



2010 ANNUAL REPORT

STATE OF NEW MEXICO JUDICIAL STANDARDS COMMISSION

NEW MEXICO JUDICIAL STANDARDS COMMISSION • 2010 ANNUAL REPORT



STATE OF NEW MEXICO
JUDICIAL STANDARDS COMMISSION
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FY 2010 ANNUAL REPORT

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Chairman

Gloria Taradash, Ph.D.
Vice-Chair

Kevin R. Dixon, Ph.D.
Larry Garcia
Hon. Buddy J. Hall
Jesse James Johnson
Rosemary L. Maestas-Swazo, Esq.
Hon. Nan G. Nash
Hon. Jerry H. Ritter, Jr.
Julia Y. Seligman
Norman S. Thayer, Esq.

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Randall D. Roybal, Esq.
Executive Director & General Counsel

Robin S. Hammer, Esq.
Senior Investigative Trial Counsel

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John P. Walsh
Investigator

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JUDICIAL STANDARDS COMMISSION



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DAVID S. SMOAK
CHAIRMAN

GLORIA TARADASH, PH.D.
VICE-CHAIR

KEVIN R. DIXON, PH.D.
LARRY GARCIA
HON. BUDDY J. HALL
JESSE JAMES JOHNSON
ROSEMARY L. MAESTAS-SWAZO, ESQ.
HON. NAN G. NASH
HON. JERRY H. RITTER, JR.
JULIA Y. SELIGMAN
NORMAN S. THAYER, ESQ.

RANDALL D. ROYBAL, ESQ.
EXECUTIVE DIRECTOR & GENERAL COUNSEL

ROBIN S. HAMMER, ESQ.
SENIOR INVESTIGATIVE TRIAL COUNSEL

August 31, 2010

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:

The past year has shown continuation of the high level of performance we expect to achieve. We believe we have maintained a high quality of work, and we continue to see improvements in the judiciary. This year we completed a comprehensive revision of our procedural rules, making improvements to the process and making the process clearer to those who must follow them. After previously serving as the Commission's Deputy Director for eleven years, Randy Roybal has completed his first year as Executive Director and has handled the transition and his new responsibilities very effectively. Randy has also brought new talent to the Commission staff by hiring a highly experienced senior trial attorney and the Commission's first professionally trained investigator.

This year the Commission received the highest number of complaints in its history. However, budget cuts over the past two years are making the Commission's job much more difficult. So far we have met the challenges and continue to perform at a high-quality level. We believe the public and the state judiciary deserve nothing less. However, we may soon face more cuts that will prevent performance at this level. If so, we will be faced with requesting emergency funding or being financially prevented from doing the job we believe was envisioned by the Constitution in establishing the Commission in the 1960s.

Commissions such as ours across the country face similar budget problems and we are proud that we have been among the most active and effective Commissions in the country in recent years. We intend to maintain that pace and will continue to meet the challenges coming our way.

We thank the staff, past and present, for their hard work over the past year and look forward to their hard work again this year.

Sincerely yours,

A handwritten signature in black ink that reads "David S. Smoak". The signature is written in a cursive, flowing style.

David S. Smoak
Chairman



TABLE OF CONTENTS

Commissioners & Staff	1
Commission Terms & Positions	1
Statutory Position Terms as of June 30, 2010	1
Commission Members	2
Commission Staff Members	7
Organizational Overview	9
Jurisdiction & Authority	9
Confidentiality.....	9
Actions the Commission Cannot Take.....	9
Filing, Review and Investigation of Complaints.....	10
Actions the Commission Can Take on Complaints	10
Initial Inquiry.....	10
Preliminary Investigation	10
Formal Proceedings	10
Dispositions.....	11
Sanctions.....	11
Statistics	12
Complaints, Dispositions & Performance: July 1, 2009–June 30, 2010	12
Complaints Received.....	12
10-Year History of Written Complaints	12
Sources of Verified Complaints	12
Judges Reviewed on Verified Complaints	13
Case Dispositions	13
Historical Summary of Cases Filed in Supreme Court	14
Public Cases Disposed by Termination of Judicial Office.....	15
FY 2010 Legislative Performance Measures.....	16
Historical Summary of Informal Case Dispositions	16
Cautionary Letters.....	16
Mentorships.....	17
Confidential Stipulations.....	17
Commission Proceedings	18
Proceedings before the Commission: July 1, 2009–June 30, 2010	18
Formal Proceedings	18
Informal Proceedings.....	39

Private Letters of Caution	39
Informal Remedial Measures	41
Current or Former Judges with Ongoing Probation, Monitoring, or Compliance with Supreme Court Orders.....	42
Supreme Court Proceedings.....	43
Proceedings before the Supreme Court: FY 2005–FY 2010	43
Published Opinions and Orders of the New Mexico Supreme Court	55
Disciplinary Cases.....	55
Other State Cases.....	56
State Case Regarding Commission Subpoenas	56
Finances.....	57
Expenditures & Cost Reimbursement	57
FY 2010 Expenditures	57
FY 2010 Fines and Cost Reimbursement.....	58
FY 2010 Budget Appropriation Compared to FY 2010 Expenditures	58
Agency 10-Year Funding Profile	59
Appendices	60
Appendix A: Commission Process Flow Chart (Cases before 5/1/10).....	60
Appendix B: Supreme Court Clarification of Rules for Reporting Judicial Misconduct Involving Unlawful Drugs.....	61
Appendix C: Supreme Court Establishment of the Committee on Confidential Health Care.....	65
Appendix D: Supreme Court Establishment of a Privilege for Communications to the Lawyers’ Assistance Program and Rule for Docket Management during Long-Term Health Care	67
Appendix E: Supreme Court Order for Effective Administration of the Magistrate Court System in New Mexico	70
Appendix F: Supreme Court Approval of the Harassment Policy for the Judicial Branch of Government	72
Appendix G: Supreme Court Order Regarding the Filing of Pleadings by the Judicial Standards Commission	73
Appendix H: Supreme Court Approval of a Drug-Free and Alcohol-Free Work Place Policy and a Drug/Alcohol Testing Policy	74
Appendix I: Constitutional Authority	75
Appendix J: Statutory Authority.....	76
Appendix K: New Mexico Code of Judicial Conduct.....	78
Appendix L: Judicial Standards Commission Rules.....	101
Appendix M: Supreme Court Rules Governing Review of Judicial Standards Commission Proceedings	121



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, 2010

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	07/01/09–06/30/14
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	Julia Y. Seligman (D)	Governor	07/01/07–06/30/12
5	Jesse James Johnson (D)	Governor	07/01/08–06/30/13
6	Albert J. Lama, Esq.	State Bar	07/01/06–06/30/10
7	Rosemary L. Maestas-Swazo, Esq.	State Bar	07/01/08–06/30/12
8	Hon. Nan G. Nash	Supreme Court	07/01/07–06/30/11
9	Hon. Jerry H. Ritter, Jr.	Supreme Court	07/01/09–06/30/13
10	Larry Garcia (R)	Governor	07/01/09–06/30/14
11	Hon. Buddy J. Hall	Supreme Court	07/01/07–06/30/11

Outgoing Members: William R. Valentine, D.M.D. (Position 2 on June 30, 2010); and Albert J. Lama, Esq. (Position 6 on June 30, 2010).

Incoming Members: Kevin R. Dixon, Ph.D. (Position No. 2 on July 1, 2010); and Norman S. Thayer, Esq. (Position No. 6 on July 1, 2010).





COMMISSION MEMBERS

AS OF JUNE 30, 2010



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 with 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.



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.

ALBERT J. LAMA, ESQ. was appointed to the Commission by the State Bar Board of Bar Commissioners in 2006, and completed service June 30, 2010. He has been in government law practice for the past 22 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 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.



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 and masters of business administration, both summa cum laude from the College of Santa Fe in 1985 and 1987, and a juris doctor degree from the University of New Mexico Law School in 1995. Ms. Maestas-Swazo currently serves as in-house General Counsel with the Pueblo of Pojoaque. 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 also previously served 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 with the Los Alamos National Laboratory. Her volunteer activities and awards include past president of the New Mexico Indian Bar Association and State Bar of New Mexico's Indian Law Section, State Bar Code of Professional Conduct Committee, State Bar Commission on Professionalism. Ms. Maestas-Swazo received both the YWCA Women on the Move Award and the State Bar of New Mexico's Outstanding Contribution Award in 2004.



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 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.





HON. JERRY H. RITTER, JR. was appointed to the Commission by the New Mexico Supreme Court in 2009. Judge Ritter has been a District Judge for the Twelfth Judicial District (Otero and Lincoln Counties) since 1997 and is serving a second term as chief judge for the district from 2010 to 2013. He is a graduate of New Mexico State University and the University of New Mexico School of Law. From 1987 to 1992, Judge Ritter practiced law in Alaska with a small firm and as general counsel to an Alaska Native Regional Corporation. Returning to New Mexico, he was in private practice until 1994 when he became an Assistant District Attorney for the Twelfth Judicial District. He serves on the New Mexico Sentencing Commission, the statewide Judiciary Budget Committee, other court committees, and presides over a juvenile drug court. He is active in his church as a youth leader and with the Boy Scouts of America. He is married with seven children.



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. She is a member of the Judicial Nominating 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.



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.

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.



WILLIAM R. VALENTINE, D.M.D. was appointed to the Commission by Governor Bill Richardson in 2003, reappointed in 2005, and completed his service June 30, 2010. 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.

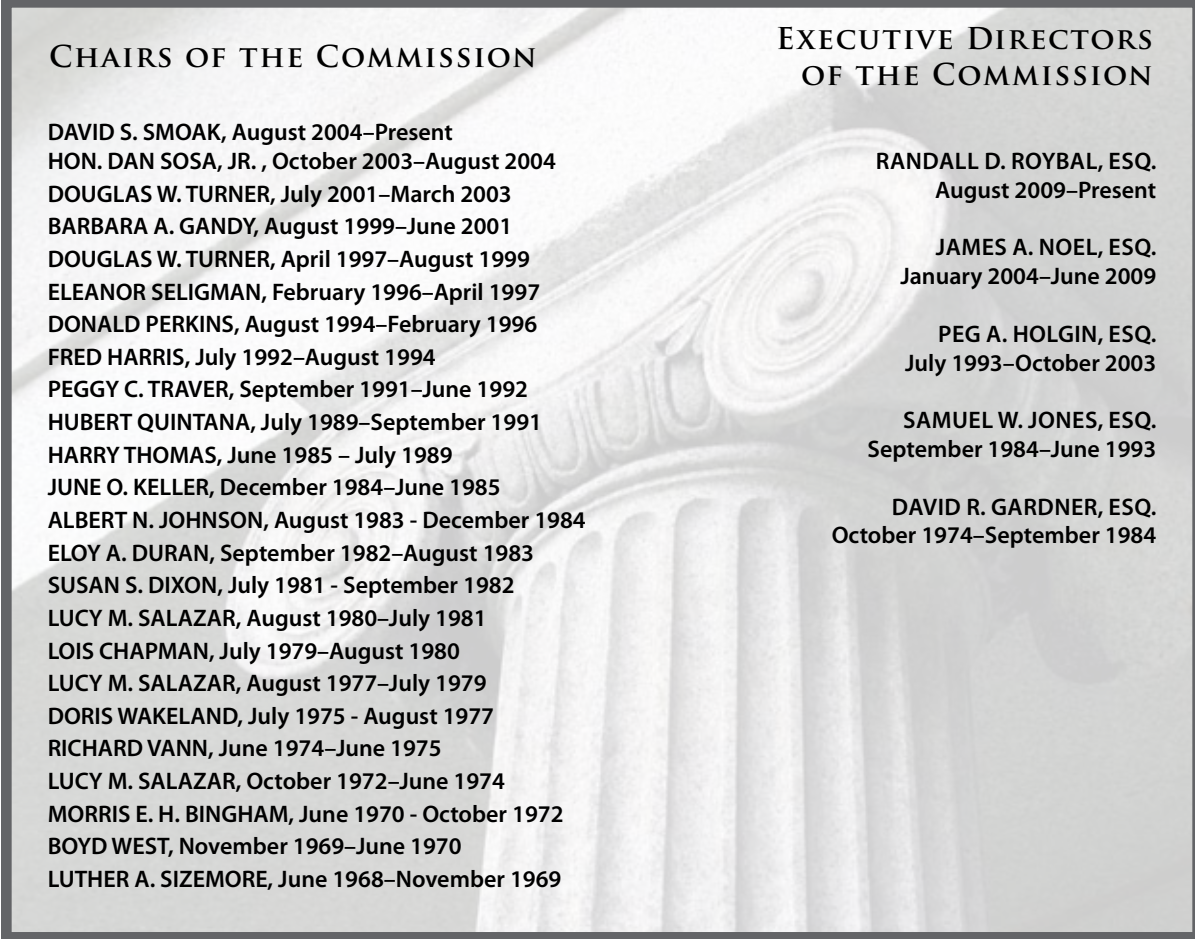


INCOMING COMMISSIONERS IN FY 2011 (beginning July 1, 2010)

KEVIN R. DIXON, PH.D. was appointed to the Commission by Governor Bill Richardson to a five-year term commencing July 1, 2010. Dr. Dixon is a Principal Member of the Technical Staff at Sandia National Laboratories, where he leads national-security research projects. He received his bachelor of sciences and doctorate degrees in electrical and computer engineering from Carnegie Mellon University, studying machine learning and statistical modeling. Dr. Dixon has over 30 scholarly publications, four patents, and has given dozens of invited presentations at research institutions worldwide. Dr. Dixon is also active in his community. He currently serves as a director on the boards of several nonprofit organizations and charities, including Tickets for Joy, Shandiin Child Development Center, and Conservation Voters New Mexico. Previously he tutored inner-city elementary and middle school children and served on the Academic Integrity Review Board at Carnegie Mellon University.

NORMAN S. THAYER, ESQ. was appointed to the Commission by the State Bar Board of Bar Commissioners to a four-year term commencing July 1, 2010. He grew up in Raton, New Mexico, and graduated high school there in 1950. Mr. Thayer received a bachelor of arts degree with English major and history minor in 1954, and a *juris doctor* degree in 1960 from the University of New Mexico. He served three years as a naval officer from 1954-1957. Mr. Thayer served three years as an Assistant Attorney General from 1960-1964. He has practiced law in Albuquerque with the law firm of Sutin, Thayer & Browne since 1964, handling civil litigation of all kinds. His memberships and professional activities include: Governor's Task Force on Ethics Reform (2007), Supreme Court Code of Judicial Conduct Committee (1993-2009), The Disciplinary Board of the Supreme Court (1985-1990), the Supreme Court Committee on Rules of Professional Conduct (1990-1998), and the State Bar Fair Judicial Elections Committee (2006-2008). Mr. Thayer was inducted into the State Bar's Roehl Circle of Honor for Trial Lawyers in 2009, received the State Bar

Distinguished Service Award, 2006, and received the Community Service Award of the American Board of Trial Advocates in 2007. He has also been active with the Albuquerque Museum, including memberships on the Board of Trustees (1989-1997) and the Board of Directors of the Albuquerque Museum Foundation (1985-1989), as well as receiving the Museum's Award of Distinction (1996-1997).



CHAIRS OF THE COMMISSION	EXECUTIVE DIRECTORS OF THE COMMISSION
DAVID S. SMOAK, August 2004–Present HON. DAN SOSA, JR. , October 2003–August 2004 DOUGLAS W. TURNER, July 2001–March 2003 BARBARA A. GANDY, August 1999–June 2001 DOUGLAS W. TURNER, April 1997–August 1999 ELEANOR SELIGMAN, February 1996–April 1997 DONALD PERKINS, August 1994–February 1996 FRED HARRIS, July 1992–August 1994 PEGGY C. TRAVER, September 1991–June 1992 HUBERT QUINTANA, July 1989–September 1991 HARRY THOMAS, June 1985 – July 1989 JUNE O. KELLER, December 1984–June 1985 ALBERT N. JOHNSON, August 1983 - December 1984 ELOY A. DURAN, September 1982–August 1983 SUSAN S. DIXON, July 1981 - September 1982 LUCY M. SALAZAR, August 1980–July 1981 LOIS CHAPMAN, July 1979–August 1980 LUCY M. SALAZAR, August 1977–July 1979 DORIS WAKELAND, July 1975 - August 1977 RICHARD VANN, June 1974–June 1975 LUCY M. SALAZAR, October 1972–June 1974 MORRIS E. H. BINGHAM, June 1970 - October 1972 BOYD WEST, November 1969–June 1970 LUTHER A. SIZEMORE, June 1968–November 1969	RANDALL D. ROYBAL, ESQ. August 2009–Present JAMES A. NOEL, ESQ. January 2004–June 2009 PEG A. HOLGIN, ESQ. July 1993–October 2003 SAMUEL W. JONES, ESQ. September 1984–June 1993 DAVID R. GARDNER, ESQ. October 1974–September 1984



COMMISSION STAFF MEMBERS

EXECUTIVE DIRECTOR & GENERAL COUNSEL

RANDALL D. ROYBAL, ESQ. joined the Commission staff in 1998 and was appointed Executive Director and General Counsel in August 2009. He previously served as the Commission's Deputy Director and Chief Staff Attorney for eleven years. Mr. Roybal 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 in Albuquerque for five years as an associate at an insurance defense firm and as a solo practitioner. He has been a member of the national Association of Judicial Disciplinary Counsel since 1999, and currently serves as Vice-President (2009–present) and member of the board of directors (2007–present). Mr. Roybal is also a member of the New Mexico Hispanic Bar Association and the board of directors for Musical Theatre Southwest. His past activities include: American Bar Association, Albuquerque Bar 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.



SENIOR INVESTIGATIVE TRIAL COUNSEL

ROBIN S. HAMMER, ESQ. joined the Commission staff in March 2010 and serves as Senior Investigative Trial Counsel. Ms. Hammer has more than 17 years of prosecutorial experience. She has previously worked as Deputy and Assistant District Attorneys in the Farmington, Santa Fe and Albuquerque District Attorney's Offices. Ms. Hammer has prosecuted all types of cases, including violent, gang, property and white collar crimes. At the Bernalillo County District Attorney's Office she was in charge of the Organized Crime and Public Corruption Division. There she worked with the United States Secret Service and members of the Financial Crimes Task Force to convict several groups of organized criminals. In 1995, the New Mexico Prosecutor's Section awarded her with the Legal Impact Prosecutor award for her work on a sophisticated DNA rape case and a death penalty murder case. She served on the New Mexico Supreme Court's Criminal Procedure Rules Committee and the Court's Joint Committee Regarding Sealing of Court Records. Ms. Hammer earned a bachelor of arts degree in theater at Indiana University in Bloomington, Indiana. She also graduated cum laude from Indiana University School of Law in Bloomington. Ms. Hammer worked at the Santa Fe Opera prior to her career in the law.





PARALEGAL

EVONNE SANCHEZ joined the Commission staff in 2004 as Paralegal. She earned her paralegal certificate from the University of New Mexico in 1996. She has been an active member of the Paralegal Division of the State Bar of New Mexico since 2000, and was elected to the board of directors in January 2009. She is the Albuquerque area coordinator for the division's Continuing Legal Education programs and chair of 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 personal

injury and civil litigation.



INVESTIGATOR

JOHN P. WALSH joined the Commission staff in June 2010 and serves as Investigator. Mr. Walsh previously served as a law enforcement professional for nearly 30 years. He started his law enforcement career in 1981 with the Albuquerque Police Department and served in many different capacities over the years, including Patrol Services, Traffic (Fatal/Major Accident) Investigations, Criminalistics (CSI) Investigations, Detective Bureau (Felony, Violent Crimes, Property Crimes, Narcotics and White Collar Crimes Investigations). His law enforcement career included management and supervision, as an APD Sergeant, a member of APD's executive staff as Spokesman and Public Information Director, and as the Chief of Police for a town in the Albuquerque metro area. Mr.

Walsh continues to serve as an instructor in both local law enforcement and international settings. He has been married to his wife, Kathleen, for over 30 years and has two sons, both of whom are graduates of New Mexico State University and are serving in law enforcement and/or commissioned military services.

CLERK OF THE COMMISSION & LEGAL ASSISTANT



SHARIESSE T. MCCANNON joined the Commission staff in 2004 and serves as Clerk of the Commission & Legal Assistant. She 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 and serves as 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.



ORGANIZATIONAL OVERVIEW

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, other administrative law judges, or attorneys. Where necessary, the Commission holds evidentiary hearings (trials) 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 sealed by order or rule of 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 as 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.

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 by itself 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.

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. If it is determined after initial inquiry that there are insufficient grounds to proceed, the case will be closed. The complainant 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. The judge must respond in writing to the notice of preliminary investigation.



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.

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 shall be in writing.

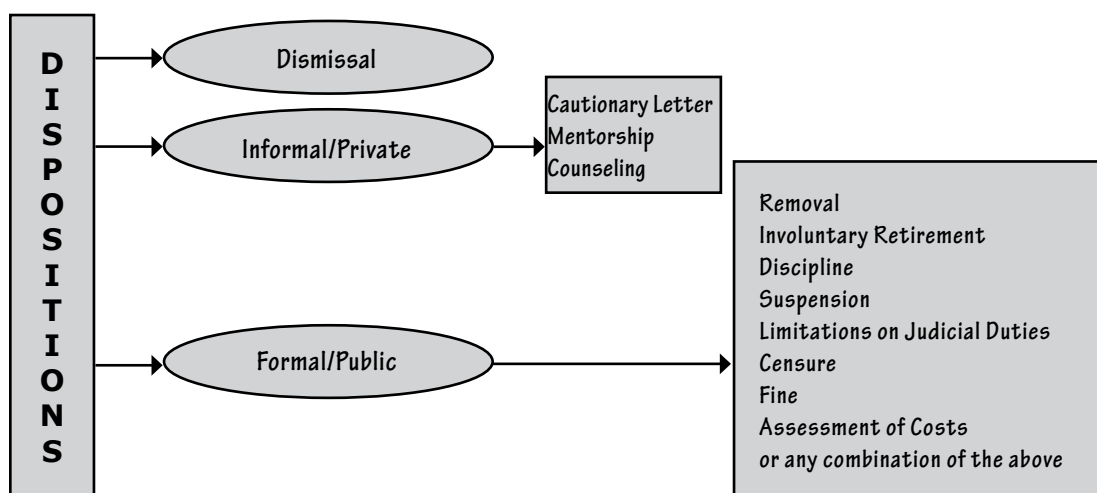
Upon filing and issuance of the notice of formal proceedings, the Commission will set the matter for hearing on the merits. The Commission may hear the case itself or appoint three judges as special masters

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, 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.



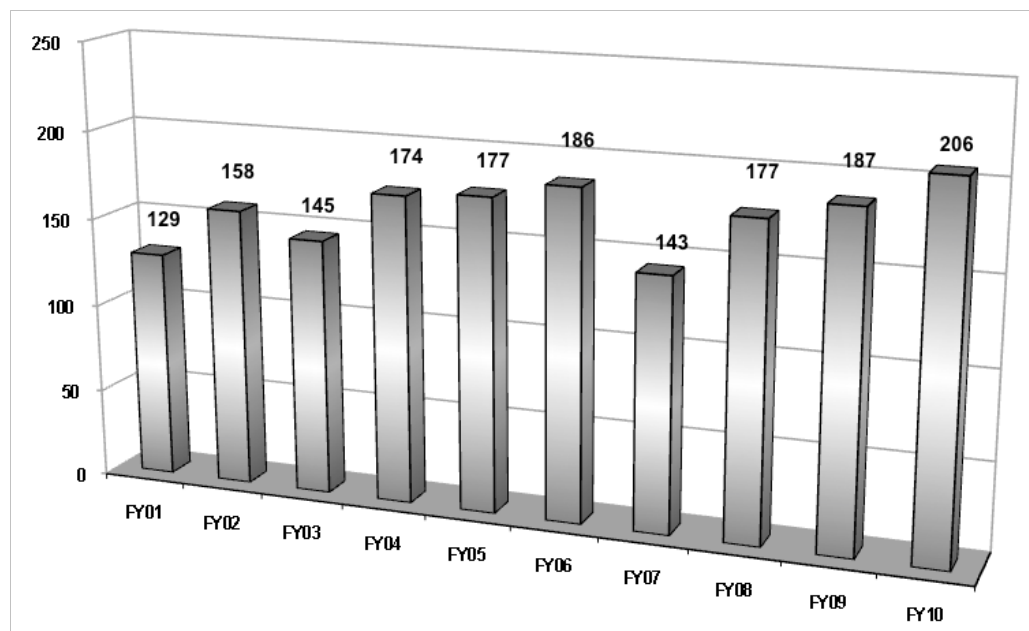


COMPLAINTS, DISPOSITIONS & PERFORMANCE JULY 1, 2009–JUNE 30, 2010

COMPLAINTS RECEIVED

In FY 2010 the Commission received 206 written complaints. The aggregate is comprised of 165 verified complaints (includes Commission-initiated complaints) and 41 unverified complaints.

10-YEAR HISTORY OF WRITTEN COMPLAINTS

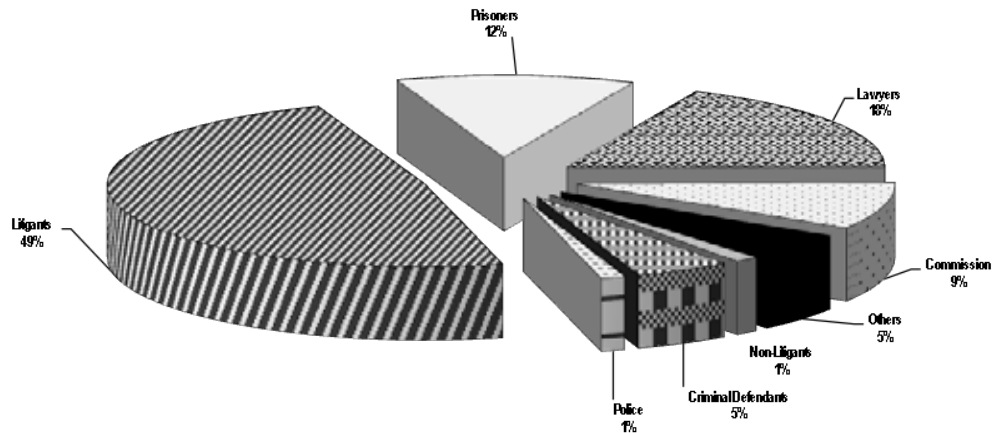


The Commission has an established pre-screening process for telephonic and in-person complaints. Staff members make every effort to discuss callers' situations in detail as appropriate. Staff informs callers about the limited scope of the Commission's jurisdiction under state law and spends substantial 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 their family/friends, 8 by criminal defendants or their family/friends, 2 by non-litigants, 30 by lawyers, 2 by police officers, 20 by prisoners, and 8 by others. Additionally, 15 complaints were initiated by the Commission on its own motion. The chart on the following page illustrates these figures.

COMPLAINT SOURCES



JUDGES REVIEWED ON VERIFIED COMPLAINTS

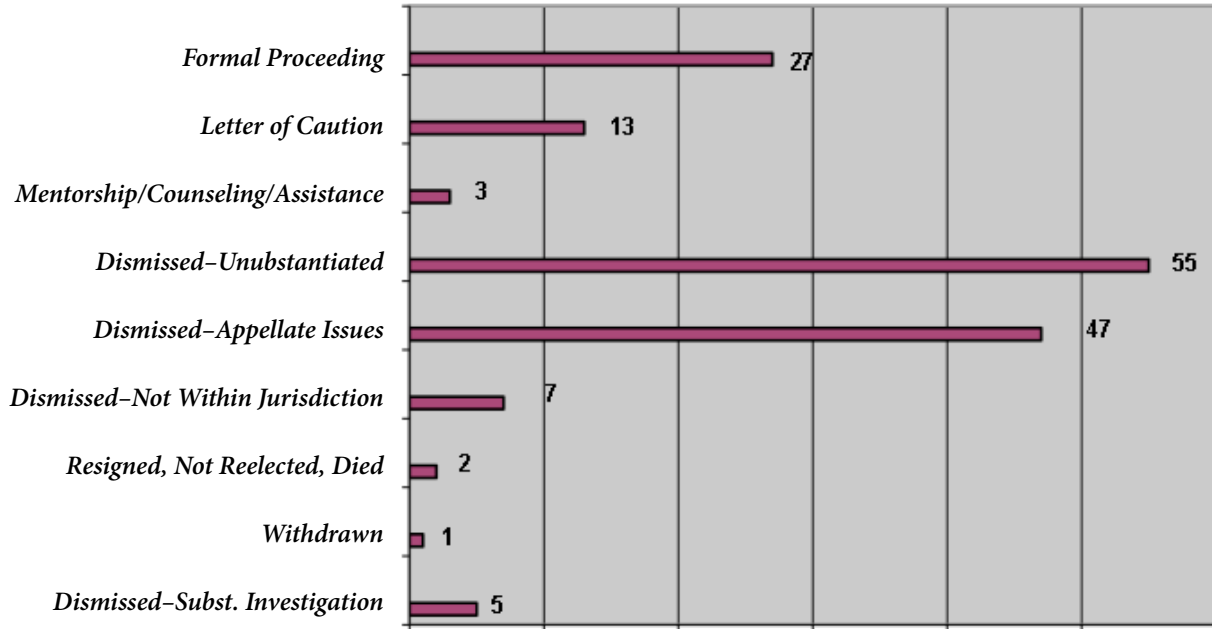
Judges in most levels of the judiciary were the subjects of the 165 written, verified complaints in FY 2010. Most complaints were filed against judges of the district courts (64), followed by magistrate judges (43), metropolitan judges (31), municipal judges (17), and Court of Appeals judges (1). Complaints against individuals who are not within the scope of the Commission's jurisdiction accounted for 9 complaints (*e.g.*, complaints against federal judges, hearing officers, court staff members, former judges, deceased judges, and attorneys).

JUDICIAL BRANCH	VERIFIED COMPLAINTS	PERCENT OF CASELOAD
<i>Supreme Court</i>	0	0%
<i>Court of Appeals</i>	1	1%
<i>District Court</i>	64	39%
<i>Metropolitan Court</i>	31	19%
<i>Magistrate Court</i>	43	26%
<i>Municipal Court</i>	17	10%
<i>Probate Court</i>	0	0%
<i>Other</i>	9	5%

CASE DISPOSITIONS

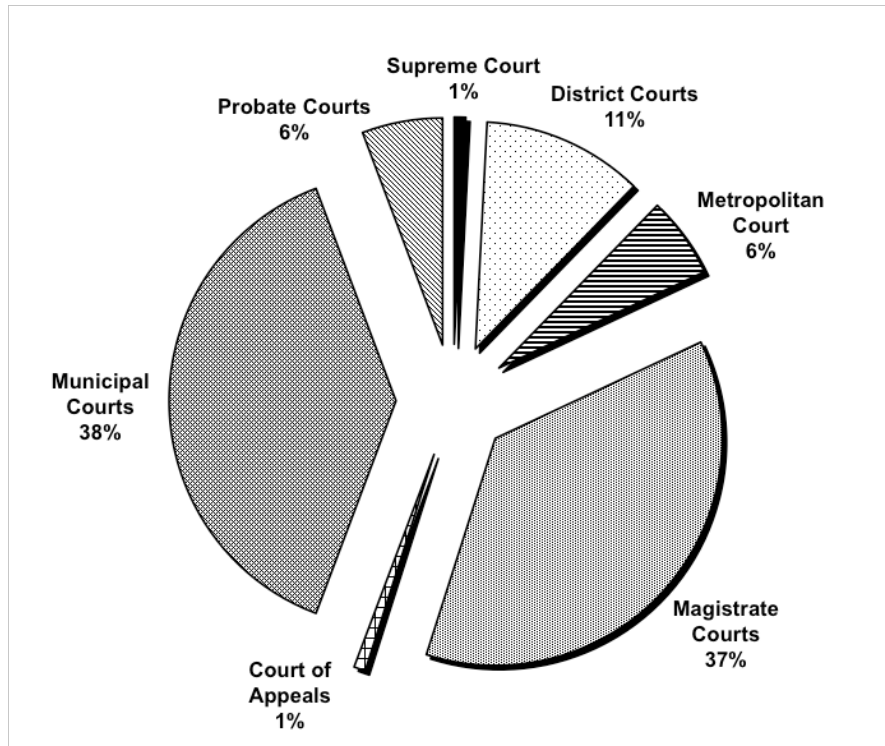
Inquiries Pending at Beginning of FY10 (July 1, 2009)	38
New Written/Verified Complaints and Inquiries in FY10	165
Inquiries Concluded in FY10	160
Inquiries Pending at End of FY10 (June 30, 2010)	43

Of the 160 cases completed and disposed in FY 2010, the Commission concluded 27 cases (involving 4 judges) through formal proceedings (trials and/or Supreme Court proceedings) and issued 13 informal letters of caution. 47 cases were dismissed as appellate, 7 cases because they concerned individuals beyond our jurisdiction, 55 cases as unsubstantiated, and 5 after substantive investigation had been completed. In 3 cases, the judges were referred for informal remedial measures, which may have included mentorship, education, counseling, or other assistance. 1 complaint was withdrawn and 2 matters closed because the judge resigned, died or was not reelected. These figures are illustrated in the graph on the following page.



HISTORICAL SUMMARY OF CASES FILED IN SUPREME COURT

From 1968 through June 30, 2010, the Commission filed 122 petitions for discipline and/or temporary suspension in the New Mexico Supreme Court involving 90 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, 7 metropolitan court, 45 magistrate court, 47 municipal court, and 7 probate court.

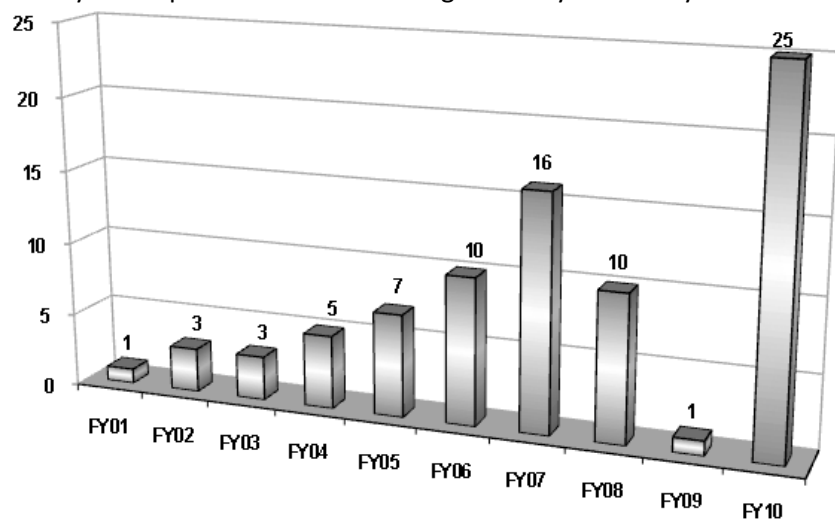


The table below indicates the levels of the judiciary and the corresponding geographical areas involved in the 122 formal cases the Commission has filed with the Supreme Court since 1968 through June 30, 2010.

APPELLATE COURTS (2)	DISTRICT COURTS (14)	METROPOLITAN COURT (7)	MAGISTRATE COURTS (45)	MUNICIPAL COURTS (47)	PROBATE COURTS (7)
Supreme Court 1	First 1	Bernalillo 7	Cibola 1	Aztec 1	Cibola 1
Court of Appeals 1	Second 2		Colfax 1	Bernalillo 1	Sandoval 1
	Third 3		Doña Ana 9	Bloomfield 2	Taos 5
	Fourth 1		Eddy 1	Bosque Farms 1	
	Seventh 1		Guadalupe 1	Clovis 2	
	Ninth 1		Hidalgo 1	Columbus 2	
	Eleventh 3		McKinley 4	Dexter 1	
	Thirteenth 1		Mora 1	Española 2	
			Rio Arriba 6	Gallup 2	
			Sandoval 1	Grants 3	
			San Juan 4	Hatch 1	
			San Miguel 2	Hurley 1	
			Santa Fe 2	Las Cruces 6	
			Socorro 1	Las Vegas 2	
			Taos 5	Mountainair 3	
			Union 1	Portales 1	
			Valencia 4	Red River 1	
				Roswell 5	
				Ruidoso Downs 1	
				San Jon 1	
				Santa Fe 6	
				Sunland Park 1	
				Taos 1	

PUBLIC CASES DISPOSED BY TERMINATION OF JUDICIAL OFFICE

In FY 2010, 25 cases concerning 3 judges were disposed after termination of judicial office. Since its inception, the Commission has disposed of 125 cases concerning 56 judges after termination of judicial office. These cases include removals, retirements, or resignations after the Commission had filed matters with and requested action by the Supreme Court. Following is a ten-year history of cases disposed:



FY 2010 LEGISLATIVE PERFORMANCE MEASURES

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

Upon knowledge of cause for emergency interim suspension, time for Commission to file petition for temporary suspension with Supreme Court (in days): N/A
 Efficiency measure. Target: 2 days. Result: 3 days. Target not satisfied.
Note: "Knowledge" occurs when Commission is informed of allegations requiring petition. Only one petition was filed this year concerning 21 separate complaints. The one-day delay was caused by the specific evidentiary requirements of the case.

Time for release of annual report to public from end of the fiscal year (in months): 2 months.
 Output measure. Target: 2 months. Result: 2 months. Target satisfied.

For cases in which formal charges are filed, average time for formal hearings to be reached (in meeting cycles): 3 meeting cycles.
 Efficiency measure. Target: 3 meeting cycles. Result: 2.25 meeting cycles. Target satisfied.

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 judge’s 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, 2010, the Commission has informally disposed of 300 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 (222 CASES)

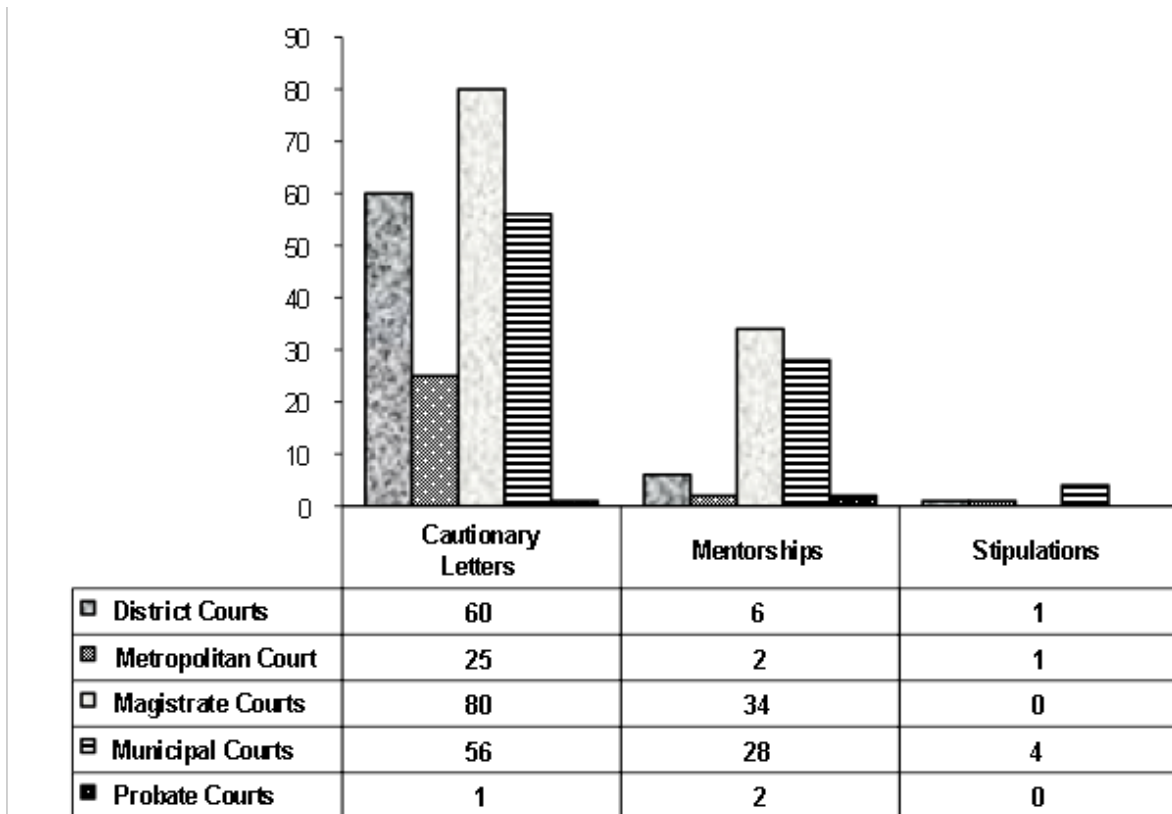
JUDICIAL BRANCH INVOLVED	NUMBER OF CASE FILES	PERCENT OF ALL CAUTIONS
Supreme Court	0	0%
Court of Appeals	0	0%
District Court	60	27%
Metropolitan Court	25	11%
Magistrate Court	80	36%
Municipal Court	56	25%
Probate Court	1	1%

MENTORSHIPS (72 CASES)

JUDICIAL BRANCH INVOLVED	NUMBER OF CASE FILES	PERCENT OF ALL MENTORSHIPS
Supreme Court	0	0%
Court of Appeals	0	0%
District Court	6	8%
Metropolitan Court	2	3%
Magistrate Court	34	47%
Municipal Court	28	39%
Probate Court	2	3%

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 2010, no completed 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, 2009–JUNE 30, 2010

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 Appendices G and M for the Supreme Court’s order and amended rule regarding Commission filings.

Since August 29, 2006, petitions and responses in temporary suspension matters filed with the Supreme Court have been required to be filed under seal, absent a contrary order from the Court. In September 2009, the Supreme Court amended its rules to require automatic sealing of all Commission matters filed before completion of an evidentiary record. However, all Supreme Court hearings, docket sheets, and

orders are available to the public, unless otherwise ordered by the Court.

FORMAL PROCEEDINGS

In FY 2010, the Commission concluded 27 cases by formal proceedings before the Commission and/or the New Mexico Supreme Court. All public cases ongoing or completed in FY 2010 are summarized below:

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* concerning Judge Barbara 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*.

On November 14, 2008, Judge Aldaz-Mills entered into a *Stipulation Agreement and Consent to Discipline* with the Commission. In the agreement, Judge Aldaz-Mills admitted that the Commission had sufficient evidence to prove the facts and code violations enumerated below by the standard of clear and convincing evidence:

1. On or about May 6, 2008, Mr. Daniel Goldberg, Sr. (hereinafter "Mr. Goldberg"), arrived at Respondent's court to obtain a certified copy of the bond for Mr. Thomas Vigil in the matter of *State v. Vigil*, 20060001116-CR. When Mr. Goldberg disputed the court clerk's refusal to provide Mr. Goldberg with a certified copy of the bond, Respondent became involved. Respondent then questioned Mr. Goldberg as to why he wanted a certified copy of the bond, to which he responded that he was investigating a possible probation violation by Mr. Vigil, and that if there was a violation, Mr. Goldberg was going to revoke Mr. Vigil's bond and take him into custody.

2. Respondent then authorized the clerk to provide Mr. Goldberg with a certified copy of the bond, and within ten minutes of Mr. Goldberg's departure, Respondent placed a phone call to Mr. Vigil on his family cell phone.

3. When Mr. Vigil did not answer this call, Respondent left a voice mail message for Mr. Vigil stating the following: "This message is for Thomas. I have an emergency message for you. Please call Barbara at 505-334-7641. Uh, again, please call immediately. Uh, trying to help you out on a situation."

4. Mr. Vigil returned Respondent's call very soon thereafter. Respondent then told Mr. Vigil that Mr. Goldberg was on his way and may try to place him in custody. Respondent also told Mr. Vigil to "try not to get arrested, and then come into [Respondent's] court [the following day] to straighten this out."

5. On May 7, 2008, in response to Respondent's telephone conversation with him of May 6, 2008, Mr. Vigil did appear in Respondent's court. Respondent had a conversation with Mr. Vigil in which she indicated that the press had been calling her and that as a result Respondent could not help him.

6. Respondent has known both Thomas and Eva Vigil for ten or more years and is on a first name basis with them. Respondent has heard numerous traffic and criminal cases involving Thomas Vigil during the ten years she has known Thomas and Eva Vigil, including those pending at the time of the conduct outlined herein. Respondent's familiarity with and knowledge of Thomas and Eva Vigil arises from her frequent encounters with Thomas Vigil as a defendant in her court.

7. The conduct set forth violates Canons 21-100 NMRA 1995 and 21-200(A) NMRA 1995 of the New Mexico Code of Judicial Conduct.

In the stipulation agreement, Judge Aldaz-Mills consented to accept the following discipline from the Supreme Court:

1. **Formal Reprimand.** Respondent agrees to accept a formal reprimand from the Supreme Court concerning the charges set forth in the Notice of Formal Proceedings. Formal reprimands are published in the New Mexico Bar Bulletin.

2. **Twelve-Month Supervised Probation and Formal Mentorship.** Respondent shall complete twelve months of supervised probation and formal mentorship, commencing upon the Supreme Court's appointment of a supervisor/mentor. The mentorship shall address the obligations and restrictions imposed by the New Mexico Code of Judicial Conduct, which relate to the admitted facts set forth above. The Judicial Standards Commission will recommend the probation supervisor/mentor for the Supreme Court's approval and appointment. The period of supervised probation and mentorship shall

begin upon the Supreme Court's appointment of the probation supervisor. The probation supervisor/mentor shall report on the progress and outcome of the probation and mentorship program to the Supreme Court and the Commission.

On November 20, 2008, the Commission filed a *Petition for Discipline upon Stipulation* with the Supreme Court. On December 30, 2008, the Supreme Court issued an order granting the petition and imposing the stipulated discipline. On April 8, 2009, the Commission filed a recommendation that Hon. Ann Yalman of the City of Santa Fe Municipal Court serve as Judge Aldaz-Mill's probation supervisor and mentor. The Supreme Court issued an order on April 14, 2009 appointing Judge Yalman to the position.

The Supreme Court issued its formal reprimand in this case on May 21, 2009. The reprimand was published in the Bar Bulletin. In its formal reprimand, the Court agreed that the stipulated factual findings supported the conclusion that Judge Aldaz-Mills violated Canons 21-100 and 21-200. The Court specifically noted that "by intervening in the lawful investigation of a possible probation violation and by calling the defendant and warning him that the agent was on his way to possibly place the defendant in custody, Judge Aldaz Mills failed to maintain the integrity and independence of the judiciary and failed to act in a manner that promotes public confidence in the integrity and independence of the judiciary." The Court further found:

While there is no finding that Judge Aldaz-Mills knew that the defendant had violated the conditions of his probation, by telling him that the enforcement agent was on his way and that the defendant should "try not to get arrested" and to come to her court the following day to "straighten this out," she abandoned her role as an impartial fact finder, and her conduct undermined the principles of judicial integrity, impartiality, and independence that form the basis of our judicial system. . . .

Judge Aldaz-Mills successfully completed supervised probation and mentorship on April 14, 2010, and the matter was closed.

MATTER OF HON. SABINO RAMIREZ

Hatch Municipal Court

JSC Inquiry No. 2008-115

Supreme Court Docket No. 31,664

On January 16, 2009, the Commission issued a Notice of Preliminary Investigation to Judge Sabino Ramirez. Judge Ramirez filed his answer on January 29, 2009. On February 12, 2009, the Commission issued formal charges against Judge Ramirez in a Notice of Formal Proceedings. On March 2, 2009, Judge Ramirez filed Respondent's Answer to Notice of Formal Proceedings.

On April 14, 2009, Judge Ramirez entered into a Stipulation Agreement and Consent to Discipline with the Commission. In the agreement, Judge Ramirez admitted the following facts:

1. Beginning in September 2008, Respondent improperly involved himself in, and engaged in *ex parte* communications with David Trujillo about Mr. Trujillo's private financial dispute with Leland and Lynette Jones. There was no case pending before Respondent's court concerning the dispute, although the matter may have possibly come before Respondent's court. Respondent improperly invoked and used his judicial position, title, stationery, and prestige of office, in attempts to resolve the private financial dispute outside the court system to the favor of Mr. Trujillo, without affording due process of law to the Joneses.

Respondent's improper conduct included making a telephone call on or about September 29, 2008, to the Jones' residence regarding the matter. Respondent left the following message on the Jones' answering machine:

Hello, Lynne Jones, this is Judge Ramirez in Hatch. The reason for my call is a claim from David Trujillo in reference to Lynette Jones residence here in Hatch for a clean-up. And he explained the situation to me. He says he received a check for partial payment and you put down final payment on it and we want to get this cleared up. So can you please call me at the police department here in Hatch its area code 575-267-3021. Again, this is Municipal Judge Sabino Ramirez. I expect a call from you as soon as I can get it. I can get this thing over and done with and cleared out, so please give me a call. Thank you bye-bye.

Respondent also wrote a letter to the Joneses on or about October 16, 2008, on Village of Hatch stationery, using his judicial title and court name to advance Mr. Trujillo's private interests under threat of legal action. The letter indicates that Respondent may have prejudged the matter in Mr. Trujillo's favor. Respondent's letter stated:

On September 29, 2008 I called your residence and left a message requesting that you call me back to make arrangements regarding the matter brought forth by David Trujillo in reference to working for you. Mr. Trujillo states that he did clean your property located at 204 Carr Street and I have seen pictures taken before the work was done and request that you come to an arrangement with Mr. Trujillo regarding full payment before the matter escalates. If we do not hear from you soon, there will be a civil suit against you requiring your appearance. If you could please call me regarding this matter as soon as possible, I can be reached at (575) 267-3021.

2. Respondent's admitted conduct . . . violated the following Canons of the Code of Judicial Conduct: 21-100 NMRA 1995; 21-200(A) and (B) NMRA 1995; and 21-300(B)(2), (B)(4), (B)(5), (B)(7), (B)(8), (B)(10) and (B)(11) NMRA 2004; and 21-500(A) NMRA 1995.

3. On or about October 29, 2008, Respondent issued a summons in the matter of Village of Hatch vs. Leland Jones that was written in letter form and in a manner that failed to comply with Rule 8-204(C) of the Rules of Procedure for the Municipal Courts.

4. The summons did not conform to the Supreme Court's approved summons form. The summons was not signed by Respondent or his clerk, and did not contain a case number or the name of the prosecuting law enforcement officer.

5. Respondent's admitted conduct . . . violated the following Canons of the Code of Judicial Conduct: 21-100 NMRA 1995; 21-200(A) NMRA 1995; and 21-300(C)(1) and (C)(2) NMRA 2004.

6. On or about October 29, 2008, when the matter of Village of Hatch vs. Leland Jones was filed in his court, Respondent failed to recuse from the matter, even though Respondent was actively using his judicial position to advance David Trujillo's private interests in the final dispute against Mr. Jones.

7. Respondent's admitted conduct . . . violated the following Canons of the Code of Judicial Conduct: 21-100 NMRA 1995; 21-200(A) and (B) NMRA 1995; and 21-400(A) NMRA 2004.

8. Respondent agrees that his admitted conduct . . . constituted willful misconduct in office and provides sufficient basis for the New Mexico Supreme Court to impose discipline against Respondent pursuant to Article VI, §32 of the New Mexico Constitution.

In the stipulation agreement, Judge Ramirez consented to accept the following discipline from the Supreme Court:

1. Formal Reprimand. Respondent agreed to 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. Six-Month Supervised Probation and Formal Mentorship. Respondent agreed to participate in a six-month supervised probation and formal mentorship. The Commission shall recommend the probation supervisor/mentor, for consideration and appointment by the Supreme Court. The probation supervisor/mentor shall report on the progress and outcome of the mentorship to the Supreme Court and the Commission.

On April 14, 2009, the Commission filed a Petition for Discipline upon Stipulation with the Supreme Court. On May 20, 2009, the Supreme Court issued an Order granting the Petition for Discipline upon Stipulation and imposed the stipulated discipline. On June 18, 2009, the Commission filed a recommendation that the Hon. Ronald M. Hall of the Grant County Magistrate Court serve as Judge Ramirez's probation supervisor. The Supreme Court issued an order on June 23, 2009 appointing Judge Hall to the position.

The Supreme Court issued its formal reprimand in this case on June 26, 2009, which was published in the *Bar Bulletin*. In its formal reprimand, the Court agreed that the stipulated factual findings supported the conclusion that Judge Ramirez violated Canons 21-100, 21-200, 21-300 and 21-500. The Court noted that Judge Ramirez's advocacy of the interests of one party undermined the public trust in the independence of the judiciary. The Court also noted that when Judge Ramirez used his authority to promote the interests of one party, he undermined the integrity and impartiality of the judiciary. Furthermore, the Court stated, "It is not a judge's job to resolve disputes that are not before the court," and thus Judge Ramirez should not have placed a telephone call to a party to encourage the making of an agreement.

The procedural rules are designed to assure an orderly process to afford the parties a full and fair opportunity to present their case and obtain a result from a dispassionate judge. . . . In this case, the telephone message can be interpreted as being from a judge who was already familiar with the facts of a case and who had already prejudged the matter.

The Court further noted that the letter that Judge Ramirez sent subsequent to the telephone call compounded the doubt cast on Judge Ramirez's impartiality, and could have interfered with attempts at receiving a fair trial in this matter in any court with jurisdiction.

Additionally, the Court also pointed to Judge Ramirez's failure to recuse from the Village's nuisance case, as it involved the same property that was the subject of the private dispute with which Judge Ramirez had become involved. Canon 21-400(A)(1), the Court noted, requires a judge to recuse when the judge has personal knowledge of disputed evidentiary facts, yet Judge Ramirez failed to recuse as required.

Additionally, Judge Ramirez's recusal was required as his impartiality could be suspect given his involvement in the earlier dispute, where he appeared to have prejudged the matter.

Finally, the Court noted that Judge Ramirez's failure to follow established Rules of Procedure for the Municipal Courts undermined the public's confidence in the integrity of the judiciary. The Court held that all of the factual circumstances in this matter constituted willful misconduct.

Judge Ramirez was placed on supervised probation until December 23, 2009.

During October 2009, mentor staff from the Judicial Education Center (JEC) traveled to Hatch to assist with the training to Judge Ramirez regarding proper administration of his court. The staff expressed great concerns about Judge Ramirez's practice of having court funds commingled with the Hatch Police Department accounts. The court's files were also kept at the police department. When Judge Ramirez approached the

Mayor of Hatch, the Mayor was not receptive to changing the court's practice of intermingling police and court business.

On November 12, 2009, Judge Ramirez's probation supervisor/mentor Judge Hall, traveled to Hatch to meet with Judge Ramirez at his court. At this meeting, the Mayor of Hatch told Judge Hall that the Mayor was not agreeable to neither Judge Hall nor the JEC trying to assist the Hatch court in becoming more professional and in compliance with the Code of Judicial Conduct. At this meeting, Judge Ramirez told Judge Hall that he was reluctant to stand up to the Mayor.

On November 17, 2009, mentor Judge Hall spoke with the JEC staff member who had traveled to Hatch to conduct training with Judge Ramirez. The staff member reported that there was no separation of powers between the Hatch Police Department and Judge Ramirez's court. Judge Ramirez did not control his docket; he had no idea what happened to a case once he sentenced someone; all of the court files were kept at the Police Department; and all court-collected fines and fees went to the Police Department.

During December, 2009, Judge Hall spoke with Judge Ramirez regarding the need for a fair and independent judiciary in Hatch.

On January 14, 2010, Judge Hall submitted his final mentorship report. Contained within Judge Hall's final report were clear and convincing details that Judge Ramirez, after extensive mentorship, was unfit to perform his official judicial duties. His inability to separate the court from outside influence caused Judge Hall great concerns that the court's duty of being impartial and unbiased was compromised. Judge Hall expressed additional concerns regarding Judge Ramirez's health.

Based on Judge Hall's observations during the mentorship, on January 19, 2010 the Commission filed a Motion to Accept Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Discipline.

On February 1, the Supreme Court issued an order, granting the Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Discipline. On February 18, 2010 the Commission filed a Notice of Resignation (dated January 20, 2010 and received by the Commission on February 16, 2010) with the Supreme Court. On March 17, 2010 the Commission filed an Unopposed Motion to Unseal Remainder of File, which was subsequently granted by order of the Supreme Court on March 23, 2010. Judge Ramirez, as part of the stipulation and subsequent resignation, agreed to never accept, run or perform judicial duties in the future.

MATTER OF HON. KENNETH HOWARD
McKinley County Magistrate Court Judge
JSC Inquiry Nos. 2007-098 & 2008-108
Supreme Court Docket No. 31,730

The Commission issued a *Notice of Preliminary Investigation* to Judge Kenneth Howard on June 9, 2008. Judge Howard filed an *Answer to the Preliminary Investigation* notice on June 25, 2008. On November 14, 2008, the Commission issued formal charges against Judge Howard in a *Notice of Formal Proceedings*. On December 8, 2008, Judge Howard filed his response.

On April 14-16, 2009, a trial was held before the Commission. The Commission heard testimony from seventeen witnesses in two separate inquiries and reviewed all exhibits admitted into evidence. On May 28, 2009, the Commission filed a *Petition for Discipline* and subsequently filed the *Record of Formal Proceedings before the Judicial Standards Commission* with the Supreme Court.

In its petition, the Commission recommended to the Supreme Court that Judge Kenneth Howard be formally reprimanded and placed on a one year supervised probation for referring three traffic defendants as part of their sentences to a traffic safety school that was not certified by the state and conducting part of at least two civil court proceedings in the Navajo language when the plaintiffs in the cases did not speak Navajo and the parties had not requested a court interpreter.

In its findings of fact, the Commission found that in the spring of 2007, the owner of the Diné Traffic Safety School spoke with the judge about the school, her work in the tribal courts, and prospective referrals from the magistrate court. The Diné Traffic Safety School is a unique school, grounded in the Navajo culture, teachings, and language. When the judge indicated to the court clerk that he intended to refer traffic defendants to the school as an alternative sentencing option, the chief court clerk indicated that such referrals would have to be approved by the presiding magistrate judge. The Commission found that the judge knowingly made three referrals after that conversation without determining whether the course or instructor were certified by the state as required by the New Mexico Department of Transportation Bureau of Traffic Safety. As a matter of law and pursuant to NMSA § 66-10-11, the Commission took judicial notice that when a person is convicted of a penalty assessment misdemeanor or other misdemeanor committed while operating a motor vehicle, each court is authorized to and shall consider ordering that offender to take any driving safety course certified by the bureau but shall not specify a particular provider. The Commission concluded that Judge Howard's referral of three traffic defendants to an uncertified driving safety school constituted willful misconduct in office and failure or inability to perform judicial duties.

After the judge awarded judgment in the civil case of *Furniture Warehouse v. Cayaditto*, M-35-CV-2007-00487, the defendants asked in English if they would have gone to jail if they had not appeared for court that day because of the summons they had received. The judge answered the defendants in Navajo, speaking for two to three minutes, and the plaintiff did not know what the judge said. The clerk got up and went to get the chief clerk because she observed the plaintiff standing there unable to understand. When the clerk and chief clerk went back to the courtroom, the judge directed the defendant to address the court in English. The plaintiff took extra measures during and after the proceeding to ensure that the amount of the award to her did not change based on the exchange between the judge and the defendant.

In a second civil case of *Gentry Finance v. Mike*, No. M-35-CV-2007-00585, with both parties at the bench, the judge asked the defendant if she agreed with the amount the plaintiff was suing for, to which she replied "yes." The judge then spoke to the defendant in Navajo for approximately two and a half minutes although the defendant was able to speak English and had not requested a court interpreter. The plaintiff was Navajo but did not understand the Navajo language.

The Commission found that the judge essentially denied due process to the respective plaintiffs in both cases. The Commission concluded that such conduct constituted willful misconduct in office and failure or inability to perform judicial duties.

On June 18, 2009, Respondent filed his *Response to the Petition for Discipline*, in which he denied making referrals to the traffic safety school and denied conducting any court proceedings in the Navajo language which may have denied the plaintiffs due process of law. Respondent argued that the judge did not commit misconduct in office and that the Court should dismiss the *Petition for Discipline*.

On July 15, 2009, the Supreme Court heard oral argument on the Commission's disciplinary petition, and Respondent's objections. After review of the Commission's petition and Respondent's response and argument by the parties, the Supreme Court issued its ruling denying the Commission's *Petition for Discipline* because the judge's conduct did not rise to the level of willful misconduct in office.

MATTER OF HON. JOSEPH GUILLORY
Doña Ana County Magistrate Court
JSC Inquiry No. 2008-094
Supreme Court Docket No. 31,930

On November 19, 2008, the Commission issued to Judge Guillory a Notice of Preliminary Investigation in Inquiry No. 2009-094, to which he replied on December 17, 2008. On January 6, 2009, the Commission issued to Judge Guillory a Notice of Formal Proceedings, to which he responded on January 15, 2009.

The Commission and Respondent entered into a first Stipulation Agreement and Consent to Discipline on August 11, 2009. Listed below is a synopsis of the facts Judge Guillory ultimately admitted to:

A. On or about January 22, 2008, Respondent referred several times to Presiding Judge Oscar Frieze in a condescending manner and voiced his discontentment with the Presiding Judge to the Magistrate Court staff, all within hearing of the public.

B. Respondent abused the contempt power in *State v. Barela*, M-14-DR-2007-01187 and *State v. Amanti*, M-14-MR-2008-01069 by denying fair treatment to the defendants and holding the defendants in contempt without proper justification. Respondent's behavior in the Barela and Amanti cases demonstrated a lack of proper judicial temperament and abuse of his judicial authority.

On April 15, 2008, during a motion hearing in *State v. Barela*, Respondent improperly raised his voice at Mr. Barela, banged his fists on the bench, argued with the defendant, and then found him in direct contempt of court. When the defendant tried to explain the situation from his perspective, Respondent would not let him, told him to "sit down and shut up," and said that he did not want to hear from him. When the defendant again tried to explain his situation, Respondent slammed his fist on the bench and shouted, "I am giving you 30 days now. I am giving you 60 days now. I am giving you 90 days in jail. Do you want me to go on?" Respondent failed to maintain appropriate decorum in this proceeding and to be patient, dignified, and courteous to the defendant. Mr. Barela ultimately spent two days in jail as a result of Respondent having the bench warrant executed.

In *State v. Amanti*, Respondent hastily entered a Commitment Order, which ordered the defendant to report to the Doña Ana County Detention Center at 5:00 p.m. on March 31, 2008, to serve five consecutive days for direct contempt of court. Later that same day, Respondent signed a Release Order, without explanation on the Order, releasing Mr. Amanti on his own recognizance. Mr. Amanti spent a little over an hour in jail under the commitment order for direct contempt.

C. Respondent's admitted conduct set forth in paragraphs A and B violated Canons 21-100 NMRA 1995; 21-200(A) NMRA 1995; and 21-300(B)(3) and (B)(4) NMRA 2004 of the Code of Judicial Conduct.

D. Respondent persistently failed, refused, or was unable to perform his judicial duties, including a refusal to arraign certain defendants, in the cases of *State v. Salcido*, M-14-MR-2008-01255; *State v. Ornelas*, M-14-MR-2008-01011; *State v. Richards*, M-14-MR-2006-00570; and *State v. Solis*, M-14-TR-2001-02221. Respondent failed to sentence individuals properly in the cases of *State v. Pedraza*, M-14-MR-2008-00771; *State v. Baca*, M-14-MR-2008-00752; *State v. Chambers*, M-14-MR-2007-02441; *State v. Amanti*, M-14-MR-2007-0229 and *State v. Delgado*, M-14-MR-200802063 and M-14-MR-200800423. Respondent's Judgment and Sentence notes were undecipherable and the clerks could not understand the intent of the court. See *State v. Montoya*, M-14-MR-200700595, and *State v. Borunda*, M-14-MR-200800429. Respondent also failed to complete arraignment forms correctly. See *State vs. Lucero*, M-14-DR-200800471; *State v. Montoya*, M-14-VR-200700595; *State vs. Borunda*, M-14-MR-200800429; *State v. Sanchez*, M-14-MR-200801555; *State vs. Meza*, M-14-MR-200701743; and *State v. Madrid*, M-14-MR-200801687.

E. Respondent's admitted conduct set forth in paragraph D violated Canons 21-100 NMRA 1995; 21-200(A) NMRA 1995; 21-300(A), (B)(1), (B)(2), (B)(8), and (C)(1) NMRA 2004; and 21-400(A)(1) NMRA 2004 of the New Mexico Code of Judicial Conduct.

F. Respondent engaged in *ex parte* communications with litigants. During Respondent's smoking breaks, Respondent spoke and visited with litigants, officers, and bail bondsman, and discussed specific cases outside and in front of the courthouse. The cases involved included State v. Mendoza, M-14-TR-2005-01311; State v. Granger, M-14-TR-2008-05052; State v. McNutt, M-14-TR-2007-10879; State v. Castillo, M-14-TR-2007-10762; State v. Delgado, M-14-VR-2007-00434; and State v. Perez, M-14-DR-2007-00931 and M-14-TR-2007-08539.

G. Respondent's admitted conduct set forth in paragraph F violated Canons 21-100 NMRA 1995; 21-200(A) NMRA 1995; 21-300(B)(7) and (B)(8) NMRA 2004; and 21-500(A)(1), (A)(2), (A)(3), and (A)(4) NMRA 1995 of the New Mexico Code of Judicial Conduct.

H. Respondent regularly took short naps at his desk during the noon hour, within view of court staff and the public, which gave an appearance of impropriety. On one occasion, Respondent also fell asleep on the bench while three defendants were waiting for paperwork from his clerk.

I. Respondent's admitted conduct set forth in paragraph H violated Canons 21-100 NMRA 1995; 21-200(A) NMRA 1995; 21-300(A), (B)(3), (B)(7), (B)(8), and (C)(1) NMRA 2004; and 21-500(A)(2), (A)(3), (A)(4) and (H) NMRA 2004 of the Code of Judicial Conduct.

J. On September 11, 2008, during a jury trial in State v. Castillo, M-14-DR-2008-00454, a DWI case, Respondent assisted the officer in presenting his case at the dry erase board. At one point, while the jury was outside the courtroom, but while the jurors were in sight and earshot, Respondent told the court manager, "This guy in here blew a .3."

K. Respondent's admitted conduct set forth in paragraph J violated Canons 21-100 NMRA 1995; 21-200(A) and (B) NMRA 1995; 21-300(B)(2), (B)(7), (B)(8), and (B)(10) NMRA 2004 of the Code of Judicial Conduct.

In the August 2009 stipulation agreement, Judge Guillory consented to accept a formal reprimand and a twelve-month period of supervised probation and mentorship.

On September 16, 2009, the Supreme Court heard oral argument in the matter. The Supreme Court issued an order rejecting the Commission's first Petition for Discipline Upon Stipulation. In the order, the Court stated that the matter was remanded back to the Commission in order for further development of the record to address the Court's questions presented during oral argument. The Court indicated that future filings would need to include briefing that detailed other similar disciplinary cases, specifically including cases where periods of suspension were imposed.

On December 7, 2009, Judge Guillory and the Commission entered into a Second Petition for Discipline Upon Stipulation. On December 18, 2009, the Commission filed a Second Petition for Discipline Upon Stipulation with the Supreme Court. The new agreement included further development of the record and a listing of similar cases where the Supreme Court had imposed a suspension period. The new agreement and petition also included the following amended disciplinary provisions:

1. 60-Day Unpaid Suspension. Respondent shall be suspended from judicial office for sixty (60) days without pay;
2. Formal Reprimand. Respondent shall receive a written formal reprimand to be published in the Bar Bulletin;

3. Twelve-Month Supervised Probation and Mentorship. Respondent shall complete a twelve-month supervised probation and formal mentorship following the period of suspension. The mentorship shall cover all substantive and procedural issues addressed in the Stipulation Agreement and Consent to Discipline, filed on December 7, 2009, including but not limited to, Respondent's obligations and responsibilities under the Code of Judicial Conduct and remedial training concerning proper judicial demeanor, temperament, appearance of impropriety, ex parte communications, proper performance of judicial duties, arraignments, sentencing, forms disqualification, contempt cases and conflict of interest.

On January 6, 2010, the Supreme Court issued an order granting the Second Petition for Discipline Upon Stipulation. The Supreme Court also ordered that the entire file shall be permanently unsealed. On February 24, 2010, the Commission issued a recommendation for an Appointment of a Probation Supervisor and Mentor. On March 2, 2010, the Supreme Court issued an order, setting a date for the response to a Probation Supervisor and Mentor. On March 3, 2010, the Respondent issued a response to the Commission's Recommendation for an Appointment of a Probation Supervisor and Mentor. On March 10, 2010, the Supreme Court issued an order appointing Hon. Steven L. Bell as the mentor and probation supervisor.

On March 10, 2010, Judge Joseph Guillory returned to the Dona Ana County Magistrate Court, after completing his sixty (60) day suspension, and began to serve his one (1) year of supervised probation under Mentor Judge Steven L. Bell.

Subsequent to the end of the fiscal year, on July 30, 2010, the Commission filed a Motion to Revoke Judge Guillory's probation. On August 13, 2010, the Commission filed an Emergency Verified Petition for Immediate Temporary Suspension in the Supreme Court against Judge Guillory. On August 24, 2010, Judge Guillory sent a letter to the Governor and the Supreme Court resigning from his current position.

On August 25, 2010, the Supreme Court issued an order suspending Judge Guillory without pay effective August 13, 2010. The Order specified that the judge's resignation did not affect any pending proceedings before the Judicial Standards Commission.

This matter was ongoing at the end of FY 2010. Subsequent events will be reported in the Commission's Annual Report for FY 2011.

MATTER OF HON. ED WOOD

Bloomfield Municipal Court

JSC Inquiry Nos. 2009-032, 2009-056, 2009-078

Supreme Court Docket No. 32,034

On June 16, 2009, the Commission issued to Respondent Wood a Notice of Preliminary Investigation in Inquiry Nos. 2009-032 and 2009-056, to which Respondent replied through counsel on June 30, 2009. On August 21, 2009, the Commission issued to Respondent a Notice of Formal Proceedings, to which he responded through counsel on September 2, 2009. Respondent filed an Amended Answer to Notice of Formal Proceedings on September 17, 2009.

In Inquiry 2009-087, the Commission issued to Respondent Wood a Notice of Preliminary Investigation on October 14, 2009.

The Commission and Respondent entered into a Stipulation to Permanent Retirement from Judicial Office on October 29, 2009 addressing the three pending inquiries. The next day, the Commission filed a Petition

to Accept Stipulation to Permanent Retirement from Judicial Office in Lieu of Disciplinary Proceedings with the Supreme Court. The petition provided in part:

* * *

6. The Commission and Respondent entered into a Stipulation to Permanent Retirement from Judicial Office on October 29, 2009, which provides in pertinent part the following:

A. Respondent agrees to permanently retire as Judge of the Bloomfield Municipal Court effective close of business on December 31, 2009. Upon acceptance of this stipulation by the New Mexico Supreme Court, Respondent shall submit duplicate original letters of retirement to the Mayor of Bloomfield. 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. Upon execution of this Stipulation to Permanent Retirement from Judicial Office in Lieu of Disciplinary Proceedings and acceptance by the Supreme Court, the Commission will abate and close these matters (Inquiry Nos. 2009-032, 2009-056, and 2009-087).

* * *

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

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

On October 23, 2009, Respondent tendered a letter to Mayor Scott Eckstein of his retirement effective December 31, 2009 pursuant to the Stipulation to Permanent Retirement from Judicial Office in Lieu of Disciplinary Proceedings. Respondent's letter to Mayor Scott Eckstein was delivered to the Bloomfield City Council on October 26, 2009.

On November 18, 2009, the Supreme Court granted the Commission's Petition to Accept Stipulation to Permanent Retirement from Judicial Office in Lieu of Disciplinary Proceedings. The Court also ordered that the entire file shall be permanently unsealed.

MATTER OF HON. JAVIER LOZANO
Municipal Court Judge, Village of Columbus
JSC Inquiry No. 2009-025
Supreme Court Docket No. 29,264 (2010)

On October 14, 2009, the Commission issued a Notice of Preliminary Investigation. Judge Lozano responded to Notice of Preliminary Investigation on October 29, 2009 and supplemented his response on November 12, 2009.

The Commission issued a Notice of Formal Proceedings in this Inquiry on February 12, 2010. Judge Lozano responded to the Notice of Formal Proceedings on March 3, 2010. The Notice of Formal Proceedings contained several allegations. It was alleged that Judge Lozano submitted a false public voucher, engaged

in improper courtroom demeanor and conduct, and adjudicated a case in which the court no longer had jurisdiction.

The Commission set the matter for a trial on these matters to be conducted on April 13, 2010. On April 13, 2010 the Commission heard from Judge Lozano and accepted a Stipulation Agreement and Consent to Discipline to resolve the matter before the Commission. In the Stipulation Agreement and Consent, Judge Lozano admitted:

A. On December 17, 2008, Judge Lozano certified and submitted a false public voucher to the Village of Columbus claiming reimbursement for per diem expenses in the amount of \$260.00 for code enforcement training in Aztec, New Mexico, from December 22 through December 25, 2008. There was no code enforcement training in Aztec, New Mexico, during the week of December 22-25, 2008.

B. Judge Lozano admitted that this conduct violated Canons 21-100 NMRA 1995; 21-200(A) and (B) NMRA 1995; 21-300(C)(1) NMRA 2004; and 21-500(A)(1), (2), and (A)(4) NMRA 1995 of the Code of Judicial Conduct.

C. On February 18, 2009, Judge Lozano conducted a hearing in Village of Columbus v Moreno, Case No. 200900156, a case regarding a building permit. Judge Lozano, Officer Rosemary Zamora, a code enforcement officer for the Village of Columbus, and Maria Moreno, the defendant, were present.

During the February 18, 2009, hearing, Judge Lozano kept moving his chair closer to the parties during the hearing. Judge Lozano moved his hands a lot during the hearing. Judge Lozano touched the defendant, possibly others, during the hearing. After Judge Lozano had moved closer to the parties, both Officer Zamora and the defendant moved away from Judge Lozano. Both Officer Zamora and the defendant felt uncomfortable by the Judge Lozano's actions during the February 18, 2009, hearing.

Judge Lozano met with the Mayor of Columbus to discuss a similar claim of improper touching brought by Officer Zamora regarding Judge Lozano in the middle of January of 2009 prior to the February 18, 2009, hearing. Ms. Zamora had filed a claim with the U.S. Equal Employment Opportunity Commission ("EEOC"). The Village of Columbus reached a monetary settlement with Ms. Zamora. As part of the agreement, the EEOC required counsel for the Village of Columbus to send a letter to the Mayor of the Village of Columbus urging the Village to be aware of its March 2009 sexual harassment policy and to enforce it to avoid future potential claims.

D. Judge Lozano admitted that this conduct violated Canons 21-100 NMRA 1995; 21-200(A) and (B) NMRA 1995; and 21-300(B)(2), (B)(3) and (B)(4) NMRA 2004 of the Code of Judicial Conduct.

E. In Village of Columbus v. Moreno, Case No. 200900156, Judge Lozano failed to conduct a trial within the one-hundred eighty two (182) day time period specified in NMRA 8-506 of the Rules of Procedure for the Municipal Courts. The court cannot extend the expired time period for commencing a trial.

F. Judge Lozano admitted this conduct violates Canons 21-100 NMRA 1995; 21-200(A) NMRA 1995; 21-300(C)(1) and (C)(2) NMRA 2004 of the New Mexico Code of Judicial Conduct.

Judge Lozano further agreed that his admitted conduct constituted willful misconduct in office and provided sufficient basis for the New Mexico Supreme Court to impose discipline against Judge Lozano pursuant to article VI, § 32 of the New Mexico Constitution.

The Commission recommended that the Supreme Court impose the following formal discipline:

1. Ninety-Day Suspension without Pay;

2. Formal Reprimand;
3. Twelve-Month Supervised Probation and Formal Mentorship in Judicial Demeanor, Court Administration, Jurisdiction, and Responsibilities under the Code of Judicial Conduct;
4. Reimbursement of Per Diem Expenses;
5. Training in Public Financial Practices and Procedures; and
6. Training Concerning Sexual Harassment.

On April 14, 2010, the Commission filed a Petition for Discipline Upon Stipulation with the New Mexico Supreme Court. On May 11, 2010, the Supreme Court heard from the parties regarding the stipulated discipline in this matter. The Supreme Court accepted Judge Lozano's admissions regarding willful misconduct of submitting a false public voucher and displaying improper court demeanor and conduct. The Court rejected the allegation of adjudicating a case beyond the court's jurisdiction. With this modification, the Court imposed the discipline recommended by the Commission and stipulated to by Judge Lozano.

Judge Lozano served his 90-day unpaid suspension from May 12, 2010 until August 10, 2010. On May 26, 2010, Judge Lozano repaid \$260 which he had improperly obtained to the Village of Columbus.

On June 21, 2010, the Supreme Court issued a Formal Reprimand in the Bar Bulletin, Vol. 49, No. 25, pp. 20-22. Judge Lozano will serve his supervised probation and formal mentorship from August 11, 2010 until August 11, 2011.

This matter was ongoing at the end of FY 2010. Subsequent events will be reported in the Commission's Annual Report for FY 2011.

MATTER OF HON. VICTORIA GRANT
Bernalillo County Metropolitan Court
JSC Inquiry Nos. 2010-035 through 2010-055
Supreme Court Docket No. 32,334

On April 16, 2010, the Commission issued to Judge Victoria Grant a Notice of Preliminary Investigation.

On the same day, the Commission filed under seal pursuant to Rule 27-104(B), NMRA 2010 in the New Mexico Supreme Court a Verified Petition for Immediate Temporary Suspension regarding Judge Grant, No 32,334. The allegations contained in the Notice of Preliminary Investigation formed the Commission's basis for requesting the Court to temporarily suspend Judge Grant.

The allegations contained in the Notice of Preliminary Investigation were based on 21 separate complaints from several Assistant Public Defenders. The Notice of Preliminary Investigation alleged that Judge Grant violated the Code of Judicial Conduct and 21 defendants' Constitutional Due Process rights in 21 separate cases. They alleged, among other things, that Judge Grant held many defendants in custody without legal authority; forced defendants to trial on misdemeanor cases without discovery being provided; entered a finding of guilt without allowing the prosecuting officer being present; and punished defendants for wishing to proceed pro se. The specific allegations are contained as follows:

A. It was alleged that on or about or between March 31, 2009 and October 5, 2009, Judge Grant remanded criminal defendant Lloyd Tapia to jail based on a bench warrant previously issued by the court in DV 1479-09. Law enforcement officers performed a cavity search on Mr. Tapia prior to transporting him to jail. The

officers found drug paraphernalia, including syringes and other items on Mr. Tapia's person. It was alleged that Judge Grant requested that Mr. Tapia be brought back before Judge Grant prior to the correctional officers taking him to jail. It was alleged that Judge Grant failed to request the presence of the prosecutor or his Public Defender attorney at this second setting on July 24, 2009. It was alleged that Judge Grant spoke to Mr. Tapia *ex parte* and requested that he make self-incriminating admissions. It was alleged that at this second *ex parte* hearing, Judge Grant sentenced Mr. Tapia to additional jail time. It was alleged that Judge Grant's order based on this *ex parte* hearing caused Mr. Tapia to improperly serve time in jail.

If proven, Judge Grant's conduct may have violated Canons 21-100 NMRA 2004; and/or 21-200(A) and/or (B) NMRA 2004; and/or 21-300(A), (B)(2), (B)(4), (B)(5), (B)(7), and/or (B)(8) NMRA 2009 of the Code of Judicial Conduct and may constitute willful misconduct in office and/or persistent failure or inability to perform a judge's duties.

B. It was alleged that on or about or between November 15, 2008 and May 27, 2009, Judge Grant impeded criminal defendant Shari Gilliam's constitutional right to a speedy trial in DW 6093-08. It was alleged that Judge Grant were a cause of Ms. Gilliam serving time in jail beyond the maximum penalty allowed by law for the crimes for which she was charged and later convicted. It was alleged that Judge Grant reset a hearing while the Assistant Public Defender stepped out of the courtroom for a very short time and then refused to hear the matter when the attorney returned, causing a delay in the trial. It was alleged that Judge Grant failed to be patient, dignified and courteous in proceedings in this case.

If proven, Judge Grant's conduct may have violated Canons 21-100 NMRA 2004; and/or 21-200(A) and/or (B) NMRA 2004; and/or 21-300(A), (B)(2), (B)(4), (B)(5), (B)(7), and/or (B)(8) NMRA 2004/2009 of the Code of Judicial Conduct and may constitute willful misconduct in office and/or persistent failure or inability to perform a judge's duties.

C. It was alleged that on or about or between May 31, 2006 and April 30, 2009 Judge Grant caused criminal defendant James Thompson to serve multiple days in jail beyond the court's jurisdiction in his cases in DW2670-06 and 4593-06. It was alleged that Mr. Thompson appealed the legality of the sentence in two criminal cases in Judge Grant's court. It was alleged that Mr. Thompson was successful on his appeal issue that he had already served the maximum sentences allowable under the law. It was alleged that District Court Judge Ross Sanchez, issued an order finding that it was illegal to convert fees to jail time and that Judge Grant extended the term of incarceration beyond Judge Grant's court's legal authority. It was alleged that Judge Grant failed to follow the District Court order, thereby causing Mr. Thompson to improperly serve additional time in jail.

If proven, Judge Grant's conduct may have violated Canons 21-100 NMRA 2004; and/or 21-200(A) and/or (B) NMRA 2004; and/or 21-300(A), (B)(2), (B)(4), (B)(5), (B)(7), and/or (B)(8) NMRA 2004/2009 of the Code of Judicial Conduct and may constitute willful misconduct in office and/or persistent failure or inability to perform a judge's duties.

D. It was alleged that on or about or between June 4, 2009 and March 12, 2010, Judge Grant ordered remanded criminal defendant Jose Ruiz to jail without representation from counsel, without notice, and without the right to be heard in DV 2454-09. At a pre-trial hearing in DV-2454-09, Judge Grant had ordered Jose Ruiz to hire an attorney. Jose Ruiz appeared in front of Judge Grant at a subsequent hearing, without an attorney. Judge Grant improperly and summarily ordered Jose Ruiz to be remanded to jail for contempt. Based on Judge Grant's order, Jose Ruiz improperly spent time in jail.

If proven, Judge Grant's conduct may have violated Canons 21-100 NMRA 2004; and/or 21-200(A) and/or (B) NMRA 2004; and/or 21-300(A), (B)(2), (B)(4), (B)(5), (B)(7), and/or (B)(8) NMRA 2009 of the Code

of Judicial Conduct and may constitute willful misconduct in office and/or persistent failure or inability to perform a judge's duties.

E. It was alleged that on or about or between August 15, 2008 and July 13, 2009, Judge Grant improperly ordered criminal defendant Lawrence Baros to be incarcerated in DW 4291-08. It was alleged that Mr. Baros was convicted of Driving While Under the Influence, First Offense, which carries a maximum penalty of 90 days in jail. It was alleged that Mr. Baros had already served 90 days in jail, when Judge Grant subsequently ordered him to be remanded to jail. It was alleged that Judge Grant had ex parte communications with attorneys from the Public Defender's Office on two separate occasions regarding the matter. It was alleged that after the Assistant Public Defenders made Judge Grant aware of Mr. Baros' improper incarceration, Judge Grant failed to immediately release Mr. Baros from custody. It was alleged that Judge Grant failed to be patient, dignified and courteous in matters in this case.

If proven, Judge Grant's conduct may have violated Canons 21-100 NMRA 2004; and/or 21-200(A) and/or (B) NMRA 2004; and/or 21-300(A), (B)(2), (B)(4), (B)(5), (B)(7), and/or (B)(8) NMRA 2004/2009 of the Code of Judicial Conduct and may constitute willful misconduct in office and/or persistent failure or inability to perform a judge's duties.

F. It was alleged that on or about or between May 12, 2009 and January 13, 2010 Judge Grant engaged in ex parte communications with an attorney and witness in the case in DV 2200-09, State v. Reubel Garcia. It was alleged that Judge Grant dismissed the case based on these ex parte conversations. It was alleged that Judge Grant then improperly allowed Mr. Garcia to remain in custody on a case which Judge Grant had dismissed. It was alleged that Judge Grant improperly re-instated the charges against Mr. Garcia, sua sponte.

If proven, Judge Grant's conduct may have violated Canons 21-100 NMRA 2004; and/or 21-200(A) and/or (B) NMRA 2004; and/or 21-300(A), (B)(2), (B)(4), (B)(5), (B)(7), and/or (B)(8) NMRA 2009 of the Code of Judicial Conduct and may constitute willful misconduct in office and/or persistent failure or inability to perform a judge's duties.

G. It was alleged that on or about or between April 16, 2009 and August 31, 2009, Judge Grant convicted criminal defendant Arthur Sena without the prosecuting police presenting any evidence or even appearing in court at the time of the hearing in TR 21524-09. It was alleged that Judge Grant engaged in ex parte communications with the defense attorney and the defendant in the case. It was alleged that Mr. Sena improperly served time in jail based on Judge Grant's improper conviction.

If proven, Judge Grant's conduct may have violated Canons 21-100 NMRA 2004; and/or 21-200(A) and/or (B) NMRA 2004; and/or 21-300(A), (B)(2), (B)(4), (B)(5), (B)(7), and/or (B)(8) NMRA 2009 of the Code of Judicial Conduct and may constitute willful misconduct in office and/or persistent failure or inability to perform a judge's duties.

H. It was alleged that on or about or between September 22, 2009 and February 18, 2010, Judge Grant convicted criminal defendant Justin Silva without the prosecuting police officer presenting any evidence or even appearing in court at the time of the hearing in TR 54965-09. It was alleged that Judge Grant engaged in ex parte communications in the case.

If proven, Judge Grant's conduct may have violated Canons 21-100 NMRA 2004; and/or 21-200(A) and/or (B) NMRA 2004; and/or 21-300(A), (B)(2), (B)(4), (B)(5), (B)(7), and/or (B)(8) NMRA 2009 of the Code of Judicial Conduct and may constitute willful misconduct in office and/or persistent failure or inability to perform a judge's duties.

I. It was alleged that on or about or between January 1, 2010 and March 23, 2010, Judge Grant convicted criminal defendant William Gortariz without the prosecuting police officer presenting any evidence or even appearing in court at the time of the hearing in TR 2621-10. It was alleged that Judge Grant engaged in ex parte communications with the defendant and an attorney regarding this case. It was alleged when the Assistant Public Defenders representing Mr. Gortariz objected to Judge Grant's finding of guilt without the prosecuting officer present, Judge Grant said, "appeal me" and then set an appeal bond of \$5,000 cash only, which is not a typical bond on a traffic case. It was alleged that Mr. Gortariz could not post the \$5,000 bond and was remanded to custody. It was alleged that Judge Grant failed to be patient, dignified and courteous in matters in this case.

If proven, Judge Grant's conduct may have violated Canons 21-100 NMRA 2004; and/or 21-200(A) and/or (B) NMRA 2004; and/or 21-300(A), (B)(2), (B)(4), (B)(5), (B)(7), and/or (B)(8) NMRA 2009 of the Code of Judicial Conduct and may constitute willful misconduct in office and/or persistent failure or inability to perform a judge's duties.

J. It was alleged that on or about or between October 12, 2009 and January 26, 2010, Judge Grant convicted criminal defendant Dora Platero without the prosecuting law enforcement officer presenting any evidence in TR 58289-09. It was alleged that immediately prior to Judge Grant's summary finding of guilt, Judge Grant refused to allow the prosecuting law enforcement to amend the charge from Driving on a Suspended License, which carries a maximum penalty of 364 days in jail, and suspends one's license for an additional year, to the lesser charge of No Driver's License, which does not automatically suspend one's license. It was alleged that Judge Grant failed to be patient, dignified and courteous in matters in this case.

If proven, Judge Grant's conduct may have violated Canons 21-100 NMRA 2004; and/or 21-200(A) and/or (B) NMRA 2004; and/or 21-300(A), (B)(2), (B)(4), (B)(5), (B)(7), and/or (B)(8) NMRA 2009 of the Code of Judicial Conduct and may constitute willful misconduct in office and/or persistent failure or inability to perform a judge's duties.

K. It was alleged that on or about or between September 13, 2009 and January 26, 2010, Judge Grant convicted criminal defendant Edgar Balderas without the prosecuting law enforcement officer presenting any evidence or even being present in the courtroom during the hearing in TR 53587-09. It was alleged that Judge Grant requested Mr. Balderas to make self-incriminating statements to the court. It was alleged that Judge Grant engaged in ex parte communications with Mr. Balderas and an attorney.

If proven, Judge Grant's conduct may have violated Canons 21-100 NMRA 2004; and/or 21-200(A) and/or (B) NMRA 2004; and/or 21-300(A), (B)(2), (B)(4), (B)(5), (B)(7), and/or (B)(8) NMRA 2009 of the Code of Judicial Conduct and may constitute willful misconduct in office and/or persistent failure or inability to perform a judge's duties.

L. It was alleged that on or about or between May 6, 2008 and October 28, 2008, Judge Grant found criminal defendant Mohamed Sufyan had violated his conditions of release at two separate hearings and raised his bond twice for the same conduct in DV 1781-08. It was alleged that when an Assistant Public Defender pointed out Judge Grant's actions, Judge Grant reduced the bond, but required the Community Corrections Program, which constitutes incarceration under the law. It was alleged that Judge Grant engaged in ex parte communications with an attorney. It was alleged that Judge Grant failed to be patient, dignified and courteous in matters in this case.

If proven, Judge Grant's conduct may have violated Canons 21-100 NMRA 2004; and/or 21-200(A) and/or (B) NMRA 2004; and/or 21-300(A), (B)(2), (B)(4), (B)(5), (B)(7), and/or (B)(8) NMRA 2004 of the Code of Judicial Conduct and may constitute willful misconduct in office and/or persistent failure or inability to perform a judge's duties.

M. It was alleged that on or about or between October 1, 2008 and January 30, 2009, Judge Grant failed to allow criminal defendant Pedro Ruiz to proceed pro se in CR 20660-08. It was alleged that Judge Grant failed to follow statutory law, rules, and procedural due process requirements for holding Mr. Ruiz in criminal contempt. It was alleged that Judge Grant improperly ordered Mr. Ruiz jailed for asserting his right to proceed pro se. It was alleged that prosecuting Officer Michael Broderick informed the court that he wished to dismiss the case. It was alleged that Judge Grant refused to accept the officer's dismissal and set the matter for trial. Ultimately, the court did acknowledge the officer's written dismissal. It was alleged that Mr. Ruiz spent 10 days in custody for Judge Grant's finding of contempt. It was alleged that Judge Grant failed to be patient, dignified and courteous in proceedings in this case.

If proven, Judge Grant's conduct may have violated Canons 21-100 NMRA 2004; and/or 21-200(A) and/or (B) NMRA 2004; and/or 21-300(A), (B)(2), (B)(4), (B)(5), (B)(7), and/or (B)(8) NMRA 2004/2009 of the Code of Judicial Conduct and may constitute willful misconduct in office and/or persistent failure or inability to perform a judge's duties.

N. It was alleged that on or about or between April 17, 2009 and August 24, 2009, Judge Grant failed to allow criminal defendant Jesus Lucero to proceed pro se in CR 8143-09. It was alleged that Mr. Lucero and the prosecuting officer had agreed upon a plea agreement and that Judge Grant refused to accept the agreement since Mr. Lucero was acting pro se. It was alleged that Judge Grant improperly ordered Mr. Lucero jailed for asserting his right to proceed pro se. It was alleged that Judge Grant failed to follow statutory law, rules, and procedural due process requirements for holding Mr. Lucero in criminal contempt. It was alleged that Judge Grant failed to be patient, dignified and courteous in proceedings in this case.

If proven, Judge Grant's conduct may have violated Canons 21-100 NMRA 2004; and/or 21-200(A) and/or (B) NMRA 2004; and/or 21-300(A), (B)(2), (B)(4), (B)(5), (B)(7), and/or (B)(8) NMRA 2009 of the Code of Judicial Conduct and may constitute willful misconduct in office and/or persistent failure or inability to perform a judge's duties.

O. It was alleged that on or about or between February 12, 2008 and October 1, 2008, Judge Grant issued a bench warrant for criminal defendant Kelvin Hines for failing to appear to court in CR 3490-08. It was alleged that Mr. Hines was in fact present at court at the time Judge Grant issued the bench warrant, but was merely discussing the case in the hallway with the prosecuting law enforcement officer Tanya LaForce. It was alleged that when Officer LaForce and the Public Defender informed the court of the circumstances, Judge Grant refused to re-call the case or cancel the bench warrant. It was alleged that Officer LaForce dismissed the case in an effort to keep Mr. Hines from being sent to jail improperly. It was alleged that even though the case was dismissed, Judge Grant would not cancel the bench warrant. It was alleged that Mr. Hines served time in jail for the bench warrant Judge Grant issued while he was standing in the hallway. It was alleged that Judge Grant became upset with the Assistant Public Defenders in the case, as Judge Grant believed that they had spoken to Presiding Criminal Judge Victor Valdez about this case. It was alleged that Judge Grant failed to be patient, dignified and courteous in proceedings in this case.

If proven, Judge Grant's conduct may have violated Canons 21-100 NMRA 2004; and/or 21-200(A) and/or (B) NMRA 2004; and/or 21-300(A), (B)(2), (B)(4), (B)(5), (B)(7), and/or (B)(8) NMRA 2004 of the Code of Judicial Conduct and may constitute willful misconduct in office and/or persistent failure or inability to perform a judge's duties.

P. It was alleged that on or about or between November 23, 2008 and September 4, 2009, Judge Grant refused to honor prosecuting police officer Sonny Molina's dismissal of the Minor in Possession of Alcohol charges in CR 24250-08. It was alleged that notes in the court file confirm that Judge Grant did not "allow" the prosecuting police officer to dismiss the case against Rachel Done. It was alleged that Officer Molina filed a written dismissal. It was alleged that Judge Grant issued a bench warrant for Ms. Done's failure to

pay fines on a case after it was dismissed. It was alleged that as a result of the bench warrant issued after the case had been dismissed, Ms. Done served time in jail. It was alleged that Judge Grant failed to be patient, dignified and courteous in proceedings in this case.

If proven, Judge Grant's conduct may have violated Canons 21-100 NMRA 2004; and/or 21-200(A) and/or (B) NMRA 2004; and/or 21-300(A), (B)(2), (B)(4), (B)(5), (B)(7), and/or (B)(8) NMRA 2004/2009 of the Code of Judicial Conduct and may constitute willful misconduct in office and/or persistent failure or inability to perform a judge's duties.

Q. It was alleged that on or about or between February 24, 2008 and August 13, 2009, Judge Grant punished criminal defendant Jose Salinas for requesting a trial in his case in TR 16607-08. After Mr. Salinas requested a trial Judge Grant raised his bond to \$1,000 cash only and ordered him remanded to jail. It was alleged that after seeing Mr. Salinas ordered to jail, prosecuting officer Sean Healy filed a written dismissal of the case. It was alleged that Judge Grant refused to honor the written dismissal of the case. It was alleged that Mr. Salinas served time in jail after the case had been dismissed. It was alleged that Judge Grant failed to be patient, dignified and courteous in proceedings in this case.

If proven, Judge Grant's conduct may have violated Canons 21-100 NMRA 2004; and/or 21-200(A) and/or (B) NMRA 2004; and/or 21-300(A), (B)(2), (B)(4), (B)(5), (B)(7), and/or (B)(8) NMRA 2004/2009 of the Code of Judicial Conduct and may constitute willful misconduct in office and/or persistent failure or inability to perform a judge's duties.

R. It was alleged that on or about or between August 27, 2009 and March 9, 2010, in CR 20131-09, Judge Grant improperly found criminal defendant Roberto Deleon in direct contempt for merely failing to get an attorney, conduct which occurs outside of the court room and not subject to a finding of direct contempt. It was alleged that Judge Grant improperly ordered Mr. Deleon to be remanded to jail for his failure to get an attorney. It was alleged that Judge Grant became upset at Mr. Deleon and his Assistant Public Defender's request for a trial in this case. It was alleged that Judge Grant refused to recall the case at both parties' request in order to enter a plea agreement prior to Mr. Deleon serving time in jail. It was alleged that Judge Grant failed to be patient, dignified and courteous in proceedings in this case.

If proven, Judge Grant's conduct may have violated Canons 21-100 NMRA 2004; and/or 21-200(A) and/or (B) NMRA 2004; and/or 21-300(A), (B)(2), (B)(4), (B)(5), (B)(7), and/or (B)(8) NMRA 2004/2009 of the Code of Judicial Conduct and may constitute willful misconduct in office and/or persistent failure or inability to perform a judge's duties.

S. It was alleged that on or about or between November 16, 2008 and May 6, 2009, Judge Grant convicted criminal defendant Colton Black of the charges in CR23757-08, without giving the Assistant Public Defender the chance to cross examine the only witness. It was alleged that when the Assistant Public Defender objected to improper proceedings, Judge Grant said, "appeal me." It was alleged that when the Assistant Public Defender requested an appeal bond, Judge Grant set the bond at \$500 cash only, which Mr. Black could not post. It was alleged that Mr. Black chose to give up his right to appeal rather than serve jail time pending his appeal. It was alleged that Judge Grant failed to be patient, dignified and courteous in proceedings in this case.

If proven, Judge Grant's conduct may have violated Canons 21-100 NMRA 2004; and/or 21-200(A) and/or (B) NMRA 2004; and/or 21-300(A), (B)(2), (B)(4), (B)(5), (B)(7), and/or (B)(8) NMRA 2009 of the Code of Judicial Conduct and may constitute willful misconduct in office and/or persistent failure or inability to perform a judge's duties.

T. It was alleged that on or about or between February 6, 2010 and February 26, 2010, Judge Grant failed to allow the attorney of record to represent his client and to address the court at the arraignment of

criminal defendant Zane Chavez in CR 29292-10. It was alleged that the Public Defender's Office had filed an entry of appearance in this case prior to arraignment. It was alleged that the assigned Assistant Public Defender was representing clients via video link from the jail on this day. It was alleged that Judge Grant refused to allow the Assistant Public Defender to appear, even though he alerted the court that his office represented the defendant, that he was at the lectern in front of the camera, and ready to proceed on the case. It was alleged that Judge Grant failed to be patient, dignified and courteous in proceedings in this case.

If proven, Judge Grant's conduct may have violated Canons 21-100 NMRA 2004; and/or 21-200(A) and/or (B) NMRA 2004; and/or 21-300(A), (B)(2), (B)(4), (B)(5), (B)(7), and/or (B)(8) NMRA 2009 of the Code of Judicial Conduct and may constitute willful misconduct in office and/or persistent failure or inability to perform a judge's duties.

U. It was alleged that on or about or between February 9, 2010 and February 26, 2010, Judge Grant failed to allow the attorney of record to represent his client and address the court at the arraignment of criminal defendant Kyle Romancito in CR 02733-10. It was alleged that the Public Defender's Office had filed an entry of appearance in this case prior to arraignment. It was alleged that the assigned Assistant Public Defender was representing clients via video link from the jail on this day. It was alleged that Judge Grant refused to allow the Assistant Public Defender to appear, even though he alerted the court that his office represented the defendant, that he was at the lectern in front of the camera, and ready to proceed on the case at the time of the arraignment. It was alleged that Judge Grant failed to be patient, dignified and courteous in proceedings in this case.

If proven, Judge Grant's conduct may have violated Canons 21-100 NMRA 2004; and/or 21-200(A) and/or (B) NMRA 2004; and/or 21-300(A), (B)(2), (B)(4), (B)(5), (B)(7), and/or (B)(8) NMRA 2009 of the Code of Judicial Conduct and may constitute willful misconduct in office and/or persistent failure or inability to perform a judge's duties.

On April 29, 2010, the parties filed under seal pursuant to Rule 27-104(B), NMRA 2010 a Stipulation to Immediate Temporary Suspension in the Supreme Court. In the Stipulation Judge Grant did not contest that her continued judicial service could cause immediate and substantial public harm, an appearance of impropriety, and an erosion of the public's confidence in the integrity of the judiciary and in the orderly administration of justice.

On April 30, 2010, the Supreme Court issued an Order temporarily suspending Judge Grant from office with pay effective immediately. It further ordered that the suspension with pay would be no longer than 90 days. This initial Order was silent as to unsealing the record in this case.

On May 12, 2010, the Supreme Court issued another Order requesting the parties to address their written or oral objections to the legal question as to whether the record in this matter should be unsealed. On May 13, 2010, the parties filed with the Commission a Stipulation to Permanent Retirement from Judicial Office in Lieu of Further Disciplinary Proceedings. On the same day, the Commission filed under seal in the Supreme Court, a Motion to Accept Stipulation to Permanent Retirement from Judicial Office in Lieu of Further Disciplinary Proceedings. In the Stipulation to Permanent Retirement from Judicial Office Judge Grant did not admit any of the allegations contained in the Notice of Preliminary Investigation. In lieu of further disciplinary proceedings before the Commission, the following terms were agreed upon:

1. Judge Grant agreed to permanently retire as Judge of the Metropolitan Court, Bernalillo County, New Mexico effective close of business on May 17, 2010.
2. Upon acceptance of this stipulation by the New Mexico Supreme Court, Judge Grant agreed to submit duplicate original letters of retirement to the Chief Justice of the New Mexico Supreme Court

and to the Governor. Judge Grant agreed to concurrently provide a copy of the retirement letter to the Commission.

3. Upon retirement, Judge Grant agreed to never again hold, become a candidate for, run for, or stand for election to any New Mexico judicial office in the future. Judge Grant agreed to 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.

4. Upon the Supreme Court's granting the Motion to Accept Stipulation to Permanent Retirement from Judicial Office in Lieu of Further Disciplinary Proceedings, Judge Grant agreed that the Supreme Court would unseal the entire Supreme Court file in this matter pursuant to Rule 27-104(B).

5. Upon execution of this Stipulation to Permanent Retirement from Judicial Office in Lieu of Further Disciplinary Proceedings and acceptance by the Supreme Court, the Commission agreed to abate and close this matter (Inquiry Nos. 2010-035 through 2010-055).

On May 14, 2010, the Supreme Court issued an Order stating that the Stipulation to Permanent Retirement from Judicial Office in Lieu of Further Disciplinary Proceedings was in the public interest. The Order accepted Judge Grant's agreement to permanent retirement. The Court further ordered that all materials filed in this matter should be unsealed immediately and become matters of public record.

MATTER OF HON. ROBERT M. SCHWARTZ
Second Judicial District Court, Bernalillo County
JSC Inquiry No. 2009-081
Supreme Court Docket No. 32,422 (2010)

On January 5, 2010, the Commission issued a Notice of Formal Proceedings in this Inquiry. Judge Schwartz responded to the Notice of Formal Proceedings on January 20, 2010. Prior to the opening of evidence at the initial trial setting of April 13, 2010, the Commission ordered the Notice of Formal Proceedings to be amended and vacated the trial setting. On April 15, the Commission issued a First Amended Notice of Formal Proceedings. Judge Schwartz responded to the First Amended Notice of Formal Proceedings on April 29, 2010.

On May 12 and 13, 2010, the Commission held trial on the merits in this Inquiry. After receiving a transcript the hearing, the parties submitted proposed findings of facts and conclusions of law on May 28, 2010.

On June 1, 2010, prior to the Commission certifying and filing the record of the trial with the New Mexico Supreme Court, Judge Schwartz filed in the Supreme Court a Motion to Seal and Strike the Commission's anticipated record proper and filings in this matter. The Commission responded to the motion, arguing in part that the motion was premature and contrary to the New Mexico Constitution.

On June 24, 2010, the Supreme Court issued an order citing that the potential issues present in Judge Schwartz' Motion to Seal and Strike were neither focused nor ripe for resolution and remanded Judge Schwartz' objections to the Commission to be addressed. The Court ordered that the Commission make any proposed filings, such as the record in this matter, available to Judge Schwartz seven days prior to the Commission's filing it with the Supreme Court.

On August 3, 2010, the Commission issued and provided Judge Schwartz a copy of the Commission's proposed Finding of Facts and Conclusions of Law. On August 6, 2010, Judge Schwartz' counsel reviewed

the record proper of the May 12 and 13 evidentiary hearing, including the exhibits, which the Commission intended to file with the Supreme Court.

On August 10, 2010, Judge Schwartz filed a First Amended Motion to Seal and Strike the Record with the Supreme Court. Judge Schwartz again asked for the anticipated record proper be sealed, stricken, or in the alternative redacted. On August 13, 2010, the Supreme Court ordered the Commission to respond to Judge Schwartz' First Amended Motion to Seal and Strike the Record by August 20, 2010.

On August 16, 2010, the Commission filed with the Supreme Court a Petition for Discipline and the record proper. The documents were filed under seal pursuant to the Court's prior order. In its Findings of Facts and Conclusions of Law and Recommendation for Discipline, the Commission recommended to the Court that the following discipline be imposed upon Judge Schwartz:

A. 60-day Unpaid Suspension. Respondent shall be suspended from judicial office for 60 days without pay. The period of suspension shall commence on the first day of the full pay period immediately following the Supreme Court's disciplinary order in this matter.

B. Formal Public Reprimand. Respondent shall receive a formal public reprimand, which shall be published in the Bar Bulletin.

C. Course Regarding Sexual Harassment. Respondent shall promptly and successfully complete a course regarding sexual harassment in the judicial system offered by the National Judicial College or the New Mexico Judicial Education Center. Respondent shall bear at his own expense all costs required to attend and complete this training, including tuition, travel, accommodations, meals, and all other expenses incurred in relation to completing this requirement. Respondent shall promptly provide the Commission with proof of successful completion of this requirement.

D. Leave During Future Medication Transitions. During all future medication transitions, Respondent shall take appropriate leave from work as necessary to avoid the need to take any judicial action during that period.

E. Assessment of Commission's Costs and Expenses. Respondent shall pay the Commission's costs and expenses incurred in this matter as defined in Matter of Rodella, 2008-NMSC-050 (as codified in new JSC Rule 36 NMRA 2010) and as permitted by Supreme Court Rule 27-403 NMRA. The Commission will request by separate pleading and certified memorandum of costs that the Supreme Court assess the Commission's costs and expenses against the Respondent.

The grounds for imposing discipline against the Respondent are set forth completely in the Judicial Standards Commission's Findings of Fact, Conclusions of Law and Recommendation for Discipline. Following is a brief and plain statement of the adjudicated basis for the requested discipline as stated in the Commission's petition:

A. In July 2009, Respondent initiated and engaged in a romantic relationship with attorney Mary Griego while she had cases pending before him, including but not limited to the cases of State v. Jarvis Yellowman, D-202-CR 2003-03356 and State v. Damian Valencia, D-202-CR 2008-05233. Mary Griego was functioning as an assistant public defender assigned to his docket. Respondent invited Ms. Griego to lunch as a device and with the intent to create a romantic relationship. Respondent planned, prepared, and gave Ms. Griego gifts of a sexual nature at the lunch. Respondent pasted his official court photograph in his judicial robe to one of the gifts. Respondent and Ms. Griego dated and socialized over the weekend immediately preceding two jury trials scheduled before Respondent involving Ms. Griego. Despite having numerous opportunities, Respondent failed to timely recuse from Ms. Griego's cases, took judicial actions in two cases where recusal was required and, when he recused, stated reasons for recusal which were not valid

and which were not truthful. By creating the relationship prior to recusal that led to his need to disqualify himself, by failing to recuse promptly once that relationship was created, and by stating reasons for recusal that were illegitimate, misleading and incredible, Respondent violated the provisions of the Code of Judicial Conduct stated below.

The Commission concluded that Respondent violated the following Canons of the Code of Judicial Conduct: 21-100 NMRA; 21-200(A) NMRA; 21-400(A)(1) NMRA; and 21-500(A)(1) through (4) NMRA. The Commission concluded that clear and convincing evidence proved that Respondent committed willful misconduct in office and established grounds for discipline as set forth in Article VI, §32 of the New Mexico Constitution.

On August 24, 2010, the Supreme Court issued an Order denying Judge Schwartz' Motion to Seal and Strike the Record, therefore making the Commission record filed in the Supreme Court in this matter open to the public. On the same day, the Court issued another order establishing a schedule for the parties to file briefs with the court and setting a date to hear the Commission's Petition for Discipline for October 12, 2010.

This matter was ongoing at the end of FY 2010. Subsequent events will be reported in the Commission's Annual Report for FY 2011.

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 2010, the Commission issued private cautionary letters in 13 cases to 12 judges addressing the issues listed below:

1. A judge's name and judicial title were allegedly used in a fund-raising endeavor for a charitable religious organization. The Commission cautioned the judge against allowing charitable organizations to improperly use the judge's name or court in soliciting funds.

2. A judge allegedly failed to verify that a defendant has been properly served with service of process prior to conducting a trial and as a result a default judgment was entered against the defendant. The Commission cautioned the judge to verify that the defendant has been properly and timely served with process and received sufficient legal notice of the hearing/trial at which judgment may be entered.

3. A judge allegedly improperly accepted appointment as a delegate to a political party convention. The Commission cautioned the judge not to stand for election, accept appointment, or hold a leadership position or office in a political organization, specifically including, but not limited to, service as a delegate to a political convention and to review and comply with Advisory Opinion No. 09-02.

4. Another judge allegedly improperly accepted appointment as a delegate to a political party convention. The Commission cautioned the judge not to stand for election, accept appointment, or hold a leadership position or office in a political organization, specifically including, but not limited to, service as a delegate to a political convention and to review and comply with Advisory Opinion No. 09-02.

5. A judge allegedly improperly accepted two leadership positions or offices in a political organization, to wit, appointment as a precinct chair and as a convention delegate. After receiving the Commission's request for a response to the allegations, the judge resigned from the delegate position. The Commission

issued an Order for Conditional Informal Disposition dismissing the matter with a letter of caution if the judge agreed to resign from the precinct chair position. The Judge agreed and the Commission cautioned the judge not to stand for election, accept appointment, or hold a leadership position or office in a political organization, specifically including, but not limited to, service as a delegate to a political convention or precinct chair and to review and comply with Advisory Opinion No. 09-02.

6. A judge allegedly voluntarily appeared and provided unsolicited character and opinion testimony regarding a police officer at an administrative hearing before the New Mexico Law Enforcement Academy. The Commission cautioned the judge not to voluntarily provide character or opinion based testimony as a trial witness and to ensure that a proper subpoena is received for such testimony.

7. A judge allegedly gave litigants the appearance of *ex parte* communication by calling one of the attorneys privately into chambers prior to a hearing. The conversation allegedly concerned the judge's desire to be appointed to the Supreme Court and the attorney's potential influence in securing the appointment. The Commission cautioned the judge to avoid creating conflicts of interest and appearances of impropriety by not speaking *ex parte* about non-case matters with parties who are involved in litigation pending before the court and that such situations may require recusal.

8. A judge allegedly removed original case files from the court and placed the original case files in the possession of someone who was not a member of the judge's court staff for an extended period of time. The Commission requested that the judge send a letter to the Commission to address what measures/precautions the judge put in place to address proper file management and tracking of court files in order to avoid a similar situation from occurring. The Commission cautioned the judge to ensure adequate judicial administration with respect to original court files including proper maintenance of original court files. The Commission noted that it is a judge's responsibility, usually in conjunction with the judge's chief clerk, to ensure that court files remain intact, complete, and, crucially, within the control of the court. The Commission further cautioned the judge to comply with Canon 21-300(C)(1) of the Code of Judicial Conduct, which provides that: "A judge shall diligently discharge the judge's administrative responsibilities without bias or prejudice, maintain professional competence in judicial administration and should cooperate with other judges and court officials in the administration of court business."

9. A judge allegedly improperly dismissed three code enforcement cases *ex parte* at arraignment in the defendants' favor for proof, but the cited code conditions were not corrected. The prosecuting police officers were not given notice of or an opportunity to be heard at the arraignments. The Commission cautioned the judge to comply with Canon 21-300(B)(7) of the Code of Judicial Conduct by according to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law. The Commission further cautioned the judge to ensure that all parties are present and have been given notice and an opportunity to be heard prior to substantively adjudicating cases.

10. A judge allegedly employed the judge's spouse as a Trial Court Administrative Assistant ("TCAA"), a position funded with public monies, in violation of the New Mexico Judicial Branch Personnel Policies. A TCAA is subject to the judge's immediate supervision and serves as the judge's liaison and as the judge's representative to other court staff, state agencies, and the public. The Commission cautioned the judge to comply with NMSA § 10-1-10 (Nepotism Prohibited) and Rule 4.03 of the New Mexico Judicial Branch Policies. The Commission reminded the judge to not employ anyone where violation of such employment contravenes federal or state law, the Code of Judicial Conduct, or court rules, protocols or procedures, or creates an improper appearance of impropriety, conflict or favoritism. The Commission noted that the judge should proactively address any future employment dilemmas by requesting an advisory opinion on the issue.

11. A judge allegedly applied a criminal evidentiary standard to a civil case. The Commission cautioned the judge to carefully consider and apply the required standard of proof in each case that comes before the judge.

12. A judge allegedly approved two plea agreements that violated NMSA 1978, §66-8-102.1 by improperly lowering the charged offense. In the agreements, the respective prosecutors and defense attorneys agreed that the defendants 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 accept pleas that improperly reduce DWI charges to lesser charges of reckless/careless driving or improperly 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.

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 2010, 2 judges were referred for informal remedial measures concerning 3 cases, which are discussed below.

1. A judge allegedly was contacted by the City Manager within hours of the arrest of the City Manager's relative. The judge allegedly contacted the police department and ordered the relative to be released on his/her own recognizance. The judge then allegedly made repeated public commentary in media interviews regarding the pending case. The Commission referred the judge to a mentorship, which was successfully completed.

2. A judge allegedly made comments manifesting bias or prejudice concerning national origin, ethnicity, and/or sexual orientation. The judge referred to the judge's mentor as a "controlling Mexican." Additionally, during a discussion regarding the possibility of the court being shut down, the judge said that an employee of the Administrative Office of the Courts "was a lesbian...it doesn't matter what she thinks." The Commission referred the judge to a year-long mentorship, which was successfully completed.

***CURRENT OR FORMER 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 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 has been fully compliant with the conditions ordered by the Supreme Court.

On December 18, 2009, the Judge filed a motion seeking relief from the disciplinary measures in the Supreme Court's July 20, 2006 order. The judge sought full removal from probationary status. The Commission objected to full removal from probationary status, but agreed to an amendment requiring the judge to check in monthly (rather than weekly) with the appointed probation supervisor in the manner required by the supervisor. On March 10, 2010, the Supreme Court issued an order granting the amendment recommended by the Commission.

MATTER OF HON. JOHN W. "BUDDY" SANCHEZ

Valencia County Magistrate Court

JSC Inquiry No. 2005-031

Supreme Court Docket No. 25,281

Pursuant to the Supreme Court's order of November 20, 2008, the current monitoring and compliance requires screening of Judge Sanchez's serum ammonia levels, which the Court directed in its March 8, 2007 order be ordered and monitored by the director of the Administrative Office of the Courts ("AOC") with notice to the Commission. Random drug and alcohol screening was discontinued by the Supreme Court's November 20, 2008 order, upon Judge Sanchez's motion that was granted in part.

MATTER OF [FORMER JUDGE] 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, the former judge Theresa Gomez is obligated to pay in monthly installments the \$17,000.00 constituting unpaid rent due to the Region III State Housing Authority, its successor, agent, or assign.



PROCEEDINGS BEFORE THE SUPREME COURT FY 2005–FY 2010

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. Reuben Galvan, Doña Ana County Magistrate Court, JSC Inquiry No. 2004-99, 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. 2004-46, 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. 2003-35, 2003-38 & 2003-57, 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. 2003-73 & 2003-95, 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. 2003-58, 2003-89 & 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; and 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. 2002-80 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. 2003-82, 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); conducted 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; implemented 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 conducted 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 G. 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*. On October 1, 2008, the judge filed a motion to discontinue the Supreme Court's requirement that Respondent continue to undergo random drug and alcohol screening, and periodic serum ammonia screening. The Commission filed a response in opposition to this screening on October 6, 2008, and the Respondent filed his reply brief on October 9, 2008. On November 20, 2008, the Supreme Court granted in part and denied in part the judge's motion. The Supreme Court ordered that the random drug and alcohol screening be discontinued, but the screening of the judge's serum ammonia levels continue.

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.

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 (2008). On March 7, 2008, the Commission filed a *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 a *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 (2009). Allegations included warning a defendant whom the judge knew personally that a bail bondsman may be on the way to try to take him into custody. 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*. On stipulation, judge was publicly reprimanded and ordered to complete twelve months of supervised probation and a formal mentorship.

Matter of Hon. Ben Fallin, Red River Alternate Municipal Judge, JSC Inquiry No. 2008-098, Supreme Court Docket No. 31,663 (2009). Upon stipulation, the judge agreed to permanently resign from judicial office in New Mexico in lieu of disciplinary proceedings, which the Supreme Court accepted.

Matter of Hon. Sabino Ramirez, Hatch Municipal Court, JSC Inquiry No. 2008-115, Supreme Court Docket No. 31,664 (2009). Allegations included that the judge interfered in a personal financial dispute between two parties in a case that was not before him, making a telephone call and writing a letter on his official stationery; failed to recuse when a different but related dispute over the property in question came before him on the Municipal Court; and failed to follow proper Municipal Court procedures in the issuance of a summons in the matter. On stipulation, Judge Ramirez received the following discipline from the Supreme Court: a formal reprimand to be published in the *Bar Bulletin* and a six-month supervised probation with a formal mentorship. The formal reprimand was published by the Court on June 26, 2009. On January 14, 2010 the mentor of Judge Ramirez submitted his final report. Contained within the final report were details that Judge Ramirez, after extensive mentorship, was unfit to perform his official judicial duties. His inability to separate the court from outside influence caused great concerns that the court's duty of being impartial and unbiased was compromised. Judge Ramirez stipulated with the Commission to resign from office permanently, never to accept, run or perform judicial duties in the future. The Supreme Court approved the agreement and accepted the judge's resignation.

Matter of Hon. Kenneth Howard, Magistrate Court, McKinley County, JSC Inquiry Nos. 2007-098 & 2008-108, Supreme Court Docket No. 31,730 (2009). Allegations included referring three traffic defendants as part of their sentences to a traffic safety school that was not certified by the state and conducting part of at least two civil court proceedings in the Navajo language when the plaintiffs in the cases did not speak Navajo and the parties had not requested a court interpreter. After a trial, the Commission found that the Respondent's conduct constituted willful misconduct in office and recommended a formal reprimand and a one year period of supervised probation. The Supreme Court found that Judge Howard's conduct did not rise to the level of willful misconduct and denied the Commission's *Petition for Discipline*.

Matter of Hon. Ed Wood, Bloomfield Municipal Judge, JSC Inquiry Nos. 2009-032, 2009-056, and 2009-078, Supreme Court Docket No. 32,034 (2009). Upon stipulation, the judge agreed to permanently retire from judicial office in New Mexico in lieu of disciplinary proceedings, which the Supreme Court accepted.

Matter of Hon. Joseph Guillory, Doña Ana County Magistrate Court Judge, JSC Inquiry No. 2008-094, Supreme Court Docket No. 31,920 (2010). Allegations included referring to the Presiding Judge condescendingly regarding leave issues; abuse of contempt power/improper demeanor; failure/refusal to arraign certain defendants; an inability to properly sentence individuals; not completing arraignment forms correctly; regularly engaging in *ex parte* communications with litigants; creating an appearance of impropriety by falling asleep during the noon hour within the view of the public and court staff and at least one time falling asleep on the bench; and assisting a prosecuting officer and making an improper comment in earshot of the jury. Upon stipulation with the Commission, judge consented to accept a formal reprimand and a twelve-month period of supervised probation and mentorship. The Supreme Court rejected the stipulated discipline and remanded the case back to the Commission in order for further development of the record. Upon a second stipulation accepted by the Court, the judge was ordered to be suspended from judicial office for sixty (60) days without pay, publicly reprimanded, and ordered to complete a twelve-month supervised probation and formal mentorship following the period of suspension. On March 10, 2010, Judge Joseph Guillory returned to the Dona Ana County Magistrate Court, after completing his sixty (60) day suspension, and began his one (1) year supervised probation. On July 30, 2010, the Commission filed a Motion to Revoke Judge Guillory's probation. On August 13, 2010, the Commission filed an Emergency Verified Petition for Immediate Temporary Suspension in the Supreme Court against Judge Guillory. On August 24, 2010, Judge Guillory resigned from his position. On August 25, 2010, the Supreme Court issued an order retroactively suspending Judge Guillory without pay effective August 13, 2010. The Order specified that the judge's resignation did not affect any pending proceedings before the Judicial Standards Commission.

Matter of Hon. Javier Lozano, Columbus Municipal Court Judge, JSC Inquiry No. 2009-025, Supreme Court Docket No. 29,264 (2010) Allegations included that Judge Lozano submitted a false public voucher, engaged in improper courtroom demeanor and conduct, and adjudicated a case in which the court no longer had jurisdiction. On stipulation with the Commission, the judge agreed to receive the following formal discipline from the Supreme Court: 1) Ninety-Day Unpaid Suspension; 2) Formal Reprimand; 3) Twelve-Month Supervised Probation and Formal Mentorship in Judicial Demeanor, Court Administration, Jurisdiction, and Responsibilities under the Code of Judicial Conduct; 4) Reimbursement of Per Diem Expenses; 5) Training in Public Financial Practices and Procedures; and 6) Training Concerning Sexual Harassment. The Supreme Court accepted Judge Lozano's admissions regarding willful misconduct of submitting a false public voucher and displaying improper court demeanor and conduct. The Court rejected the allegation of adjudicating a case beyond the court's jurisdiction. With this modification, the Court imposed the discipline recommended by the Commission and stipulated to by Judge Lozano. Judge Lozano served his 90 unpaid suspension from May 12, 2010 until August 10, 2010. On May 26, 2010, Judge Lozano repaid the \$260 which he had improperly obtained to the Village of Columbus. On June 21, 2010, the Supreme Court issued a Formal Reprimand in the Bar Bulletin, Vol. 49, No. 25, pp. 20-22. Judge Lozano will serve his supervised probation and formal mentorship from August 11, 2010 until August 10, 2011.

Matter of Hon. Victoria Grant, Metropolitan Court Judge, Bernalillo County, JSC Inquiry Nos. 2010-035 through 2010-055, Supreme Court Docket No. 32, 334 (2010). Allegations included that Judge Grant violated the Code of Judicial Conduct and 21 defendants' constitutional due process rights in 21 separate cases. They alleged, among other things, that Judge Grant held many defendants in custody without legal authority; forced defendants to trial on misdemeanor cases without discovery being provided; entered a finding of guilt without allowing the prosecuting officer being present; and punished defendants for wishing to proceed pro se. It was alleged that Judge Grant deprived twelve people of their liberty and

illegally ordered them to serve time in jail. On April 16, 2010, the Commission issued to Judge Victoria Grant a Notice of Preliminary Investigation alleging the violations of the Code of Judicial Conduct in the 21 cases. On the same day, the Commission filed under seal pursuant to Rule 27-104(B), NMRA 2010 in the New Mexico Supreme Court a Verified Petition for Immediate Temporary Suspension. On April 29, 2010, the parties filed under seal a Stipulation to Immediate Temporary Suspension in the Supreme Court. On April 30, 2010, the Supreme Court issued an order temporarily suspending Judge Grant from office with pay effective immediately. This initial order was silent as to unsealing the record in this case. On May 12, 2010, the Supreme Court issued another order requesting the parties to address their written or oral objections to the legal question as to whether the record in this matter should be unsealed. On May 13, 2010, the parties filed with the Commission a Stipulation to Permanent Retirement from Judicial Office in Lieu of Further Disciplinary Proceedings. On the same day, the Commission filed under seal in the Supreme Court, a Motion to Accept Stipulation to Permanent Retirement from Judicial Office in Lieu of Further Disciplinary Proceedings. In the Stipulation to Permanent Retirement from Judicial Office Judge Grant did not admit any of the allegations contained in the Notice of Preliminary Investigation. Judge Grant did agree never to resign and never to seek or hold judicial office. In exchange for her permanent resignation, the Commission agreed to close the inquiry into these matters (JSC Inquiry Nos. 2010-035 through 2010-055). On May 14, 2010, the Supreme Court issued an Order stating that the Stipulation to Permanent Retirement from Judicial Office in Lieu of Further Disciplinary Proceedings was in the public interest. The Order accepted Judge Grant's agreement to permanent retirement. The Court further ordered that all materials filed in this matter should be unsealed immediately and become matters of public record.

Matter of Hon. Robert Schwartz, Second Judicial District Court Judge, Bernalillo County, JSC Inquiry No. 2009-081; Supreme Court Docket No. 32,422 (2010). On May 12 and 13, 2010, the Commission held an evidentiary hearing in this Inquiry. On August 16, 2010, the Commission in the Supreme Court filed under seal, pursuant to their Order a Petition for Discipline, attaching as an exhibit the Commission's Findings of Facts and Conclusions of Law and Recommendation for Discipline, which the Commission had filed in this Inquiry on August 3, 2010. In its Findings of Facts and Conclusions of Law and Recommendation for Discipline, the Commission recommended that Judge Schwartz receive a 60-day unpaid suspension; formal reprimand; complete a course regarding sexual harassment; take Leave during future medication transitions; and reimburse the Commission's costs and expenses. The Commission's grounds for imposing discipline against Judge Schwartz included the following which the Commission found to be proven by clear and convincing evidence: In July 2009, Respondent initiated and engaged in a romantic relationship with attorney Mary Griego while she had cases pending before him, including but not limited to the cases of State v. Jarvis Yellowman, D-202-CR 2003-03356 and State v. Damian Valencia, D-202-CR 2008-05233. Mary Griego was functioning as an assistant public defender assigned to his docket. Respondent invited Ms. Griego to lunch as a device and with the intent to create a romantic relationship. Respondent planned, prepared, and gave Ms. Griego gifts of a sexual nature at the lunch. Respondent pasted his official court photograph in his judicial robe to one of the gifts. Respondent and Ms. Griego dated and socialized over the weekend immediately preceding two jury trials scheduled before Respondent involving Ms. Griego. Despite having numerous opportunities, Respondent failed to timely recuse from Ms. Griego's cases, took judicial actions in two cases where recusal was required and, when he recused, stated reasons for recusal which were not valid and which were not truthful. By creating the relationship prior to recusal that led to his need to disqualify himself, by failing to recuse promptly once that relationship was created, and by stating reasons for recusal that were illegitimate, misleading and incredible, Respondent violated the following Canons of the Code of Judicial Conduct: 21-100 NMRA; 21-200(A) NMRA; 21-400(A)(1) NMRA; and 21-500(A)(1) through (4) NMRA. The Commission concluded that clear and convincing evidence proved that Respondent committed willful misconduct in office and established grounds for discipline as set forth in Article VI, §32 of the New Mexico Constitution. On August 24, 2010, the Supreme Court issued

an Order establishing a schedule for the parties to file briefs with the Court and setting a date to hear the Commission's Petition for Discipline for October 12, 2010.

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, 144 N.M. 617, 190 P.3d 338 (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 2010, the State Legislature initially appropriated \$787,600.00 to the Commission from the general fund for operations, investigation, and prosecution of judicial misconduct. The Legislature subsequently imposed budget cuts of \$15,800, resulting in a final approved appropriation totaling \$771,800.00. In addition to the appropriations received, the Commission collected outstanding debts from former San Juan County County Magistrate Judge James D. Atcity in the amount of \$7,202.40, which originated by Supreme Court order in FY 2007 and \$1,000.00 from a judge in confidential inquiry 2006-075, which originated in FY10.

In FY 2010, the Commission's expenditures totaled \$749,752.96. Due in large part to a extended staff vacancy required to absorb appropriation reductions, the Commission did not expend \$30,249.44 of its FY 2010 appropriation and cost recovery, which was reverted to the general fund. A summary categorization of the Commission's expenditures is provided below.

FY 2010 EXPENDITURES

DESCRIPTION	AMOUNT	PERCENTAGE
Employee Compensation	\$432,203.78	57.7%
Employee Benefits & Taxes	137,548.84	18.3%
Employee Training & Licensing	5,742.30	0.8%
Commission Travel	11,033.62	1.5%
Investigation & Prosecution	18,208.40	2.4%
Contractual Services	13,325.55	1.7%
Rent, Telecom, IT & Overhead	118,344.00	15.8%
Equipment, Supplies & Postage	13,346.47	1.8%
TOTAL	\$749,752.96	100%

FY 2010 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 2007, former San Juan County Magistrate Judge James Atcitty was ordered by the Supreme Court to reimburse the Commission \$7,202.40 in investigation and trial costs. Pursuant to a civil garnishment action by the Commission in FY 2009, the Commission recovered these costs in FY 2010. Additionally, in FY 2010 the Commission was reimbursed \$1,000.00 in investigation and trial costs in confidential inquiry 2006-075.

DESCRIPTION	FINE	COST REIMBURSEMENT
Matter of James D. Atcitty, JSC Inquiry Nos. 2003-035, 2003-038 & 2003-057	\$ 0.00	\$ 7,202.40
TOTAL	\$ 0.00	\$ 7,202.40

Additionally, in FY 2008, removed Bernalillo County Metropolitan Court Judge J. Wayne Griego was ordered by the Supreme Court to reimburse the Commission \$6,704.41 in costs. With interest of \$536.35 that accrued in FY10, the total amount due from Mr. Griego is now \$7,240.76. To date, the debt to the Commission remains outstanding.

FY 2010 BUDGET APPROPRIATION COMPARED TO FY 2010 EXPENDITURES

FY 2010 Initial Approved Budget	\$ 787,600.00	
FY 2010 Budget Adjustments: <i>Cost Reimbursements Recovered</i>	8,202.40	
<i>Appropriation Reductions</i>	(15,800.00)	
Total Adjusted Budget	780,002.40	
Total FY 2010 Expenditures		\$ (749,752.96)
FY 2010 Reversion to General Fund		(30,249.44)
Total Expenditures and Reversion		\$ (780,002.40)

Note: Reversion represents 3.9% of the Commission’s total adjusted budget.

AGENCY 10-YEAR FUNDING PROFILE

FISCAL YEAR	FUNDING	EXPENDITURES	REVERSION FROM GENERAL FUND	REVERSION FROM COST REIMBURSEMENTS	REVERSION AS % OF FUNDING
2001	\$302,300.00	\$249,758.00	\$52,542.00	\$0.00	17%
2002	\$362,700.00	\$297,322.00	\$65,378.00	\$0.00	18%
2003	\$376,200.00	\$296,732.00	\$79,468.00	\$0.00	21%
2004	\$385,079.00	\$357,049.00	\$28,030.00	\$0.00	7%
2005	\$529,352.00	\$515,810.65	\$8,541.35	\$5,000.00	3%
2006	\$650,816.00	\$650,253.11	\$0.00	\$562.89	0%
2007	\$688,853.00	\$688,812.57	\$40.43	\$0.00	0%
2008	\$819,548.00	\$803,295.93	\$0.00	\$16,252.07	2%
2009	\$842,973.00	\$832,600.37	\$6,799.01	\$3,573.62	1%
2010	\$780,002.40	\$749,752.96	\$22,047.04	\$8,202.40	4%

