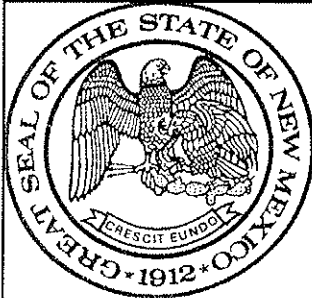
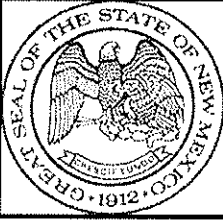


State of New Mexico



**2008
ANNUAL
REPORT**

Judicial Standards Commission



FY 2008 ANNUAL REPORT

COMMISSIONERS

David S. Smoak
Chairman

Gloria Taradash, Ph.D.
Vice-Chair

Larry Garcia

Hon. Buddy J. Hall

Hon. James A. Hall

Jesse James Johnson

Albert J. Lama, Esq.

Rosemary L. Maestas-Swazo, Esq.

Hon. Nan G. Nash

Julia Y. Seligman

William R. Valentine, D.M.D.

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Executive Director & General Counsel

Randall D. Roybal, Esq.
Deputy Director & Chief Staff Attorney

Elizabeth A. Garcia, Esq.
Trial Counsel

Evonne Sanchez
Paralegal

Eileen E. Casadevall
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JUDICIAL STANDARDS COMMISSION



STATE OF NEW MEXICO
JUDICIAL STANDARDS COMMISSION

POST OFFICE BOX 27248
ALBUQUERQUE, NEW MEXICO 87125-7248
(505) 222-9353

DAVID S. SMOAK
CHAIRMAN

GLORIA TARADASH, PH.D.
VICE-CHAIR

LARRY GARCIA
HON. BUDDY J. HALL
HON. JAMES A. HALL
JESSE JAMES JOHNSON
ALBERT J. LAMA, ESQ.
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JULIA Y. SELIGMAN
WILLIAM R. VALENTINE, D.M.D.

JAMES A. NOEL, ESQ.
EXECUTIVE DIRECTOR
GENERAL COUNSEL
RANDALL D. ROYBAL, ESQ.
DEPUTY DIRECTOR
CHIEF STAFF ATTORNEY

August 31, 2008

Honorable Governor Bill Richardson
Honorable Senators and Representatives of the New Mexico Legislature
Honorable Chief Justice and Justices of the New Mexico Supreme Court
Citizens of the State of New Mexico

Ladies and Gentlemen:

Another challenging but successful year is behind us. The Commission members continue to give us the time we need to perform all of our duties at an intense level. Trials take a lot of staff and Commission time, yet all continue to make the necessary commitment to improve our judicial system. Some of the high profile cases we have dealt with recently have been challenging, but we have spent the time to do our job well.

The process we use does work, and as part of that the Supreme Court reviews our work product and adds to it. As each year passes, the Commission staff become more experienced, efficient and effective in analyzing and prosecuting cases. While we have been recognized and acknowledged for our work by others around the country, we are constantly looking for ways to improve our efforts.

We thank the Legislature, Governor, Supreme Court and the Executive Director and staff of the Commission for all of their hard work and support. We look forward to another good year and continued improvement in New Mexico's judiciary.

Sincerely yours,

A handwritten signature in black ink that reads "David S. Smoak".

David S. Smoak
Chairman



STATE OF NEW MEXICO
JUDICIAL STANDARDS COMMISSION

POST OFFICE BOX 27248
ALBUQUERQUE, NEW MEXICO 87125-7248
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DAVID S. SMOAK
CHAIRMAN

GLORIA TARADASH, PH.D.
VICE-CHAIR

LARRY GARCIA
HON. BUDDY J. HALL
HON. JAMES A. HALL
JESSE JAMES JOHNSON
ALBERT J. LAMA, ESQ.
ROSEMARY L. MAESTAS-SWAZO, ESQ.
HON. NAN G. NASH
JULIA Y. SELIGMAN
WILLIAM R. VALENTINE, D.M.D.

August 31, 2008

Honorable Governor Bill Richardson
Honorable Senators and Representatives of the New Mexico Legislature
Honorable Chief Justice and Justices of the New Mexico Supreme Court
Citizens of the State of New Mexico

JAMES A. NOEL, ESQ.
EXECUTIVE DIRECTOR
GENERAL COUNSEL

RANDALL D. ROYBAL, ESQ.
DEPUTY DIRECTOR
CHIEF STAFF ATTORNEY

Ladies and Gentlemen:

The New Mexico Judicial Standards Commission has been recognized by the American Judicature Society's Center for Judicial Ethics as a leader in the field of judicial discipline, and over the past four years has consistently remained one of the most active judicial disciplinary agencies nationwide. This leadership role was acknowledged this fiscal year when the Commission's Deputy Director, Randall Roybal, was invited to serve on the national board of the Association of Judicial Disciplinary Counsel.

The number of written verified complaints received and docketed by the Commission in FY 2008 increased by 32%, from 109 in FY 2007 to 144 in FY 2008. Of those docketed matters, the Commission disposed of 139. Although the number of carry-over cases increased by five (29 from FY 2007 to FY 2008 to 34 from FY 2008 to FY 2009) the Commission disposed of all but six of the 29 cases carried over from FY 2007 into FY 2008.

Of the total number of cases disposed of in FY 2008, 6.5% were resolved through formal proceedings before the Commission. The remaining 93.5% were dismissed or resolved informally. Ten cases involving six judges were resolved through the judges' departure from office. The Commission met all of its statutory performance measures for FY 2008.

The end of fiscal year 2008 marked the end of the terms for Commissioners Bob Turner and Justice Dan Sosa, Jr. (Retired). The New Mexico Board of Bar Commissioners appointed Rosemary L. Maestas-Swazo to replace Mr. Turner. Governor Bill Richardson appointed Jesse James Johnson to replace Justice Sosa, and appointed Julia Y. Seligman to a previously vacated position. Mr. Turner and Justice Sosa will be missed, but we take this opportunity to welcome Ms. Maestas-Swazo, Mr. Johnson, and Ms. Seligman to the Commission. On behalf of the Commission and its staff, thank you for your support. We welcome your comments and suggestions.

With best regards,

A handwritten signature in cursive script, appearing to read "James A. Noel".

James A. Noel
Executive Director & General Counsel



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COMMISSION TERMS & POSITIONS

As set forth in Article VI, §32 of the New Mexico Constitution and New Mexico Statutes Annotated §34-10-1 through §34-10-4, the Judicial Standards Commission is composed of eleven members. Six members are lay citizens appointed by the Governor, two members are attorneys appointed by the Board of Bar Commissioners, two members are justices or judges of the New Mexico Supreme Court, Court of Appeals or District Courts appointed by the Supreme Court, and one member is a magistrate judge appointed by the Supreme Court. Lay members are appointed to staggered five-year terms, while attorney and judicial members are appointed to staggered four-year terms. Commissioners are not paid a salary, but receive per diem and reimbursement for expenses as provided by law. Each year the Commissioners elect a Chair and Vice-Chair from the lay membership.

Pursuant to NMSA §34-10-1(A), no more than four of the six positions appointed by the Governor may be occupied by persons from the same political party. Party affiliations are noted below in parentheses for the gubernatorial appointees (positions 1–5 and 10).

STATUTORY POSITION TERMS AS OF JUNE 30, 2008

See NMSA 1978, §34-10-1, as amended June 1999.

<u>Position No.</u>	<u>Filled By</u>	<u>Appointed By</u>	<u>Statutory Term</u>
1	David S. Smoak (D)	Governor	07/01/04–06/30/09
2	William R. Valentine, D.M.D. (R)	Governor	07/01/05–06/30/10
3	Gloria Taradash, Ph.D. (D)	Governor	07/01/06–06/30/11
4	Vacant	Governor	07/01/07–06/30/12
5	Hon. Dan Sosa, Jr. (Ret.)(D)	Governor	07/01/03–06/30/08
6	Albert J. Lama, Esq.	State Bar	07/01/06–06/30/10
7	Bob F. Turner, Esq.	State Bar	07/01/04–06/30/08
8	Hon. Nan G. Nash	Supreme Court	07/01/07–06/30/11
9	Hon. James A. Hall	Supreme Court	07/01/05–06/30/09
10	Larry Garcia (R)	Governor	07/01/04–06/30/09
11	Hon. Buddy J. Hall	Supreme Court	07/01/07–06/30/11

Outgoing Members: Hon. Dan Sosa, Jr. (Retired) and Bob F. Turner, Esq.

Incoming Members: Julia Y. Seligman (D) (Position No. 4 on 7/28/08), Jesse James Johnson (D) (Position No. 5 on 7/28/08), and Rosemary L. Maestas-Swazo, Esq. (Position No. 7 on 7/1/08).





COMMISSION MEMBERS



Standing from left to right: Hon. Buddy J. Hall, Hon. Dan Sosa, Jr. (Retired), Hon. James A. Hall, and Albert J. Lama, Esq. Seated from left to right: Larry Garcia, Vice-Chair Gloria Taradash, Ph.D., Chairman David S. Smoak, Hon. Nan G. Nash, and William R. Valentine, D.M.D. Not pictured: Bob F. Turner, Esq.



LARRY GARCIA was appointed to the Commission by Governor Bill Richardson in 2004. He is a New Mexico native and proprietor of Suits Unlimited, a full-line, men's clothing and specialty store in Albuquerque. He is a part-time chef and caters events with Chef Victor Rede of Rede-to-Cater. Prior to establishing his retail business, Mr. Garcia served as Gunnery Sergeant in the United States Marine Corps and was discharged honorably after 14 years of regular and reserve service. Mr. Garcia is a strong community and political activist. He served as chairman and treasurer for numerous city, county and state political campaigns. He has also served on a variety of boards, including Presbyterian Hospital Foundation and the City of Albuquerque Campaign and Elections Board of Ethics. He has served as chairman of the New Mexico Retailers Association, in addition to serving on the Association's Board of Trustees and

Self-Insured Group. Mr. Garcia is also an active member of the Albuquerque Hispano Chamber of Commerce and the Rio Grande Minority Purchasing Council.



HON. BUDDY J. HALL was appointed to the Commission by the New Mexico Supreme Court in 2002 and reappointed in 2007. Judge Hall earned an associate of science degree from Clarendon Junior College in 1982 and a bachelor of science degree in animal science from the Texas Tech University in 1984. He has served on the bench of the De Baca County Magistrate Court since 1995. In addition to his judicial duties, Judge Hall has served on several Magistrate Court boards and committees, including the Magistrate Board of Directors, Data Standards, Classification Committee (current chairman), Clerks' Manual Review Panel, and the Magistrate Training Conference Panel. Judge Hall has also served on other community and charitable organizations,

including the Community Corrections Advisory Panel, De Baca County Health Council, De Baca County DWI Task Force, Rotary International, De Baca County Chamber of Commerce, and the Valley Volunteer Fire Department. He also serves as the public address announcer for the Fort Sumner High School football games and volunteers at the school for other athletic as well as academic events. He is also a lay minister.

HON. JAMES A. HALL was appointed to the Commission by the New Mexico Supreme Court in 2004 and reappointed in 2005. Judge Hall became a District Judge in the First Judicial District Court in Santa Fe in April 1995. Before his appointment as a District Judge, he worked as a lawyer handling both civil and criminal cases. After graduating from the University of Michigan Law School in 1983, he came to Santa Fe where he first worked for a private law firm. Later, he worked for both the New Mexico Attorney General and the First Judicial District Attorney. Since his appointment to the bench, Judge Hall has worked in various divisions of the First Judicial District Court. He has worked in the Criminal Division, Family Court, and is presently assigned to the Civil Division. While in the Criminal Division, Judge Hall acted as the first Drug Court judge for the First Judicial District. From September 2001 to April 2008, Judge Hall served as Chief Judge of the First Judicial District Court.



ALBERT J. LAMA, ESQ. was appointed to the Commission by the State Bar Board of Bar Commissioners in 2006. He has been in government law practice for the past 19 years. Mr. Lama received his juris doctor degree from the Creighton University School of Law and his bachelor of arts degree in English from the University of Arizona. He began his public law career as staff counsel to the New Mexico Department of Public Safety. In December 1990, he began working as an Assistant Attorney General for New Mexico Attorney General Tom Udall. In 1999, he was appointed Civil Division Director by Attorney General Patricia Madrid. In 2004, Mr. Lama was appointed Chief Hearing Officer for the New Mexico Taxation and Revenue Department. He returned to the New Mexico Attorney General's office in early 2007, and currently serves as Chief Deputy Attorney General for New Mexico Attorney General Gary K. King. Mr. Lama is a member of the State Bar of New Mexico, U.S. District Court for the District of New Mexico, and recently served as President of the Public Law Section of the New Mexico State Bar. He is also a former U.S. delegate to South Korea and the Republic of Turkey for the American Council of Young Political Leaders. He currently serves as a board member for Southwest Care Center, a Santa Fe based non-profit organization that serves the medical needs of New Mexicans living with HIV/AIDS.



HON. NAN G. NASH was appointed to the Commission by the New Mexico Supreme Court in 2007. Judge Nash earned a bachelor of science degree in 1985 in environmental biology and public policy and a juris doctor degree in 1989 from Indiana University. She is a district judge and has served on the bench of the Second Judicial District Court in Bernalillo County since 2003. Judge Nash served as the presiding judge of the family court from 2004 to 2007, and is currently assigned to the civil court. Prior to taking the bench, she was a family court hearing officer, a special commissioner in domestic violence, director of the court alternatives division, and an associate attorney at an insurance defense law firm in Albuquerque. Judge Nash is also an adjunct professor at the University of New Mexico School of Law and has taught courses in alternative dispute resolution, a family violence seminar, and family mediation training. Judge Nash is involved in numerous professional committees and task forces, particularly in the areas of domestic violence and alternative dispute resolution.





DAVID S. SMOAK was appointed to the Commission by Governor Bill Richardson in 2004. He has served as chairman of the Commission since August 2004. Mr. Smoak is chairman of Coldwell Banker Commercial - Las Colinas. He has actively participated in various projects, including power center development, shopping center ownership, management and leasing and office building development, ownership and management. Mr. Smoak started his career on the audit staff of Price Waterhouse in Atlanta, Georgia, as a CPA with bachelor and masters degrees in accounting. He has been a controller and chief financial officer of public companies, and served as chief executive officer of Wilson Foods, a Fortune 500 company. Mr. Smoak served as vice-president of Export-Import Bank of the United States, executive director of the White House Conference on Small Business, and associate director of the Office of Business Liaison-Office of the U.S. Secretary of Commerce. Mr. Smoak also served as chairman of the board of trustees for the Jimmy Carter Inaugural Trust for approximately ten years. Mr. Smoak has an extensive background in accounting, finance and corporate management and has developed extensive experience with deal analysis and structuring. He is also president of New Mexico Ventures, Inc., which acts as the general partner or managing member of several real estate investment entities in New Mexico involved in the holding, planning, sale, development and management of property.



HON. DAN SOSA, JR. (RETIRED) was appointed to the Commission by Governor Bill Richardson in 2003. He earned an undergraduate degree from New Mexico State University in 1947 and a juris doctor degree from the University of New Mexico. He is a retired Chief Justice of the New Mexico Supreme Court. Justice Sosa is a native New Mexican, a distinguished lawyer, and a decorated veteran of the armed forces. He was the first graduate of the University of New Mexico Law School to serve on the New Mexico Supreme Court, where he served 16 years. Justice Sosa's term on the Commission expired June 30, 2008.



GLORIA TARADASH, PH.D. was appointed to the Commission by Governor Bill Richardson in 2003 and reappointed in 2006. She was elected vice-chair of the Commission in August 2004. Dr. Taradash is an independent education consultant focusing on issues of giftedness and diversity. She currently serves on the Superintendent's Council on Equity for Albuquerque Public Schools and a variety of boards and committees, including the board of directors for the Black Caucus of Special Educators. Since 2004, Dr. Taradash has served as past-president of The Association for the Gifted, a division of the International Council for Exceptional Children.



BOB F. TURNER, ESQ. was appointed to the Commission by the State Bar Board of Bar Commissioners in 2004. He received a bachelor of science degree in the business school at the University of Missouri in 1955 and received a juris doctor degree in 1960 from the University of Colorado Law School. He started practicing law in Roswell, New Mexico in June 1960 and for 37 years worked as a trial attorney in areas of personal injury, products liability, medical malpractice, oil and gas contract matters, and commercial and complex litigation. He is now *of counsel* for the law firm of Atwood, Malone, Turner & Sabin in Roswell. He served on the Medical Legal Malpractice Screening Panel and the New Mexico Medical Review Commission for over 20 years. He was appointed by the New Mexico Supreme Court to serve on the Uniform Jury Instructions-Civil Committee from 1998 to 2002. He is a past president of the Chaves County Bar Association and of the New Mexico

Defense Lawyers Association. He is a member of the State Bar of New Mexico; a Fellow in the American College of Trial Lawyers; and has been listed in all editions of the Best Lawyers in America. He is presently a lay leader in the Crown Financial Ministry of Grace Community Church in Roswell. Mr. Turner's term with the Commission expired on June 30, 2008.

WILLIAM R. VALENTINE, D.M.D. was appointed to the Commission by Governor Bill Richardson in 2003. He received a bachelor of science degree in chemistry in 1966 and his doctor of dental medicine degree in 1970 from the University of Pittsburgh. He is a dentist who has served New Mexico in a number of capacities, from his work with the U.S. Public Health Service as a dentist on several Indian Reservations, to his three terms as a state senator and as a consultant for the New Mexico Dental Association.



FY 2009 INCOMING COMMISSION MEMBERS

JESSE JAMES JOHNSON was appointed to the Commission by Governor Bill Richardson in July 2008. He is a 1988 graduate of Raton High School and earned a certificate from the Phoenix Institute of Technology in 1989. He is an activity director with the Miners Colfax Medical Center, working with acute and long-term care patients, and is also the Mayor-Pro Tem and an elected City Commissioner for the city of Raton. Mr. Johnson previously served as a motor transportation inspector with the New Mexico Department of Motor Transportation, and for 13 years as the Wholesale Manager for Duran Oil Company operating in northeast New Mexico and southeast Colorado. Mr. Johnson has held offices with the Elks Lodge and the Knights of Columbus, and he is the area chairman for the Employer Support of Guard and Reserve, a joint effort of the state and federal national guard. Mr. Johnson has also worked with the Colfax County Citizen's Police Academy, Youth Police Academy, and managed Little League teams.

ROSEMARY L. MAESTAS-SWAZO, ESQ. was appointed to the Commission by the State Bar Board of Bar Commissioners in July 2008. She earned a bachelor of arts degree in political science from the University of New Mexico in 1983, a bachelor of accountancy degree *summa cum laude* from the College of Santa Fe in 1985, a masters of business administration degree *summa cum laude* from the College of Santa Fe in 1987, and a juris doctor degree from the University of New Mexico Law School in 1995. Ms. Maestas-Swazo served as corporate counsel at the Public Service Company of New Mexico for four years. She previously served for six years as an assistant attorney general to both Attorneys General Tom Udall and Patricia Madrid, in the Civil and Special Consumer Projects Divisions and served as the first Special Counsel on Indian Affairs. Ms. Maestas-Swazo previously served as the interim deputy CEO and in-house legal counsel for Tsay Corporation, San Juan Pueblo; as an associate attorney with the Nordhaus, Haltom, Taylor, Taradash & Frye law firm; and as an appellate attorney with the U.S. Department of Justice, Environmental and Natural Resources Division, Appellate Section. Prior to practicing law, Ms. Maestas-Swazo held several positions within the Mechanical and Electronics Engineering Division of the Los Alamos National Laboratory. Her volunteer activities and awards include past president of the New Mexico Indian Bar Association, past president of the State Bar of New Mexico's Indian Law Section, Tsay Corporation board of directors, State Bar Code of Professional Conduct Committee, State Bar Commission on Professionalism, H. Vearle Payne Inn of the Courts, deputy chair of LANL Women's Committee, LANL Selection and Hiring Committee for Deputy Officer of AAEEEO, and the LANL American Indian Heritage Planning Committee. In 2004, Ms. Maestas-Swazo received both the YWCA Women on the Move Award and the State Bar of New Mexico's Outstanding Contribution Award.

JULIA Y. SELIGMAN was appointed to the Commission by Governor Bill Richardson in July 2008. She earned a bachelor's degree from the University of Michigan and a master's degree in political science from Columbia University. Ms. Seligman has a long, distinguished professional and service history. She worked for Nelson Rockefeller in the Department of Inter-American Affairs, for U.S. Senator Dennis Chavez (D-NM), as a secretary at the American Consulate in Mexico. During World War II, she worked as the public relations representative for RKO Pictures and as a script supervisor in Hollywood. Upon moving after the war to her husband's family home in Bernalillo, she worked as secretary to Judge John Simms, Sr. for a little over one year, but left to work in the Seligman family's Indian jewelry business. Most recently, she worked for 19 years as the manager and buyer for the Albuquerque Museum Gift Shop. Ms. Seligman received the Women of Courage and Vision Award in 2001, the Lifetime Achievement Award from the Commission on the Status of Women in 2007, and the Living Legend Award from the Rotary Club of Albuquerque in 2007. Ms. Seligman has an extensive history of community service. Current leadership roles include the Jewish Community Center, Hubbell House Alliance, Wheels Museum, and Casa Angelica Foundation. In 2007, she completed ten years of service on the Judicial Performance Evaluation Commission. Past community service leadership roles include the Albuquerque Museum of Art and History, Albuquerque Museum Foundation, and Albuquerque Museum Board of Trustees, New Mexico Natural History Museum, National Hispanic Cultural Center, League of Women Voters, Rotary Club of Albuquerque, Arts Alliance, Albuquerque Little Theater, Girl Scouts of America, All Faiths Receiving Home, Assistance League of Albuquerque, Salvation Army, Albuquerque Community Chest (now United Way of New Mexico), Congregation Albert Sisterhood, National Council of Jewish Women, Maxwell Museum, Friends of Albuquerque Library, Better Albuquerque Committee, Women's Resource Group, Planned Parenthood of New Mexico, and Dance Theater Albuquerque.

CHAIRS OF THE COMMISSION

LUTHER A. SIZEMORE, June 1968–November 1969
 BOYD WEST, November 1969–June 1970
 MORRIS E. H. BINGHAM, June 1970 - October 1972
 LUCY M. SALAZAR, October 1972–June 1974
 RICHARD VANN, June 1974–June 1975
 DORIS WAKELAND, July 1975 - August 1977
 LUCY M. SALAZAR, August 1977–July 1979
 LOIS CHAPMAN, July 1979–August 1980
 LUCY M. SALAZAR, August 1980–July 1981
 SUSAN S. DIXON, July 1981 - September 1982
 ELOY A. DURAN, September 1982–August 1983
 ALBERT N. JOHNSON, August 1983 - December 1984
 JUNE O. KELLER, December 1984–June 1985
 HARRY THOMAS, June 1985 – July 1989
 HUBERT QUINTANA, July 1989–September 1991
 PEGGY C. TRAVER, September 1991–June 1992
 FRED HARRIS, July 1992–August 1994
 DONALD PERKINS, August 1994–February 1996
 ELEANOR SELIGMAN, February 1996–April 1997
 DOUGLAS W. TURNER, April 1997–August 1999
 BARBARA A. GANDY, August 1999–June 2001
 DOUGLAS W. TURNER, July 2001–March 2003
 HON. DAN SOSA, JR., October 2003–August 2004
 DAVID S. SMOAK, August 2004–Present

EXECUTIVE DIRECTORS OF THE COMMISSION

DAVID R. GARDNER, ESQ.
 October 1974–September 1984

SAMUEL W. JONES, ESQ.
 September 1984–June 1993

PEG A. HOLGIN, ESQ.
 July 1993–October 2003

JAMES A. NOEL, ESQ.
 January 2004–Present



COMMISSION STAFF MEMBERS



From left to right: James A. Noel, Esq., Evonne Sanchez, Randall D. Roybal, Esq., Krista M. Ganes, Shariesse T. McCannon, Elizabeth A. Garcia, Esq., and Douglas H. Carver.

EXECUTIVE DIRECTOR & GENERAL COUNSEL

JAMES A. NOEL, ESQ. joined the Judicial Standards Commission in January 2004 as Executive Director and General Counsel. Mr. Noel earned a bachelor of arts degree in political science and anthropology in 1985, and a masters degree in business administration in 1988 from Indiana University. Subsequently Mr. Noel held environmental management and engineering positions throughout the Department of Energy Complex, including posts at Lawrence Livermore National Laboratory, Portsmouth Uranium Enrichment Plant, and Los Alamos National Laboratory, where he oversaw the project control function of the multi-million dollar Environmental Restoration Program. Mr. Noel returned to academia in 1997 to attend law school. He earned a juris doctorate degree in 2000 from the University of New Mexico School of Law. Prior to joining the Commission, Mr. Noel was in private practice handling complex litigation, personal injury and insurance bad faith cases. Mr. Noel has participated in or served with various legal, civic, and governmental entities, including the Association of Judicial Disciplinary Counsel, Albuquerque Bar Association, New Mexico Trial Lawyers Association, Association of Trial Lawyers of America, Federalist Society, Judicial Selection Commissions for Metropolitan Court (2002 & 2003), New Mexico Legislature's Election Reform Task Forces (2004 & 2005), and Governor Bill Richardson's Ethics Reform Task Forces (2006 & 2007).





DEPUTY DIRECTOR & CHIEF STAFF ATTORNEY

RANDALL D. ROYBAL, ESQ. joined the Commission staff in 1998 and serves as Deputy Director and Chief Staff Attorney. He earned a bachelor of arts degree in economics in 1988 from the University of New Mexico and a juris doctor degree in 1991 from the University of Notre Dame Law School. Prior to joining the Commission, he served as an assistant attorney general to Attorney General Tom Udall, handling civil litigation, administrative licensing prosecutions before state boards and commissions, judicial writs defense, and complex prison reform litigation. Before entering public service, Mr. Roybal practiced law privately for five years, both as an associate of an insurance defense firm and as the principal of his own general practice firm. In 2007, Mr. Roybal was elected to the board of directors for the Association of Judicial Disciplinary Counsel. Additionally, he is a current member of the Albuquerque Bar Association and the American Constitution Society for Law and Policy. Past professional memberships in other legal, civic and charitable organizations include: American Bar Association, New Mexico Trial Lawyers Association, New Mexico State Bar Committee on Women in the Profession, New Mexico State Bar Committee on Minorities in the Profession, New Mexico State Bar Young Lawyers Division AIDS Law Panel, New Mexico Domestic Violence Legal HELPLINE, and the board of directors of New Mexico AIDS Services.



TRIAL COUNSEL

ELIZABETH A. GARCIA, ESQ. joined the Commission staff in 2005 and serves as Trial Counsel. She earned a bachelor of arts degree *cum laude* in political science in 1995 from the University of New Mexico, and a juris doctor degree in 1998 from Washington and Lee School of Law. Prior to joining the Commission, she served as an assistant district attorney in the Thirteenth Judicial District handling violent felony cases. Before entering public service, Ms. Garcia practiced law privately for four years as an associate of a large civil defense firm handling education, employment and tort law cases. She has participated in or served with various legal, civic and charitable organizations, including the Association of Judicial Disciplinary Counsel, American Bar Association, past co-chair of the New Mexico State Bar Committee on Women and the Legal Profession, the New Mexico State Bar Pro Bono Subcommittee, New Mexico Hispanic Bar Association, New Mexico Women's Bar Association, Albuquerque Bar Association, EmergeNM, Washington and Lee NM Alumni Chapter-Board of Directors/Treasurer, and the University of New Mexico Young Alumni Association-Charitable Activities Chair.



PARALEGAL

EVONNE SANCHEZ joined the Commission in 2004 as Paralegal. She earned her paralegal certificate from the University of New Mexico in 1996 and has been an active member of the Paralegal Division of the State Bar of New Mexico since 2000. She is the Albuquerque area coordinator for the division's continuing legal education programs and co-chairs the committee for statewide CLE programs. She has legal assistant and paralegal experience spanning over 21 years. Prior to joining the Commission staff, the majority of Ms. Sanchez's legal work was performed as a paralegal and office manager for an Albuquerque law firm specializing in criminal defense. Ms. Sanchez also has substantial experience in the areas of personal injury and civil litigation.

ADMINISTRATIVE/LEGAL ASSISTANT

SHARIESSE T. MCCANNON joined the Commission staff in 2004 and serves as Administrative/Legal Assistant. She is the Clerk of the Commission and also serves as Human Resources Manager. Ms. McCannon graduated from Eldorado High School in Albuquerque, attended the University of New Mexico, and earned her diploma in Computer Information Systems from Albuquerque Technical-Vocational Institute in 1981. Ms. McCannon earned her Accredited Legal Secretary (ALS) certificate in 1995 from the National Association of Legal Secretaries, for which she later taught legal assistant courses and organized court clerk workshops. She has experience as a legal assistant and paralegal, including extensive trial experience, dating back to 1990. Prior to joining the Commission, Ms. McCannon was employed as a paralegal for a prominent Albuquerque plaintiff's law firm, concentrating in mass tort litigation, personal injury, and nursing home litigation. Ms. McCannon is involved in her community, founding and serving as President/board member of her neighborhood association for many years.



FINANCIAL SPECIALIST

KRISTA M. GIANES joined the Commission staff in 2005 as Paralegal/Financial Specialist. She earned an associate of applied science degree in paralegal studies from the Albuquerque Technical Vocational Institute in 2006. She is a member of the Paralegal Division of the State Bar of New Mexico and in 2007 was appointed to the Paralegal Advisory Committee for Central New Mexico Community College. Prior to joining the Commission, Ms. Gianes served for three years as a court clerk to Hon. Marie Baca of the Second Judicial District Court, Children's Court Division.



LAW CLERK

DOUGLAS H. M. CARVER joined the Judicial Standards Commission in the summer of 2005 as the Commission's first Law Clerk. He earned a bachelor of arts degree in history from Yale University. He then worked as a technical writer for a construction management firm supervising a multi-million dollar project in Washington, DC, before heading to Trinity College, Dublin, Ireland to obtain a master of philosophy degree in medieval history. He began work on a doctorate in medieval history, taught classes in medieval and early modern history, and was awarded a year-long Rome Prize Fellowship to the American Academy in Rome. Upon returning from Ireland, Mr. Carver worked as a manager in a bookstore and in wildlife rehabilitation before deciding to pursue a legal career. He entered the University of New Mexico School of Law in 2004 and, after a leave of absence, anticipates receiving his juris doctor degree in May 2009.



INCOMING STAFF

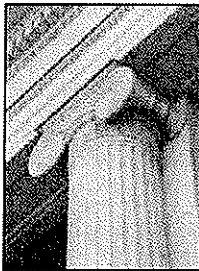
EILEEN E. CASADEVALL joins the Commission staff in August 2008 as a paralegal. She started with the Commission in June 2008 as a temporary part-time clerk. She earned an associate of applied science degree in paralegal studies in May 2008 from Central New Mexico Community College. She also earned associate certificates in casualty claim law and automobile claim law in 2006 and 2001, respectively, and a claim specialist certificate in legal principles in 2000 from the American Educational Institute. She has more than 23 years of experience as a legal assistant and paralegal. Prior to joining the Commission staff, Ms. Casadevall worked for twelve years as a senior staff administrative assistant and LAN administrator for the Albuquerque staff counsel's office of a major insurance company. She also previously served as a legal assistant/paralegal with an Albuquerque insurance defense law firm and with other law firms throughout the western United States. Ms. Casadevall also served as court clerk to Hon. H. Jeffrey Coker of the Coconino County Superior Court in Flagstaff, Arizona.



AUTHORITY, PROCEDURE & CONFIDENTIALITY

JURISDICTION & AUTHORITY

Article VI, §32 of the New Mexico Constitution and New Mexico Statutes Annotated §§34-10-1, *et seq.*, authorize the Judicial Standards Commission to investigate complaints involving allegations of willful misconduct in office; persistent failure or inability to perform a judge's duties; habitual intemperance; and disability seriously interfering with the performance of the judge's duties which is, or is likely to become, of a permanent character.



See Appendices I, J, and K for the Commission's constitutional authority, statutory authority, and the Code of Judicial Conduct, respectively.

The Commission's jurisdiction extends over complaints made against currently serving Justices of the Supreme Court and all other judges within the state judicial branch, including the Court of Appeals, district courts, metropolitan court, magistrate courts, probate courts, and municipal courts. The Commission also has jurisdiction over judicial candidates as provided in the New Mexico Code of Judicial Conduct, NMSA §§21-001,

et seq. The Commission does not have jurisdiction over special masters, special commissioners, hearing officers, federal judges, Workers' Compensation Administration judges, or other administrative law judges. Where necessary, the Commission holds hearings and, if allegations are proven, recommends appropriate sanctions to the New Mexico Supreme Court.

CONFIDENTIALITY

As required by the New Mexico Constitution, all matters filed with and handled by the Commission are confidential. Proceedings lose their confidential character only when the Commission files the case record with the New Mexico Supreme Court. The Supreme Court's docket sheets, files and hearings are open and available to the public, unless otherwise ordered by the Court. However, confidentiality is maintained at the Commission level.

A complainant's name may be disclosed to the judge who is the subject of a complaint, only if required by the Judicial Standards Commission Rules. Commission staff cannot respond to requests for information regarding a complaint or any other proceeding before the Commission. Commission staff may direct inquiries to the Supreme Court for public information. However, all complainants will receive written notification of disposition of a complaint, subject to the limits of confidentiality.

The New Mexico Constitution states that the filing of papers with, or giving of testimony before the Commission or its masters, is privileged in any action for defamation. However, if a complainant divulges a complaint or the contents thereof to individuals other than the Judicial Standards Commission, the complainant may be subject to an action for defamation by the target individual if the statements are untrue. Only the filing of the complaint with the Judicial Standards Commission is privileged with respect to any action for defamation.

ACTIONS THE COMMISSION CANNOT TAKE

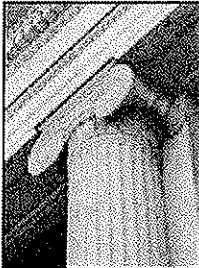
The Commission is not an appellate court. The Commission cannot change any judge's ruling, intervene in litigation on behalf of a party, affect the outcome of a court case, or remove a judge from a case. The filing of a complaint with the Commission does not require a judge to recuse or be disqualified from an underlying court case. The Commission and its staff do not provide legal advice.

FILING, REVIEW AND INVESTIGATION OF COMPLAINTS

Anyone may file a complaint against a justice or judge using the Commission's complaint form. The Commission may also docket allegations on its own motion. The Judicial Standards Commission Rules require that complaints be verified (i.e., substantiated by oath and notarized). The Commission may undertake an investigation on its own motion when it has credible knowledge of misconduct by or disability of a judge.

Inquiries about complaint procedures may be made in writing or by telephone. When a complaint is received, the Commission and/or its staff will review the complaint to determine if it falls within the Commission's jurisdiction. After determining that jurisdiction exists, the Commission may conduct an initial inquiry. The Commission may direct staff to conduct additional investigation, if necessary.

Judges are neither notified of frivolous or unsubstantiated complaints, nor informed of complaints that are extra-jurisdictional or appellate in nature. Such cases are typically dismissed after review by the Commission.



See Appendix A for a flow chart of the Commission process, Appendix L for the Commission's procedural rules, and Appendix M for the Supreme Court's procedural rules for review of Commission cases.

ACTIONS THE COMMISSION CAN TAKE ON COMPLAINTS

Initial Inquiry. If it is determined that the complaint, report or other information about the judge's conduct could constitute misconduct, the Executive Director and/or Commission staff may conduct a confidential inquiry. The Commission may require the judge to submit a written explanation and disclosure of all pertinent facts and relevant documentation in response to the Commission's

request. If such request is made, the judge is allowed ten days in which to provide the response.

If it is determined after initial inquiry that there are insufficient grounds to proceed, the case will be closed. The complainant and the judge, if notified previously, will be informed of the disposition. A closure of the matter at this stage of the Commission's proceedings remains confidential.

Preliminary Investigation. If the complaint appears to allege facts not obviously frivolous or unfounded indicating a disability or a violation of the New Mexico Code of Judicial Conduct, the Commission may complete a preliminary investigation to determine whether formal proceedings should be initiated and a hearing held. The Commission may also initiate a preliminary investigation on its own motion. The judge will be notified with a notice of preliminary investigation that sets forth the nature of the complaint and identifies the source of the complaint. The judge must respond in writing to the notice of preliminary investigation within fifteen days of service.

POLICY STATEMENT

It has been the long-standing policy of the New Mexico Judicial Standards Commission to interact with the public via U.S. Post, telephone, and in-person contact.

The Commission does not accept correspondence via e-mail, including requests to inspect public records. The Commission does not accept complaint forms via e-mail or facsimile.

If it is determined after preliminary investigation that there are insufficient grounds to proceed, the case will be closed and the complainant and the judge will be informed of the disposition. A closure of the matter at this stage of the Commission’s proceedings remains confidential.

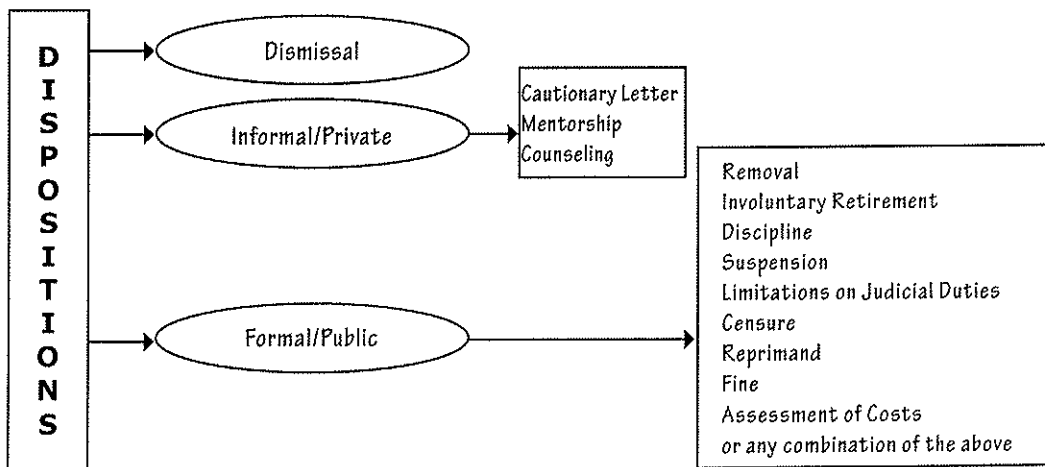
Formal Proceedings. If at least six members of the Commission vote to begin formal proceedings, a notice of formal proceedings will be issued and served upon the judge. The notice of formal proceedings will contain the charges alleged, the facts upon which the charges are based, the laws, canons and rules allegedly violated, and the constitutional provisions under which the Commission invokes its jurisdiction in the proceedings. After service of a notice of formal proceedings, the Commission’s jurisdiction attaches and is not affected by subsequent resignation or termination from office. The judge’s answer to the notice of formal proceedings is due within fifteen days of service.

Upon filing and issuance of the notice of formal proceedings, the Commission will set a date for a formal hearing on the merits. The Commission may hear the case itself or appoint three judges as special masters to hear the matter, take evidence, and report their findings to the Commission. The formal hearing is a closed hearing. The judge has a right to and is given a reasonable opportunity to defend with evidence, to be represented by counsel, and to examine and cross-examine witnesses. The standard of proof is clear and convincing evidence. At least six Commissioners must agree on a determination of misconduct and in recommending removal, retirement or discipline of a judge to the Supreme Court.

If the Commission determines at any time prior to the conclusion of the formal proceedings that there is insufficient evidence to support allegations against the judge, those allegations will be dismissed. In some cases, the Commission has found evidence of wrongdoing, but has determined that the judge’s actions were the result of misunderstanding, rather than willful misconduct. In those situations, the judge may be referred for counseling to the Supreme Court or to a judge having supervisory authority.

Dispositions. The Commission may dispose of a case by dismissing it, privately informing the judge that conduct may violate the standards of judicial conduct, and/or proposing professional counseling or assistance for the judge.

Sanctions. If the Commission votes to recommend to the Supreme Court that a judge should be sanctioned, the following sanctions are available: removal, retirement, discipline (suspension, limitations or conditions on judicial duties, reprimand or censure, fine, and assessment of costs and expenses), or any



combination of the above. The Supreme Court may set a hearing on the Commission’s recommendations. The Court will render a decision adopting, rejecting, or modifying the recommendation of the Commission or requiring some other action.

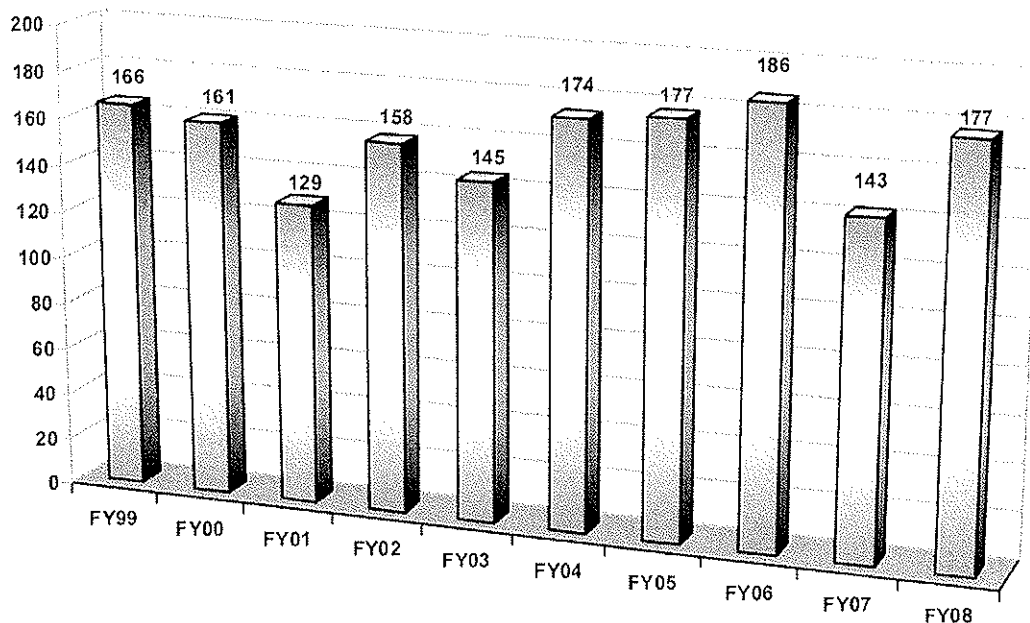


COMPLAINTS, DISPOSITIONS & PERFORMANCE JULY 1, 2007–JUNE 30, 2008

COMPLAINTS RECEIVED

In FY 2008 the Commission received 177 written complaints in the following categories: 144 verified complaints (includes Commission-initiated complaints) and 33 unverified complaints.

10-YEAR HISTORY OF WRITTEN COMPLAINTS



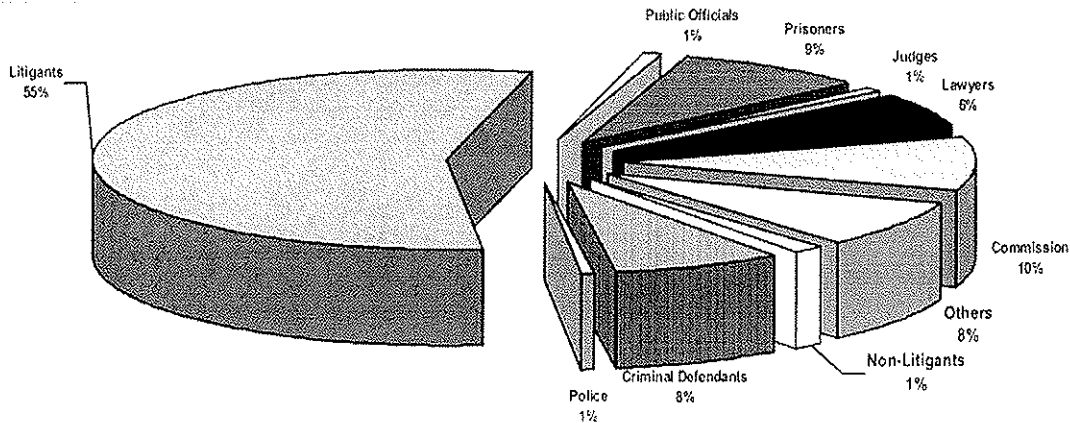
The Commission has an established pre-screening process for telephonic and in-person complaints. Staff members make every effort to discuss callers' situations in detail as appropriate. Staff informs callers about the limited scope of the Commission's jurisdiction under state law and spends substantial time assisting each person assess the merits of his or her allegations in light of the Commission's jurisdictional scope and determining what results the callers desire. Complaint forms are mailed to all callers who request one. Since October 2001, complaint forms and detailed filing instructions have also been available to download from the Commission's web site.

SOURCES OF VERIFIED COMPLAINTS

Of the verified complaints filed with the Commission, most were filed by litigants. The distribution of the sources of written, verified complaints was the following: 80 by litigants or litigants' family/friends, 11 by criminal defendants or criminal defendants' family/friends, 2 by non-litigants, 1 by a public official, 9 by lawyers, 1 by a judge, 1 by a police officer, 13 by prisoners, and 12 by others. Additionally, 14 complaints were initiated by the Commission on its own motion. The chart on the following page illustrates these figures.

STATISTICS

COMPLAINT SOURCES



JUDGES REVIEWED ON VERIFIED COMPLAINTS

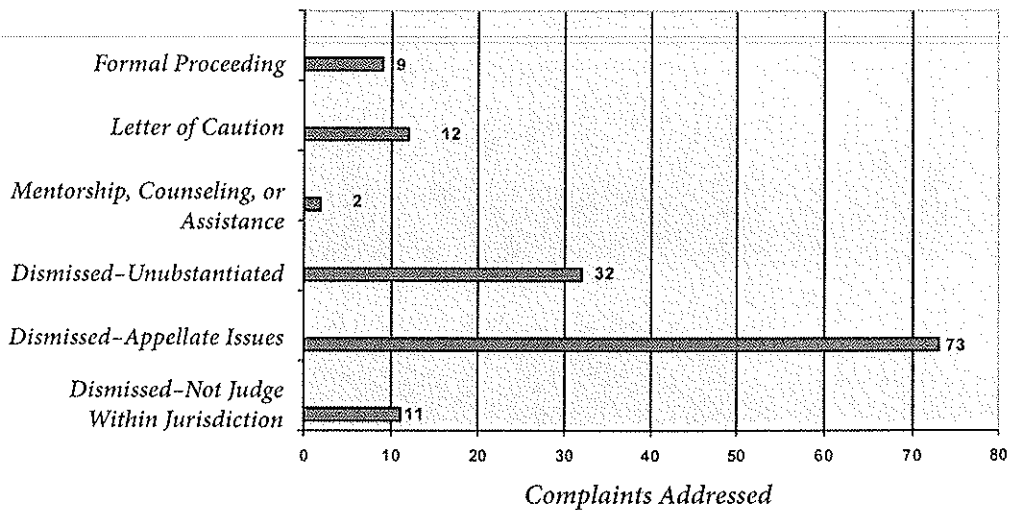
Judges in most levels of the judiciary were the subjects of the 144 written, verified complaints in FY 2008. Most complaints were filed against judges of the district courts (46.5%), followed by magistrate judges (26.4%), municipal judges (13.1%), metropolitan judges (5.6%), Court of Appeals judges and probate court judges (1.4% each), and Supreme Court Justices (0.7%). Complaints against individuals who are not within the scope of the Commission's jurisdiction accounted for 4.9% of the complaints (e.g., federal judges, hearing officers, court staff members, former judges, deceased judges, and attorneys).

JUDICIAL BRANCH	VERIFIED COMPLAINTS	PERCENT OF CASELOAD
<i>Supreme Court</i>	1	0.7%
<i>Court of Appeals</i>	2	1.4%
<i>District Court</i>	67	46.5%
<i>Metropolitan Court</i>	8	5.6%
<i>Magistrate Court</i>	38	26.4%
<i>Municipal Court</i>	19	13.1%
<i>Probate Court</i>	2	1.4%
<i>Other</i>	7	4.9%

CASE DISPOSITIONS

Inquiries Pending at Beginning of FY08 (July 1, 2007)	29
New Written/Verified Complaints and Inquiries in FY08	144
Inquiries Concluded in FY08	139
Inquiries Pending at End of FY08 (June 30, 2008)	34

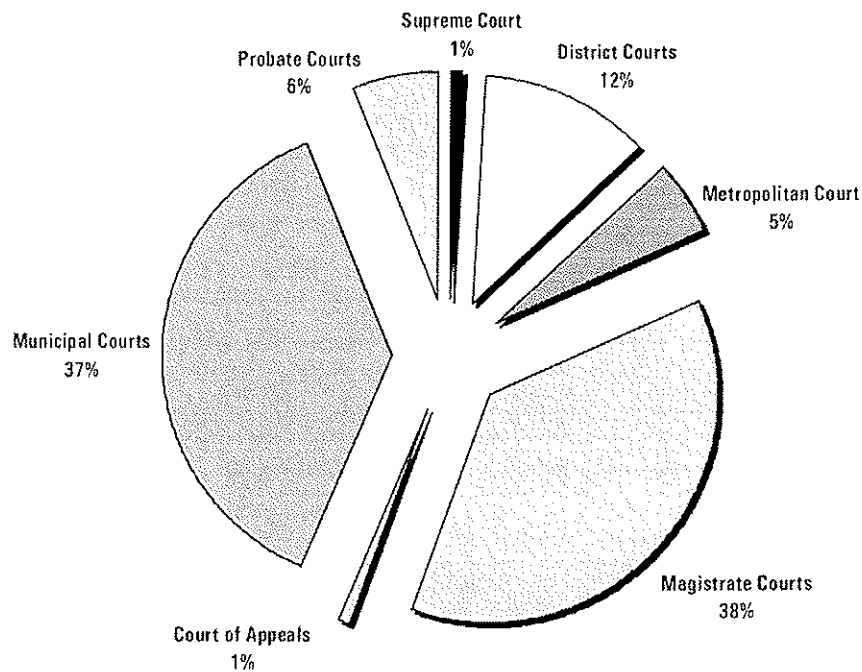
Of the 139 cases completed and disposed in FY 2008, the Commission concluded 9 cases through formal proceedings (trials and/or Supreme Court proceedings) and issued 12 informal letters of caution. The Commission dismissed or closed 73 cases because they were appellate in nature, and 11 cases because they concerned individuals beyond the Commission's jurisdiction. The Commission dismissed 32 cases that were not substantiated after initial inquiry. Two judges were referred for informal remedial measures, which may have included mentorship, education, counseling, or other assistance. These figures are illustrated in the graph on the following page.



The 9 inquiries in which the Commission conducted formal proceedings in FY 2008 involved seven judges. Two cases involved district court judges, 2 cases involved metropolitan court judges, 2 cases involved one magistrate court judge, 2 cases involved one municipal judge, and 1 case involved a probate judge.

HISTORICAL SUMMARY OF CASES FILED IN SUPREME COURT

From 1968 through June 30, 2008, the Commission filed 115 petitions for discipline and/or temporary suspension in the New Mexico Supreme Court involving 84 judges. By their nature, these cases involve the most serious questions of judicial misconduct or disability, thereby requiring the Commission to recommend sanctions, discipline, and/or immediate temporary suspension to the State's highest court. Of the judicial branches concerned, the Commission's petitions to the Supreme Court involved the following levels of the State Judiciary: 1 Supreme Court, 1 Court of Appeals, 14 district court, 6 metropolitan court, 43 magistrate court, 43 municipal court, and 7 probate court.

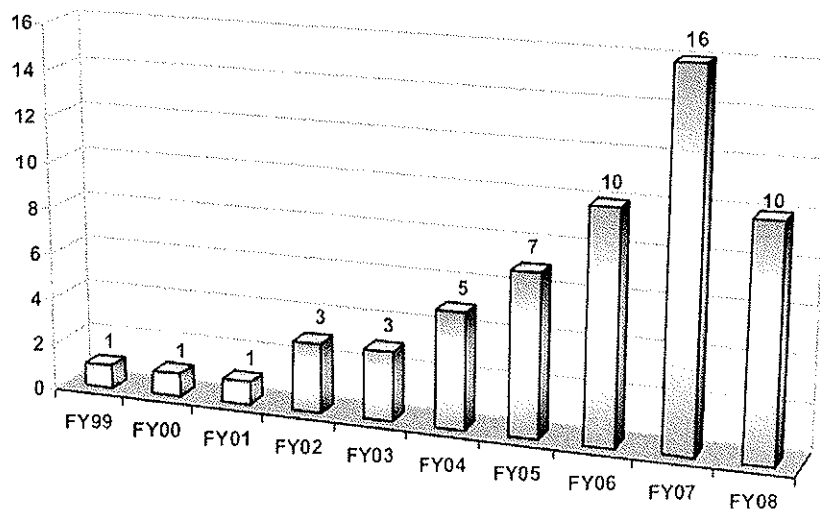


The table below indicates the levels of the judiciary and the corresponding geographical areas involved in the 115 formal cases the Commission has filed with the Supreme Court since 1968.

APPELLATE COURTS (2)	DISTRICT COURTS (14)	METROPOLITAN COURT (6)	MAGISTRATE COURTS (43)	MUNICIPAL COURTS (43)	PROBATE COURTS (7)
Supreme Court 1	First 1	Bernalillo 6	Cibola 1	Aztec 1	Cibola 1
Court of Appeals 1	Second 2		Colfax 1	Bernalillo 1	Sandoval 1
	Third 3		Doña Ana 8	Bosque Farms 1	Taos 5
	Fourth 1		Eddy 1	Cimarron 1	
	Fifth 1		Guadalupe 1	Clovis 2	
	Seventh 1		Hidalgo 1	Columbus 1	
	Ninth 1		McKinley 3	Dexter 1	
	Eleventh 3		Mora 1	Española 2	
	Thirteenth 1		Rio Arriba 6	Gallup 2	
			Sandoval 1	Grants 3	
			San Juan 4	Hurley 1	
			San Miguel 2	Las Cruces 6	
			Santa Fe 2	Las Vegas 2	
			Socorro 1	Mountainair 3	
			Taos 5	Portales 1	
			Union 1	Roswell 5	
			Valencia 4	Ruidoso Downs 1	
				San Jon 1	
				Santa Fe 6	
				Sunland Park 1	
				Taos 1	

PUBLIC CASES DISPOSED BY TERMINATION OF JUDICIAL OFFICE

In FY 2008, 10 cases concerning 6 judges were disposed after termination of judicial office. Since its inception, the Commission has disposed of 99 cases concerning 52 judges after termination of judicial office. Cases for the past ten years are illustrated on the following chart and include removals, retirements, or resignations after the Commission had filed matters with and requested action by the Supreme Court.



FY 2008 LEGISLATIVE PERFORMANCE MEASURES

Following are the mandatory performance measures that the State Legislature has established for the Commission:

<p>Upon knowledge of cause for emergency interim suspension, time for Commission to file petition for temporary suspension with Supreme Court (in days): 1.5 days. Efficiency measure. Target: 2 days. Target satisfied. <i>Note: "Knowledge" occurs when Commission is informed of allegations requiring petition.</i></p>
<p>Time for release of annual report to public from end of the fiscal year (in months): 2 months. Output measure. Target: 2 months. Target satisfied.</p>
<p>For cases in which formal charges are filed, average time for formal hearings to be reached (in meeting cycles): 2.8 meeting cycles. Efficiency measure. Target: 3 meeting cycles. Target satisfied.</p>

HISTORICAL SUMMARY OF INFORMAL CASE DISPOSITIONS

Short of proceeding formally on a case not warranting dismissal, the Commission may dispose of a matter informally. Informal dispositions are not filed with the Supreme Court and remain confidential pursuant to Article VI, §32 of the New Mexico Constitution. Allegations disposed of informally were found to merit notice to the judge, but due to their nature, the judges' experience and disciplinary history, or a number of other factors, the Commission determined that an informal disposition was appropriate to address the issues in question. With informal dispositions, there are no findings of misconduct.

Informal dispositions include issuing private letters of caution, referring the judge for mentorship, or entering into a stipulation agreement concerning the conduct in question. Since its formation in 1968 through June 30, 2008, the Commission has informally disposed of 271 case files. The following tables illustrate the distribution of the informal cautionary letter and mentorship dispositions. A brief discussion concerning confidential stipulation agreements follows thereafter.

CAUTIONARY LETTERS (200 CASES)

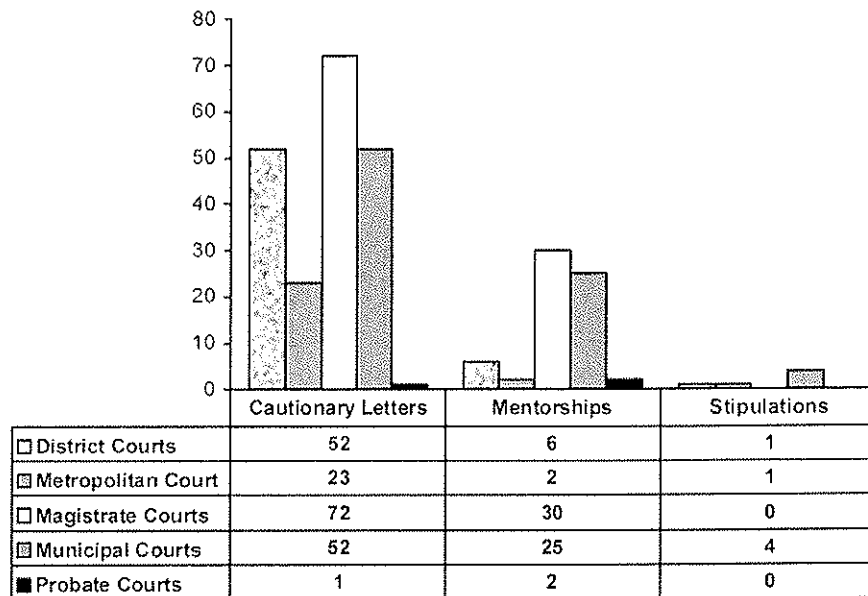
JUDICIAL BRANCH INVOLVED	NUMBER OF CASE FILES	PERCENT OF ALL CAUTIONS
Supreme Court	0	0.0%
Court of Appeals	0	0.0%
District Court	52	26.0%
Metropolitan Court	24	12.0%
Magistrate Court	72	36.0%
Municipal Court	51	25.5%
Probate Court	1	0.5%

MENTORSHIPS (65 CASES)

JUDICIAL BRANCH INVOLVED	NUMBER OF CASE FILES	PERCENT OF ALL MENTORSHIPS
Supreme Court	0	0.0%
Court of Appeals	0	0.0%
District Court	6	9.0%
Metropolitan Court	2	3.0%
Magistrate Court	30	47.0%
Municipal Court	25	38.0%
Probate Court	2	3.0%

CONFIDENTIAL STIPULATIONS

In addition to private letters of caution and referrals to the mentor program, the Commission may informally dispose of cases through confidential stipulations with judges. Stipulations typically require judges to retire, resign, or cease improper conduct. In FY 2008, no cases were dismissed by informal stipulation. Historically, the Commission has disposed of 6 cases through informal stipulation. The following chart illustrates the historical breakdown of all informal dispositions by judicial branch.





PROCEEDINGS BEFORE THE COMMISSION JULY 1, 2007–JUNE 30, 2008

All of the Commission’s proceedings that resulted in either formal or informal proceedings are summarized in this section.

Formal cases are matters the Commission found to involve the most serious ethical issues under the New Mexico Code of Judicial Conduct, thereby warranting formal review and proceedings before the Commission and/or the New Mexico Supreme Court. Informal cases, although less serious in nature and scope, involve significant issues that the Commission addresses through private letters of caution to the judges or by referring the judges to the Commission’s informal mentor program.



See Appendix G for a copy of the Supreme Court’s order of August 26, 2006 regarding Commission filings.

Please note that pursuant to the Supreme Court’s order of August 29, 2006, petitions and responses in temporary suspension matters filed with the Supreme Court after that date are sealed, absent a contrary order from the Court. However, all Supreme Court hearings, docket sheets, and orders are available to the public, unless otherwise ordered by the Court.

COMMISSION PROCEEDINGS

FORMAL PROCEEDINGS

In FY 2008, the Commission had 14 cases proceed to formal proceedings before the Commission and/or the New Mexico Supreme Court. These cases are summarized below:

MATTER OF HON. STEPHEN K. QUINN

Ninth Judicial District Court

JSC Inquiry No. 2005-006

Supreme Court Docket No. 29,765

The Commission issued a *Notice of Preliminary Investigation* to Judge Stephen K. Quinn on July 14, 2005. The allegations were that the judge had excessively delayed in issuing decisions, judgments, rulings, orders, or otherwise resolving cases on his docket. The Commission included a non-exclusive listing of cases that were under advisement and substantially overdue for decision. Judge Quinn filed a response to the preliminary investigation notice on August 5, 2005. On September 1, 2005, the Commission issued formal charges against Judge Quinn in a *Notice of Formal Proceedings*. The same day, the Commission also issued an order to Judge Quinn requiring him to show cause why the Commission should not petition the Supreme Court to suspend him. On September 16, 2005, Judge Quinn filed his response to the formal proceedings notice.

An amended show cause order was issued on September 26, 2005, which provided that the order would be rescinded if Judge Quinn provided the Commission with documented proof that he issued and entered all decisions, judgments, rulings, and orders in the matters that had been taken under advisement and that were substantially overdue for decision. Judge Quinn resolved the overdue matters he had under advisement. On September 28, 2005, Judge Quinn filed the requested documentation with the Commission. On October 4, 2005, the Commission issued an *Order Dismissing Order to Show Cause*.

The Commission set the matter for trial on April 10, 2006. The Examiner and Judge Quinn filed a stipulation to the relevant facts of the case, which the Commission accepted. The Commission heard closing arguments and disciplinary recommendations from the Examiner and Judge Quinn. The Commission decided to recommend that the Supreme Court impose the following discipline: formal reprimand, one-year supervised probation, and reimbursement of the Commission's costs.

On April 24, 2006, the Commission filed a *Petition for Discipline* and the *Record of Formal Proceedings before the Judicial Standards Commission* with the Supreme Court. On April 24, 2006, the Commission filed a *Certified Memorandum of Costs* with the Supreme Court, requesting that Judge Quinn be assessed and reimburse the Commission for \$1,106.17 of costs incurred in the disciplinary proceedings.

On May 15, 2006, Judge Quinn filed a *Response to Findings of Fact, Conclusions of Law and Recommendation for Discipline* with the Supreme Court. In his response, Judge Quinn did not dispute the basis for the formal proceedings, but disagreed with the formal reprimand recommended as a disciplinary measure by the Commission.

On May 16, 2006, the Supreme Court issued its disciplinary order in this matter. The Court imposed only the recommended supervised probation and assessment of the Commission's costs and expenses. The Court further ordered Judge Quinn to reimburse the Commission for the costs by May 31, 2006. On May 30, 2006, the Commission received Judge Quinn's payment of costs. The following day, the Commission notified the Court of the costs payment.

On September 15, 2006, the Commission filed a recommendation that Hon. Stephen Pfeffer of the First Judicial District Court be appointed as Judge Quinn's probation supervisor. The Supreme Court issued an order on October 3, 2006 appointing Judge Pfeffer to the position.

On October 2, 2007, Judge Quinn successfully completed the supervised probation. This matter was then closed.

MATTER OF HON. JOHN W. "BUDDY" SANCHEZ

Valencia County Magistrate Court

JSC Inquiry No. 2005-031

Supreme Court Docket No. 25,281

After conducting an initial inquiry on its own motion, and following significant collateral litigation relating to its investigation of this matter, on November 22, 2005, the Commission issued a *Notice of Preliminary Investigation* to Judge Sanchez pursuant to Judicial Standards Commission Rule 8. The judge filed his response to the *Notice of Preliminary Investigation* on December 20, 2005 and ultimately entered into a *Stipulated Agreement Concerning Release and Use of Medical and Psychological Records*. The Commission issued and filed its *Notice of Formal Proceedings* on April 25, 2006, to which the judge timely responded on May 12, 2006.

In June 2006, Judge Sanchez underwent an independent medical evaluation to determine his fitness for duty, the results of which concluded he was neither physically nor psychologically capable of performing

his judicial duties. On July 14, 2006, the Commission filed its *Verified Petition for Immediate Temporary Suspension or for Immediate Administrative Medical Leave* and a *Motion to Seal* based on the inclusion of excerpts from the results of an independent medical examination of the respondent. The same day, the Supreme Court granted the motion to file pleadings under seal. Shortly thereafter, the Supreme Court granted the petition for immediate administrative medical leave, and placed Judge Sanchez on paid medical leave as of July 16, 2006. Judge Sanchez filed his response to the *Verified Petition for Immediate Temporary Suspension or for Immediate Administrative Leave*. The Commission filed a *Reply to Respondent's Response* on August 15, 2006.

On December 6, 2006, the Supreme Court requested counsel to submit a status report reflecting the current status of Judge Sanchez's condition, to which both parties of record submitted a joint response. On January 31, 2007, the Supreme Court ordered a second status report, to which both parties submitted a second status report. The Supreme Court subsequently ordered oral argument, set for March 8, 2007, to review Judge Sanchez's ongoing status of paid administrative medical leave.

Judge Sanchez underwent a second independent medical evaluation in January 2007, the results of which concluded again that Judge Sanchez was neither physically nor psychologically capable of performing his judicial duties, but did outline certain conditions which, if met by Judge Sanchez, might enable him to return to the bench. On March 8, 2007, the Supreme Court issued its order requiring that Judge Sanchez comply with those conditions, and ordered his return to the bench. To remain on the bench, the Supreme Court required that Judge Sanchez first demonstrate his serum ammonia levels were below 45 umol/L. He was also required to certify by affidavit that he was enrolled in an alcohol treatment program. In addition, he was ordered to abstain from all alcohol consumption, and comply with random drug and alcohol screening until further order of the Court, which at the Court's direction was to be ordered and monitored by the director of the Administrative Office of the Courts ("AOC") with notice to the Commission. Judge Sanchez was also required to undergo random testing of his serum ammonia levels, also to be monitored by the AOC with notice to the Commission. The Supreme Court also ordered that failure to comply with the terms and conditions of its order, including any failed screenings, shall serve to bar his return to the bench. The Supreme Court further ordered that should Judge Sanchez fail to comply with any of the terms and conditions of the Court's order, the Commission "shall proceed to seek [his] removal or retirement."

On June 6, 2007, the Commission filed its *Motion for Retirement or Removal From Office Pursuant to [the Supreme Court's] Order of March 8, 2007, as Amended, Due to Respondent's Failure to Comply*, on the basis that Judge Sanchez failed to notify the Supreme Court and the Commission that his serum ammonia levels had exceeded the threshold level set by the Court. The Commission viewed this as a failure to comply with the conditions set forth by the Supreme Court's orders governing his return to the bench. The Supreme Court ordered a response from Judge Sanchez, which was to be filed no later than July 2, 2007.

Respondent timely filed his response to the Commission's petition on July 2, 2007, suggesting bad faith on the part of the Commission in filing for his retirement or removal from office. The Commission replied on July 16, 2007, confirming its actions were required by the Supreme Court, and citing the language of the Supreme Court's March 8, 2007 order, as amended, for that proposition. The Commission reiterated the medical panel's conclusion that Judge Sanchez was neither physically nor psychologically capable of performing judicial duties when his serum ammonia levels exceeded the 45 umol/L threshold set by the Supreme Court.

Without oral argument, the Supreme Court issued an order on August 27, 2007 denying the Commission's petition seeking Respondent's retirement or removal, and noting that the Commission misinterpreted the Supreme Court's April 13, 2007 order amending its March 8, 2007 order. The Commission closed this matter at its October 2007 meeting.

Presumably Respondent remains subject to random drug and alcohol screening, but the Commission has received no notice of any such screening.

Since the Supreme Court's August 27, 2007 order, the Commission has received serum ammonia screening results directly from Respondent on two occasions. Respondent reported to the Commission on December 19, 2007 that results of a December 4, 2007 screening indicated his serum ammonia level had again exceeded the 45 umol/L threshold established by the Supreme Court (51 umol/L), but Respondent did not report this violation to the Commission until after his serum ammonia level was lowered to 39 umol/L based on a December 10, 2007 screening. Respondent reported his serum ammonia level again on April 3, 2008 based on screening performed on March 31, 2008, the results of which indicated his serum ammonia level was 34 umol/L.

MATTER OF HON. HECTOR PINEDA
Roswell Municipal Court
JSC Inquiry No. 2005-095
Supreme Court Docket No. 29,479

The Commission issued a *Notice of Preliminary Investigation* to Judge Hector Pineda on November 22, 2005. Judge Pineda filed a response to the preliminary investigation notice on December 8, 2005. On January 9, 2006, the Commission issued formal charges against Judge Pineda in a *Notice of Formal Proceedings*. On January 25, 2006, Judge Pineda filed his response to the formal proceedings notice.

The Examiner and Judge Pineda filed a stipulation to the relevant facts of the case, which the Commission accepted on August 9, 2006. The Commission heard closing arguments and disciplinary recommendations from the Examiner and Judge Pineda's counsel and concluded the following facts, in pertinent part:

1. Respondent required all citizens who need to appear before his court to present photo identification prior to such appearances being allowed, including appearances from defendants in criminal or traffic matters, from legal guardians for minors, and from persons seeking civil marriages.

2. Defendant William Oden was required to appear before Respondent for trial on or about October 5, 2005 at 3:00 p.m., in the matter of *City of Roswell vs. William Oden*, Roswell Municipal Court Cause No. CR-2005-0003421. Mr. Oden arrived at Respondent's court approximately ten minutes early. He was advised by the court staff that he would need photo identification in order to appear in court. Mr. Oden left to go to the Motor Vehicle Division to acquire a new driver's license. The court staff advised Respondent that Mr. Oden had left the court to obtain photo identification. When Mr. Oden's case was called, Respondent noted that Mr. Oden failed to appear. Mr. Oden returned to Respondent's court at approximately 3:40 - 4:00 p.m., but was informed that Respondent was out and that Mr. Oden should return the following day at 9:00 a.m. Mr. Oden complied with the direction.

On October 6, 2005, Respondent issued a bench warrant for Mr. Oden's arrest based upon Respondent's determination that he failed to appear the previous day. When Mr. Oden returned to Respondent's court on October 6, 2005, Mr. Oden was arrested on the bench warrant and had a \$1,000 cash only bond that Respondent set as requirement for his release. Mr. Oden was incarcerated when he did not post bond.

3. Respondent was familiar with defendant William Oden and had presided over two prior criminal cases against Oden within the six months prior to his appearance before Respondent in the present matter.

4. In the prior cases, Mr. Oden made personal appearances before Respondent and proceedings were conducted.

After considering the arguments of counsel, the Commission rendered the following conclusions of law:

1. As alleged in COUNT I of the Commission's *Notice of Formal Proceedings*, Respondent's photo identification policy exceeded the limits of his jurisdiction as a Municipal Court judge.

2. As applied, Respondent's photo identification policy has denied lawful access to the Respondent's court and denied criminal defendants and civil litigants due process, including reasonable opportunity to be heard.

3. Respondent's conduct as alleged in COUNT I violated Canons 21-100 NMRA 1995; 21-200(A) NMRA 1995; and 21-300(B)(2), (B)(7) and (B)(8) NMRA 2004 of the Code of Judicial Conduct.

4. As alleged in COUNT I of the Commission's *Notice of Formal Proceedings*, Respondent's conduct constituted willful misconduct in office.

5. As alleged in COUNT II, Respondent denied criminal defendant William Oden constitutional due process of law; committed gross errors of law; committed gross abuse of discretion and judicial authority; denied constitutional due process; and demonstrated a critical lack of understanding of due process, court procedures, the law, and limits of jurisdiction.

6. Respondent's conduct as alleged in COUNT II violated Canons 21-100 NMRA 1995; 21-200(A) NMRA 1995; and 21-300(B)(2), (B)(7), and (B)(8) NMRA 2004 of the Code of Judicial Conduct.

7. As alleged in COUNT II, Respondent's conduct constituted willful misconduct in office

8. Taken as a whole, the Findings of Fact and Conclusions of Law herein establish, by clear and convincing evidence, that Respondent Hon. Hector Pineda has violated the stated provisions of the Code of Judicial Conduct.

9. Respondent's conduct was established by stipulation and by clear and convincing evidence.

The Commission recommended that the Supreme Court impose the following discipline on Judge Pineda:

As to Count I:

1. **Discontinuation or Modification of Photo Identification Policy.** Respondent shall either (1) immediately discontinue his photo identification policy or (2) immediately modify the policy so as not to deny lawful access to the Respondent's court or to deny criminal defendants and civil litigants due process, including reasonable opportunity to be heard. Respondent shall provide the Supreme Court and the Judicial Standards Commission with documented proof of his compliance with this provision and a copy of the modified policy,

if any, within seven (7) days of the Supreme Court's issuance of a disciplinary order in this matter.

2. **Formal Reprimand.** Respondent shall receive a formal reprimand from the Supreme Court. Formal reprimands are published in the *Bar Bulletin*.

As to Count II:

3. **One-Week Suspension without Pay.** Respondent shall be suspended from his judicial office for one week without pay.

4. **\$1,000.00 Fine.** A \$1,000.00 fine to be paid by Respondent within fifteen (15) days of issuance of the Supreme Court's disciplinary order in this matter. Payment shall be by certified check made payable to the State of New Mexico and delivered to the Judicial Standards Commission. Respondent shall promptly file proof of payment with the Supreme Court and the Judicial Standards Commission.

5. **Formal Reprimand.** Respondent shall receive a formal reprimand from the Supreme Court. Formal reprimands are published in the *Bar Bulletin*.

6. **One-Year Supervised Probation and Mentorship.** Respondent shall successfully complete one (1) year of supervised probation by a district judge mentor. The Judicial Standards Commission will recommend the probation supervisor for the Supreme Court's approval and appointment. The period of supervised probation shall begin upon the Supreme Court's appointment of the probation supervisor. The probation supervisor shall report in writing concerning the progress and outcome of the probation/mentorship program to the Supreme Court and the Commission.

7. **Costs and Expenses.** The parties shall bear their own costs and expenses.

On October 13, 2006, the Commission filed a *Petition for Discipline* with the Supreme Court. The petition asked for imposition of the recommended disciplinary measures, based on the grounds for discipline fully set forth in the Commission's *Findings of Fact, Conclusions of Law, and Recommendation for Discipline*. The Supreme Court issued an order on October 19, 2006, requiring Judge Pineda to file a response to the petition. The same day, the Commission filed the *Record of Formal Proceedings before the Judicial Standards Commission*.

The Supreme Court set a hearing in the matter for November 21, 2006. Judge Pineda timely filed his response to the petition with the Court. In his response, Judge Pineda asserted two primary arguments: (1) that his photo identification policy served important public policies that outweighed individuals' due process rights and (2) enforcement of the policy was not willful misconduct in office. On November 17, 2006, the Supreme Court vacated the hearing on its own motion, and on November 30, 2006, rescheduled the oral argument for January 24, 2007.

After hearing the oral arguments of the parties, the Supreme Court granted the Commission's disciplinary petition and ordered the following discipline against Judge Pineda:

1. Respondent shall immediately discontinue the photo identification policy;
2. Respondent shall receive a formal reprimand that shall be published in the *Bar Bulletin*;
3. Respondent shall be suspended from judicial office for one week without pay;

4. Respondent shall pay a \$1,000.00 fine on or before February 9, 2007; and
5. Respondent shall successfully complete one year of supervised probation by a district court judge mentor. The Commission shall recommend a probation supervisor for the court's approval and appointment.

Judge Pineda timely paid the fine. On February 20, 2007, the Commission filed with the Supreme Court a recommendation for appointment of Hon. Linda M. Vanzi of the Second Judicial District Court as the probation supervisor. On March 9, 2007, the Supreme Court appointed Judge Vanzi to the position. The period of probation was set to expire March 8, 2008. The Supreme Court issued the formal reprimand to Judge Pineda on June 18, 2007, and was subsequently published in the *Bar Bulletin*.

On July 18, 2007, the Commission filed a *Verified Petition for Immediate Temporary Suspension without Pay* in the Supreme Court concerning an unrelated matter (see Inquiry No. 2006-105 below). On July 20, 2007, the judge resigned from his judicial office. On July 23, 2007, the Commission filed a *Motion to Accept Stipulation to Permanent Resignation from Judicial Office and to Dismiss without Prejudice Respondent's Pending Disciplinary Matters*. On July 31, 2007, the Court issued an order granting the Commission's *Motion to Accept Stipulation to Permanent Resignation from Judicial Office and to Dismiss without Prejudice Respondent's Pending Disciplinary Matters*. The Commission subsequently abated all pending proceedings concerning Judge Pineda and closed this case.

MATTER OF HON. WILLIAM A. VINCENT, JR.

San Juan County Magistrate Court

JSC Inquiry No. 2006-028

Supreme Court Case No. 27,266

The Commission issued a *Notice of Preliminary Investigation* to Judge William A. Vincent, Jr. on March 17, 2006 based on his public endorsement of a mayoral candidate that appeared in the local newspaper. Judge Vincent filed an *Answer to the Preliminary Investigation* notice on March 31, 2006. On April 19, 2006, the Commission issued formal charges against Judge Vincent in a *Notice of Formal Proceedings*. On May 4, 2006, Judge Vincent filed his *Response to the Notice of Formal Proceedings*.

The Commission set the matter for trial on December 11, 2006. On November 27, 2006, Judge Vincent filed a *Motion to Dismiss*, arguing that his endorsement of a mayoral candidate was protected by the First Amendment. Examiner filed a *Response in Opposition to Respondent's Motion to Dismiss*, noting that Judge Vincent's endorsement violated the Code, specifically Canon 21-700(A)(3)(b), which states that a judge shall not "publicly endorse or publicly oppose a candidate for public office through the news media or in campaign literature."

The Examiner and Judge Vincent filed a stipulation to the relevant facts of the case, which the Commission accepted during the trial. The Commission heard closing arguments and disciplinary recommendations from the Examiner and Judge Vincent.

The Commission found the following facts to be material in this matter:

1. Respondent publicly endorsed Bill Standley for reelection to the public office of Mayor for Farmington, New Mexico.
2. Respondent's endorsement was published in the March 6, 2006 edition of *The Daily Times* newspaper in Farmington, New Mexico.
3. Respondent authorized in writing the use of his name for the endorsement.

The Commission concluded in pertinent part:

Based on the stipulation of the facts and the matters presented on the record, there is clear and convincing evidence that Respondent violated section 21-700 (A)(3)(b) of the Code of Judicial Conduct by publicly endorsing a candidate and section 21-700(B) of the Code of Judicial Conduct by lending the prestige of the judicial office to the private interests of another. Respondent's conduct constitutes willful misconduct in office.

The Commission recommended that the Supreme Court impose the following discipline on Judge Vincent: formal reprimand published in the *Bar Bulletin*.

On December 18, 2006, the Commission filed a *Petition for Discipline* and subsequently filed the *Record of Formal Proceedings before the Judicial Standards Commission* with the Supreme Court. The Petition asked for imposition of the recommended disciplinary measure, a formal reprimand, based on the grounds for discipline fully set forth in the Commission's *Findings of Fact, Conclusions of Law, and Recommendation for Discipline*.

On December 28, 2006, Judge Vincent filed *Respondent's Response to Petition for Discipline*. Judge Vincent subsequently filed *Respondent's Unopposed Motion for Permission to File Briefs*. The Supreme Court issued an *Order Establishing Briefing Schedule* on January 12, 2007. Judge Vincent filed *Respondent's Brief in Chief*, arguing that he could not be disciplined for his public endorsement of a mayoral candidate because his conduct was protected by the First Amendment of the U.S. Constitution, and challenging the constitutional validity of Canon 21-700(A)(3)(b). The Commission's *Reply Brief* argued that Respondent's endorsement of a candidate for public office in a widely circulated Farmington newspaper violated the New Mexico Code of Conduct. The Commission noted that Canon 21-700(A)(3)(b) is unambiguous, necessary, reasonable and constitutional, and strikes a fully constitutional balance between limitation of a judge's speech and the government's interest in maintaining the independence and integrity of the judiciary.

On April 15, 2007, the Supreme Court heard oral argument on the Commission's disciplinary petition and Respondent's objections. After full briefing and argument by the parties, the Supreme Court issued an order stating:

1. The Court finds Rule 21-200(B) and 21-700(A)(3)(b) NMRA to be constitutional.
2. It is ordered that the petition for discipline hereby is granted and a formal reprimand shall issue.

The Commission filed a *Motion for Formal Opinion* on April 27, 2007, arguing that this case presented a matter of first impression in New Mexico, and that a formal opinion from the Court would serve the public interest and enhance and develop this body of law in the State of New Mexico. Respondent filed a *Motion for Written Order and Findings of Fact and Conclusions of Law* on May 7, 2007, to which the Commission responded on May 10, 2007.

On November 20, 2007, the Court filed an opinion and formal reprimand in which it addressed the constitutional issues presented in this case. *In the Matter of William A. Vincent, Jr.*, 2007-NMJSC-056, 143 N.M. 56, 172 P.3d 605. The Court first noted that there was uncertainty regarding the appropriate constitutional analysis to apply regarding the political speech of a judge. The Court then held that even if the strict scrutiny test announced in *Republican Party v. White* (530 U.S. 765) was applied, the Court would nevertheless conclude that New Mexico's endorsement clause is constitutional. The Court concluded that the endorsement clause "is intended to promote what we believe is an undeniable compelling state interest in promoting the reality and appearance of impartiality of our judiciary, which in this case means eliminating the potential for bias or the appearance of bias for or against the parties appearing before a judge."

The Court noted that the judge's endorsement of the mayor "would certainly create the appearance of bias were the mayor or anyone associated with his administration to appear before respondent in an actual case." The Court also agreed with the holding of *In re Raab*, 793 N.E.2d 1287 (N.Y. 2003), that the endorsement clause was carefully and narrowly designed to alleviate the concern that a judge "could be perceived as being beholden to a particular political leader or party" and promotes "the State's compelling interest in preventing political bias or corruption, or the appearance of political bias or corruption, in its judiciary." The Court rejected the argument that the Code was under-inclusive, for although the Code allowed monetary contributions to a political organization, a contribution "should not be likened to the high-profile show of support that is embodied in a public endorsement published in a newspaper." The Court concluded:

It is the public pronouncement of support that most offends our notions of impartiality. A private promise of support to a candidate, like a private contribution of money, creates less of a perception of partiality. A public endorsement, like an advertised monetary contribution, hits closest to the mark. Our Code of Judicial Conduct aims only at public conduct that creates the highest degree of risk.

In short, taken as a whole, our Code of Judicial Conduct, which includes the endorsement clause . . . , is carefully and narrowly drawn to serve the compelling state interest in a judiciary that is impartial in fact and in appearance.

MATTER OF HON. J. WAYNE GRIEGO
Bernalillo County Metropolitan Court
JSC Inquiry No. 2005-051
Supreme Court Docket No. 30,203

The Commission issued a *Notice of Preliminary Investigation* to Judge J. Wayne Griego on June 2, 2005. On a grant of extension, Judge Griego filed his response to the *Notice of Preliminary Investigation* on July 7, 2005. On September 14, 2005, the Commission issued formal charges against Judge Griego in a *Notice of Formal Proceedings*. On October 11, 2005, Judge Griego filed his answer to the *Notice of Formal Proceedings*.

After conducting discovery and routine pretrial matters, the Examiner and Judge Griego submitted a proposed *Stipulation Agreement and Consent to Discipline* to the Commission on November 29, 2006. The Commission held a presentment hearing on December 11, 2006, to consider the proposed stipulation agreement. After hearing from the Examiner, Respondent, and Respondent's counsel, the Commission accepted, entered into, and filed the stipulation agreement on December 11, 2006. In the stipulation agreement, Judge Griego admitted the following pertinent facts:

1. On Monday, April 25, 2005, Respondent improperly delegated his judicial duties to his secretary, Jacki Saavedra. Respondent was in Las Vegas, Nevada on a personal vacation. On the morning of April 25, 2005, Respondent knew that he would not be returning to Albuquerque until the afternoon. Respondent telephoned Ms. Saavedra about his delayed return and instructed her to handle his cases for him. Ms. Saavedra followed Respondent's directive and performed Respondent's judicial duties for his traffic docket, using Respondent's signature stamp for endorsement. Respondent did not return to his court to perform his duties until approximately 3:00 p.m. After his return and after the Chief Judge, Presiding Criminal Division Judge, court staff, and the media learned of and reported on the situation, Respondent reviewed and signed all of the cases that Ms. Saavedra handled in his absence.

2. The conduct set forth in paragraph b violates Canons 21-100 NMRA 1995; 21-200(A) NMRA 1995; 21-300(A), (B)(1), (B)(2), (B)(4), (B)(7), (B)(8), (C)(1), and (C)(2) NMRA 2004; and 21-500(A)(1)-(4) NMRA 1995 of the Code of Judicial Conduct.

3. Respondent's conduct constituted willful misconduct in office.

Judge Griego consented to accept the following substantive discipline from the Supreme Court: formal reprimand; \$500.00 fine; six-month supervised probation and formal mentorship.

Based on the stipulations, the Commission rendered *Findings of Fact, Conclusions of Law and a Recommendation for Discipline* on January 19, 2007, consistent with the stipulation agreement. The same day, the Commission filed a *Petition for Discipline upon Stipulation* with the Supreme Court. On January 24, 2007, the Commission filed the *Record of Presentment Proceedings before the Judicial Standards Commission*.

On February 6, 2007, the Supreme Court issued an order granting the *Petition for Discipline upon Stipulation* and imposing the stipulated discipline. On February 16, 2007, the Commission filed a recommendation for appointment of Hon. Neil C. Candelaria of the Second Judicial District Court as Judge Griego's mentor and probation supervisor. On February 20, 2007, the Supreme Court issued an order appointing Judge Candelaria as the mentor and probation supervisor. The period of supervised probation and mentorship was completed on August 19, 2007.

Judge Griego paid the fine on February 22, 2007. The Supreme Court issued the formal reprimand on June 13, 2007, which was subsequently published in the *Bar Bulletin*.

MATTER OF HON. HECTOR PINEDA

Roswell Municipal Court

JSC Inquiry No. 2006-105

Supreme Court Docket No. 29,479

On July 18, 2007, the Commission filed a *Verified Petition for Immediate Temporary Suspension without Pay* concerning Judge Pineda with the Supreme Court. On July 20, 2007, the judge resigned his judicial office. On July 23, 2007, the Commission filed a *Motion to Accept Stipulation to Permanent Resignation from Judicial Office and to Dismiss without Prejudice Respondent's Pending Disciplinary Matters*. On July 31, 2007, the Court issued an order granting the Commission's *Motion to Accept Stipulation to Permanent Resignation from Judicial Office and to Dismiss without Prejudice Respondent's Pending Disciplinary Matters*.

MATTER OF HON. THERESA GOMEZ

Bernalillo County Metropolitan Court

JSC Inquiry No. 2006-128

Supreme Court Docket No. 30,549

On March 23, 2007, the Commission issued a *Notice of Preliminary Investigation* to Judge Theresa Gomez. She filed her response on April 10, 2007. On July 13, 2007, Judge Gomez entered into a *Stipulation Agreement and Consent to Discipline* with the Commission. The same day, the Commission filed a *Petition for Discipline upon Stipulation* with the Supreme Court. In the agreement, Judge Gomez admitted the following facts:

1. In October 2004, Respondent moved into a home in Bernalillo County, New Mexico that was owned by the Region III State Housing Authority ("Housing Authority"). The

home was located at 1338 Sloan Pl. SW, Albuquerque, Bernalillo County, New Mexico 87105 (Lot 15A-2 Plat of Lot 15A-1 15A-2 of Sloan Place 0.6043 Acre). Title to the home was held by the Housing Authority under the name, Housing Enterprises, Inc.). The Housing Authority was under the direction of Vincent "Smiley" Gallegos. Respondent was qualified by Mr. Gallegos and/or Housing Authority staff for the housing authority's lease-purchase program for individuals whose credit rating prevented them from accessing private mortgage financing. The home had been purchased using State of New Mexico Investment Council funds by the Region III Housing Authority under a traditional program intended for low-income individuals who meet federal Housing and Urban Development ("HUD") standards. Respondent did not attend debt counseling as required by the lease-purchase program and did not provide the Housing Authority with documentation for her continued qualification for the lease-purchase program. However, Respondent reduced her debts and was approved for private financing through Newcastle Mortgage in July 2006 to purchase the home from the Housing Authority.

2. Respondent lived in the house from October 31, 2004 to December 31, 2006, but did not pay rent for the months of November 2004 through July 2006. Respondent signed an agreement to purchase the home from the Housing Authority on July 6, 2006. The purchase price of the home was \$170,000.00, which was \$13,000.00 above the amount the Housing Authority had paid for the home. Respondent understood that the additional \$13,000.00 was to reflect past rent for the home.

The Housing Authority came under increasing scrutiny from management after default on a \$5 million dollar state bond payment, after which Respondent signed an agreement to purchase the home from the Housing Authority. The press ran articles in November 2006 concerning the Housing Authority's deals, including Respondent's transaction.

On November 3, 2006, Lawrence Rael, the acting Executive Director of the Housing Authority, informed Respondent by letter that the monthly rental charge for the home was \$850.00 and that Respondent should pay the Housing Authority \$3,400.00 for rent from August 2006 through November 2006. Respondent paid the Housing Authority \$3,400.00 on November 21, 2006. On December 1, 2006, Respondent paid the Housing Authority \$850.00 for December 2006 rent and provided notice to the Housing Authority that she was vacating the home by December 31, 2006.

Respondent lived in the home for 25 months, but paid rent for only five months. Based on a fair rental value of \$850.00 per month, the rental value of the home for the 20 months that Respondent did not pay was \$17,000.00, the amount to which Respondent was unjustly enriched.

3. Respondent's admitted conduct . . . violates the following Canons of the Code of Judicial Conduct: 21-100 NMRA 1995; 21-200(A) NMRA 1995; 21-300(A) NMRA 1995 and as amended 2004; 21-500(A)(1)-(2) and (D)(1) NMRA 1995; and 21-600(A) NMRA 1995.

4. While living in the home owned by the Region III State Housing Authority, Respondent communicated with Vincent "Smiley" Gallegos, director of the Housing Authority regarding three traffic citations he had received on or about January 14, 2006. On February 20, 2006, Respondent dismissed the traffic citations issued to Mr. Gallegos without the presence or involvement of the citing police officer or the District Attorney's Office. On February 20, 2006, Respondent also canceled the arrest warrant issued to Mr. Gallegos by Hon. Victor E. Valdez for Gallegos's failing to appear on February 7, 2006 for arraignment on the

citations. Respondent noted the basis for her action in the court file as “Raymond Gallegos used Δ’s ID – Identity theft. Dismiss citation, Cancel BW.” The case was styled *State of New Mexico vs. Vincent Gallegos*, Metropolitan Court Cause No. TR-346306. The case was not assigned to Respondent, but was instead assigned to Hon. Rosemarie Allred.

5. Respondent’s admitted conduct . . . violates the following Canons of the Code of Judicial Conduct: 21-100 NMRA 1995; 21-200(A) and (B) NMRA 1995; 21-300(B)(2), (B)(7), and (B)(8) NMRA 1995 and as amended 2004; and 21-400(A)(1) and (B) NMRA 1995 and as amended 2004.

In the July 2007 stipulation agreement, Judge Gomez consented to accept the following discipline from the Supreme Court:

1. **Formal Reprimand.** Respondent shall accept a formal reprimand from the Supreme Court concerning the conduct admitted in this Stipulation Agreement and Consent to Discipline. Formal reprimands are published in the *Bar Bulletin*.

2. **Restitution to Region III State Housing Authority.** Respondent shall pay \$17,000.00 constituting unpaid rent due to the Region III State Housing Authority, its successor, agent, or assign. Concurrent with the execution of this stipulation agreement, Respondent shall execute a promissory note provided, endorsed, and approved by the Region III State Housing Authority and State Investment Council. The promissory note shall only become effective and enforceable upon approval by the Supreme Court. The promissory note shall specify all terms and conditions of the repayment 20 months of unpaid rent, including *inter alia* the term of repayment, interest rate, and installment amounts. Respondent acknowledges and agrees that failure to satisfy her obligations under the promissory note, this stipulation agreement, and the resulting order of the Supreme Court constitutes contempt of the Judicial Standards Commission and the Supreme Court.

On August 1, 2007, the Supreme Court issued an order requiring the parties to brief two issues: (1) how the proposed discipline compares to other similar Commission cases; and (2) detail the mitigating circumstances that would justify imposition of a formal reprimand. Upon stipulated motion and order, the briefs were timely filed on September 4, 2007.

On September 25, 2007, the Supreme Court issued an order denying the *Petition for Discipline upon Stipulation*. In the order, the Court stated that the stipulated discipline was insufficient, but also indicated that a two-week suspension without pay would be appropriate.

On October 5, 2007, Judge Gomez and the Commission entered into a *Second Stipulation Agreement and Consent to Discipline*. The same day, the Commission filed a *Second Petition for Discipline upon Stipulation* with the Supreme Court. The new agreement and petition included the following amended disciplinary provisions:

1. **Two-Week Unpaid Suspension.** Respondent shall be suspended from her judicial office for two weeks without pay. This suspension should commence on the first day of the full two-week pay period following the Supreme Court’s approval of this stipulation agreement.

2. **Restitution to Region III State Housing Authority.** Respondent shall pay \$17,000.00 constituting unpaid rent due to the Region III State Housing Authority, its successor, agent, or assign. Concurrent with the execution of this stipulation agreement, Respondent shall execute a promissory note provided, endorsed, and approved by the Region III State

Housing Authority and State Investment Council. The promissory note shall only become effective and enforceable upon approval by the Supreme Court. The promissory note shall specify all terms and conditions of the repayment 20 months of unpaid rent, including *inter alia* the term of repayment, interest rate, and installment amounts. Respondent acknowledges and agrees that failure to satisfy her obligations under the promissory note, this stipulation agreement, and the resulting order of the Supreme Court constitutes contempt of the Judicial Standards Commission and the Supreme Court.

3. In consideration of the financial obligations imposed by this restitution provision, along with the two-week unpaid suspension, the repayment obligation should commence 30 days following Respondent's completion of the period of unpaid suspension.

A copy of the promissory note, addendum, and related affidavit (as originally submitted to the Court on July 13, 2007) were collectively submitted under seal with the first *Petition for Discipline upon Stipulation* as Exhibit 1. If approved, the promissory note should start repayment 30 days following the Court's approval of this second petition.

On October 24, 2007, the Supreme Court issued an order granting the *Second Petition for Discipline upon Stipulation*. The Commission has closed this file administratively until Judge Gomez completes her restitution obligations.

MATTER OF HON. THOMAS R. RODELLA

Rio Arriba County Magistrate Court

JSC Inquiry Nos. 2006-133, 2007-062, 2007-071 & 2007-078

Supreme Court Docket No. 31,806

Judge Rodella was initially appointed to the Rio Arriba County Magistrate Court in April 2005. He resigned in July 2005 after his involvement in the DWI case described below. In 2006 he successfully ran for election to the same position and was sworn in as magistrate judge in January 2007.

In Inquiry 2006-133, the Commission issued a *Notice of Preliminary Investigation* to the Respondent on February 23, 2007. On March 20, 2007, Judge Rodella submitted a response to the *Notice of Preliminary Investigation*. On September 13, 2007, the Commission issued a *Notice of Formal Proceedings* to Judge Rodella. Respondent filed a verified response to the *Notice of Formal Proceedings* on October 4, 2007.

In Inquiries 2007-062, 2007-071, and 2006-078, the Commission issued two respective *Notices of Preliminary Investigation* to the Respondent on October 26, 2007. On November 14, 2007, Judge Rodella submitted responses to the two *Notices of Preliminary Investigation*. On November 20, 2007, the Commission issued two separate *Notices of Formal Proceedings* to Judge Rodella. Respondent filed verified responses to the *Notices of Formal Proceedings* on December 10, 2007.

Commission Proceedings

On April 15-17, 2008, a trial on all of the above inquiries was held before the Commission. The Commission heard testimony from sixteen witnesses in three separate inquiries and reviewed all exhibits admitted into evidence. The Commission specifically found that Respondent's testimony in many respects was not credible. The Commission did not find Respondent's testimony regarding two matters, specifically a landlord-tenant case and a domestic violence matter, to be credible. For the Commission to have accepted Respondent's testimony as true, the Commission would have needed to find that all of the other witnesses in these matters perjured themselves. The Commission did not find Respondent's explanation of his conduct regarding the DWI case to be reasonable bearing in mind his ethical obligations under the Code of

Judicial Conduct. The Commission further specifically found as aggravating circumstances, and to be most disturbing, Respondent's egregious behavior in the potential intimidation of a witness. The Commission concluded that permanent removal from office was the appropriate discipline in light of the misconduct involved in this matter.

On April 29, 2008, the Commission filed its *Petition for Discipline* in the Supreme Court recommending permanent removal from office. On May 6, 2008, new counsel entered an appearance for Judge Rodella. Respondent filed his *Response to the Commission's Petition for Discipline*, in which he argued that: (1) the Commission lacked jurisdiction to investigate, consider and make recommendations concerning Judge Rodella's conduct while he was not in office; (2) the Code of Judicial Conduct has limited application to judicial elections; (3) the Commission's findings based on witness intimidation and evidence tampering deprived Judge Rodella of due process of law; and (4) the Commission acted improperly by failing to refer the matter to special masters and conducting its own fact finding.

Supreme Court Proceedings

The New Mexico Supreme Court held oral argument on the Commission's *Petition for Discipline* on May 28, 2008. That same day, the Supreme Court issued an order finding willful misconduct in office and granted the petition for removal. The Court ordered that Respondent be disciplined as follows:

1. It is . . . ordered that Thomas R. Rodella hereby is immediately removed from the bench pursuant to Rule 27-401(A)(7) NMRA;
2. It is further ordered that Judicial Standards Commission shall submit a cost bill to this Court and Thomas Rodella may file objections thereto. The Court shall take under advisement any assessment of costs.

In a formal opinion dated August 7, 2008, the New Mexico Supreme Court adopted the Commission's recommendation that Judge Rodella be permanently removed from office. *Inquiry Concerning Rodella*, 2008-NMSC-050, ___ N.M. ___, ___ P.3d ___ (2008). While the Court did not agree with all of the findings and conclusions of the Commission, the Court held, based on its own review of the record, that there was sufficient clear and convincing evidence to conclude that Judge Rodella committed willful misconduct. The Court further opined that Judge Rodella's "lack of credibility and an apparent unwillingness to admit mistakes, combined with sufficient evidence of willful misconduct, lead us to conclude that Judge Rodella cannot serve as a judge."

As a threshold matter, the Supreme Court addressed Judge Rodella's argument that the Commission is a political entity and should have referred this disciplinary matter to special masters in order to ensure objectivity. Judge Rodella argued that the proceedings were politically biased because the governor appoints the Commission's executive director and the executive branch, and having previously encouraged the judge to resign, was displeased with his subsequent election and he also had a contentious relationship with the judge's wife, who is a member of the New Mexico Legislature. [Note: The Executive Director is not an appointed position. Pursuant to § 34-10-3 NMSA, "The Judicial Standards Commission shall employ an Executive Director."] The Court concluded that the Commission was not inherently biased and that there was no evidence it was biased in its investigation or examination of Judge Rodella. The Court noted that the Commission was intended to be an independent body and that the Constitution expressly permits the encroachment of the executive branch into the judicial branch, but that the Commission has no "power to remove or sanction judges," only to make recommendations to the Court, and, thus, "plays no role in the traditional functions of the judiciary." The Court also noted that the Commission works in near total confidentiality and that the governor has no access to the complaints filed before the Commission unless and until they are made public when it makes a recommendation to the Court. Therefore, the

Court concluded, the governor is not in a position to interfere with an investigation, providing a check on potential abuse of power. The Court opined, "There are sufficient checks on political influence, both in the form of confidentiality, and in this Court's power to review the Commission's actions, to ensure the independence of the Commission in fulfilling its role of overseeing judicial conduct." Stating the decision whether to appoint special masters was left to the Commission's discretion, the Court concluded it had not been presented with any evidence of an abuse of that discretion, noting that the trial examiner in the matter was neither the executive director of the Commission nor a regular member of its staff, but a former New Mexico Supreme Court Justice, who had been appointed to the Court by a prior governor.

The Court then examined the evidence in each of the three cases at issue to determine whether the evidence supported the Commission's findings, whether those findings supported the conclusions, and whether the findings and conclusions justified the removal of Judge Rodella from the bench.

The Domestic Violence Case

This matter occurred in May and June 2007, after Judge Rodella had been elected magistrate judge. The judge met *ex parte* with the complaining witness in a domestic violence case who had been subpoenaed by the state to appear and testify in her husband's trial and told her that, if she did not want to testify at her husband's trial, there would be no adverse legal consequences. The witness subsequently told the victim's advocate from the district attorney's office that Judge Rodella had led her to believe that she could decide for herself whether or not to testify at her husband's trial. On the day of the trial, the complaining witness failed to appear, and the assistant district attorney informed the judge that the office had been informed that the judge had told the complaining witness in an *ex parte* conversation that she did not have to appear. The judge indicated he was recusing from the case and began drafting a document recusing himself, which he signed and showed to the assistant district attorney. The assistant district attorney testified that the document he was shown stated that the judge was recused. The state's other witnesses then understood they could leave. Later, however, when the complaining witness appeared, the judge recalled the case and dismissed it without prejudice. The assistant district attorney objected and asked to see the recusal document but was told it was only bench notes that were not part of the record. When the recusal document was subsequently produced for the Commission, it stated the assistant district attorney had moved for a continuance, that the defense attorney had moved to dismiss, and that the judge had considered recusing but changed his mind. The assistant district attorney testified that this was a different document than he had reviewed at the case hearing.

After reviewing the record, the Court determined that the following Commission findings were supported by clear and convincing evidence: the judge had had an *ex parte* conversation with the state's complaining witness, the judge's testimony was not credible, and the judge had altered the recusal document. The complaining witness testified, very credibly in the Court's opinion, that Judge Rodella told her it would be up to her whether to testify at trial, that she knew her husband best, that he had never seen anyone arrested for not showing up and that it was clear to her that if she did not appear, the case would be dismissed. The Court found "it significant that Judge Rodella's version of what occurred differed from the accounts given by the other witnesses. . . . To have accepted the judge's testimony as true, the Commission would have needed to find that all of the other witnesses perjured themselves." The Court also held that the judge had not preserved for review his argument that the charge of evidence tampering violated his right to due process because the *Notice of Formal Proceedings* had not been amended to conform to proof of evidence tampering.

The Landlord-Tenant Case

In 2006, while the judge was campaigning for election to the position of magistrate court judge, he visited the home of a married couple in Chimayo to ask for their help in the election and said that he would help

them if they ever had a problem in the court. When he later learned from their daughter that they had a problem with a tenant, he met with the couple, reviewed their rental agreement, told them the contract "looked good," and recommended they file suit. The judge told the couple they should wait until he was elected before filing their case and explained how they could excuse the other local magistrate judge to make sure he heard their case. After the judge was elected, the couple filed their lawsuit and excused the other judge. At the hearing on the case, the judge appeared impatient with the couple, particularly the wife, and recused himself. The couple then filed a complaint with the Commission. After being notified of the complaint, the judge sent a letter to the Administrative Office of the Courts stating that he suspected the husband had forged a document in the case. The Commission found that the letter initiated an investigation by the state police and that the judge had intended to harass the husband and prevent him from testifying before the Commission.

However, noting that the judge had drafted the letter on the advice of his attorney and with the help of an employee of his attorney, the Court stated, even if the letter was construed as a request for an investigation, "Judge Rodella's action in reporting a suspected forgery to the agency overseeing the magistrate courts shortly after being notified that he was being investigated by the Commission is not sufficient to support . . . a finding of intent to intimidate." Because the Court held that the evidence was insufficient to support a finding of witness intimidation, the Court did not address whether Judge Rodella's right to notification of this charge was violated.

The Court rejected the judge's argument that the Commission had no authority to investigate his conduct before he became a judge. The Constitution provides that the Commission has authority to investigate and make recommendations about "willful misconduct in office, persistent failure or inability to perform a judge's duties, or habitual intemperance." The Court stated it was not persuaded that the judge's "formalistic reading of the constitution is consistent with its purpose which is to achieve an efficient and well disciplined judicial system possessing the highest degree of integrity." The Court acknowledged "the difficulties facing magistrate judges, who must engage in what has been termed 'the rough-and-tumble of politics' every four years and campaign for elected office," but noted that the Code of Judicial Conduct applies with very limited exceptions to all candidates. Even though Judge Rodella was not in office when he promised to rule in the Chimayo couple's favor when he advised them how to excuse the other judge, the Court found that the judge's "conduct affected the functioning of the judicial system, and that conduct undermines public confidence in an independent, impartial, and competent judiciary. For us to hold that conduct occurring during a campaign, which violates the Code of Judicial Conduct and which has a direct impact on the performance of a judge's adjudicative responsibilities, is immune from investigation by the Commission would be inconsistent" with the constitutional provision creating the Commission.

The Court found there was clear and convincing evidence supporting the Commission finding that the judge promised the couple he would help them in court with their landlord-tenant case and advised them on how to excuse the other magistrate judge. This evidence was corroborated by their excusal of the other judge. As in the domestic violence case analyzed above, the Court observed that the judge's testimony conflicted with the testimony of the other witnesses and stated that the judge was not forthright in his testimony about his actions and that his actions constituted willful misconduct.

The DWI Case

On July 4, 2005, shortly after the judge was appointed magistrate, a man, who knew the judge because both were members of *Los Hermanos Penitentes* (a religious organization), called the judge for help in obtaining his father's release from jail after he was arrested for DWI. Throughout the evening, Judge Rodella made at least ten phone calls concerning the defendant's arrest either to the jail or the defendant's family and attempted to obtain his release from custody. Before the defendant had been booked into jail, the judge called the jail setting a \$500 bond. When no one was available to accept the bond, the judge changed his

order to release the defendant to the custody of his wife. At approximately 10:00 p.m., the judge got out of bed and drove to jail to hand-deliver a release order. The judge also set and presided over the defendant's arraignment. After news reports about his actions, the judge recused in the case and resigned his position as magistrate.

The Court held that the Commission's determination that the judge's actions constituted willful misconduct was not supported by clear and convincing evidence. The Court stated that assuring that the defendant had access to bail and setting bond, even though the bond set deviated from a bond schedule set by the presiding judge, were within his authority as a judge, and that the number of telephone calls he made resulted, in part, from problems at the jail. The Court distinguished cases disciplining a judge for interfering in cases involving friends and family members because, it found, the treatment the defendant received in this case was not inappropriate, noting the evidence showed that Judge Rodella had also ordered the release of another defendant on the same day. Although it stated it was "troubled by the judge's failure to adhere to the bond schedule set by the presiding judge and by his actions in setting the defendant's arraignment before himself, the majority believes that while these actions demonstrate a lack of judgment, they do not constitute willful misconduct."

The Court concluded, however, "this poor judgment . . . was not improved by training and mentoring and, instead, appears to have established a pattern of misconduct demonstrated in the willful misconduct in the subsequent cases." It also stated it was "deeply troubled by the Commission's determination, which our independent review of the record supports, that Judge Rodella's testimony lacked credibility." In adopting the Commission's recommendation that Judge Rodella be permanently removed from the bench, the Court opined:

When a new judge, through lack of knowledge, experience or judgment, acts in ways that are inconsistent with his or her new role, we hope that such conduct can be corrected through discipline in the form of training, mentoring, and supervision. However, when a judge denies making mistakes, he or she cannot learn from the mistakes, and there is little that can be done to correct the behavior. Under such circumstances, to allow a judge who is not truthful to remain on the bench betrays the public trust and threatens the integrity and the independence of the judiciary as a whole.

Costs

The Court also awarded costs of \$3,573.62 to the Commission that included deposition costs, transcripts, and witness fees but not costs related to the DWI matter, on which the Commission did not prevail, or the costs of its investigation, Commission travel, and per diem expenses, for which, the Court held, the Commission should seek funding from the legislature because they relate to the Commission's core function. The Court clarified which costs are recoverable under Rule 27-403 NMRA, which provides that when the Court disciplines a judge following Commission proceedings, the Court "may direct that expenses of the Commission incurred in the disciplinary proceedings be paid by the judge."

The Court concluded that in order to avoid violating the due process rights of a respondent judge, it should rely on the restrictions imposed on reimbursable costs found in Rule 1-054 of the New Mexico Rules of Civil Procedure for the District Courts rather than the breadth of reimbursable costs allowed under its own rules governing Commission proceedings and under the Commission's rules.

Judge Rodella also argued that the term "disciplinary proceedings" as used in Rule 27-403 commenced with the filing of a petition in the Supreme Court, thus limiting his exposure to costs incurred after formal proceedings before the Commission. The Court rejected this argument, noting the rule regarding costs does not define proceedings and other rules refer to proceedings before the Commission. The Court thus

concluded "because the proceedings before the Commission are the functional equivalent of a trial, the proceedings in which most costs are incurred, we do not read Rule 27-403 to limit the award of costs to the proceedings before this Court."

MATTER OF HON. J. WAYNE GRIEGO
Bernalillo County Metropolitan Court
JSC Inquiry No. 2007-047
Supreme Court Docket No. 30,203

The Commission issued a *Notice of Preliminary Investigation* to the Respondent on July 13, 2007. On September 6, 2007, Judge Griego submitted a response to the *Notice of Preliminary Investigation*. On September 14, 2007, the Commission issued a *Notice of Formal Proceedings* to Judge Griego. Respondent filed a verified answer to the *Notice of Formal Proceedings* on October 4, 2007. On January 28-30, 2008, a trial was held before the Commission. The Commission, after hearing testimony from twenty-six witnesses and reviewing all exhibits admitted into evidence, found the following:

1. This matter concerns the disposition of a series of traffic citations in the Metropolitan Court. In general, the Examiners allege that Judge Griego improperly entered dispositions in cases involving family members and friends. The Examiners contend that, because of his relationships to the defendants, Judge Griego should not have participated in these cases.
2. The Commission heard and directly observed the testimony of all witnesses in the case. The determination of the credibility of Judge Wayne Griego, Jacki Saavedra, and Bernadette Mondragon was important to the Commission in determining the outcome of this case. Judge Griego essentially testified that he had little or no knowledge of the disposition of the traffic citations. Judge Griego placed virtually all of the responsibility for the handling of the traffic citations on his then Trial Court Administrative Assistant Jacki Saavedra. Bernadette Mondragon was Judge Griego's courtroom clerk at the time of most of the incidents in this case and is presently Judge Griego's Trial Court Administrative Assistant. Ms. Mondragon also placed responsibility for the handling of the traffic citations, including the citations received by Ms. Mondragon's family members, on Ms. Saavedra. In contrast to the testimony of Judge Griego and Ms. Mondragon, Ms. Saavedra testified that she acted only at the direction of Judge Griego in the handling of the traffic citations at issue.
3. After listening to the testimony and observing the demeanor of these key witnesses, the Commission concluded that Judge Griego, Ms. Saavedra, and Ms. Mondragon were all aware of and participated in the improper handling of the traffic citations at issue in this case. All three took advantage of their positions to improperly dispose of the traffic citations received by friends and family members. As the Metropolitan Judge, Judge Griego is ultimately responsible for the actions of his court and his staff.
4. The Commission also determined that Judge Griego's attempt to place sole responsibility for the handling of the traffic citations on Jacki Saavedra was not credible in light of the documents in the court files and the testimony of Gina Cammarota (his former TCAA) concerning actions taken by Judge Griego before Jacki Saavedra became Judge Griego's Trial Court Administrative Assistant.
5. The Commission concluded that twenty-four of the twenty-eight traffic citations were improperly handled, which was established by clear and convincing evidence. For majority

of those traffic cases which include Judge Griego's signature and/or initials disposing of the case in the court file, the Commission has concluded that Judge Griego committed willful misconduct. For those citations that do not include Judge Griego's signature or initials in the court file, the Commission concluded that Judge Griego has committed willful misconduct by failing to require his staff to maintain appropriate conduct as required by the Code of Judicial Conduct. Finally, as to four traffic citations, the Commission concluded that the Examiners have failed to establish by clear and convincing evidence the existence of a relationship between Judge Griego and the defendant such that recusal was required.

6. As alleged in **COUNTS I, II** (Cases PR 1360-06, TR 50441-05 and TR 1013-06), **III, IV**, and **V** (Cases CR 2423-05, CR 21173-06 and TR 54537), Judge Griego knowingly involved himself and interfered with the adjudication of cases for family members, including: Ryne Martinez-Metzgar, his step-son (Count I); Daniel Griego, his ex-wife's son (Count II); Chris Sanchez, Sr., the husband of his first cousin, Eileen Sanchez (Count III); Christopher Sanchez, Jr., the son of his first cousin, Eileen Sanchez (Count IV); and Steven Sanchez, another son of his first cousin, Eileen Sanchez (Count V). Judge Griego summarily adjudicated these cases in the Defendant's favor *ex parte* without a hearing/trial and without taking evidence, all in violation of Canons 21-100 NMRA 1995, 21-200(A) and (B) NMRA 1995, 21-300(B)(7), NMRA 2004, and 21-400(A)(1) and (A)(5)(a) NMRA 2004 of the Code of Judicial Conduct.

7. As alleged in **COUNTS II** (Case TR 21429-05), and **V** (Case TR 9255-05), Judge Griego failed to require his staff to observe the standards of confidentiality, fidelity and diligence as required by 21-300(C)(2) NMRA 2004 of the Code of Judicial Conduct.

8. As alleged in **COUNTS VI, VII, VIII**, and **IX** Judge Griego knowingly involved himself and interfered with the adjudication of cases for relatives of staff members, including: Mickey Mondragon, the brother of courtroom clerk, and present TCAA, Bernadette Mondragon (Count VI); Bernardo Mondragon, brother of courtroom clerk and present TCAA, Bernadette Mondragon (Count VII); Theresa Mondragon, the mother of courtroom clerk and present TCAA, Bernadette Mondragon (Count VIII); and Lucas Saavedra, the husband of TCAA Jacki Saavedra (Count IX). Judge Griego summarily adjudicated these cases in the Defendant's favor *ex parte* without a hearing/trial and without taking evidence, all in violation of Canons 21-100 NMRA 1995, 21-200(A) and (B) NMRA 1995, 21-300(B)(7), and (C)(2), NMRA 2004, and 21-400(A)(1) NMRA 2004 of the Code of Judicial Conduct.

9. As alleged in **COUNTS X, XI, XVI, XVII**, and **XVIII**, Judge Griego knowingly involved himself and interfered with the adjudication of cases for friends and close personal colleagues, including: Martin Perea, a friend (Count X); Ronald "RC" Casias, a friend (Count XI); Anthony Nunez, a friend (Count XVI); Corrine Nunez, the spouse of Respondent's friend Anthony Nunez (Count XVII); Elisha Nunez, the daughter of Respondent's friend Anthony Nunez (Count XVIII). Judge Griego summarily adjudicated these cases in the Defendant's favor *ex parte* without a hearing/trial and without taking evidence, all in violation of Canons 21-100 NMRA 1995, 21-200(A) and (B) NMRA 1995, 21-300(B)(7), NMRA 2004, and 21-400(A)(5)(a) NMRA 2004 of the Code of Judicial Conduct.

10. As to these counts, Judge Griego's conduct was established by clear and convincing evidence and constituted willful misconduct in office.

The Commission reached this recommendation after consideration of a variety of factors. "First, the judicial misconduct involved was very serious and requires a significant sanction. The misconduct was repetitive and for the benefit of Judge Griego's friends and family and for the benefit of family members of

his staff. Such preferential treatment seriously undermines public confidence in the fairness and integrity of New Mexico's judiciary. Second, Judge Griego has previously been reprimanded by the Supreme Court for misconduct involving improper actions related to his court staff. *Matter of J. Wayne Griego*, Supreme Court No. 30,203, JSC Inquiry No. 2005-051. Third, in the Commission's evaluation of the evidence and the credibility of the witnesses, the Commission concluded that Judge Griego was not completely forthcoming in his testimony before the Commission. His testimony blaming Jacki Saavedra for the handling of the traffic citations was not deemed credible by the Commission."

As mitigating factors, the Commission considered that: "the traffic citations involved were comparatively minor violations of law which carried minimal punishments under law. In many cases, it appears that the defendants received dispositions from Judge Griego which were consistent with the dispositions received by other defendants. In addition, it was not shown by clear and convincing evidence that Judge Griego obtained any specific personal benefit from the actions taken on the traffic citations. Finally, in his statement to the Commission following the finding of misconduct, Judge Griego expressed that he accepted responsibility for his actions, that he had a desire to correct any past problems, and that he would endeavor to abide by the Code of Judicial Conduct in the future."

Balancing these issues, the Commission concluded that a significant period of suspension along with the other conditions recommended above was the appropriate discipline in light of the misconduct involved in this matter.

On February 20, 2008, the Commission filed a *Petition for Discipline* recommending the Supreme Court impose the following discipline upon the Respondent:

- i. Judge Griego be suspended without pay for a period of ninety (90) days;
- ii. Prior to resuming the bench following the suspension, Judge Griego be required to submit to the Supreme Court and to the Commission written policies and procedures for his office addressing the avoidance of future conflicts of interest and addressing staff supervision and training;
- iii. Publication of a Formal Written Reprimand; and
- iv. Judge Griego pay costs not to exceed \$11,939.46.

On March 10, 2008, Respondent filed his *Response to the Commission's Petition for Discipline*, in which he argued that the Court should adopt the Commission's recommendation for discipline.

The Supreme Court held oral argument on the Commission's *Petition for Discipline* on March 12, 2008. That same day, the Supreme Court issued an order adopting the Commission's *Findings of Fact and Conclusions of Law* and ordered that Respondent be disciplined as follows:

It is . . . ordered that J. Wayne Griego hereby is immediately removed from the bench pursuant to Rule 27-401(a)(7) NMRA;

It is further ordered that Judicial Standards Commission shall submit a cost bill to this Court and J. Wayne Griego may file objections thereto. The Court shall take under advisement any assessment of costs.

In a formal opinion dated April 11, 2008, the New Mexico Supreme Court ordered the removal of Judge Griego from office for summarily adjudicating twenty-four traffic cases in the defendants' favor *ex parte* and without a hearing or taking evidence. *Inquiry Concerning Griego*, 2008-NMSC-020, 143 N.M. 698, 181 P.3d 690. The Court noted that "over a period of almost three years, Metropolitan Court Judge J.

Wayne Griego engaged in conduct that betrayed the public trust and undermined the judiciary's integrity by bypassing evidentiary hearings and adjudicating tickets for family members and friends without state participation." The Court stated that it had reprimanded Judge Griego and fined him \$500 in 2007 for delegating duties to his secretary. The Court also noted that the judge did not challenge the Commission's findings, conclusions, or recommendation of a ninety-day suspension and formal reprimand.

Noting that the metropolitan court handles "well over 100,000 cases" a year and that "adjudicating traffic cases is a major part of a metropolitan court judge's duties," the Court stated that "a judge appointed to the metropolitan court should take the adjudication of traffic cases seriously." The Court also noted that because he is an attorney, "Griego must have been aware prior to assuming his role as a judge" that *ex parte* communications are prohibited. The Court emphasized that the judge's misconduct "was not an isolated incident, but routine practice" and that he was fixing tickets while he knew he was under investigation in a separate disciplinary matter. The Court opined that "Griego's conduct demonstrates a lack of commitment to his judicial duties and has an immeasurable impact on the public's confidence in the judicial system." Moreover, the judge's conduct "undermined the public's expectation that everyone appearing in metropolitan court will receive a fair and impartial hearing."

Concluding that removal was the only appropriate remedy, the Court stated:

Griego's conduct demonstrates a lack of respect for the principles of fairness on which our judicial system is constructed. . . . In this case, Griego's conduct undermined the public's expectation that everyone appearing in metropolitan court will receive a fair and impartial hearing. Whether or not Griego imposed penalties on his friends and family that were consistent with those given to others appearing in metropolitan court does not negate the fact that the process afforded to his friends and family was different from that given to other members of the public. This difference in the process created the perception that he was bestowing favors, rather than deciding cases fairly and impartially.

Finally, although the Commission stated that "in his statements to the Commission following the finding of misconduct, Judge Griego expressed that he accepted responsibilities for his actions, that he had a desire to correct any past problems, and that he would endeavor to abide by the Code of Judicial Conduct in the future," we note that Griego made a similar statement in his earlier disciplinary proceedings. This statement is also undermined by the Commission's finding that Griego's testimony was not credible.

Under these circumstances, noting that the Commission found that Griego's testimony was not credible, we cannot allow Griego to preside over cases in which he is charged with weighing evidence and determining the credibility of others.

In its March 12, 2008 order permanently removing J. Wayne Griego from judicial office, the Supreme Court requested the Commission file a memorandum of costs. Pursuant to that order, Commission staff filed a *Memorandum of Costs* with the Court on March 14, 2008. The Court subsequently ordered Respondent to provide a written response on April 7, 2008, which Respondent did. On June 4, 2008, the Court awarded \$6,704.41 in costs to the Commission.

MATTER OF HON. IRA ROBINSON
Court of Appeals
JSC Inquiry No. 2007-070
Supreme Court Docket No. 31,188

On October 23, 2007, the Commission issued a *Notice of Preliminary Investigation* to Judge Ira Robinson. Judge Robinson filed his answer on November 19, 2007. On December 13, 2007, the Commission issued a *Notice of Formal Proceedings* to Judge Robinson, to which response was filed on January 14, 2008.

On June 25, 2008, Judge Robinson and the Commission entered into a *Stipulation to Permanent Retirement from Judicial Office*. The same day, the Commission filed a *Petition to Accept Stipulation to Permanent Retirement from Judicial Office* with the Supreme Court. The petition provided in part:

* * *

4. Upon a unanimous vote (with one Commissioner recused), the Commission entered into a *Stipulation to Permanent Retirement from Judicial Office* with the Respondent on June 25, 2008 (attached hereto as **Exhibit 1**), which provides in pertinent part the following:

A. Respondent agrees to permanently retire as Judge of the New Mexico Court of Appeals effective close of business on August 16, 2008. Upon acceptance of this stipulation by the New Mexico Supreme Court, Respondent shall submit duplicate original letters of retirement to the Chief Justice of the New Mexico Supreme Court and to the Governor. Respondent shall concurrently provide a copy of the retirement letter to the Commission. Upon retirement, Respondent shall never again hold, become a candidate for, run for, or stand for election to any New Mexico judicial office in the future. Respondent shall never seek, accept appointment to, or serve *pro tempore* for any New Mexico judicial office in the future. New Mexico judicial office includes the posts of judge in municipal court, probate court, magistrate court, metropolitan court, district court, Court of Appeals, and justice of the Supreme Court.

B. The Commission will file **under seal** with the New Mexico Supreme Court a *Petition to Accept Stipulation to Permanent Retirement from Judicial Office*, attaching a copy of this agreement.

C. The Commission and Respondent agree that the Supreme Court shall determine whether this agreement should remain under seal.

D. The Commission's position on the sealing issue is that the Commission has a duty pursuant to Article VI, §32 of the New Mexico Constitution, its enabling legislation, and its procedural rules (A) to protect the public from any improper conduct and behavior of judges; (B) to preserve the integrity of the judicial process; (C) to maintain public confidence in the judiciary; (D) to create a greater awareness of proper judicial behavior on the part of the judiciary and the public; and (E) to provide for the expeditious and fair disposition of complaints of judicial misconduct. The Commission believes that this stipulation agreement as part of its petition to the Supreme Court should be public. Respondent's position is that sealing this stipulation does not conflict with Article VI, §32 of the Constitution because this stipulation makes no admission of misconduct. If the Supreme Court considers unsealing this stipulation, Respondent requests the ability to brief the issue.

E. Upon execution of this *Stipulation to Permanent Retirement from Judicial Office* and acceptance by the Supreme Court, the Commission will abate and close this matter (Inquiry No. 2007-070).

5. Upon Order from this Court, the attached *Stipulation to Permanent Retirement from Judicial Office* is enforceable by the Commission before the Supreme Court.

6. It is in the best interests of justice and integrity of the New Mexico Judiciary that the Supreme Court issue an order accepting Respondent Hon. Ira Robinson's permanent retirement from judicial office.

7. The Supreme Court should also determine whether this petition and the underlying *Stipulation to Permanent Retirement from Judicial Office* should remain sealed.

On June 26, 2008, the Supreme Court issued an order requiring briefing on whether the stipulation and filings with the Court should remain sealed. The order further stated: "The Court is not inclined to accept the resignation with a suggested date of August 16, 2008, but is inclined to accept a resignation effective on or after September 10, 2008. Are the parties willing to amend the stipulation to change the effective date of resignation to September 10, 2008, or to a later specific date?"

On June 27, 2008, Judge Robinson and the Commission entered into an *Amendment to Stipulation to Permanent Retirement from Judicial Office*, which amended the effective date of Judge Robinson's proposed permanent retirement to September 16, 2008. That same day, the Commission filed a *Motion to Amend Stipulation to Permanent Retirement from Judicial Office* with the Supreme Court.

On July 1, 2008, Judge Robinson filed a *Motion to Unseal Stipulation with the Supreme Court*. The following day, the Commission filed a response. On July 9, 2008, the Commission filed with the Supreme Court the required *Brief in Support of Removing the Seal on the Stipulation and Filings in Inquiry No. 2007-070*. On July 11, 2008, Judge Robinson filed a *Response to Commission's Further Brief on Sealing*.

On July 14, 2008, the Supreme Court issued its final order in this matter. The order granted the Commission's *Motion to Amend Stipulation to Permanent Retirement* thereby accepting Judge Robinson's permanent retirement from judicial office effective September 16, 2008. The Supreme Court also granted the Respondent's motion to unseal and ordered that the entire case shall be unsealed at the Supreme Court. Upon Judge Robinson's retirement on September 16, 2008, the Commission will close this matter.

MATTER OF HON. HORACIO FAVELA

Sunland Park Municipal Court

JSC Inquiry No. 2008-012

Supreme Court Docket No. 30,987

On March 4, 2008, Respondent won the election for Municipal Judge of Sunland Park, New Mexico. On March 7, 2008, the Commission filed a *Petition for Immediate Temporary Suspension*, asking the Supreme Court to suspend judge-elect Favela from office on the basis that he had pending felony criminal charges. The Commission also filed its *Petition for Writ of Quo Warranto*, seeking to prevent judge-elect Favela from taking office on the basis that he was not a resident of Sunland Park, New Mexico, and thus ineligible to hold the office of Sunland Park Municipal Judge.

On January 8, 2008, Respondent filed his declaration of candidacy with the city clerk of Sunland Park, New Mexico, to run for the office of Municipal Judge. Shortly before the Municipal Election of March 4, 2008, Respondent was criminally charged with the fourth degree felony of false voting. The criminal complaint

alleged that in the 2004 general election, candidate Favela cast an absentee ballot in El Paso County, Texas, based on his voter registration in El Paso County, Texas, and also cast an absentee ballot in Doña Ana County, New Mexico, based on his voter registration in Doña Ana County, New Mexico, contrary to §1-20-8 NMSA. It was also alleged that candidate Favela was a resident of Texas, not of New Mexico, and as such was not qualified to serve as a municipal court judge in the State of New Mexico.

The Supreme Court held oral argument on both of the Commission's petitions on March 26, 2008. The Supreme Court granted the Commission's *Petition for Immediate Temporary Suspension*, but denied without prejudice the Commission's *Petition for Writ of Quo Warranto*.

On June 24, 2008, the Commission reached agreement with Judge Favela on *Stipulation to Permanent Resignation from Judicial Office*, which was filed by petition in the Supreme Court. The Supreme Court granted the Commission's petition on July 15, 2008, ratifying Judge Favela's permanent resignation from judicial office.

MATTER OF HON. FRED RODARTE
Cibola County Probate Court
JSC Inquiry No. 2008-001
Supreme Court Docket No. 31,023

On March 25, 2008, the Commission filed with the Supreme Court a *Verified Petition for Immediate Temporary Suspension without Pay* against Judge Rodarte. On April 1, 2008, the Supreme Court set oral argument for April 16, 2008, and ordered Judge Rodarte to respond to the petition by April 11.

On April 10, 2008, Judge Rodarte resigned from his judicial office. On April 15, 2008, the Supreme Court vacated oral argument and denied the Commission's temporary suspension petition as moot.

MATTER OF HON. BARBARA ALDAZ-MILLS
Aztec Municipal Court
JSC Inquiry No. 2008-051
Supreme Court Docket No. 31,197

On June 27, 2008, the Commission filed a *Verified Petition for Immediate Temporary Suspension* of Judge Aldaz-Mills with the Supreme Court. On July 2, 2008, the judge filed her response to the Commission's petition. On July 30, 2008, the Supreme Court issued an order denying the Commission's *Petition for Immediate Temporary Suspension*.

This matter was ongoing at the end of FY 2008. Any reportable subsequent events will be reported in the FY 2009 annual report.

MATTER OF A JUDGE
JSC Inquiry No. 2006-109

During FY 2008, the Commission held a trial concerning allegations that a judge stated in open court during a motion hearing that a litigant would never get a money judgment in the judge's court no matter what the litigant's attorney said or did. The judge also purportedly said that if the other party returned the property, the debt would be satisfied.

The Commission found that there was not clear and convincing evidence that the judge engaged in willful misconduct in office and dismissed the matter. No filing was made to the Supreme Court.

INFORMAL PROCEEDINGS

PRIVATE LETTERS OF CAUTION. The Commission may dispose of a matter by privately cautioning the judge that the conduct alleged may violate the Code of Judicial Conduct. The allegations in these cases were not proven by clear and convincing evidence and no specific findings of willful misconduct were made. However, the Commission was concerned that if true, the conduct may violate the Code, requiring the matters to be addressed. In FY 2008, the Commission issued 12 private cautionary letters to judges addressing the issues listed below:

1. A judge allegedly failed to perform judicial duties resulting in criminal cases being dismissed on the six-month rule, and failed to supervise court staff properly to ensure cases are set properly and timely. The allegations included (1) not documenting continuances; (2) setting and resetting cases for pretrial conferences rather than the specific hearings requested; (3) ignoring hearing requests; (4) setting hearings around specific attorney(s) schedules; and (5) rescheduling dockets because a conflict develops in one attorney's schedule, without written motions for continuance being filed, without notice to or opportunity for the other party to be heard, and without proper documentation. The Commission cautioned the judge to ensure that all court proceedings are properly noticed and set, and to take steps to ensure that improper court settings do not result in the expiration of the six-month rule.

2. A judge allegedly charged a criminal defendant with failure to appear at a hearing, issued a bench warrant, and reset the hearing for a later date. At the later hearing, the judge summarily found the defendant guilty for contempt to stop the six-month rule from running, without providing a hearing on the merits of the contempt charge. The Commission cautioned the judge to not adjudicate defendants guilty of failure to appear as a procedural move to toll the six-month rule.

3. A judge allegedly improperly involved himself/herself in a case from which the judge was recused. The judge had a standing blanket recusal order from all cases involving an attorney and had filed a recusal in a specific case where that attorney represented the defendant. However, the judge later presided over the arraignment in the case. The Commission cautioned the judge to not take any judicial action in, sit in, or preside over any action in which the judge has recused or issued blanket recusal, particularly where the judge has a bias or prejudice against a party's attorney or other situations where the judge's impartiality may reasonably be questioned.

4. A judge allegedly remanded a criminal defendant to incarceration after the judge had previously released the defendant because of the judge's direct contact with the press concerning the criminal case and the extensive media coverage and public clamor over the criminal case. Additionally, the judge contacted the defendant's probation officer immediately after speaking with a news reporter. The judge and the probation officer discussed the merits of the case, prompting an emergency hearing in the case. The Commission cautioned the judge to be mindful of the judge's obligation to comply with Canons 21-300(B)(7) and 21-300(B)(10) of the Code of Judicial Conduct. With respect to contact with probation officers, the judge should refrain from initiating, permitting or considering *ex parte* conversations concerning a pending or impending proceeding. Additionally, the Commission noted, as provided in Canon 21-300(B)(10) of the Code of Judicial Conduct, "a judge shall not, while a proceeding is pending or impending in any court, make any public comment that might reasonably be expected to affect its outcome or impair its fairness. . . ."

5. A judge allegedly made improper public comments to the media regarding how the judge was likely to rule on a motion pending before the judge's court, contrary to Canon 21-300(B)(10). The Commission cautioned the judge to exercise care when commenting to the media and to comply with Canon 21-300(B)(10).

6. A judge allegedly dismissed four cases with prejudice based on the judge's own experience in a specific profession generally related to the substance of the cases, rather than on the facts and law of the cases.

The judge only heard testimony from one witness in the first case, but dismissed all four cases and also failed to swear in the witness prior to the testimony. The Commission cautioned the judge to: (1) place all witnesses under oath prior to taking any testimony; (2) base judicial decisions on the facts and law of the case before the judge, not on improper extrajudicial information, unless otherwise authorized by the law or Code of Judicial Conduct; and (3) review with a mentor the proper substantive grounds and procedure for dismissing cases “with prejudice” versus “without prejudice.”

7. A judge allegedly lacked jurisdiction to perform a competency evaluation on a defendant and yet ultimately determined that the defendant was competent to stand trial. Ten days prior to this hearing, the judge had received the protocols for competency evaluations from a higher court. The Commission cautioned the judge to carefully follow and adhere to the applicable rules of procedure with respect to the transfer of competency proceedings and to comply with Canon 21-200(A) and (B), which provide that a judge shall respect and comply with the law and shall remain impartial in the execution of the judge’s duties; and Canon 21-300(B)(5), which provides that a judge shall perform judicial duties without bias or prejudice.

8. A judge allegedly approved a plea agreement that violated NMSA 1978, §66-8-102.1 by improperly lowering the charged offense. In the agreement the prosecutor and defense attorney agreed that the defendant would plead guilty to careless driving, but the primary pending charge as set forth in the criminal complaint was violation of NMSA 1978, §66-8-102 (driving while under the influence of intoxicating liquor or drug). The Commission cautioned the judge to not approve plea agreements that violate NMSA 1978, §66-8-102.1. The Commission suggested that if a defendant is charged with a violation of NMSA 1978, §66-8-102 and the results of a test performed pursuant to the Implied Consent Act disclose that the blood or breath of the person charged contains an alcohol concentration of .08 or more, or .04 if the person charged is driving a commercial motor vehicle, then the judge should only permit the defendant to enter into a plea that includes at least a plea of guilty to the violation of one of the subsections of NMSA 1978, §66-8-102. The Commission reminded the judge that at the Magistrate Judges’ Conference, the judge was instructed that if anywhere in the citation, criminal complaint, or statement of probable cause the defendant’s blood alcohol content (“BAC”) is mentioned at .08 or higher, the judge should err on the side of caution, deny the plea agreement, and allow the case to go forward.

9. A judge allegedly failed to be patient, dignified and courteous with an attorney and in the judge’s closing remarks at trial, and improperly made statements manifesting gender bias against the female police officers involved. The Commission cautioned the judge to take care when carrying out judicial duties to refer to police officers by name, or by name and title. The Commission suggested that the judge not refer to an officer’s gender unless specifically relevant to the proceeding or matter. The Commission further cautioned the judge to comply with Canon 21-300(B)(5) by performing judicial duties without bias or prejudice, and not to, by words or conduct, manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability, age, marital status, sexual orientation or socioeconomic status, and not to permit staff, court officials and others subject to the judge’s discretion and control to do so.

10. A judge allegedly delayed excessively in ruling on a motion for over two years. The Commission cautioned the judge not to delay excessively in ruling on motions or in issuing judgments. The Commission noted that the judge had been cautioned previously in a similar matter and advised that any future conduct of this nature may result in formal action. The Commission recommended that unless there was some reason to recuse, the judge should render a decision on the pending motion without further delay.

11. A judge allegedly published and distributed campaign literature (including campaign literature that may appear in electronic or digital form on the internet) that either elicited the title as judge or depicted the individual in their robe without stating that the individual is an incumbent judge running for a higher

judicial office. Prior to the dissemination of the campaign literature, the judge had taken a number of steps to ensure that the campaign literature was in compliance with the Code, including the judge's review of other campaign materials used by lower court judges running for higher courts to ensure that the logo would be appropriate. However, the judge acknowledged that some of the campaign literature could possibly have been misunderstood and interpreted as out of compliance with the New Mexico Code of Judicial Conduct. In response to the Commission's inquiry and in an effort to resolve the matter, the judge completed the following:

- (1) consulted with the chairman of the Advisory Committee of the Code of Judicial Conduct;
- (2) redesigned the campaign logo following the Advisory Committee chairman's advice and using the Committee's Opinion No. 92-3;
- (3) stopped an order for billboard artwork and resubmitted the order with the new logo;
- (4) removed all web-based material using the old logo and replaced it with the new logo;
- (5) removed yard signs and bumper stickers from the judge's own property and vehicles;
- (6) reordered bumper stickers with the new logo;
- (7) reordered bumper stickers with the new logo;
- (8) consulted with a printing company to order corrective stickers for remaining and undistributed yard signs;
- (9) discarded the graphic design for a direct mail piece and completely redesigned the direct mail literature;
- (10) reprinted a large vinyl banner used for parades, receptions and conventions; and
- (11) undertook considerable financial expense and considerable time to immediately address the issues raised by this Inquiry.

The judge entered into a *Confidential Stipulation Agreement for Immediate Compliance and Acceptance of Informal Disposition* with the Commission in which the judge agreed to the following remedial measures: (1) the judge agreed to immediately cease the publication and distribution of campaign literature that did not identify the individual as a judge of a different court; (2) the judge took immediate and reasonable measures to recover and correct the campaign literature; and (3) the judge also agreed to seek guidance from the Code of Judicial Conduct Advisory Committee to ensure that future campaign literature conforms to the New Mexico Code of Judicial Conduct. After certifying that the judge had completed these measures, the Commission cautioned the judge to ensure the judge's campaign literature complies with Canon 21-700(B)(4)(b). The Commission cautioned the judge to ensure that the judge's campaign literature complies with Rule 21-700(B)(4)(b) NMRA 2004 and, as a judge and as a candidate for judicial office, ensure that all of the judge's activities comply with the New Mexico Code of Judicial Conduct.

12. A judge allegedly published and distributed campaign literature in the form of yard signs and business cards that appeared in electronic or digital form on the internet that either elicited the title as judge or depicted the individual in their judicial robe without disclosing the fact that the individual was an incumbent judge of a different court running for a higher judicial office. The judge acknowledged that some of the campaign literature, although factually correct, may not comply with the New Mexico Code of Judicial Conduct on the basis that it did not identify the judge as an incumbent judge running for higher

judicial office in an instance where that campaign literature elicits the title of judge or depicts the judge in a judicial robe. The judge was not aware of the existence of Advisory Opinion 92-03, which addressed the Code provisions involved in this matter. Nevertheless, the judge recognized that distribution of the relevant campaign literature may violate Canons 21-100 NMRA 1995, 21-200(A) NMRA 1995; and 21-700(B)(4)(b) of the New Mexico Code of Judicial Conduct. The judge entered into a *Confidential Stipulation Agreement for Immediate Compliance and Acceptance of Informal Disposition* with the Commission in which the judge agreed to the following remedial measures: (1) the judge agreed to cease the publication and distribution of campaign literature that did not comply with the Code; (2) the judge agreed to recover all campaign literature that may have been in violation of the Code, including collecting or modifying improper yard signs and ceasing or modifying improper web-based campaign literature to bring it into compliance with the applicable code provisions; (3) the judge also agreed to seek and implement guidance from the Code of Judicial Conduct Advisory Committee as to the substance and content of campaign literature that complies with the New Mexico Code of Judicial Conduct. After certifying that the judge had completed these measures, the Commission cautioned the judge to ensure the judge's campaign literature complies with Rule 21-700(B)(4)(b) NMRA 2004.

INFORMAL REMEDIAL MEASURES. The Commission may elect to dispose of matters informally by referring judges for remedial measures, including mentorship, counseling or other assistance. In the mentor program, the Commission selects an experienced judge who is asked to structure an informal program to meet with the subject judge, address the Commission's issues of concern, and provide the judge being mentored with any needed help and advice. Participation in the programs is accomplished through stipulation. In FY 2008, 2 judges were referred for informal remedial measures, which are discussed below.

1. A judge allegedly displayed improper demeanor with an attorney and sought retribution against the attorney for filing a petition for a writ that sought relief from a higher court. The judge also allegedly improperly adjudicated guilt and sentenced a defendant without allowing the defendant to present a defense. The Commission referred the judge to complete a mentorship with a more experienced judge, which was successfully completed.

Upon completion of the mentor program, the Commission also cautioned the judge to ensure that defendants are allowed to present a defense prior to adjudicating guilt and sentencing; and to treat all persons who appear before the judge or with whom the judge interacts in an official capacity with patience, dignity, and courtesy. The Commission further cautioned the judge to not take any action that could be construed as retaliation or retribution against attorneys or parties who appeal to or seek writs from a higher court concerning the judge's decisions.

2. A judge allegedly failed to appoint a public defender for a defendant on an aggravated DWI charge. The judge later told the defendant *ex parte* that there was not enough time (prior to expiration of the six-month rule) for appointment of counsel, so the judge would not be imposing any jail time. Forty-eight hours of jail time is the mandatory minimum sentence for an aggravated DWI charge by law. The judge allegedly conducted a summary *ex parte* proceeding without the prosecuting police officer, wherein the judge found the defendant guilty of DWI First (non-aggravated) and careless driving, and sentenced the defendant to DWI school, victim impact, drug screening, 48 hours community service, ignition interlock, and \$500.00 fine (\$200.00 suspended if other measures completed within 90 days). The Commission referred the judge to complete a mentorship with a more experienced judge, which was successfully completed.

**JUDGES WITH ONGOING PROBATION,
MONITORING, OR COMPLIANCE WITH SUPREME COURT ORDERS**

MATTER OF HON. JOHN W. POPE
Thirteenth Judicial District Court
JSC Inquiry No. 2006-046
Supreme Court Docket No. 29,778

Pursuant to the Supreme Court order of July 20, 2006, Judge Pope for the entire duration of his service as a judge in the State of New Mexico, shall: (1) be on permanent supervised probation; (2) participate in Alcoholics Anonymous or other twelve-step program at least once a week, (3) submit to random alcohol and drug testing, and (4) not use alcohol or illegal drugs. Judge Pope is currently complying with these conditions ordered by the Supreme Court.

MATTER OF HON. JOHN W. "BUDDY" SANCHEZ
Valencia County Magistrate Court
JSC Inquiry No. 2005-031
Supreme Court Docket No. 25,281

On March 8, 2007, the Supreme Court issued its order requiring that Judge Sanchez comply with conditions enumerated below, and ordered his return to the bench. To remain on the bench, the Supreme Court required that Judge Sanchez first demonstrate his serum ammonia levels were below 45 umol/L. He was also required to certify by affidavit that he was enrolled in an alcohol treatment program. In addition, he was ordered to abstain from all alcohol consumption, and comply with random drug and alcohol screening until further order of the Court. Judge Sanchez was also required to undergo random testing of his serum ammonia levels. The Supreme Court also ordered that failure to comply with the terms and conditions of its order, including any failed screenings, shall serve to bar his return to the bench. The Supreme Court further ordered that should Judge Sanchez fail to comply with any of the terms and conditions of the Court's order, the Commission "shall proceed to seek [his] removal or retirement." To the best of the Commission's knowledge and belief, Judge Sanchez is under ongoing drug and alcohol screening and serum ammonia level monitoring as ordered by the Supreme Court, all of which at the Supreme Court's direction is to be ordered and monitored by the director of the Administrative Office of the Courts ("AOC") with notice to the Commission.

MATTER OF HON. THERESA GOMEZ
Bernalillo County Metropolitan Court
JSC Inquiry No. 2006-128
Supreme Court Docket No. 30,549

Pursuant to the October 24, 2007 order of the Supreme Court, Respondent shall pay \$17,000.00 constituting unpaid rent due to the Region III State Housing Authority, its successor, agent, or assign. Judge Gomez is currently in repayment as ordered by the Supreme Court.



PROCEEDINGS BEFORE THE SUPREME COURT FY 2003–FY 2008

Following is a summary of cases that the Commission filed with the New Mexico Supreme Court during the five prior fiscal years, in addition to this reporting year. (More detailed summaries for this year's cases may be found in the preceding section.) Cases are listed in sequential order of their filing.

Matter of Hon. Barbara A. Brown, Bernalillo County Metropolitan Court, JSC Inquiry Nos. 2001-088, 2001-093 & 2001-095, Supreme Court Docket No. 27,250 (2002). Allegations included criminal charges for disorderly conduct, propulsion of missiles, assault, and use of telephone to terrify, intimidate, threaten, harass, annoy or offend; using prestige of judicial office to advance private interests; publicly commenting on and criticizing police department's "Party Patrol" unit and citations; threatening and abusing court staff, and encouraging, promoting, or otherwise enabling friend to threaten or intimidate court staff with physical violence; conveying or allowing friend to convey impressions that friend is in special position to influence judge and that friend benefits from power and prestige of judge's office; allowing friend to use judge's home and cellular telephones to make harassing telephone calls, and during one call, judge identifying herself as "Judge Barbara Brown" and attempting to speak to victim of call; acting as an arbitrator or mediator in private capacity and engaging in practice of law; using prestige of judicial office to advance friend's private interests in domestic violence matter and conveying or allowing friend to convey impression that friend is in special position to influence the judge or another judge. Judge immediately suspended with pay. At subsequent hearing, temporary suspension continued with 90 days pay and thereafter without pay. During formal proceedings, judge stipulated to permanent resignation from judicial office. Judge resigned.

Matter of Hon. Thomas G. Cornish, Third Judicial District Court, JSC Inquiry No. 2001-096, Supreme Court Docket No. 27,253 (2002). Allegations included conviction for DWI and driving with no headlamps. Upon stipulation, judge summarily and temporarily suspended with pay not to exceed 90 days, and thereafter without pay. Upon further stipulation, judge publicly reprimanded and ordered to complete alcohol counseling and in-patient alcohol rehabilitation program. Supreme Court ordered judge to remain suspended from judicial office without pay. On stipulation, judge permanently resigned.

Matter of Hon. William A. Vincent, Jr., San Juan County Magistrate Court, JSC Inquiry Nos. 2001-030, 2001-031, 2001-032, 2001-034, 2001-035 & 2001-036, Supreme Court Docket No. 27,266 (2002). Allegations included making age and gender biased references to female attorneys; threatening public defender's office and its employees; abusing judicial process, failing to recuse, and exhibiting bias or prejudice during arraignment; after recusing from case, physically and verbally interjecting himself into hearing and testifying against defense motion; telephoning legislators while on bench to support or oppose pending legislation and discussing political views on various subjects; referring to female judge (a colleague) in derogatory, gender-biased manner; criticizing female attorney from public defender's office concerning nature of employment and inappropriately comparing her to other attorney; illegally and verbally modifying *ex parte* a judgment and other order after defense filed notice of appeal

from ruling. Judge publicly reprimanded, ordered to participate in mentorship program, and ordered to attend (at own expense) a national judicial education course in building a bias-free environment in court.

Matter of Hon. Charles Maestas, Española Municipal Court, JSC Inquiry No. 2001-009, Supreme Court Docket No. 27,348 (2002). Allegations included soliciting favored treatment from police officers for judge's friend. On stipulation, judge suspended two days without pay, publicly reprimanded, and ordered to attend (at own expense) a national judicial ethics course. Supreme Court took final disposition under advisement pending completion of criminal prosecution and Commission proceedings on another matter (Inquiry No. 2002-40 reported below). After conviction and upon incarceration, judge resigned.

Matter of Hon. George A. Harrison, Eleventh Judicial District Court, JSC Inquiry Nos. 2000-039, 2001-048, 2001-053, 2001-055, 2001-058 & 2001-074, Supreme Court Docket No. 27,380 (2002). Allegations included asking municipal judge and police chief to dismiss friend's Aggravated DWI case; interfering in criminal investigation and ordering police to perform blood alcohol testing on friend after friend had refused; calling detention center and ordering friend's release on own recognizance when not assigned or designated to preside over case; having improper financial relationship with attorney who regularly appears before judge's court; drinking alcohol with criminal defendant scheduled to be sentenced by judge on next day; taking plea in chambers after consuming alcoholic beverages while playing golf; and attempting to coerce detention center personnel to release friend partially on bail and partially on own recognizance when friend's case was not assigned to judge's court. Supreme Court denied Commission's petition to temporarily suspend judge. During formal proceedings, judge stipulated to permanent resignation from judicial office. Judge resigned.

Matter of Hon. Anthony Fuller, Bosque Farms Municipal Court, JSC Inquiry No. 2002-007, Supreme Court Docket No. 27,431 (2002). Allegations included failing to perform judicial duties for several months while accepting judicial salary. Temporarily suspended without pay. Judge resigned.

Matter of Hon. Rhoda A. Hunt, McKinley County Magistrate Court, JSC Inquiry Nos. 2002-024 & 2002-032, Supreme Court Docket No. 27,525 (2002). Allegations included criminal charges for making false public records and fraud, and non-criminal allegation of ignoring or concealing a notice of dismissal in traffic case. Supreme Court denied Commission's temporary suspension petition. At preliminary hearing on criminal charges, trial court determined charges not supported and dismissed them. Following dismissal of criminal charges, Commission dismissed all allegations of inquiry and closed matter.

Matter of Hon. Charles E. Maestas, Española Municipal Court, JSC Inquiry No. 2002-040, Supreme Court Docket No. 27,348 (2002). Allegations included grand jury indictment and prosecution for eight counts of criminal sexual penetration, two counts of criminal sexual contact, nine counts of extortion, eight counts of official acts prohibited, and one count of stalking. Allegations concerned judge promising or exchanging leniency for sexual favors from defendants. On stipulation, judge temporarily suspended. Supreme Court ordered the suspension with 90 days pay, and thereafter no pay. Judge convicted of five felony counts of Official Acts Prohibited and five felony counts of Criminal Sexual Penetration. Judge resigned while incarcerated.

Matter of Hon. Edward L. Brown, Cimarron Municipal Court, JSC Inquiry No. 2002-021, Supreme Court Docket No. 27,577 (2002). Allegations included making false and misleading statements regarding educational background, military experience, and work history during campaign for judicial office. Temporary suspension petition filed. On stipulation, judge permanently resigned.

Matter of Hon. Frances Gallegos, Santa Fe Municipal Court, JSC Inquiry No. 2002-080, Supreme Court Docket No. 27,906 (2003). Allegations included failing to reside within city limit (a qualification to hold the judicial office). On stipulation, publicly reprimanded, ordered to reimburse complainant for private

investigator fees, and ordered to reside within city limits while holding office as municipal judge. See also JSC Inquiry Nos. 2003-058, 2003-089 & 2003-108 below for related information.

Matter of Hon. Susana Chaparro, Doña Ana County Magistrate Court, JSC Inquiry Nos. 2002-026 & 2002-043, Supreme Court Docket No. 27,923 (2003). Allegations included becoming embroiled in controversy with court interpreters; failing to be patient, dignified, and courteous with interpreters, another judge, and the court clerk; issuing warrant and having interpreter arrested on contempt charge relating to interpreting services; and having *ex parte* communication with the judge who was presiding over a pending writ case. On stipulation, publicly reprimanded, ordered to participate in mentorship program, and ordered to attend (at own expense) a national judicial ethics course. See also JSC Inquiry No. 2003-082 below for related information.

Matter of Hon. Rudy C. Montoya, Mora County Magistrate Court, JSC Inquiry Nos. 2002-062, 2002-076, 2002-083, 2003-011 & 2003-081, Supreme Court Docket No. 27,988 (2003). Allegations included adjudicating cases for close family and friends, releasing two criminal defendants without bond in contravention to terms of and without amending conditions of prior release order, and lying to rape victim about fact and terms of defendants' release. On preliminary stipulation, temporarily suspended with 90 days pay, and thereafter with no pay. Judge ultimately stipulated to resign permanently from judicial office.

Matter of Hon. David J. Ramos, Jr., Hurley Municipal Court, JSC Inquiry No. 2003-076, Supreme Court Docket No. 28,327 (2004). Allegations included arrest on charge of DWI. On stipulation, temporarily suspended with 90 days pay, thereafter without pay. Judge pleaded guilty and was convicted of DWI First Offense. Resigned from judicial office.

Matter of Hon. William A. Vincent, Jr., San Juan County Magistrate Court, JSC Inquiry No. 2003-099, Supreme Court Docket No. 27,266 (2004). Allegations included display of inappropriate behavior after declaring mistrial and recusing from domestic violence case; offensive and inappropriate statements; yelling at, berating, confronting, threatening, and challenging the defendant to fight; and challenging defense counsel to report to the Commission, which he referred to as "pussies." Supreme Court denied Commission's petition for temporary suspension. On stipulation, judge ordered to undergo psychological evaluation/fitness for duty evaluation and anger management counseling; received public censure, and complete six-month supervised probation.

Matter of Hon. Reuben Galvan, Doña Ana County Magistrate Court, JSC Inquiry No. 2003-048, Supreme Court Docket No. 28,609 (2004). Allegations included engaging in a clandestine relationship with prosecutor and failing to recuse from cases where she appeared before him; and improper demeanor with prosecutor after their clandestine relationship ended. Judge disciplined (30-day suspension without pay and in-person formal reprimand). Imposition of suspension was suspended on conditions: (1) that judge complete six months of supervised probation and (2) that his salary would be summarily suspended if the Commission initiated formal proceedings against him in any other matter. Formal proceedings were later initiated in Inquiry No. 2004-99, which concerned criminal investigation, indictment, and proceedings on allegations of felony criminal sexual penetration and solicitation of bribery. Upon notice and motion by the Commission, Supreme Court summarily suspended judge's salary until criminal matters and Commission proceedings in Inquiry No. 2004-99 terminated. Judge resigned during period of temporary suspension.

Matter of Hon. Jesus Gonzales, Taos County Probate Court, JSC Inquiry No. 2004-053, Supreme Court Docket No. 28,658 (2004). Allegations included court determination that judge was legally incompetent to stand trial on criminal charges arising from a motorcycle crash allegedly caused while judge was driving while intoxicated. Commission petitioned for immediate temporary suspension based on questions of mental incompetency. Judge stipulated to temporary suspension, but resigned from judicial office prior to Supreme Court ruling on petition and stipulation.

Matter of Hon. W. John Brennan, Second Judicial District Court, JSC Inquiry No. 2004-060, Supreme Court Docket No. 28,713 (2004). Allegations included arrest on charges of felony possession of a controlled substance (cocaine) and tampering with evidence. Commission petitioned for temporary suspension. Supreme Court issued show cause order and scheduled hearing. Judge retired from judicial office prior to hearing and Supreme Court dismissed Commission petition as moot. Retired judge was subsequently charged with aggravated DWI, pleaded guilty to aggravated DWI and possession of cocaine, and sentenced on aggravated DWI charge to 90 days incarceration (88 days suspended and 2 days electronic monitoring) and 364 days of probation. Drug possession charge conditionally discharged pending successful completion of sentencing conditions.

Matter of Hon. Melissa Miller-Byrnes, Las Cruces Municipal Court, JSC Inquiry No. 2003-092, Supreme Court Docket No. 28,716 (2004). Allegations included making false or misleading statements during radio broadcast debate that no judicial disciplinary complaints had been filed against her with Judicial Standards Commission. On stipulation, Supreme Court formally reprimanded judge.

Matter of Hon. Reuben Galvan, Doña Ana County Magistrate Court, JSC Inquiry No. 2004-099, Supreme Court Docket No. 28,609 (2004). Allegations included criminal investigation (and subsequent grand jury indictment) for felony criminal sexual penetration and solicitation of bribery. Temporarily suspended with pay until formal charges issued and until Commission's proceedings completed. Formal charges issued and salary suspended. Judge resigned while on period of temporary suspension.

Matter of Hon. Frank W. Gentry, Bernalillo County Metropolitan Court, JSC Inquiry No. 2004-046, Supreme Court Docket No. 28,986 (2005). Allegations included use of judicial position to advance private interests; *ex parte* communication; and involvement, interference, and attempt to influence child placement in nephew's domestic relations case. Judge received one-week suspension without pay (deferred on completion of six months unsupervised probation and no other formal proceedings initiated against him) and formal reprimand.

Matter of Hon. James D. Atcitty, San Juan County Magistrate Court, JSC Inquiry Nos. 2003-035, 2003-038 & 2003-057, Supreme Court Docket No. 29,076 (2005). Allegations included inability to conduct fair hearings because of profound hearing loss in both ears and profound impairment of speech determination; and failing to follow substantive and procedural law while presiding over cases. Commission ordered independent medical examination, which concluded that judge is temporarily unfit to continue working as a Magistrate. Commission petitioned for judge's temporary suspension. Supreme Court denied petition on following conditions: (1) take paid medical leave as soon as practicable for up to 90 days to remedy medical condition, (2) report to AOC Magistrate Division and Commission concerning remediation and ability to return to job, and (3) if judge does not seek appropriate medical remediation in a timely manner, or if medical treatment should prove unsuccessful, Commission may re-file for appropriate relief. The only remediation respondent completed was to purchase new hearing aids. The Court later extended Respondent's leave until further order. Judge underwent a second independent medical evaluation. Another order was later issued to extend the leave but terminate his salary after six additional weeks. Thereafter judge was on leave without pay until final resolution of case. The matter was ultimately tried on the merits in August 2006. On recommendation from the Commission, judge was involuntarily retired and ordered to pay over \$7,200.00 in costs.

Matter of Hon. Thomas G. Fitch, Seventh Judicial District Court, JSC Inquiry Nos. 2005-010 & 2005-015, Supreme Court Docket No. 29,082 (2005). Allegations included that while on official court business, while acting as Chief Judge for his District Court, and while driving a State vehicle en route to Santa Fe to testify at legislative budget hearings, Respondent arrested and charged with aggravated DWI (first offense), careless driving, and open container. After trial (on stipulated factual findings and legal conclusions), Commission

found willful misconduct and recommended permanent removal and costs. Upon further stipulation, judge permanently resigned and ordered to pay Commission costs.

Matter of Hon. Larry E. Wood, Eddy County Magistrate Court, JSC Inquiry Nos. 2003-073 & 2003-095, Supreme Court Docket No. 29,085 (2005). Allegations included knowingly failing to follow and/or apply the law when incarcerating citizens for failure to pay fines. Judge only credited inmates with \$5.00 per day of time served toward payment of fines and fees, rather than the greater amount required by statute. Supreme Court rejected initial stipulation with judge, but approved second. Judge permanently resigned and received formal reprimand.

Matter of Hon. Frances Gallegos, Santa Fe Municipal Court, JSC Inquiry Nos. 2003-058, 2003-089 & 2003-108, Supreme Court Docket No. 27,906 (2005). Allegations included ordering defendants to attend a specific driving safety course, contrary to statute, for which the paid course instructor was the judge's court administrator; allowing court administrator (acting in court administrator's personal for-profit business interests) to use the property and facilities of the judge's court for the administrator's driving safety course; allowing court administrator to teach driving safety courses for profit while administrator is employed by the court. Judge's acts occurred prior to and during time she negotiated stipulation agreement with Commission in Inquiry No. 2002-080 and when she became subject to Supreme Court's disciplinary order. Judge ceased and agreed to desist from newly stated conduct. Judge suspended 30 days without pay (deferred on conditions: formal mentorship in judicial ethics and court administration, and complete "Ethics for Judges" course at National Judicial College on own time and at own expense).

Matter of Hon. Susana Chaparro, Doña Ana County Magistrate Court, JSC Inquiry No. 2003-082, Supreme Court Docket No. 27,923 (2005). Allegations included improper involvement in and interference with adjudication of a matter involving her son, thereby giving the appearance that she was trying to influence the outcome of her son's case and compromising the integrity, independence and impartiality of the judiciary. After trial, Commission found that judge's conduct constituted willful misconduct in office and recommended a sixty-day suspension deferred on the condition that judge successfully complete one year of supervised probation, a formal public reprimand by the Supreme Court and assessment of the Commission's costs. Supreme Court imposed greater discipline than recommended by Commission and suspended Respondent without pay for two weeks, along with a year of supervised probation, a formal reprimand, and assessed \$5,000.00 in costs.

Matter of Hon. Tony F. Martinez (Retired), Rio Arriba County Magistrate Court (*Pro Tem*), JSC Inquiry No. 2004-127, Supreme Court Docket No. 29,180 (2005). Allegations included permitting and engaging in *ex parte* communications with defendant's mother; allowing defendant's mother to negotiate plea agreement; failing to notify defendant of court hearings; failing to conduct arraignment; failing to advise defendant of constitutional rights; failing to appoint legal counsel for defendant; holding court proceedings in defendant's absence; and signing judgment and sentence order that falsely stated that the defendant appeared *pro se*, pleaded no contest/guilty, and was sentenced (when in fact defendant was incarcerated and did none of the foregoing). On stipulation, judge publicly reprimanded, ordered to pay \$500.00 fine, and permanently resigned from judicial office.

Matter of Hon. Javier Lozano, Columbus Municipal Court, JSC Inquiry No. 2004-067, Supreme Court Docket No. 29,264, (2005). Allegations included having business relationship concerning J-Loz Auction Service, which had contract with Village of Columbus to auction impounded vehicles for 17% commission fee; receiving compensation for work with J-Loz Auction Service paid from profits of the auctions; and having jurisdiction to order the forfeiture or release of the impounded vehicles. On stipulation, judge ordered to never again maintain employment, have business relationships, or engage in other financial dealings that could be affected by proceedings that could come before him that may reasonably be perceived to exploit his judicial position or that involve frequent transactions or continuing business relationships with

persons likely to come before the judge. Judge also reprimanded and ordered to pay \$500.00 fine and be on supervised probation for duration of current term.

Matter of Hon. William A. McBee, Fifth Judicial District Court, JSC Inquiry No. 2004-011, Supreme Court Docket No. 29,265 (2005). Allegations included failing to recuse from criminal case after personally and verbally acknowledging that he should recuse because he could not be impartial in the adjudication and because his impartiality had been compromised because of his personal relationship with the defendant's attorney, boyfriend, and husband. Judge reprimanded and ordered to recuse from the case and all other matters involving the defendant or her attorney/boyfriend. Judge was also ordered to disclose his attorney-client relationship in this disciplinary matter to all parties appearing before him where his attorney will appear. Further ordered to pay \$1,000.00 fine, \$2,500.00 in costs, suspended seven days without pay, and suspended additional thirty days (deferred for one year supervised probation with conditions).

Matter of Hon. Erminio Martinez, Taos County Magistrate Court, JSC Inquiry No. 2005-024, Supreme Court Docket No. 29,309 (2005). Allegations included that during the months of January, February, and March 2005, Respondent, while employed as a full-time magistrate judge for Taos County, also served as a tribal judge for Taos Pueblo Tribal Court, and was paid \$840.00 for 28 hours (3.5 days) of services rendered to Taos Pueblo as Tribal Court Judge *Pro Tempore*, during hours in which he was being paid by the State of New Mexico to serve as a Taos County Magistrate Judge. On stipulation, judge publicly reprimanded, ordered to pay an \$840.00 fine, and placed on a 3.5-day suspension without pay.

Matter of Hon. Charles Barnhart, Bernalillo County Metropolitan Court, JSC Inquiry Nos. 2004-126 & 2005-059, Supreme Court Docket No. 29,379 (2005). Allegations included violating courthouse security policies; threatening security officer's job, harassing and challenging security personnel about established policies; engaging in pattern of hostile behavior and routinely using offensive language toward court security personnel; abusive behavior toward court employees, tossing objects at staff, yelling, pounding fist on desk, and asserting that only he could communicate with his trial court administrative assistant ("TCAA") pertaining to court business; disregarding court policy on how traffic arraignments were to be handled; violating court rules and agreements with colleagues, causing increased workload for the other judges; permitting his TCAA to behave in an unprofessional manner; condoning and assisting TCAA in violating court policies; failing to prohibit TCAA from being rude to court employees; and incessantly complaining about the chief judge, presiding criminal judge, court administration, and court policies; disregarding state law and court policy by waiving *a priori* supervised probation costs for all criminal cases where such costs were statutorily imposed; engaging in pattern and practice of improperly disqualifying from traffic cases to avoid additional work for himself and his TCAA; and during Commission inquiry failing to adhere to almost all provisions of the Commission's orders and directives, failing to appear for noticed hearings, and failing to appear for his own properly noticed and subpoenaed deposition. On stipulation, Supreme Court ordered judge to submit letter of retirement, pay \$1,000.00 fine, and formal reprimand.

Matter of Hon. Frances Gallegos, Santa Fe Municipal Court, JSC Inquiry No. 2005-019, Supreme Court Docket No. 27,906 (2005). Allegations included failing to conduct constitutionally proper arraignments (only informed defendants of options to plead guilty or no contest, but did not inform of right to plead not guilty); conducting flawed arraignment and a summary trial against a *pro se* defendant, ignoring defendant's requests for an attorney, not allowing presentation of evidence on a charge, and imposing summary sentence; implementing an established policy of sentencing all DWI offenders to a specific six-month aftercare program, regardless of the results of the defendant's screening results; and conducting a summary trial against a *pro se* defendant in two animal ordinance cases, summarily imposing a sentence for a failure to appear charge where defendant had not been arraigned, had no noticed hearing on the charge, and had no reasonable opportunity to defend against the charge. Supreme Court temporarily suspended judge for 90 days with pay. Commission noticed a trial on the merits, judge resigned prior

to trial, trial conducted as noticed, but judge failed to appear. Commission filed recommendation for permanent removal from judicial office and record. Supreme Court denied petition, sealed and ordered return to Commission of record proper.

Matter of Hon. Frances Gallegos, Santa Fe Municipal Court, JSC Inquiry No. 2005-076, Supreme Court Docket No. 27,906 (2005). Allegations included failure to prepare and forward to the Department of Motor Vehicles accurate and complete abstracts of record for traffic matters, in violation of NMSA 1978, §66-8-135; attributed failure to clerical error; and began amending all DWI matters she adjudicated in an attempt to enhance falsely her standing with the public (substantively amended records to show increased sentences than were contained on her judgment and sentence orders); failed to maintain professional competence in judicial administration; failed to inform and require court staff to observe standard of fidelity and diligence that applied to performance of her legal and judicial duties; and failed to train, supervise and manage staff regarding abstracts of record. Commission petitioned for immediate temporary suspension and presented oral argument. Supreme Court ordered petition held in abeyance. Judge later resigned and Commission abated case unless or until judge returned to a judicial position in the future.

Matter of Hon. Hector Pineda, Roswell Municipal Court, JSC Inquiry No. 2005-025, Supreme Court Docket No. 29,479 (2005). Allegations included displaying improper demeanor during a criminal trial toward a *pro se* defendant. Judge became agitated with and yelled at a *pro se* defendant, stood up from chair and hit gavel on bench so hard it caused debris to scatter across courtroom, which hit prosecuting police officer and defendant. On stipulation, judge reprimanded, paid \$500.00 fine, completed six-month supervised probation, and completed formal mentorship in judicial demeanor, temperament, and responsibilities under the Code of Judicial Conduct.

Matter of Hon. Melissa Miller-Byrnes, Las Cruces Municipal Court, JSC Inquiry Nos. 2004-072 & 2004-077, Supreme Court Docket No. 28,716 (2006). Allegations included that Respondent and her fellow judge, Hon. James Locatelli, sent an improper memorandum/letter to the Mayor, City Manager, and all City Councilors, addressing accusations of improper management and conduct of the Police Department and City Attorney's Office, thereby compromising the independence and impartiality of the Las Cruces Municipal Court. Additionally, on June 13, 2004, judge granted an interview with a reporter, wherein judge made improper public comments about an Assistant City Attorney and the City Manager. Commission found that judge engaged in conduct or language calculated to erode public confidence, and compromised the integrity, independence, and impartiality of the judiciary and constituted willful misconduct in office, recommended that judge receive a formal public reprimand by the Supreme Court, a thirty-day suspension without pay, and an assessment of 25% of costs incurred in the matter. The Supreme Court found that judge's verbal remarks to a reporter were inconsistent with the Code of Judicial Conduct Rule 21-300(B)(4) NMRA, requiring that a judge be "patient, dignified and courteous" towards litigants, lawyers, and others when acting in an official capacity. The Court further directed that this order shall be made part of judge's permanent records including her record with the Judicial Standards Commission.

Matter of Hon. James Locatelli, Las Cruces Municipal Court, JSC Inquiry Nos. 2004-073 & 2004-081, Supreme Court Docket No. 29,508 (2006). Allegations included that Respondent and his fellow judge, Hon. Melissa Miller-Byrnes, sent an improper memorandum/letter to the Mayor, City Manager, and all City Councilors, addressing accusations of improper management and conduct of the Police Department and City Attorney's Office, thereby compromising the independence and impartiality of the Las Cruces Municipal Court. Additionally, judge wrote a letter to the editor for publication in the local newspaper, which addressed continued accusations of mismanagement and misconduct of the police department and City Attorney's Office. Commission found that judge engaged in conduct or language calculated to erode public confidence, and compromised the integrity, independence, and impartiality of the judiciary and constituted willful misconduct in office. Commission recommended that judge receive a formal public

reprimand by the Supreme Court, a \$500.00 fine, a twelve-month formal mentorship, and an assessment of 25% of costs incurred in the matter. The Supreme Court denied the Commission's requested relief for failure to prove willful misconduct by clear and convincing evidence.

Matter of Hon. Florencio "Larry" Ramirez, Third Judicial District Court, JSC Inquiry Nos. 2004-097 & 2005-005, Supreme Court Docket No. 29,552 (2005). Allegations included improper involvement in incident where his son and friends were being cited by city police officers for drinking alcohol at a park, identifying himself to officers, showing court identification card and driver's license without being requested; collecting citations after issuance; improperly involving himself in and using his volunteer bailiff to assist son and friends in responding to the cases at the Las Cruces Municipal Court; calling and leaving a message for the judge presiding on some of the cases that he was sending his son and some of his friends in to the court to change their pleas on a specific date; and in an unrelated matter, displaying improper demeanor toward a defense attorney at a proceeding, preventing her from making her full objections for the record and admonishing her in front of her client. On stipulation, Supreme Court formally reprimanded judge, and ordered him to complete six months of supervised probation and formal mentorship, complete a national ethics course at his own expense, and reimburse the Commission for costs of \$1,500.00. While on probation, a new matter arose for which the Commission petitioned for temporary suspension, which the Court granted. Judge resigned and the Commission abated proceedings.

Matter of Hon. Rhoda Hunt, McKinley County Magistrate Court, JSC Inquiry No. 2005-113, Supreme Court Docket No. 27,535 (2005). Allegations included a criminal investigation by the FBI into possible felony criminal violations by judge and other acts that may constitute willful misconduct in office. Commission petitioned for temporary suspension. On day of scheduled argument before the Supreme Court, judge stipulated with Commission to resign permanently from judicial office. That same day, the Supreme Court issued an order quashing its show cause order, vacating the hearing, and granting the parties' motion to accept judge's permanent resignation from judicial office and to dismiss without prejudice.

Matter of Hon. Linda Gasparich-Padilla, Gallup Municipal Court, JSC Inquiry No. 2005-114, Supreme Court docket No. 29,558 (2005). Allegations included throwing away traffic citations and providing preferential treatment for a specified group of individuals and their families. Commission petitioned for immediate temporary suspension. After oral argument, Supreme Court denied the Commission's petition.

Matter of Hon. Susana Chaparro, Doña Ana County Magistrate Court, JSC Inquiry Nos. 2004-074 & 2005-005, Supreme Court Supreme Court Docket No. 27,923 (2006). Allegations included improperly retaliated against, harassed, interfered with, intimidated, and prohibited work of duly authorized contract language interpreter. Additionally, and in demonstration of judge's ongoing harassment and dissatisfaction with the interpreter because of the interpreter's confrontation with judge's sister, judge began routinely to conduct court proceedings in the Spanish language in order to bypass the official court interpreter(s), inappropriately and improperly assuming that function. After being instructed by the court consulting judge to discontinue the harassment and improper treatment of the interpreter, including instructing the interpreter and/or other interpreters to use consecutive instead of simultaneous translation, and to discontinue conducting court proceedings in Spanish, judge continued to routinely conduct court proceedings in Spanish. Supreme Court granted the Commission's *Petition to Accept Stipulation to Permanent Resignation from Judicial Office*.

Matter of Hon. Florencio "Larry" Ramirez, Third Judicial District Court, JSC Inquiry No. 2006-038, Supreme Court Supreme Court Docket No. 29,552 (2006). Judge tendered his resignation to the Supreme Court on June 1, 2006. In February 2007, the Commission abated proceedings in this matter.

Matter of Hon. Carlos Garza, Doña Ana County Magistrate Court, JSC Inquiry No. 2005-003, Supreme Court Docket No. 29,764 (2006). Allegations included improper involvement and interference with the adjudication of a criminal case, in which he had a personal relationship with the defendant. Judge permitted and engaged in *ex parte* communications about the case with the successive presiding judges in the case. On stipulation, judge publicly reprimanded, ordered to complete six months of supervised probation and a formal mentorship concerning the obligations and restrictions imposed by the Code of Judicial Conduct, and directed to pay \$600.00 in costs.

Matter of Hon. Charles McClain, Dexter Municipal Court, JSC Inquiry No. 2004-113, Supreme Court Docket No. 29,767 (2006). Allegations included improperly failing to recuse from three municipal court cases, summarily trying the three named individuals, and demonstrating a critical lack of understanding of due process, court procedures, the law, and limits of jurisdiction. The Commission recommended that the Supreme Court impose the following discipline on judge: (1) formal reprimand; (2) \$250.00 fine; (3) one-year supervised probation and formal mentorship in constitutional due process, proper court procedures, direct and indirect contempt, limits of municipal court jurisdiction, and the Code of Judicial Conduct; (4) refund/pay witnesses for fines and fees paid, and compensate for community service; (5) expungement of defendants' cases from the Dexter Municipal Court records; and lastly, (6) assessment of the Commission's costs and expenses. The Supreme Court issued its disciplinary order imposing the following discipline against judge: (1) pay one of the named defendants \$123.60 (monetary value of community service performed); (2) expunge the respective contempt/false testimony cases from court records concerning the three individuals; and lastly, (3) take a course in constitutional law as related to due process rights of an accused and specifically contempt versus perjury. In the event no such course was available, the Court accepted the offer from judge's attorney (a former district court judge) to provide the instruction. All other recommended discipline was denied.

Matter of Hon. Stephen K. Quinn, Ninth Judicial District Court, JSC Inquiry No. 2005-006, Supreme Court Docket No. 29,765 (2006). Allegations included the judge had excessively delayed in issuing decision, judgments, rulings, orders, or otherwise resolving cases on his docket. After hearing closing arguments and disciplinary recommendations based on stipulated facts, Commission decided to recommend that the Supreme Court impose the following discipline: formal reprimand, one-year supervised probation, and reimburse the Commission's costs. The Supreme Court imposed only the recommended supervised probation and assessment of the Commission's costs and expenses.

Matter of Hon. John W. Pope, Thirteenth Judicial District Court, JSC Inquiry No. 2004-046, Supreme Court Docket No. 29,778 (2006). Allegations included failing to perform judicial duties, failing to notify the Chief Judge or Court Administrator of his extended absence, leaving a criminal jury trial unfinished prior to the defense concluding its case (ultimately resulting in substantial prejudice, error, and mistrial), and failing to make arrangements for coverage of his daily dockets. On stipulation, judge required to participate in a thirty-day in-patient alcohol/substance abuse rehabilitation and thirty day follow-up program, publicly reprimanded, write a letter of explanation and apology to members of the jury and the Judicial Standards Commission, suspension without pay for two days (the period of time judge failed to appear for work when he was not receiving medical treatment), pay a fine of \$1000, and for the entire duration of Respondent's service as a judge in the State of New Mexico, the following discipline: (1) permanent supervised probation; (2) participation in Alcoholics Anonymous or other twelve-step program at least once a week, (3) random alcohol and drug testing, and lastly (4) no alcohol or drug use.

Matter of Hon. John W. "Buddy" Sanchez, Valencia County Magistrate Court, JSC Inquiry No. 2005-031, Supreme Court Docket No. 25,281 (2007). The Commission filed a *Petition for Immediate Temporary Suspension or for Immediate Administrative Medical Leave* which concerned the judge's fitness for duty. The Supreme Court granted the Commission's *Motion to Seal* the pleadings. After hearing oral argument

from the parties, the Supreme Court ordered that Judge Sanchez: (1) demonstrate his serum ammonia levels were below 45 umol/L; (2) abstain from all alcohol consumption, and comply with random drug and alcohol screening until further order of the Court; and (3) undergo random testing of his serum ammonia levels. The Supreme Court ultimately denied the Commission's *Motion for Retirement or Removal from Office*.

Matter of Hon. Carlos Garza, Doña Ana County Magistrate Court, JSC Inquiry Nos. 2006-021, 2006-070, 2006-071, 2006-072, 2006-076, Supreme Court Docket No. 29,764 (2006). Allegations included that the Respondent knowingly and willfully attempted to influence/intimidate a law enforcement officer in an effort to gain preferential treatment for a woman with whom he had a personal relationship, and again used the prestige of judicial office to gain preferential treatment on behalf of that same person by ordering court staff to issue clearance of her driver's license before all of her legal obligations had been met (despite being notified by the Commission that it was investigating his communications to other magistrate court judges regarding the woman's DWI case). After a hearing on the merits, the Commission found that the Respondent's conduct constituted willful misconduct in office and recommended permanent removal from judicial office and costs. Given the recurring pattern of misconduct to use his judicial office to attempt to benefit someone with whom he was personally interested, along with Respondent's use of illegal drugs (Inquiry No. 2006-042 reported below), the Supreme Court granted the Commission's *Petition for Permanent Removal from Judicial Office* and awarded costs.

Matter of Hon. Carlos Garza, Doña Ana County Magistrate Court, JSC Inquiry No. 2006-042, Supreme Court Docket No. 29,764 (2006). Allegations included that the Respondent used illegal drugs and failed to comply with a Commission's drug testing order (based on affidavits from two court employees and a letter from the Magistrate Advisory Committee detailing the judge's suspicious behavior). Not until the Supreme Court mandated that the Respondent comply with the Commission's drug testing order, over a month after Respondent initially learned of that order, did the judge submit to the requisite drug testing. Despite Respondent's efforts to avoid drug testing, Respondent tested positive for the use of cocaine and cocaine metabolites. After a hearing on the merits, the Commission found that the Respondent's conduct constituted willful misconduct in office and recommended permanent removal from judicial office and costs. Finding that the Respondent's use of illegal drugs simply could not be tolerated, along with his efforts to avoid ordered drug testing, and pattern of using his position in attempts to benefit someone in whom he was personally interested (Inquiry Nos. 2006-021, 2006-070, 2006-071, 2006-072, and 2006-076, reported above), the Supreme Court granted the Commission's *Petition for Permanent Removal from Judicial Office* and awarded costs.

Matter of Hon. Hector Pineda, Roswell Municipal Court, JSC Inquiry No. 2005-095, Supreme Court Docket No. 29,479 (2007). Allegations included requiring all citizens who need to appear before the court to present photo identification prior to such appearances being allowed, including appearances from defendants in criminal or traffic matters, from legal guardians for minors, and from persons seeking civil marriages; denying a criminal defendant constitutional due process of law by issuing a bench warrant for the criminal defendant's arrest based upon the judge's determination that he failed to appear the previous day despite the fact that the defendant arrived to the judge's court ten minutes early and was advised by the court staff that he would need photo identification in order to appear for court. After trial (on stipulated factual findings), Commission found willful misconduct. Upon recommendation from the Commission, the Supreme Court ordered that: (1) Respondent shall immediately discontinue the photo identification policy; (2) a formal reprimand (3); a one-week suspension without pay; (4) a one thousand dollar fine; and lastly, (5) a one-year supervised probation and mentorship.

Matter of Hon. James T. Locatelli, Las Cruces Municipal Court, JSC Inquiry No. 2004-134, Supreme Court Docket No. 29,508, 2007-NMSC-029, 141 N.M. 755, 161 P.3d 152 (2007). Allegations included: (1)

improperly issuing criminal contempt complaints to two attorneys for their role in an appeal from his court; and (2) improperly failing to recuse from the contempt proceedings. After a trial, the Commission recommended that the Supreme Court impose the following discipline on Judge Locatelli: (1) expungement of the attorney's contempt cases from the Las Cruces Municipal Court records; (2) formal public reprimand; (3) Ethics for Judges course at the National Judicial College at Respondent's own expense; (4) one year supervised probation and formal mentorship with a district judge concerning Respondent's misconduct and obligations imposed by the New Mexico Code of Judicial Conduct; and lastly, (5) assessment of the Commission's costs and expenses. The Supreme Court denied the petition for discipline because the Commission failed to prove willful misconduct by clear and convincing evidence, holding instead that the judge's actions were merely negligent. The Supreme Court, however, wrote a formal opinion and clarified that "when a judge suspects that an attorney has violated a duty of competence, diligence, or candor toward the court, the preferred course of action is to report the attorney to the Disciplinary Board."

Matter of Hon. William A. Vincent, Jr., San Juan County Magistrate Court, JSC Inquiry No. 2006-028, Supreme Court Docket No. 27,266, 2007-NMSC-056 (2007). Allegations included publicly endorsing a candidate for reelection as mayor. Specifically, the judge authorized the use of his name for an endorsement that was published in a local newspaper. While the judge admitted to endorsing a candidate for public office, the judge contested the imposition of any discipline on the grounds that his conduct was constitutionally protected free speech. The New Mexico Supreme Court was asked to decide the constitutionality of the prohibition in the New Mexico Code of Judicial Conduct against the public endorsement of a political candidate by a judge, commonly referred to as an "endorsement clause," in light of the United States Supreme Court's opinion in *Republican Party of Minnesota v. White*, 536 U.S. 765 (2002). The New Mexico Supreme Court concluded that New Mexico's endorsement clause is constitutional, adopted the Commission's recommendation of discipline, and issued a formal reprimand. In a formal opinion, the Court concluded that the endorsement clause "is intended to promote what we believe is an undeniable compelling state interest in promoting the reality and appearance of impartiality of our judiciary, which in this case means eliminating the potential for bias or the appearance of bias or against the parties appearing before a judge." The Court stated that the judge's endorsement of the mayor "would certainly create the appearance of bias were the mayor or anyone associated with his administration to appear before respondent in an actual case."

Matter of Hon. George Galanis, McKinley County Magistrate Court, JSC Inquiry No. 2006-130, Supreme Court Docket No. 30,198 (2007). Commission petitioned for temporary suspension without pay, which was a sealed pleading. Judge subsequently tendered his resignation as magistrate judge. The Commission filed a *Notice of Abatement of Action*. Supreme Court granted the Commission's *Motion to Dismiss* and dismissed the *Petition for Immediate Temporary Suspension without Pay* without prejudice on the basis that the matter was now moot.

Matter of Hon. J. Wayne Griego, Bernalillo County Metropolitan Court, JSC Inquiry No. 2005-051, Supreme Court Docket No. 30,203 (2007). Allegations included improperly delegating judicial duties to judge's secretary while the judge was on a personal vacation by directing secretary to perform judge's judicial duties for his traffic docket and directing secretary to use judge's signature stamp for endorsement. Upon stipulation, judge publicly reprimanded, ordered to pay a \$500 fine and ordered to complete a six month supervised probation and formal mentorship.

Matter of Hon. Theresa Gomez, Bernalillo County Metropolitan Court, JSC Inquiry No. 2006-128, Supreme Court Docket No. 30,549 (2007). Allegations included that: (1) judge lived rent-free for twenty months in a home owned by the Region III State Housing Authority, which she was in the process of buying (to include past rent due) under the Housing Authority's lease-purchase program for individuals whose credit rating prevented them from accessing private mortgage financing; and (2) judge had communications with

and dismissed traffic citations and cancelled an arrest warrant for the director of the Housing Authority without the presence or involvement of the prosecuting police officer or prosecutor. Upon stipulation with the Commission, judge consented to accept a formal reprimand and pay \$17,000 restitution to the housing authority. The Supreme Court rejected the stipulated discipline but indicated a two-week suspension without pay would be appropriate. Upon a second stipulation accepted by the Court, the judge received a two week unpaid suspension and agreed to pay \$17,000 restitution in unpaid rent due to the housing authority.

Matter of Hon. Hector Pineda, Roswell Municipal Court, JSC Inquiry No. 2006-105, Supreme Court Docket No. 29,479 (2007). On July 18, 2007, the Commission filed a *Verified Petition for Immediate Temporary Suspension without Pay* concerning Judge Pineda with the Supreme Court. On July 20, 2007, the Judge resigned his judicial office. On July 23, 2007, the Commission filed a *Motion to Accept Stipulation to Permanent Resignation from Judicial Office and to Dismiss without Prejudice Respondent's Pending Disciplinary Matters*. On July 31, 2007, the Court issued an order granting the Commission's *Motion to Accept Stipulation to Permanent Resignation from Judicial Office and to Dismiss without Prejudice Respondent's Pending Disciplinary Matters*.

Matter of Hon. J. Wayne Griego, Bernalillo County Metropolitan Court, JSC Inquiry No. 2007-047, Supreme Court Docket No. 30,203 (2008). Allegations included that over a period of about three years, the judge summarily adjudicated twenty-four traffic cases for family members, friends and relatives of staff members *ex parte* and without a hearing or taking evidence. After a trial, the Commission found that the Respondent's conduct constituted willful misconduct in office and recommended a 90-day suspension, implementation of policies addressing the avoidance of future conflicts of interest and addressing staff supervision and training, a formal reprimand, and costs. While the Supreme Court adopted the Commission's *Findings of Fact and Conclusions of Law*, the Court found that the judge's actions of bypassing evidentiary hearings and adjudicating numerous tickets for family members and friends without state participation warranted his removal from the bench.

Matter of Hon. Horacio Favela, Sunland Park Municipal Court, JSC Inquiry No. 2008-012, Supreme Court Docket No. 30,987. On March 7, 2008, the Commission filed its *Petition for Immediate Temporary Suspension* asking the Supreme Court to suspend Respondent from office on the basis that he had pending felony criminal charges. The Commission also filed its *Petition for Writ of Quo Warranto*, seeking to prevent Respondent from taking office on the basis that he was not a resident of Sunland Park, New Mexico, and thus ineligible to hold the office of Sunland Park Municipal Judge. On March 26, 2008, the Supreme Court granted the Commission's *Petition for Immediate Temporary Suspension*, but denied without prejudice the Commission's *Petition for Writ of Quo Warranto*. On June 24, 2008, the Commission reached agreement with Judge Favela on a *Stipulation to Permanent Resignation from Judicial Office*, which was filed by petition in the Supreme Court. The Supreme Court granted the Commission's petition on July 15, 2008.

Matter Of Hon. Fred Rodarte, Cibola County Probate Court, JSC Inquiry No. 2008-001, Supreme Court Docket No. 31,023 (2008). On March 25, 2008, the Commission filed with the Supreme Court a *Verified Petition for Immediate Temporary Suspension without Pay*. On April 1, 2008, the Supreme Court set oral argument for April 16, 2008, and ordered Judge Rodarte to respond to the petition by April 11. On April 10, 2008, Judge Rodarte resigned from his judicial office. On April 15, 2008, the Supreme Court vacated oral argument and denied the Commission's temporary suspension petition as moot.

Matter of Hon. Thomas Rodella, Rio Arriba County Magistrate Court, JSC Inquiry Nos. 2006-133; 2007-062, 2007-071 & 2007-078, Supreme Court Docket No. 31,806 (2008). Allegations included that the judge secured the release from custody of the father of a member of a religious brotherhood to which the judge belonged, promised a couple who were having a dispute with their tenants that they would not have a problem winning in court, and telling the victim in a domestic violence case that there would be no legal

consequences if she chose not to testify at the trial even though she had been subpoenaed by the district attorney. After a hearing on the merits, the Commission found that the Respondent's conduct constituted willful misconduct in office and recommended permanent removal from office, a formal reprimand and cost reimbursement. While the Supreme Court did not adopt all of the Commission's *Findings of Fact and Conclusions of Law*, the Court found that the judge's actions constituted willful misconduct in office and warranted his removal from the bench.

Matter of Hon. Ira Robinson, Court of Appeals, JSC Inquiry No. 2007-070, Supreme Court Docket No. 31,188 (2008). Upon stipulation, the judge agreed to permanently retire from judicial office in New Mexico, which the Supreme Court accepted. Upon Respondent's *Motion to Unseal*, the Court ordered that the entire case be unsealed.

Matter of Hon. Barbara Aldaz-Mills, Aztec Municipal Court, JSC Inquiry No. 2008-051, Supreme Court Docket No. 31,197 (2008). On June 27, 2008, the Commission filed a *Verified Petition for Immediate Temporary Suspension* with the Supreme Court. On July 2, 2008, the judge filed her response to the Commission's petition. On July 30, 2008, the Supreme Court issued an order denying the Commission's *Petition for Immediate Temporary Suspension*.

PUBLISHED OPINIONS AND ORDERS OF THE NEW MEXICO SUPREME COURT

Following is a listing of all opinions the New Mexico Supreme Court and Court of Appeals have published in the *New Mexico Reports* concerning judicial discipline, matters affecting the Commission, and substantive references to the Commission.

DISCIPLINARY CASES

Matter of Martinez, 99 N.M. 198, 656 P.2d 861 (1982).

In re Romero, 100 N.M. 180, 668 P.2d 296 (1983).

Matter of Terry, 101 N.M. 360, 683 P.2d 42 (1984).

In re Lucero, 102 N.M. 745, 700 P.2d 648 (1985).

Inquiry Concerning Perea, 103 N.M. 617, 711 P.2d 894 (1986).

Matter of Rainaldi, 104 N.M. 762, 727 P.2d 70 (1986).

Matter of Atencio, 106 N.M. 334, 742 P.2d 1039 (1987).

Matter of Garcia, 108 N.M. 411, 773 P.2d 356 (1989).

Matter of Castellano, 119 N.M. 140, 889 P.2d 175 (1995).

Matter of Ramirez, 2006-NMSC-021, 139 N.M. 529, 135 P.3d 230 (2006).

Matter of McBee, 2006-NMSC-024, 139 N.M. 482, 134 P.3d 769 (2006).

State v. Maestas, 2007-NMSC-001, 140 N.M. 836, 149 P.3d 933 (2006).

Matter of Garza, 2007-NMSC-028, 141 N.M. 831, 161 P.3d 876 (2007).

Matter of Locatelli, 2007-NMSC-029, 141 N.M. 755, 161 P.3d 252 (2007).

Matter of Vincent, 2007-NMSC-056, 143 N.M. 56, 172 P.3d 605 (2007).

Matter of Griego, 2008-NMSC-020, 143 N.M. 698, 181 P.3d 690 (2008).

Matter of Rodella, 2008-NMSC-050, ____ N.M. ____, ____ P.3d ____ (2008).

OTHER STATE CASES

Sangre de Cristo Development Corp., Inc. v. City of Santa Fe, 84 N.M. 343, 503 P.2d 323 (1972).

Cooper v. Albuquerque City Commission, 85 N.M. 786, 518 P.2d 275 (1974).

State ex rel. Rivera v. Conway, 106 N.M. 260, 741 P.2d 1381 (1987).

Southwest Community Health Services v. Smith, 107 N.M. 196, 755 P.2d 40 (1988).

State ex rel. New Mexico Judicial Standards Com'n v. Espinosa, 2003-NMSC-017, 134 N.M. 59, 73 P.3d 197 (2003).

STATE CASE REGARDING COMMISSION SUBPOENAS

State ex rel. New Mexico Judicial Standards Com'n v. Rivera et al., No. 29,239, slip op. (N.M. 2005).



EXPENDITURES & COST REIMBURSEMENT

As an independent agency of the State, the Commission is funded through a general appropriation each year by the New Mexico Legislature. The Commission's appropriation is separate from the appropriations made to any other state agency or court. At the end of each fiscal year, unencumbered/uncosted funds revert to the State's general fund.

For FY 2008, the state legislature appropriated \$802,200.00 to the Commission from the general fund for operations, investigation, and prosecution of judicial misconduct. The Legislature authorized an additional \$25,000.00 in budget authority for cost reimbursement ordered by the New Mexico Supreme Court. The FY 2008 general fund appropriation represents a 16.5% increase over the Commission's total FY 2007 appropriation of \$688,853.00. In addition to the appropriations received, the Commission collected outstanding debt from former Doña Ana County Magistrate Judge Carlos Garza of \$17,348.00 originating in FY 2007.

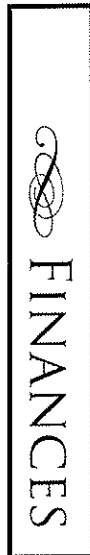
The New Mexico Supreme Court ordered cost reimbursement of approximately \$6,700.00 in FY 2008, but these funds were not recovered during FY 2008.

In FY 2008, the Commission's expenditures totaled \$803,295.93. The Commission did not expend \$16,252.07 of its FY 2008 appropriation and cost recovery, which was reverted to the general fund. A summary categorization of the Commission's expenditures is provided below.

FY 2008 EXPENDITURES

DESCRIPTION	AMOUNT	PERCENTAGE
Employee Salaries	\$430,784.88	53.6%
Employee Benefits & Taxes	143,222.35	17.8%
Employee Training & Licensing	5,676.90	0.7%
Commission Travel	8,812.80	1.2%
Investigation & Prosecution	24,731.21	3.1%
Contractual Services	30,680.94	3.8%
Rent, Telecom, IT & Overhead	146,273.87	18.2%
Supplies & Postage	13,112.98	1.6%
TOTAL	\$803,295.93	100%

Note: Virtually all but the audit contract in "Contractual Services" directly relates to "Investigation & Prosecution."



FY 2008 FINES AND COST REIMBURSEMENT

The Supreme Court may impose fines against judges upon recommendation by the Commission. Fines are paid to the State of New Mexico and deposited in the general fund through the Supreme Court.

Costs may be assessed by the Supreme Court or may be reimbursed on stipulation with the respondent judge. Costs are paid to the State of New Mexico and deposited into the Commission’s account with the Office of the State Treasurer for the Commission’s use during the same fiscal year the cost recovery is received.

In FY 2008, the Supreme Court assessed costs to one Respondent Judge who was permanently removed from the bench by Supreme Court Order. In addition, in FY 2008 the Supreme Court ordered the Commission to submit a cost bill in the matter of former Rio Arriba County Magistrate Judge Thomas R. Rodella, which the Commission filed with the Court on May 29, 2008 in the amount of \$15,962.60. The Supreme Court issued its order assessing Commission costs in the amount of \$3,573.62 to former Judge Rodella on August 8, 2008. These cost reimbursements were not recovered in FY 2008.

DESCRIPTION	FINE	COST REIMBURSEMENT
Inquiry No. 2007-047 Matter of J. Wayne Griego	\$ 0.00	\$ 6,704.41
Inquiry Nos. 2006-133, 2007-062, 2007-071 & 2007-078 Matter of Thomas R. Rodella	\$ 0.00	3,573.62
TOTAL	\$ 0.00	\$ 10,278.03

In FY 2007, former San Juan County Magistrate Judge James Atcitty was ordered by the Supreme Court to reimburse the Commission \$7,202.40 in costs. To date, the debt to the Commission remains outstanding.

FY 2008 BUDGET APPROPRIATION COMPARED TO FY 2008 EXPENDITURES

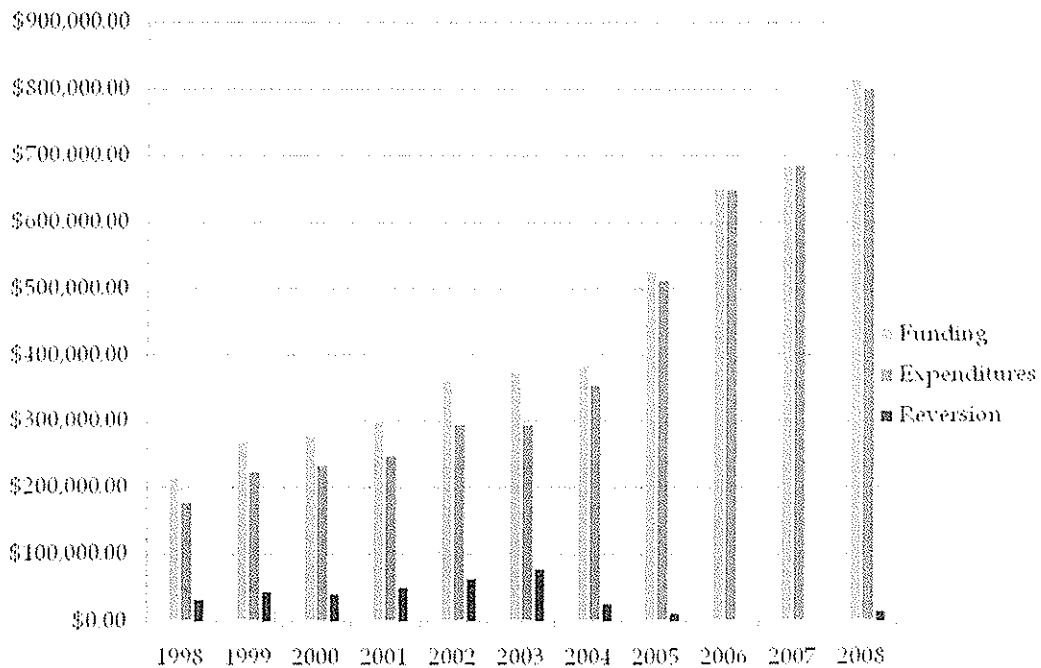
FY08 Approved Budget	\$ 802,200.00	
FY08 Budget Adjustments: <i>Garza Cost Reimbursement Recovered</i>	17,348.00	
Total Adjusted Budget	\$ 819,548.00	
Total FY08 Expenditures		\$ (803,295.93)
FY 2008 Reversion to General Fund		(16,252.07)
Total Expenditures and Reversion		\$ (819,548.00)

Note: Reversion represents 2.0% of the Commission’s total adjusted budget.

AGENCY 10-YEAR FUNDING PROFILE

FISCAL YEAR	FUNDING	EXPENDITURES	REVERSION	REVERSION AS % OF FUNDING
1998	\$215,100.00	\$180,832.00	\$34,268.00	16%
1999	\$270,700.00	\$224,751.00	\$45,949.00	17%
2000	\$278,300.00	\$235,610.00	\$42,690.00	15%
2001	\$302,300.00	\$249,758.00	\$52,542.00	17%
2002	\$362,700.00	\$297,322.00	\$65,378.00	18%
2003	\$376,200.00	\$296,732.00	\$79,468.00	21%
2004	\$385,079.00	\$357,049.00	\$28,030.00	7%
2005	\$529,352.00	\$515,810.65	\$13,541.35	3%
2006	\$650,816.00	\$650,253.11	\$562.89	0%
2007	\$688,853.00	\$688,812.57	\$40.43	0%
2008	\$819,548.00	\$803,295.93	\$16,252.07	2%

Funding increased by 113% between fiscal years 2004 and 2008. Reversions have been reduced by 80%, from an average reversion of 17% of funding before 2004, to 2% of funding after 2004. This increased utilization of appropriated funds has substantially reduced the backlog of open disciplinary cases carried by the Commission. It also is reflective of a much more active Commission, which has presided over 16 trials involving 17 judges, on 24 different cases since 2004. Prior to that, the Commission had not presided over a trial since 1997.



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