council, National Arbitration Forum and New York State Bar Association.

Marvin Leffler

Mr. Leffler has been president of Town Hall Foundation for the past 20 years. His principal activities and positions include: trustee associate, New York University; member of Mayor's Midtown Citizens Committee; Panelist, American Arbitration Association; President (retired), Flexible Fabricators, Inc.; member, New York Regional Board Anti-Defamation League; former Chairman of the Board, National Council of Sales Organizations; past co-chair and director, NYU Alumni Association; (author of Sales Books published by Prentice Hall and Lecturer); listed in Who's Who in the East.

Burton N. Lipshie

Mr. Lipshie is a member of the firm of Stroock & Stroock & Lavan, LLP. He graduated from Columbia University School of Law. He is currently an Adjunct Professor of Law, Cardozo School of Law. He served as Law Secretary, New York State Supreme Court and as Assistant District Attorney, New York County. He is a member of the bars of the State of New York, Supreme Court of the United States, the U.S. District Courts for Southern and Eastern Districts of New York, the U.S. Court of Appeals for the Second Circuit, and the Tax Court of the United States. He is also a member of the New York State Courts Advisory Committee on Civil

Practice; Special Committee on Supreme Court Law Clerks; Arbitration Panel, United States District Court for the Eastern District of New York, and Committee on Civil Practice Law and Rules, New York State Bar Association. He was a Special Master, Supreme Court, New York County, and a member of the Mayor's Committee on Judiciary, City of New York.

Henrietta Lyle

Ms. Lyle is director of the Sister City Program of the City of New York, Inc. She graduated from Fordham University, New York. Ms. Lyle served as special assistant to ambassadors, United Nations Mission to the United Nations.

Mary B. Maguire

Ms. Maguire is a partner in the firm Ebusinessware, Inc. She is graduate of Yale University and St. John's University, M.B.A. (Finance), and has also received honorary degrees from St. John's University and Marymount University. Her affiliations include: Member, Vatican Delegation to the United Nations; Trustee, St. John's University; Member, Financial Advisory Committee, Carmelite Sisters Healthcare Network, and Member, Ireland-American Economic Advisory Board.

Douglass B. Maynard

Mr. Maynard is a graduate of Yale University, B.A. and New York University Law School. He is a partner in the firm of Akin Gump Strauss Hauer & Feld. His practice focuses on libel and media cases, complex civil litigation and white collar defense matters. He served as Assistant United States Attorney, United States Attorney's office, Southern District of New York.

Charles C. Marino

Mr. Marino is a licensed Professional Engineer and president and owner of AMCC Corporation, which is involved in large public works construction projects. He has a Civil Engineering degree from Lehigh University and an M.A. from the University of Missouri.

Lawrence D. McGovern

Mr. McGovern is an administrative law judge and arbitrator with the City of New York and dispute resolution organizations. He graduated from Fordham University School of Law, LL.B. and New York University School of Law, LL.M. He is a member of the American Bar Association where he served as Chairman and Vice-Chairman, Professional Issues Committee, Tort and Insurance Practice Section, among others; a member of the New York State

Bar Association, and Association of the Bar of the City of New York.

Denis McInerney (Special Counsel to the Policy Committee)

Mr. McInerney was the Chairman of the Departmental Disciplinary Committee from 1997 until 2002. He was the senior litigation partner at the law firm of Cahill Gordon & Reindel until 1991, when he took senior counsel status. He graduated from Fordham Law School, where he was editor of the Law Review; was president of the New York County Lawyer's Association from 1982-84; Vice Chair of the Committee on Character and Fitness for admission to the Bar of the State of New York, First Judicial Department, from 1980 to 1996, and trustee of Fordham University from 1988 to 1994. At the request of the New York State Bar Association, he co-chaired (with Associate Justice G. Robert Witmer of the Appellate Division, Fourth Department) a committee that produced "Practitioners' Handbooks" on Appeals to the Appellate Divisions and the Court of Appeals of the State of New York (published by the State Bar Association in 1979 and 1981 respectively). He currently serves as Chairman of Fordham Law School's Board of Visitors; President of the New York County Lawyer's Association American Inn of Court; a director of Volunteers of Legal Service, Inc. and other charitable

organizations, and a member of the Mayor's Advisory Committee on the Judiciary. He is a Fellow of the American College of Trial Lawyers and a member of the American Law Institute.

Charles G. Moerdler

Mr. Moerdler is a member of the firm of Stroock & Stroock & Lavan, LLP. He graduated from Fordham University Law School where he was an editor of the Law Review. He is also a member and former Chairman of the Committee on Character and Fitness in the First Department. He is a member of the Association of the Bar of the City of New York, the New York State Bar Association and the American Bar Association.

Mathias E. Mone

Mr. Mone is a graduate of Villanova University and Fordham Law School. He is senior counsel in the firm Cahill Gordon & Reindel. His practice was devoted almost entirely to civil litigation in both the state and federal courts. Since taking senior counsel status, he acts as volunteer arbitrator with the National Association of Security Dealers.

Mercedes A. Nesfield

Ms. Nesfield is the retired Director of the Office of Equal Opportunity of the New York City Board of Education. She holds a B.A. from Brooklyn College and a Masters Degree in Educational Administration from Baruch College. She has served as the Executive Assistant to the President of the Board of Education of the City of New York and as Executive Director and Executive Assistant to the Chairman of the New York City Commission on Human Rights.

Peggy O'Brien

Ms. O'Brien is a sole practitioner with a focus on recording and television industry agreements. She is a graduate of Syracuse University and New York Law School and a member of the Association of the Bar of the City of New York where she serves on the Entertainment Law Committee.

Jane W. Parver

Ms. Parver is a partner at the law firm of Kaye Scholer LLP. She has served as an Assistant United States Attorney for the Southern District of New York; member, New York City Conflicts of Interest Board appointed by former Mayor Rudolph W. Guiliani; and Referee, New York State Commission on Judicial Conduct. She

established and now oversees the Susan Price Carr Scholarship Committee, and serves on the New York Council of Defense Lawyers, Federal Bar Council.

Anthony M. Radice

Mr. Radice is a member of the firm of Morrison & Foerster, LLP, where he practices litigation in the area of intellectual property. He is a graduate of Cornell University and Cornell Law School. He is a mediator in U.S. Southern District of New York Mediation Program and a former trustee of the Federal Bar Council.

Roy L. Reardon (Special Counsel to the Policy Committee)

Mr. Reardon is a partner at the law firm of Simpson Thacher & Bartlett. His professional affiliations include the American Bar Association, the New York State Bar Association and the Association of the Bar of the City of New York. He serves as a Special Master at the Appellate Division, First Department, and is a Fellow of the American College of Trial Lawyers.

Andrew W. Regan

Mr. Regan is a partner in the firm of Shearman & Sterling which he represents both domestic and international clients in a

broad range of estate planning and tax matters. He is a graduate of the College of St. Columba, and Dublin University, Trinity College, Dublin, Ireland and received his Law degree from Fordham University School of Law. He is a member of the American Bar Association, New York State Bar Association, and the Society of Trust and Estates Practitioners.

Timothy G. Reynolds

Mr. Reynolds is a partner in the firm of Skadden Arps Slate Meagher & Flom LLP. He graduated from Fordham University School of Law. His practice includes matters involving insurance and reinsurance as well as insurance coverage litigation and arbitration. Additionally, Mr. Reynolds has worked on the successful constitutional challenge in the United States Supreme Court to Connecticut's and New Mexico's beer price regulations and statutes. He has also written many articles which include, "The Speedy Trial Acts, An Empirical Study," Fordham Law Review; and "Punitive Damages in Florida Product Liability Action: A Reexamination," Florida Trial Advocate Quarterly.

Michael J. Rosenberg

Mr. Rosenberg graduated from New York University (M.B.A.), where he completed all his studies for a Ph.D. He was involved

in private practice as an account executive for several years. Mr. Rosenberg held various offices at NYU where he received a Meritorious Service Award. He served as president of the New York University Club; chairman of the NYU Partners Committee (GBA), and former president of NYU, GBA Alumni Associations.

Mr. Rosenberg served for three years as an officer in the U.S. Army, including one year in Korea. He received the Silver Star, Bronze Star, Combat Medical Badge and various other awards.

Augustin J. San Filippo

Mr. San Filippo graduated from New York University School of Law. He is currently in private practice in the firm of Augustin J. San Filippo, P.C. His extra-curricular activities for the bar include: Chair, Joint Conference Committee on Court Congestion and Related Problems; Medical Malpractice Panel, First Department; Moot Court Judge, New York University School of Law; Secretary, New York State Bar Association Judicial Administration Committee and many committees of the Association of the Bar of the City of New York.

Samuel W. Seymour

Mr. Seymour is a partner in the firm of Sullivan & Cromwell where he practices in the area of complex litigation. He

received his law degree from Columbia University and served as an Assistant United States Attorney in the Southern District of New York.

Daniel E. Siff

Mr. Siff graduated from New York Law School. He is currently affiliated with the firm of Ledy-Gurren & Blumenstock, L.L.P. His pro bono activities include being a member of the board of directors and past president of Goddard-Riverside Community Center.

Marian E. Silber

Ms. Silber is a member of the firm of Gordon & Silber, P.C. where she practices in the areas of professional liability, construction law, products liability and toxic torts. She graduated from Connecticut College and received her law degree from Fordham University School of Law. She is a member of the Association of the Bar of the City of New York as well as many other bar associations.

Eugene P. Souther

Mr. Souther is senior counsel to the firm Seward & Kissel. He received an LL.B from Fordham University School of Law.

Mr. Souther is a Fellow of the American College of Trial Lawyers and served on the New York Downstate Committee of the College. He was president of the New York County Lawyers' Association; served in the House of Delegates of the New York State Bar Association and a delegate to the House of Delegates of the American Bar Association and Vice Chairman of the International Bar Association.

John L. Warden

Mr. Warden is a member of the firm of Sullivan & Cromwell. He is a graduate of Harvard University and the University of Virginia Law School. He is a member of the American Law Institute and a Fellow of the American College of Trial Lawyers.

Eric J. Warner

Mr. Warner is a litigator for the Metropolitan Transit Authority. He is a graduate of Albany Law School. He was involved in public service as a prosecutor for over 20 years in the capacity of Senior Executive Assistant District Attorney, Bronx County; Chief, Juvenile Offense Bureau, and Assistant District Attorney. He is a member of the New York State Bar Association.

Stephen L. Weiner (Special Counsel to the Policy Committee)

Mr. Weiner is in private practice in his own firm and serves as Chairman and Commissioner of the New York State Commission of Investigation. He is a graduate of Columbia College and also received his law degree from Columbia University. He is a member of the Association of the Bar of the City of New York, New York State Bar Association, the American Bar Association and is a member of the Board of Directors of the Legal Aid Society. He serves on the Policy Committee of the Departmental Disciplinary Committee.

Susan Welsher

Ms. Welsher is a former teacher of early childhood education in Bedford Stuyvesant and English as Second Language in East Harlem. Later, she was a paralegal and administrator at the law firms of Stroock Stroock & Lavan, Reid & Priest, and Cravath Swaine & Moore. She currently donates much of her time to a variety of civic, cultural and charitable organizations.

A BRIEF OVERVIEW OF THE DISCIPLINARY PROCESS

Complaints, Investigations and Dismissals

The disciplinary process commences with the filing of a complaint against an attorney, who is referred to as a "respondent." 3568 matters were opened in 2003, mostly from clients, but also from other attorneys, and members of the public at large. In a relatively few cases, the Committee opened sua sponte investigations, based on information which appeared in judicial opinions, professional journals, referrals from the judiciary or other sources.

Each complaint is date-stamped, numbered and entered into the Committee's computer system which generates a printout of the respondent's disciplinary history with the Committee as well as current information from the respondent's registration with the Office of Court Administration. The complaint is then screened by a senior staff attorney, who makes a preliminary recommendation as to whether the Committee has jurisdiction, whether it should be referred to another public agency or disciplinary committee or for mediation by a mediator on the mediation panel of either the New York County Lawyers' Association, the Association of the Bar of the City of New York or the Bronx County Bar Association.

The screening attorney may also recommend rejection of a complaint for any one of several reasons; e.g., there is no allegation of misconduct, the complaint seeks legal advice, is an attempt to collect a debt, or involves a fee dispute. In 2002, a mandatory arbitration program was instituted to resolve fee disputes in civil and matrimonial matters, where the representation began after January 1, 2002 and involves a dispute of more than \$1,000 and less than \$50,000. If the fee dispute is in a matrimonial matter where the representation began before January 1, 2002, the complainant is still referred to the mandatory fee dispute resolution for matrimonial matters.

If the complaint involves allegations which are substantially similar to those in pending litigation, the Committee may, but need not, defer the matter pending resolution of the litigation. Because the allegations may be resolved in the litigation and a judgment may be binding on the respondent, the Committee may decide to close the matter, without prejudice to reopening it after resolution of the underlying litigation. That decision must be made by a lawyer member of the Committee. Similarly, if it appears that the complaint has no merit, a lawyer member of the Committee may dismiss the matter after the initial screening.

If it appears from the complaint that serious misconduct has occurred, the matter is brought to the attention of the Chief Counsel or the First Deputy Chief Counsel for direct assignment to a staff attorney for expedited action. During the initial screening, a matter may also be directly assigned to a staff attorney investigating other complaints involving the same respondent.

Following the initial screening, a paralegal monitors the case while preliminary information is obtained from the respondent, who files an answer to the complaint, and from the complainant who is sent a copy of the respondent's answer for a reply. The paralegal then writes a summary of the allegations and defenses and refers the file to a senior staff attorney who performs a "second screening" or further evaluation of the complaint, answer and reply. The second screener may also recommend referral to mediation at this point. If the second screener recommends dismissal, that recommendation along with the paralegal's written summary and the file is then reviewed by a Committee member who is a lawyer. A matter that warrants additional investigation is forwarded to the Chief Counsel for his review and assignment to a staff attorney depending on whether the possible misconduct, if established, would warrant no

more than an admonition or whether it would merit public discipline.

The staff attorney who is assigned to the matter obtains further documentation, using subpoenas when necessary, interviews witnesses, obtains further information from the complainant and may question the respondent on the record and under oath.

When the investigation is complete, the staff attorney recommends dismissal, an admonition (which is private discipline) or formal charges. Again, all dismissal recommendations are independently considered by a Committee member, who must approve the recommendation before it is implemented. After being notified of the dismissal, the complainant has a right, within thirty days, to request that another Committee member review the dismissal of the complaint.

Dispositions

Admonitions

The Committee will issue a Letter of Admonition if an investigation reveals that a lawyer has violated the Code of Professional Responsibility, but not seriously enough to warrant a more severe sanction. For example, an admonition might be issued if a lawyer neglected one legal matter but the client was not seriously injured.

Although it is private and remains confidential, an admonition is a finding of misconduct and becomes a part of the lawyer's permanent disciplinary record, and may be considered in determining the extent of discipline imposed in the event that there are future charges of misconduct (see, 22 NYCRR §605.5[b]). A staff lawyer's recommendation to issue an admonition is reviewed by a supervisor and the Chief Counsel, and must be approved by two Policy Committee members. In 2003, the Committee issued 73 Letters of Admonition covering 87 separate complaints. (An admonition may be based on more than one complaint against a respondent.)

Formal Proceedings

A staff lawyer's recommendation that formal charges be filed must be based on a demonstration of misconduct and approved by the staff lawyer's supervisor, the Chief Counsel and two lawyer members of the Policy Committee. When formal charges are filed, the case is assigned to a Referee by the Court. Under the Court's rules, all hearings on formal charges are conducted by Court-appointed Referees. Respondents have the right to appear, the right to counsel, the right to cross-examine staff witnesses, and to present their own witnesses and exhibits. When the hearing is concluded, the Referee must file a written report

containing findings of facts, conclusions of law and, if a charge has been sustained, a recommendation as to sanction.

The Chair of the Committee then refers the Referee's report to a Hearing Panel, generally consisting of four lawyers and a non-lawyer member of the Committee. The Hearing Panel reviews the full record of the proceedings as well as the Referee's Report and Recommendation. It then convenes to hear argument as to whether the Charges should be sustained, and whether to affirm, disaffirm, or affirm in part the Referee's findings of fact, conclusions of law and recommendation. No additional evidence may be considered at the oral argument, which is not transcribed. The Hearing Panel is required to issue its report containing its written "Determination" within ten days after the argument.

A formal hearing can result in a recommendation of disbarment, suspension, public censure, private reprimand, or dismissal. The first three, which are public discipline, may be imposed only by the Court; a private reprimand may be imposed by the Committee on its own or by referral from the Court (22 NYCRR §605.5[a]).

In some cases where the Court has determined that a lawyer has been convicted of a crime which is not a felony, but is a "serious crime" under New York law, or when a lawyer who has been suspended or disbarred applies for reinstatement, the Court may

assign the case directly to a Hearing Panel. In those cases, the Hearing Panel itself takes testimony, receives evidence and renders a recommendation as to what action should be taken by the Court.

Application to the Appellate Division

In all disciplinary matters requiring action by the Court, the Committee notifies the Appellate Division in a petition which describes the prior proceedings in the matter and the Court action requested. When the Court decides the matter, it issues an order, which is usually published in the New York Law Journal, unless the Court determines that the decision should remain unpublished.

The Committee files petitions with the Court to confirm a Referee's Report and Recommendation and a Hearing Panel's Determination. Staff, with permission of the Chairman, may also file a motion to disaffirm a Hearing Panel determination. In addition, the Committee, in certain cases, files petitions with the Court to initiate disciplinary action, rather than to confirm or disaffirm action taken by referees and hearing panels. For example, the Committee may seek a court order applying the doctrine of collateral estoppel and finding a lawyer guilty of violating the Code on the basis of prior civil or criminal court

decisions. The petition may be granted where the issues in the prior action and the disciplinary matter are identical to the potential charges against a respondent who has had a full and fair opportunity to litigate in the prior proceeding.

Certain other matters are also filed directly with the Court. For example, when a lawyer fails to cooperate with a Committee investigation or when a lawyer's conduct poses an immediate threat to the public, the Committee may file a request for an interim suspension pending a hearing under 22 NYCRR §603.4(e).

In addition, the Committee files a petition directly with the Court when an attorney has been convicted of a felony in New York or the equivalent of a New York felony in another jurisdiction (see, Judiciary Law §90(4)). Similar Committee applications are made if an attorney has been convicted of a "serious crime" as defined in §90(4)(d) of the Judiciary Law (see, 22 NYCRR §603.12); if an attorney has been found guilty of an ethical infraction in another jurisdiction and "reciprocal discipline" is warranted (see, 22 NYCRR §603.3); if an attorney has violated a court-ordered suspension; or has become incapacitated due to a mental or physical infirmity (see, 22 NYCRR §603.16).

Hearings before Referees and Hearing Panels are normally closed to the public, but they are otherwise conducted like trials in that testimony is taken and exhibits are received with a transcript made of the entire proceeding. A respondent may waive confidentiality and request a public hearing. If the Court eventually imposes public discipline, the entire record is available for public inspection at the First Department Committee on Character and Fitness of Applicants for Admission to the Bar.

REPRESENTATIVE CASES

In 2003, the Appellate Division, First Judicial Department, publicly disciplined 50 lawyers as follows: 18 disbarments, 7 resignations from attorneys facing charges, 29 suspensions and 6 public censures. The Court issued one private reprimand. Some of the cases prosecuted by Committee staff lawyers that have become a matter of public record in 2003 are reviewed below:

Matter of Lawrence M. Furtzaig, 305 AD2d 7 (1st Dep't 2003)

The Court imposed a five year suspension on Mr. Furtzaig based on findings that he engaged in a pattern of deceit over a ten year period while a partner at Rosenberg & Estis, P.C. Mr. Furtzaig failed to pursue client litigation and concocted elaborate falsehoods to his clients to disguise his failures. Most egregiously, he forged three Court orders and a bond to perpetuate his deception. Noting that his misconduct did not involve commingling or misappropriation of client funds, that he paid a client \$60,000 for uncollected rent, that he had no disciplinary history and that he expressed genuine contrition, the Court declined to disbar respondent as recommended by the Committee and the Panel. The Court noted the evidence of depression offered in mitigation and found there was sufficient mitigation to justify suspension as recommended by the Referee,

regardless of the disputed causal link between his psychological problems and his misconduct. (Staff Counsel Edelstein)

Matter of Arnold Silberstein, 307 AD2d 1 (1st Dep't 2003)

The Court suspended Arnold Silberstein on June 20, 2000 for one year for a pattern of misconduct including neglect and drafting and signing sworn affidavits containing false assertions. The Committee moved to hold him in criminal contempt for violating the order of suspension. Confronted by the Committee's motion, Silberstein moved the Court to accept his resignation, which it did. (Staff Counsel Goldstein)

Matter of Deyan R. Brashich, 304 AD2d 207 (1st Dep't 2003)

The Committee brought a Petition for collateral estoppel based on findings of a Surrogate, after trial, that Mr. Brashich had overcharged the executrix to an estate, and then failed to pay or settle the ensuing judgment of \$144,636.50 plus interest. Mr. Brashich argued, unsuccessfully, that the executrix owed him all but \$23,000 of the fees for legal services he had provided to her personally. The Court noted Mr. Brashich's previous discipline (seven admonitions), and the fact that he had been publicly censured in a prior case involving excessive charges to another estate.

In light of this history, the Court accepted the Committee's motion to disaffirm the Panel's recommendation, and suspended Mr. Brashich for one year. Furthermore, the Court conditioned Mr. Brashich's reinstatement on satisfaction or written settlement of the judgment. On Mr. Brashich's application, the Court modified its order to permit him to represent a defendant in a war crimes trial at The Hague; however, Mr. Brashich was removed as counsel in that matter, rendering the exception moot. (Staff Counsel Edelstein)

Matter of Mark Virag, 307 AD2d 34 (1st Dep't 2003)

Mark Virag pleaded guilty to federal mail fraud charges alleging that he devised and executed a scheme to defraud by changing 19 clients' retainer agreements from the sliding scale types required in certain cases to one-third contingency agreements when the latter type was more profitable for his firm. He also withheld money from clients. The Court found that his crime satisfied the requirement of New York's felony of grand larceny for stealing property in excess of \$50,000 and, therefore, struck his name from the roll of attorneys. (Deputy Chief Counsel Cohen)

Matter of Allen J. Virag, 307 AD2d 37 (1st Dep't 2003)

Allen J. Virag pleaded guilty to one charge of federal mail fraud admitting that he knew a retainer agreement had been changed so that his firm would receive a larger fee than it was entitled to under the original retainer. The Court held that his crime was equivalent to New York's crime of grand larceny in the third degree and therefore struck his name from the roll of attorneys. (Deputy Chief Counsel Cohen)

Matter of Roger A. Levy, 307 AD2d 47 (1st Dep't 2003)

A client facing criminal charges asked Levy to hold \$69,000 in Levy's trust account for future legal expenses. The client was indicted in federal court in Alabama and retained local counsel in that jurisdiction and asked Levy to send the money to his new attorney. Levy sent \$25,000 to the new attorney but failed to follow his client's instructions with the balance of the funds and, in fact, misappropriated a portion of the money.

In the course of investigating the client's complaint, staff reviewed Levy's bank records and learned that Levy misappropriated other clients' funds in violation of DR 9-102(A). The Court found that Levy engaged in a pervasive pattern of commingling of escrow funds and although Levy had not acted with

venal intent the Court suspended him for three years. (Deputy Chief Counsel Cohen)

Matter of Bart L. Nason, 309 AD2d 88 (1st Dep't 2003)

By order dated July 11, 2003, the Court suspended Nason for his failure to cooperate with the Committee in its investigation of two complaints and on the basis of his admission under oath that he converted client funds. Subsequently, Nason repaid that client and submitted his resignation from the bar, admitting that he converted \$50,436.00 from one client whose funds Nason held following a real estate closing. Nason also admitted that he acted as attorney for another client who made loans to three individuals and failed to protect that client's security interest in the intended collateral. The Court accepted his resignation. (Staff Counsel McGoldrick)

Matter of Kenneth J. Birnbaum, 308 AD2d 180 (1st Dep't 2003)

Kenneth J. Birnbaum was disbarred for intentional conversion of client funds because he withdrew anticipated legal fees in personal injury cases before receiving the settlement checks, and he thereby invaded the funds of other clients whose funds were in the account at the time. Despite his full cooperation with the Committee and an unblemished disciplinary record, Birnbaum was

disbarred based in large part upon the amount he converted (about \$50,000), and upon his admission that he would have continued converting funds had he not been caught. (Staff Counsel Lipkansky)

Matter of William J. McCann, 3 AD3d 5 (1st Dep't 2003)

William J. McCann was disbarred for his misconduct in two different situations. In the first situation, he intentionally converted the purchaser's down payment in a real estate transaction where he was the escrow agent and the attorney for the sellers. In addition, McCann used his escrow account as a "shield" against a judgment which he was determined not to pay, and he thereby prevented the judgment creditor from collecting the judgment and pressured the creditor into renegotiating his debt. McCann sought a lesser sanction but did not present any mitigation to justify a deviation from the presumption of disbarment in intentional conversion cases. (Staff Counsel Lipkansky)

Matter of Charla R. Bikman, 304 AD2d 162 (1st Dep't 2003)

Ms. Bikman was suspended from the practice of law for 18 months because she defrauded the owner of an apartment by occupying it after the death of her sister, the tenant of record,

without disclosing that death to the owner, and failed to cooperate with the Committee's investigation. The Court rejected her contentions that the disciplinary rules apply only to lawyers' dealings with clients and not to their dealings with the rest of society, and that her actions constituted private conduct that did not violate the law. (Staff Counsel Shed)

Matter of Beth A. Carpenter, 305 AD2d 19 (1st Dep't 2003)

In 2003, Beth A. Carpenter was convicted in Connecticut, after a jury trial, of capital felony murder, accessory to murder and conspiracy to commit murder. She failed to report her conviction to the Disciplinary Committee. The Court found that Carpenter's conviction of capital felony murder in Connecticut "fits squarely" within the New York murder statute and ordered her name stricken from the roll of attorneys. (Staff Counsel Vallejo)

Matter of Edward Samuels, 309 AD2d 7 (1st Dep't 2003)

Samuels pleaded guilty to a 100 count indictment charging him with possession of child pornography, state felonies. At the time, Samuels was a professor at New York Law School. The committee petitioned the Court to have his name stricken from the roll of attorneys and it did so. (Staff Counsel Vallejo)

Stephen W. Dicker, 309 AD2d 1 (1st Dep't 2003)

Dicker misappropriated \$10,000 of client money he held in escrow that was later returned to the client. He also misappropriated the proceeds of a client's \$30,000 settlement which he also returned to that client. When confronted with evidence of his misconduct, he submitted his resignation to the Court which accepted it. (Staff Counsel Goldstein)

Matter of David A. Schechter, 309 AD2d 197 (1st Dep't 2003)

In 1997, Schechter pleaded guilty to federal charges of conspiring to unlawfully intercept wire and oral communications. On April 24, 2003 the Supreme Court of Kentucky where Schechter had lived and worked for 40 years suspended him from the practice of law for two years. At the Committee's request on June 24, 2003, the Court determined that Schechter's crime was a "serious crime" and referred the matter for a hearing before a referee. Thereafter, Schechter offered to resign from the New York bar which the Court granted. (Staff Counsel Vallejo)

Matter of Charles B. Stark, 309 AD2d 4 (1st Dep't 2003)

Charles B. Stark was convicted of a one count Information of attempted "disseminating indecent material to a minor" in the first degree, in violation of Penal Law §§ 110.00 and 235.72, a

Class E felony. Stark engaged in communication with an undercover investigator who said he was a 14 year old boy and arranged to meet the "boy" to engage in certain sexual acts. Following his plea, Stark submitted his resignation but the Court could not accept it because he automatically ceased to be an attorney upon his conviction of a New York felony. (Staff Counsel Vallejo)

Matter of Steven Adler, 302 AD2d 78 (First Dep't 2003)

Respondent's misconduct involved filing a deed and related documents on which he had forged the seller's signature, which he also notarized. He also forged and notarized the signature on a real estate property transfer tax return. All of those documents were filed with government agencies. Respondent pleaded guilty to a misdemeanor of offering a false instrument for filing, which the Court determined was a "serious crime" under the rules. In the sanction hearing, evidence showed that respondent resorted to the forgeries because he had failed to file a previously-executed deed for over a year. Because the forged deed was filed so late, it created delays in the original seller's application for Medical Assistance and also delayed her surgery. The Court suspended Adler for one year, finding that, as an experienced real estate attorney, he understood the potential harm that could

arise from filing a forged deed and that he acted intentionally for his own convenience. (Staff Counsel Shields)

SUMMARY OF OTHER REPRESENTATIVE CASES

Felony Disbarments

In 2003 the First Department granted twelve motions to strike the names of attorneys convicted of felonies: Matter of Beth Carpenter, 305 AD2d 19; Matter of Victor Ebisan Ekperigin, 304 AD2d 133; Matter of Stephen A. Taube, 308 AD2d 83; Matter of Alan Stahler, 304 AD2d 245; Matter of James P. Conroy, 309 AD2d 57; Matter of Edward B. Samuels, 309 AD2d 7; Matter of Charles B. Stark, 309 AD2d 4; Matter of Andrea Mercado, 1 AD3d 54; Matter of Carlos H. Jenkins, 309 AD2d 86; Matter of Jeffrey Zisselman, 768 AD2d 8; Matter of Allen J. Virag, 304 AD2d 37 and Matter of Mark Virag, 304 AD2d 34.

Resignations

The Court permits an attorney to resign from the Bar during an investigation by the Committee or after the filing of charges if the attorney submits an affidavit in compliance with 22 NYCRR §603.11, acknowledging that the attorney knows the nature of potential charges and cannot defend against them. In 2003, the First Department accepted resignations under 22 NYCRR §603.11 from seven attorneys and ordered their names stricken from the roll of attorneys: Matter of Raymond Thomas LeBon, 307 AD2d 44;

Matter of Richard A. Sbeglia, 307 AD2d 63; Matter of Arnold I. Silberstein, 307 AD2d 1; Matter of Stephen Wayne Dicker, 291 AD2d 34; Matter of Bart Lawrence Nason, 309 AD2d 88; Matter of David Alan Schechter, 309 AD2d 197 and Matter of John J. Perrone, 2 AD3d 35.

Disbarments after Interim Suspension

Under Court Rule 22 NYCRR 603.4(g), an attorney who is suspended by the Court for misconduct, including willful failure to cooperate with a Committee investigation, can be disbarred if the attorney who is suspended has not appeared or applied in writing for a hearing or reinstatement within six months of the date of the order of suspension. In 2003, the First Department invoked 22 NYCRR §603.4(g) to disbar four attorneys: Matter of Anthony C. Nwaka, 303 AD2d 45; Matter of Robert M. Fisher, 304 AD2d 100; Matter of Michael P. Bach, 309 AD2d 63, and Matter of Marc S. Lawrence, 309 AD2d 202.

Suspension

Suspension as Discipline

A suspension can be ordered by the Court as discipline and also to protect the public on an interim basis. The Court imposes suspension for conviction of "serious crimes," as defined

in the Judiciary Law §90(4)(d), for reciprocal discipline and for other misconduct. In 2003, the Court imposed suspensions for misconduct other than "serious crimes" and reciprocal matters on the following attorneys for periods ranging from three months to five years: Matter of Donald Rosenkrantz, 305 AD2d 13; Matter of Jonathan Keiser, 304 AD2d 96; Matter of Mario A. Vasquez, 1 AD3d 16; Matter of Charla R. Bikman, 304 AD2d 102; Matter of Devan R. Brashich, 304 AD2d 207; Matter of Lawrence S. Furtzaig, 305 AD2d 7; Matter of George R. Osborne, 1 AD3d 31; Matter of Roger A. Levy, 307 AD2d 47, and Matter of Chin Wei Fong, 308 AD2d 19.

Under Rule 22 NYCRR §603.14, an attorney suspended for less than six months shall be reinstated at the end of the period of suspension if certain requirements are met. An attorney suspended for more than six months may petition for reinstatement, but must establish by clear and convincing evidence that: (1) there has been full compliance with the order of suspension; (2) the petitioner possesses the requisite character and general fitness to practice law; and (3) the petitioner has taken and passed the Multistate Professional Responsibility Examination.

Interim Suspensions - Threat to Public Interest

The Court also imposes interim suspensions where an attorney's misconduct constitutes a threat to the public based upon failure to answer a disciplinary complaint or comply with a lawful demand in an investigation by the Committee (22 NYCRR §603.4[e][1][i]), or upon a finding that an attorney is guilty of misconduct immediately threatening the public interest based upon an admission or uncontested evidence of serious misconduct (22 NYCRR 603.4[e][1][ii] and [iii]). During 2003, the First Department interimly suspended nine attorneys for those reasons: Matter of Laurence T. Muri, 303 AD2d 86; Matter of Richard Wertis, 307 AD2d 15; Matter of Anand Gujral, 307 AD2d 28; Matter of Bruce H. Hest, 308 AD2d 85; Matter of Nathan Dembin, 308 AD2d 195; Matter of Christopher J. Schulze, 1 AD3d 1; Matter of Brandon J. Boyd, 308 AD2d 223; Matter of Ronald Richard, 309 AD2d 262, and Matter of Mac Truong, 2 AD3d 37.

Reciprocal Suspensions

Under Court Rule 22 NYCRR §603.3, the Committee may seek reciprocal discipline if an attorney subject to the Court's jurisdiction has been suspended in another jurisdiction. In 2003, the First Department suspended six attorneys based on discipline imposed in other jurisdictions: Matter of Barbara S.

Shea, 308 AD2d 29; Matter of Jeffrey M. Cohn, 308 AD2d 79; Matter of Michael G. Paul, 308 AD2d 23; Matter of Stuart P. Schlem, 308 AD2d 220; Matter of Geraldine D. Green, 308 AD2d 72, and Matter of Ward L. Thrasher, 308 AD2d 160.

Public Censures

The least severe form of public discipline that the Court may impose is a censure (22 NYCRR §605.5[a][3]). In 2003, the First Department issued public censures in six (6) cases based on formal charges of misconduct: Matter of Robert Naresh Vohra, 303 AD2d 61; Matter of Charles H. McAuliffe, 308 AD2d 253; Matter of David Alan Dorfman, 304 AD2d 273; Matter of Keith Andrew Hawthorne, 309 AD2d 285; Matter of Marshall C. Berger, 1 AD3d 83, and Matter of John M. Power, 3 AD3d 21.

Reprimands and Admonitions

The Court may also direct the Committee to issue to a respondent a Reprimand, which is private discipline imposed by the Committee after a hearing. In 2003, the Court directed the issuance of one private reprimand. Where there is no serious injury, either to a client or a court, and where there is a minor violation of a Disciplinary Rule or decisional law, the Committee itself may also issue an Admonition, which is private discipline,

to an attorney under 22 NYCRR §605.5(a)(5). As noted earlier, in 2003, the Committee issued 73 admonitions in 87 matters.

Reinstatements

Section 90 of the Judiciary Law and Court Rule 22 NYCRR §603.14 permit attorneys to be reinstated to the practice of law after a period of exclusion. Attorneys who are suspended for six months or less may be reinstated at the end of the period of suspension by filing with the Court and serving upon the Chief Counsel's office an affidavit stating that the attorney has met certain requirements (22 NYCRR §603.14). An attorney who has been suspended for a period of more than six months is entitled to petition the Court for reinstatement upon the expiration of the period of suspension (Id). An attorney who has been disbarred or stricken from the roll of attorneys may not petition for reinstatement until the expiration of seven years from the effective date of disbarment (Id). In 2003, the First Department granted fourteen (14) applications for reinstatement and denied applications in seven other cases.

Appendix A: Committee Assignments

Paul J. Curran
Chair

Policy Committee

Charlotte Moses Fischman	Haliburton Fales 2d (Special Counsel)
Alfred G. Gerosa*	Thomas B. Galligan (Special Counsel)
Robert L. Haig	Martin R. Gold (Special Counsel)
Myron Kirschbaum	Denis McInerney (Special Counsel)
Marvin Leffler*	Roy L. Reardon (Special Counsel)
Mercedes A. Nesfield*	Stephen L. Weiner (Special Counsel)

Hearing Panel Members

Panel I

Marian E. Silber, Chair
Ann J. Charters*
Cheryl Davis
John J. Kenney
Deborah E. Lans

Panel II

William Francis Kuntz, II, Chair
William A. Gallina
Timothy G. Reynolds
Samuel W. Seymour
Susan Welsher*

Panel III

Patricia Farren, Chair
Dr. Jane Eisner Bram*
Maranda E. Fritz
Augustin J. San Filippo

Panel IV

John L. Warden, Chair
David G. Keyko
Henrietta Lyle*
Douglass B. Maynard

Panel V

Christopher E. Chang, Chair
Sally W. Berg*
Susan M. Karten
Burton N. Lipshie
Lawrence D. McGovern

Panel VI

Eugene P. Souther, Chair
Brian M. Cogan
Lisa D. Correll*
Paul G. Gardephe
Daniel E. Siff

*Public Member

Panel VII

Charles G. Moerdler, Chair
Telesforo Del Valle, Jr.
Steven N. Feinman
Charles C. Marino*
Mathias E. Mone

Panel IX

Jane W. Parver, Chair
Douglas W. Brandrup
William E. Hammond
Mary B. Maguire*
Eric J. Warner

Panel VIII

Rosalind S. Fink, Chair
Lawrence J. Banks*
Paul F. Doyle
Peggy O'Brien
Andrew W. Regan

Panel X

Denis F. Cronin, Chair
Charles E. Dorkey, III
Lenore Kramer
Anthony M. Radice
Michael J. Rosenberg*

*Public Member

Appendix B: Chief Counsel's Office: Attorneys

Thomas J. Cahill
Chief Counsel

Sherry K. Cohen
First Deputy Chief Counsel

Andral N. Bratton
Deputy Chief Counsel

Christine C. Anderson
Angela Christmas
Nicole Corrado
Jorge Dopico
Mady J. Edelstein
Jeremy S. Garber
Naomi F. Goldstein
Joseph J. Hester
Roberta N. Kolar
Jun H. Lee
Vitaly Lipkansky
Stephen P. McGoldrick
Bianca Michelis
Kevin E. F. O'Sullivan
James T. Shed
Eileen J. Shields
Judith N. Stein
Raymond Vallejo
La Trisha A. Wilson

Appendix C: Chief Counsel's Office: Staff

Investigators

Vincent C. Raniere, Chief
George Cebisch
Virgil Cruz
John Puglise
Martin Schwinger
Kenneth Van Lew
Leonard Zarrillo

Paralegals

Rebeca V. Taub, Chief
Donna Killian
Hermine Otto
Joel Peterson
Orlando Reyes
Marcy Sterling

Computer Personnel

Michelle Y. Wang
Charles A. Sauer

Office Manager

Carol Scheuer

Secretaries

Anna Abbate
Francine N. L. Ali
Nancy K. De Leon
Eartha Hobot
Monique Hudson
Tennille Millhouse
Gloria Rodriguez
Maria L. Vera

Receptionist

Romya Serra

Appendix D: Bar Mediators

Association of the Bar of the City of New York

Bruce D. Angiolillo, Esq.	John Madden Jr., Esq.
Mark S. Arisohn, Esq.	K. Ann McDonald, Esq.
Vivian Berger, Esq.	W. Cullen McDonald, Esq.
Joseph Calderon, Esq.	T. Gorman Reilly, Esq.
David Douglas, Esq.	David Rubin, Esq.
Professor Martin Fogelman	Marilyn M. Schecter, Esq.
Gerard E. Harper, Esq.	Eileen Caufield Schwab, Esq.
Chris Stern Hyman, Esq.	Briscoe R. Smith, Esq.
Thomas W. Jackson, Esq.	Harvey A. Strickon, Esq.
Andrew D. Kaiser, Esq.	Edward G. Williams, Esq.
Hal R. Lieberman, Esq.	Melvin F. Williams, Jr., Esq.

Bronx County Bar Association

Daniel Chavez, Esq.	Jeffrey Pogrow, Esq.
Richard M. Copland, Esq.	Frederick B. Potack, Esq.
Norma Giffords, Esq.	Cary M. Tanzman, Esq.
Lenore E. McQuilling, Esq.	

New York County Lawyers' Association

Madeline Balk, Esq.	Alan J. Goldberg, Esq.
David A. Botwinik, Esq.	M. Robert Goldstein, Esq.
David N. Brainin, Esq.	Hon. Millard L. Midonick
John A. Cannistraci, Esq.	Edward E. Morris, Jr., Esq.
Faith Colish, Esq.	Joseph B. Russell, Esq.
Klaus Eppler, Esq.	

Appendix E: Annual Report to OCA

ATTORNEY DISCIPLINE ACTIVITIESPERIOD COVERED - ANNUAL 2003

FIRST JUDICIAL DISTRICT

FIRST DEPARTMENT

I. MATTERS PROCESSED:*

A. Matters Pending at Start of Period	<u>1431</u>	
B. New Matters During Period	<u>3495</u>	
C. Closed Matters Reactivated During Period	<u>73</u>	
D. Total Matters to be Processed During Period (A+B+C)		<u>4999</u>
E. Total Matters Disposed of During Period		<u>3653</u>
F. Matters Pending at End of Period		<u>1346</u>

II MATTERS DISPOSED OF BY COMMITTEE:

	Cases**	Matters
A. Rejected as Failing to State a Complaint	<u>769</u>	<u>786</u>
B. Referred to Other Disciplinary Committees	<u>380</u>	<u>382</u>
C. Referred to Other Agencies	<u>53</u>	<u>53</u>
D. Dismissed or Withdrawn	<u>2018</u>	<u>2113</u>
E. Dismissed through Mediation	<u>47</u>	<u>47</u>
F. Letter of Caution	<u>n/a</u>	<u>n/a</u>
G. Letter of Admonition	<u>73</u>	<u>87</u>
H. Admonition (or Reprimand)	<u>1</u>	<u>1</u>
I. Referred to Appellate Division (Disc. Proc.)	<u>117</u>	<u>184</u>
Total Disposed of During Period (same as I.E above.)	<u>3458</u>	<u>3653</u>

III. CASES PROCESSED IN ALL COURTS:

A. Cases Pending at Start of Period		<u>28</u>
1. Disciplinary Proceedings	<u>19</u>	
2. Other	<u>9</u>	
B. Cases Received During Period		<u>140</u>
1. Disciplinary Proceedings	<u>79</u>	
2. Other	<u>61</u>	
C. Total to be Processed During Period		<u>168</u>

ATTORNEY DISCIPLINE ACTIVITIES (2003)

D.	Cases Closed		
	1. Disbarred	18	
	2. Disciplinary Resignations	7	
	3. Suspended***	29	
	4. Censured	6	
	5. Privately Censured	3	
	6. Remanded to Disciplinary Committee	16	
	7. Discontinued	8	
	8. Dismissed	2	
	9. Reinstatements Granted	14	
	10. Reinstatements Denied	7	
	11. Non-Disciplinary Resignations	0	
	12. All Other Dispositions	29	
	13. Total Closed		139
E.	Total Cases Pending at End of Period		29
	1. Disciplinary Proceedings	24	
	2. Other	5	

For the purposes of this report, the term "Matter" includes the following:

1. Complaints
2. Inquiries (Excluding telephone inquiries)
3. Sua Sponte investigations

* In the First Dept., "matters" does not include inquiries.

**Cases refers to the number of respondent/attorneys. As some attorneys are the subject of multiple complaints, the number of matters may exceed the number of cases.

***Includes definite (18), interim (10) and indefinite suspensions (1).

Appendix F: Budget for Fiscal Year 2003-2004

Departmental Disciplinary Committee Budget
Fiscal Year 2003-2004

Appendix F: Budget for Fiscal Year 2003-2004

Departmental Disciplinary Committee Budget
Fiscal Year 2003-2004

<u>Item</u>	<u>Allocation</u>
Personal Service Total	\$3,280,389
Office Supplies	46,870
EDP Supplies	3,000
Legal Reference - General	16,291
Travel-General	5,972
Rentals of Equipment	3,960
Repairs of Equipment	11,355
Postage and Shipping	41,712
Printing - General	14,545
Telephones	35,776
Professional Services - General	64,496
Professional Services - Interpreters	3,000
Transcript Costs - General	37,750
Computer Assisted Legal Research	2,000
Equipment New - General	<u>24,000</u>
TOTAL	\$ 3,591,116

Appendix G: Sample Complaint

SUPREME COURT, APPELLATE DIVISION
FIRST JUDICIAL DEPARTMENT
DEPARTMENTAL DISCIPLINARY COMMITTEE
61 BROADWAY, 2ND FLOOR
NEW YORK, NEW YORK 10006

212/401-0800

Thomas J. Cahill
Chief Counsel

DATE: _____

Complainant(s):

Mr. () Ms. () Mrs. () _____
Last First Initial

Address: _____ Apt. _____

City State Zip Code

Telephone: Home _____ Business _____

Attorney Complained of:

Mr. () Ms. () Mrs. () _____
Last First Initial

Firm Name: _____

Address: _____ Suite/Floor _____

City State Zip Code

Telephone: _____

Complaints to other agencies:

Have you filed a complaint concerning this matter with another Bar Association, District Attorney's Office or any other agency:

If so, name of agency: _____

Action taken by agency: _____

Court action against attorney complained of:

Have you brought a civil or criminal action against this attorney?

If so, name of court: _____ Index No. _____

Statute: _____

Details of Complaint PLEASE PRINT LEGIBLY OR TYPE IN ENGLISH

Start from the beginning and be sure to tell why you went to the attorney, when you had contact with the attorney, what happened each time you contacted the attorney and what it was that the attorney did wrong. Please send this office copies of all papers that you received from the attorney with this form.

