



# 2011 ANNUAL REPORT

## STATE OF NEW MEXICO JUDICIAL STANDARDS COMMISSION

NEW MEXICO JUDICIAL STANDARDS COMMISSION • 2011 ANNUAL REPORT



STATE OF NEW MEXICO  
JUDICIAL STANDARDS COMMISSION  
P.O. BOX 27248  
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# FY 2011 ANNUAL REPORT

## COMMISSIONERS

Larry Tackman  
*Chair*

Joyce E. Bustos  
*Vice-Chair*

Michael M. Castro  
Hon. Buddy J. Hall  
Rosemary L. Maestas-Swazo, Esq.  
Hon. Nan G. Nash  
Hon. Jerry H. Ritter, Jr.  
Alfonso Solis  
Norman S. Thayer, Esq.  
Darla Wax  
Malinda Williams

## STAFF

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*Executive Director & General Counsel*

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*Senior Investigative Trial Counsel*

Patrick C. McNertney, Esq.  
*Investigative Trial Counsel*

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JUDICIAL STANDARDS COMMISSION



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CHAIR

JOYCE E. BUSTOS  
VICE-CHAIR

MICHAEL M. CASTRO  
HON. BUDDY J. HALL  
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HON. NAN G. NASH  
HON. JERRY H. RITTER, JR.  
ALFONSO SOLIS  
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ROBIN S. HAMMER, ESQ.  
SENIOR INVESTIGATIVE TRIAL COUNSEL

PATRICK C. MCNERTNEY, ESQ.  
INVESTIGATIVE TRIAL COUNSEL

August 31, 2011

Honorable Governor Susana Martinez  
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 Commission has experienced an interesting and challenging year. Several high profile cases have resulted in attention from the media. Six new commissioners were appointed by the Governor. All of them are finding their footing and performing their duties in a dedicated manner. Throughout all of this, the Commission has continued to work efficiently and effectively for the citizens of the state.

The Commission is facing severe financial problems due to the budget cuts. Since FY 2009, the Commission's funding has been cut \$145,000 (17%). The Commission needs to work toward restoring funding to the level we had in FY 2009. This would ensure the Commission's ability to continue the high volume of work we are faced with each year.

The Commission's Executive Director, Randy Roybal, and his staff have continued to provide a high level of support to the Commission.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Larry Tackman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Larry Tackman  
Chairman



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## COMMISSION TERMS & POSITIONS

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

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

### STATUTORY POSITION TERMS AS OF JUNE 30, 2011

*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	Darla Wax (R)	Governor	07/01/09–06/30/14
2	Michael M. Castro (R)	Governor	07/01/10–06/30/15
3	Larry Tackman (D)	Governor	07/01/06–06/30/11
4	Darren White (R)	Governor	07/01/07–06/30/12
5	Joyce E. Bustos (D)	Governor	07/01/08–06/30/13
6	Norman S. Thayer, Esq.	State Bar	07/01/10–06/30/14
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	Malinda Williams (D)	Governor	07/01/09–06/30/14
11	Hon. Buddy J. Hall	Supreme Court	07/01/07–06/30/11

**Outgoing Members:** David S. Smoak, Dr. Gloria Taradash, Dr. Kevin R. Dixon, Larry Garcia, Jesse James Johnson, Julia Y. Seligman (March 2011).

**Incoming Members:** Joyce E. Bustos, Michael M. Castro, Larry Tackman, Darla Wax, Darren White, Malinda Williams (March/April 2011).





## COMMISSION MEMBERS

AS OF JUNE 30, 2011



**JOYCE E. BUSTOS** was appointed to the Commission by Governor Susana Martinez in April 2011. In August 2011, she was elected Vice-Chair of the Commission. Mrs. Bustos grew up in Chimayo, New Mexico, and graduated from McCurdy High School. Mrs. Bustos received a Bachelor of Science degree in Secondary Education in 1977, and a Masters Degree in Public Administration (Criminal Justice concentration) in 1988 from the University of New Mexico. She retired from New Mexico state government after 25 years of service, primarily in the criminal justice system. She was employed by the New Mexico Department of Corrections for 11 years, the Department of Public Safety for 3 years, and as the Director of the Administrative Office of the District Attorneys' for 10 years. She is currently an independent criminal justice consultant. She is an active volunteer tutor in the Santa Fe Public Schools system, and she stays busy raising her two teenage daughters and helping her husband with his real estate business.



**MICHAEL M. CASTRO** was appointed to the Commission by Governor Susana Martinez in March 2011. He is a former Deputy Chief of Police for the Albuquerque Police Department. He served in the department for 26 years before retiring in 2010. He is a founder and partner of Roadrunner Child Development, a non-profit child development center servicing economically challenged families. He is also the owner of Shepherd's Properties, a real estate investment and management company. Michael remains on contract with the City of Albuquerque performing as the Project Manager for the Albuquerque Regional PPC and 3-Gun Tournament, as well the National Rifle Association National Police Shooting Championships. Mr. Castro served in the United States Naval Reserve and was activated following September 11 to serve in Operation Enduring Freedom. He earned his bachelor's degree from the University of New

Mexico and holds a Master's Degree in Organizational Management from the University of Phoenix. He is also a graduate of the Federal Bureau of Investigation's National Academy Class 226.



**HON. BUDDY J. HALL** was appointed to the Commission by the New Mexico Supreme Court in 2002, and was reappointed in 2003, 2007, and 2011. 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.



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



**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.



**LARRY TACKMAN** was appointed to the Commission by Governor Susana Martinez in April 2011, and has served as Chairman since April 2011. Mr. Tackman was the director of the New Mexico Crime Victims Reparation Commission from January 1990 until he retired in December 2009. He received the Ronald Wilson Reagan Public Policy Award from United States Attorney General Eric Holder in April 2010. The award was for Mr. Tackman's work in New Mexico as well as his efforts nationally in the victim compensation and assistance field. Mr. Tackman was a co-founder and first president of the National Association of Victim of Crime Act Assistance Administrators. He helped establish its mission to focus on the identification and replication of promising practices to improve administrative oversight of funding programs to aid crime victims. Mr. Tackman also served as president and board member of the National Association of Crime Victim Compensation Boards, where his knowledge of victim compensation and assistance programs helped to establish a much needed collaboration and partnership between the two organizations.





**NORMAN S. THAYER, ESQ.** was appointed to the Commission by the New Mexico 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 in 2006, and received the Community Service Award of the American Board of Trial Advocates in 2007. He was a member of the Board of Bar Commissioners of the State Bar (1985–1986). 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).



**DARLA WAX** was appointed to the Commission by Governor Susana Martinez in March 2011. She served as Vice-Chair of the Commission from April–August 2011. Being a Las Cruces, New Mexico native, she is a 1982 graduate of Mayfield High School and earned a certificate in Computer Accounting from International Business College. She is currently employed as a legal secretary at the Law Office of Samuel I. Kane, P.A. Mrs. Wax volunteers to organize public awareness events regarding Domestic Violence and Teen Dating Violence and has participated as a guest speaker for organizations and groups involved in prevention education for teens in abusive relationships.



**DARREN WHITE** was appointed to the Commission by Governor Susana Martinez in March 2011 and served until July 2011. Mr. White recently retired as the Chief Public Safety Officer for the City of Albuquerque. He served as Secretary of the New Mexico Department of Public Safety under Governor Gary Johnson and also served two terms as the Sheriff of Bernalillo County. He holds a bachelor of arts degree in management from the University of Phoenix.



**MALINDA WILLIAMS** was appointed to the Commission by Governor Susana Martinez in March 2011. Ms. Williams has been employed since 1994 with Community Against Violence, Inc. (CAV) a progressive, successful non-profit agency in Taos County serving adult and child survivors of sexual and domestic violence, and child abuse. For the last 14 years she has been the organization’s executive director. During her career Ms. Williams has served on numerous boards often in a leadership position. Among them are organizations such as the New Mexico Coalition Against Domestic Violence and the New Mexico Coalition to End Homelessness, and she continues to be active in local and statewide committees, planning groups, and councils. She has been sought for her expertise in areas of domestic and sexual violence, child abuse, homelessness, and fundraising and non-profit entrepreneurial efforts. She has been a presenter at state and national forums and conferences. She spent several years co-developing a model for best practices of engaging advocates from domestic violence agencies and child protective service caseworkers in a cooperative mission to increase family safety by establishing a joint response to families experiencing both domestic violence and child abuse. Ms. Williams continues to work on issues pertaining to social justice, coalition building, and community organizing to find solutions for ending domestic and sexual violence and child abuse.



**OUTGOING COMMISSIONERS IN FY 2011**

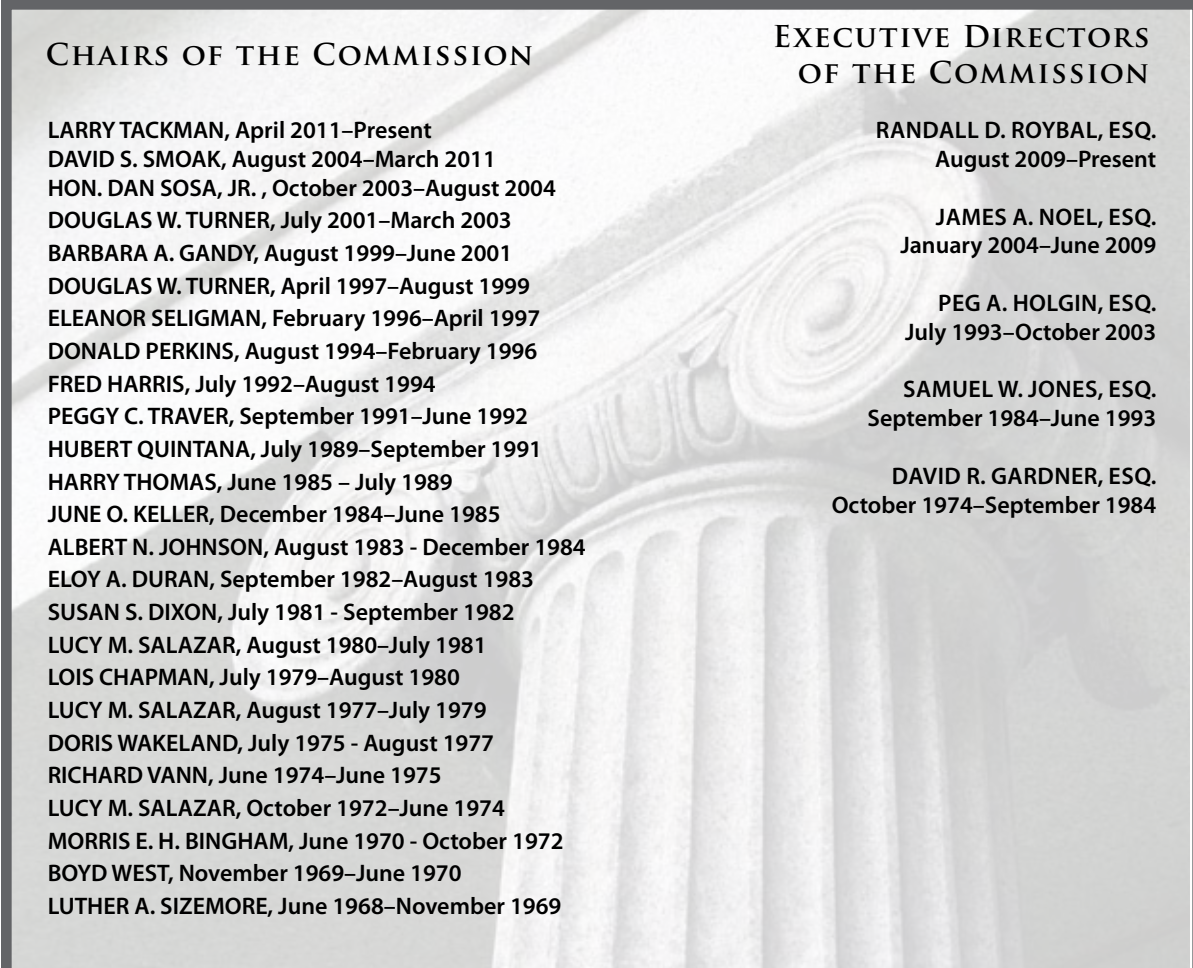
**DAVID S. SMOAK, Chairman**, served July 2004–March 2011  
**GLORIA TARADASH, PH.D., Vice-Chair**, served March 2003–March 2011  
**KEVIN R. DIXON, PH.D.**, served July 2010–March 2011  
**LARRY GARCIA**, served July 2004–March 2011  
**JESSE JAMES JOHNSON**, served August 2008–March 2011  
**JULIA Y. SELIGMAN**, served July 2008–March 2011

**OUTGOING COMMISSIONER IN FY 2012**

**DARREN WHITE**, served March 2011–July 2011.

**INCOMING COMMISSIONER IN FY 2012**

**ALFONSO SOLIS**, appointed August 2011.



**CHAIRS OF THE COMMISSION**

LARRY TACKMAN, April 2011–Present  
DAVID S. SMOAK, August 2004–March 2011  
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

**EXECUTIVE DIRECTORS OF THE COMMISSION**

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 by the Commission as Executive Director and General Counsel in August 2009. He previously served as the Commission's Deputy Director and Chief Staff Attorney for eleven years. Prior to joining the Commission, he served as an assistant attorney general at the New Mexico Attorney General's Office, 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 is the President of the Association

of Judicial Disciplinary Counsel, the national association for judicial disciplinary agency directors, counsel, investigators, and staff with members throughout the United States, and from Canada and Israel. He has been a member of the Association since 1999, has served on the board of directors since 2007, and served as Vice-President (2009–2011). Mr. Roybal is a member of the New Mexico Hispanic Bar Association. He is also a member of the board of directors and co-chair of the finance committee of 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. He is a frequent speaker on matters of judicial ethics and discipline at local, regional, and national conferences and events. 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.



### **SENIOR INVESTIGATIVE TRIAL COUNSEL**

**ROBIN S. HAMMER, ESQ.** joined the Commission staff in 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. She is a member of the Association of Judicial Disciplinary Counsel. 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.

**INVESTIGATIVE TRIAL COUNSEL**

**PATRICK C. MCNERTNEY, ESQ.** joined the Commission staff in October 2010 and serves as Investigative Trial Counsel. Mr. McNertney obtained his law degree from Creighton University in Omaha, Nebraska, and is a graduate of Georgetown University’s School of Foreign Service located in our nation’s capital. Mr. McNertney has more than 23 years of combined criminal law experience as an Assistant Public Defender, solo practitioner, Assistant District Attorney, Senior Trial Prosecutor, Deputy District Attorney and Assistant Attorney General. From 1988 to 1991, he worked as an Assistant Public Defender, in both the Albuquerque Metro and Felony Divisions. From 1991 to 1993 he managed a private law practice, specializing in criminal defense and general civil law. From 1993 to 1997 he was deputy District Attorney at the District Attorney’s Office in Sandoval County. While serving at different District Attorney Offices (including one year in Albuquerque in 2000 and again at Sandoval County from 2001 to 2003), he prosecuted nearly every kind of criminal case, including violent crimes, homicides and sex crimes, property crimes, economic crimes cases, domestic violence, vehicular homicides, cattle rustling, probation violations, extraditions and a wide array of Children’s Code cases. Many of his successful prosecutions resulted from change of venue trials in Valencia, Cibola and Dona Ana Counties. From 1997 to 1999, he served as an Assistant Attorney General prosecuting systemic white collar fraud cases under the Medicaid Fraud Act as well as administrative cases under the Liquor Control Act within the A.G. Civil Litigation Division. From 2003 to 2007, as Assistant Director of Enforcement with the New Mexico Securities Division he prosecuted securities fraud and related white collar offenses. He secured trial convictions of flim flam predators in four New Mexico counties, namely Eddy, Otero, Bernalillo and Santa Fe. From 2007 to 2009 he served as an Assistant Attorney General in the Medicaid Fraud and Elder Abuse Division. In 2009 he was assigned to the Attorney General’s Prosecutions Division where he handled complex white collar investigations/prosecutions. Mr. McNertney has participated in numerous civic organizations over the years, most notably, helping preserve Casa San Ysidro as a museum in Corrales, New Mexico and co-founding Susan’s Legacy, a charity dedicated to the rehabilitation of women probationers with co-occurring (dually diagnosed) disorders.



**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 is currently the Chair-Elect and will serve as Chair of the Paralegal Division of the State Bar of New Mexico in 2012. She has been an active member of the Division since 2000 and has served on the board of directors since January 2009. She is also 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 22 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 D. TANBERG** joined the Commission staff in April 2011 and serves as Investigator. Mr. Tanberg previously served as a Special Agent for the Federal Bureau of Investigation in a career that spanned 23 years. There, he served in the FBI’s Pittsburgh, Detroit and Albuquerque Divisions, including 3 years in Gallup, New Mexico. He has considerable experience in Criminal and National Security analysis and investigations on the national level that have significant impact on state and local entities in New Mexico, including tribal lands. He has conducted many successful criminal investigations including white



collar crime, violent crime, crimes against children, property crime, public corruption, counter-terrorism, and non-proliferation. He served as Bank Robbery Coordinator for the Albuquerque Division and has served as the Security Officer for the Division. Mr. Tanberg has established and maintained substantial liaison within the state law enforcement, tribal, counterintelligence, intelligence, scientific and academic communities. He has considerable experience in development and presentation of training and briefing programs. Mr. Tanberg received his Bachelor of Science Degree in Geology from the University of New Mexico in 1981. He is an Armed Forces veteran, serving in the United States Air Force (1972–1976).



***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, Co-Chair of the Division’s Continuing Legal Education Program, and member of the Division’s Statewide CLE Program Committee. In 2007 she was appointed to the Paralegal Advisory Committee for Central New Mexico Community College and continues to serve on several advisory committees to date. She has also been a member of the Association of Government Accountants since 2009. 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.

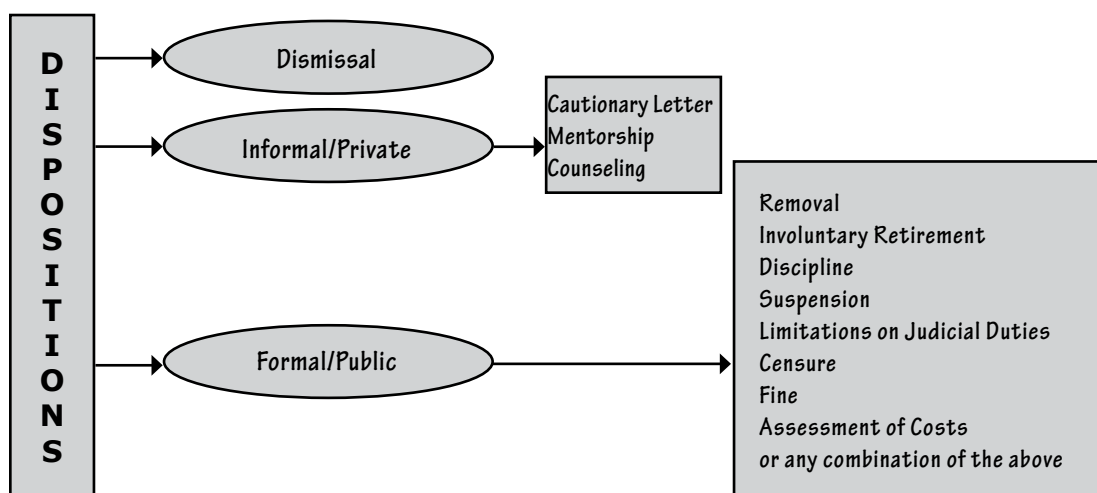
Upon filing and issuance of the notice of formal proceedings, the Commission will set the matter for hearing on the merits. The Commission may hear the case itself or appoint three judges as special masters

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.





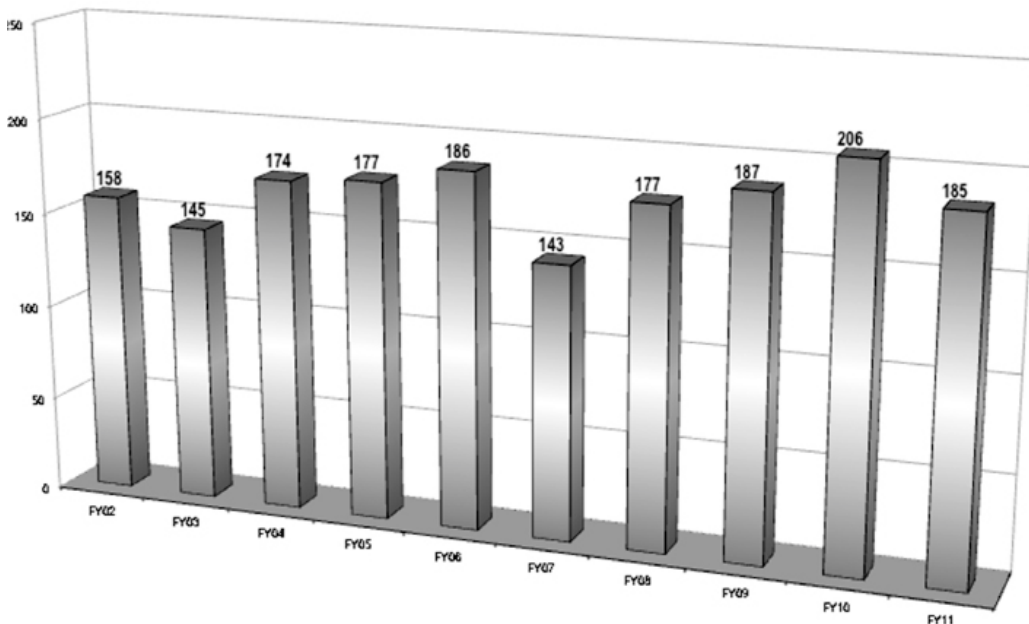


## COMPLAINTS, DISPOSITIONS & PERFORMANCE JULY 1, 2010–JUNE 30, 2011

### COMPLAINTS RECEIVED

In FY 2011 the Commission received 185 written complaints. The aggregate is comprised of 134 verified complaints (includes Commission-initiated complaints) and 51 unverified complaints.

### 10-YEAR HISTORY OF COMPLAINTS

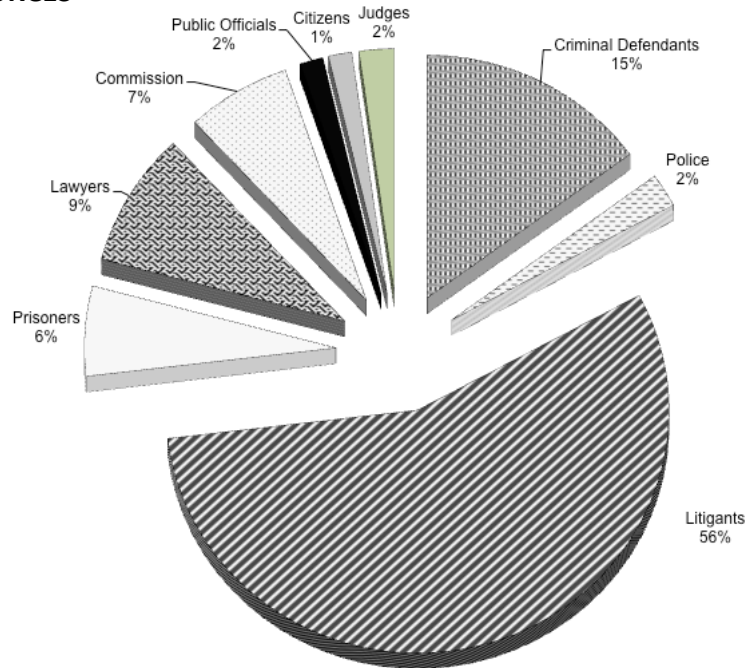


The Commission has an established pre-screening process for telephonic and in-person complaints. Staff members make every effort to discuss callers' situations in detail as appropriate. Staff informs callers about the limited scope of the Commission's jurisdiction under state law and spends substantial 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 134 verified complaints filed with the Commission, most were filed by litigants. The distribution of the sources of written, verified complaints was the following: 75 by litigants or their family/friends, 20 by criminal defendants or their family/friends, 2 by citizens, 2 by public officials, 12 by lawyers, 3 by judges, 2 by police officers, and 8 by prisoners. Additionally, 9 complaints were initiated by the Commission on its own motion. The chart on the following page illustrates these figures.

## COMPLAINT SOURCES



## JUDGES REVIEWED

JUDICIAL BRANCH	VERIFIED COMPLAINTS	CASELOAD %
<i>Supreme Court</i>	0	0.0%
<i>Court of Appeals</i>	2	1.5%
<i>District Court</i>	68	50.7%
<i>Metropolitan Court</i>	13	9.7%
<i>Magistrate Court</i>	28	20.9%
<i>Municipal Court</i>	17	12.7%
<i>Probate Court</i>	2	1.5%
<i>Other</i>	4	3.0%

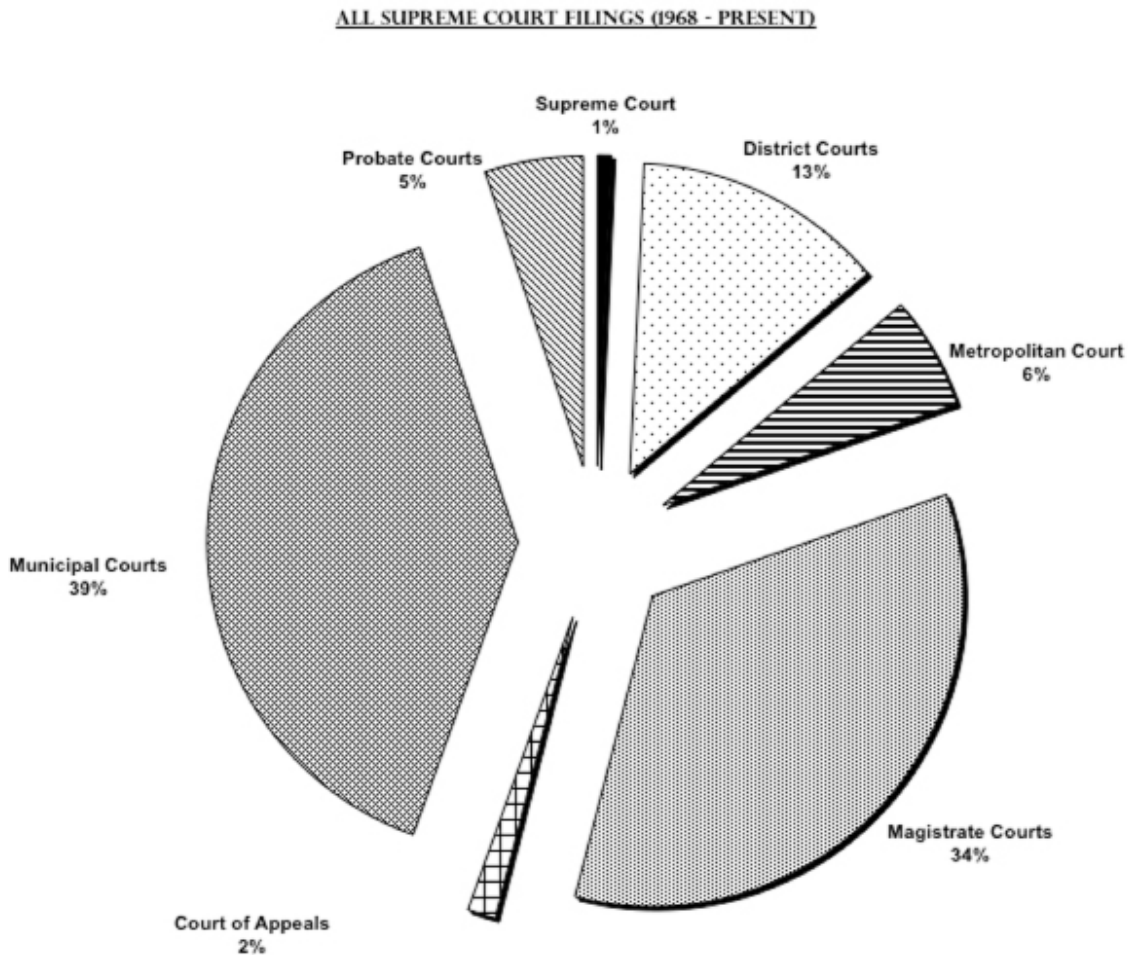
## CASE DISPOSITIONS

Inquiries Pending at Beginning of FY11 (July 1, 2010)	41
New Written/Verified Complaints and Inquiries in FY11	134
Inquiries Concluded in FY11	148
<b>Inquiries Pending at End of FY11 (June 30, 2011)</b>	<b>27</b>

Of the 148 cases disposed in FY 2011, the Commission concluded 19 cases (involving 9 judges) through formal proceedings (trials and/or Supreme Court proceedings) and issued 11 informal letters of caution. 39 cases were dismissed as appellate, 8 cases because they concerned individuals beyond our jurisdiction, 45 cases as unsubstantiated, and 9 after substantive investigation had been completed. In 1 case(s), the judge was referred for informal remedial measures, which may have included mentorship, education, counseling, or other assistance. 3 matters closed because the judge resigned, died or was not re-elected. The Commission abated 13 cases.

## HISTORICAL SUMMARY OF CASES FILED IN SUPREME COURT

From 1968 through June 30, 2011, the Commission filed 136 petitions for discipline and/or temporary suspension in the New Mexico Supreme Court involving 95 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, 2 Court of Appeals, 18 district court, 8 metropolitan court, 46 magistrate court, 54 municipal court, and 7 probate court.

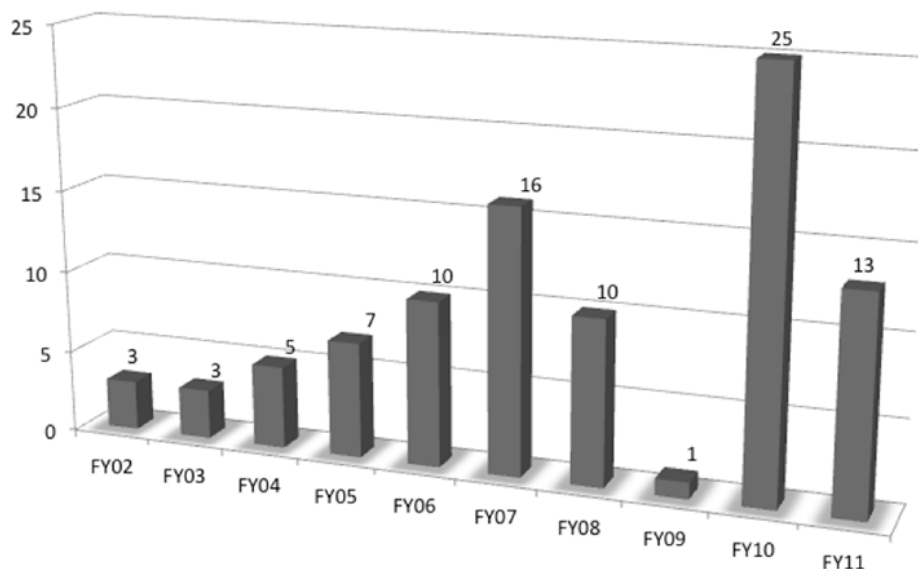


The table on the following page indicates the levels of the judiciary and the corresponding geographical areas involved in the 136 formal cases the Commission has filed with the Supreme Court since 1968 through June 30, 2011.

APPELLATE COURTS (3)	DISTRICT COURTS (18)	METROPOLITAN COURTS (8)	MAGISTRATE COURTS (46)	MUNICIPAL COURTS (54)	PROBATE COURTS (7)
Supreme Court 1 Court of Appeals 2	First 1 Second 2 Third 3 Fourth 1 Fifth 1 Seventh 1 Eighth 4 Ninth 1 Eleventh 3 Thirteenth 1	Bernalillo County 8	Cibola 1 Colfax 1 Dofia Ana 9 Eddy 1 Guadalupe 1 Hidalgo 1 Lea 1 McKinley 3 Mora 1 Rio Arriba 6 Sandoval 1 San Juan 4 San Miguel 2 Santa Fe 2 Socorro 1 Taos 5 Union 1 Valencia 4	Aztec 1 Bernalillo 1 Bloomfield 1 Bosque Farms 1 Cimarron 1 Clovis 2 Columbus 2 Dexter 2 Española 2 Gallup 2 Grants 3 Hatch 1 Hurley 1 Las Cruces 12 Las Vegas 2 Mountainair 3 Portales 1 Red River 1 Roswell 5 Ruidoso Downs 1 San Jon 1 Santa Fe 6 Sunland Park 1 Taos 1	Cibola County 1 Sandoval County 1 Taos County 5

**PUBLIC CASES DISPOSED BY TERMINATION OF JUDICIAL OFFICE**

In FY 2011, 13 cases concerning 6 judges were disposed after termination of judicial office. Since its inception, the Commission has disposed of 138 cases concerning 62 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 2011 LEGISLATIVE PERFORMANCE MEASURES**

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

<p><b>Upon knowledge of cause for emergency interim suspension, time for Commission to file petition for temporary suspension with Supreme Court (in days): N/A</b>  Efficiency measure. Target: 2 days. Result: 0.6 days. Target satisfied.  <i>Note: The Commission’s “knowledge” occurs when Commissioners are informed of allegations requiring a temporary suspension petition.</i></p>
<p><b>Time for release of annual report to public from end of the fiscal year (in months): 2 months.</b>  Output measure. Target: 2 months. Result: 2 months. Target satisfied.</p>
<p><b>For cases in which formal charges are filed, average time for formal hearings to be reached (in meeting cycles): 3 meeting cycles.</b>  Efficiency measure. Target: 3 meeting cycles. Result: 2 meeting cycles. Target satisfied.</p>

**HISTORICAL SUMMARY OF INFORMAL CASE DISPOSITIONS**

Short of proceeding formally on a case not warranting dismissal, the Commission may dispose of a matter informally. Informal dispositions are not filed with the Supreme Court and remain confidential pursuant to Article VI, §32 of the New Mexico Constitution. Allegations disposed of informally were found to merit notice to the judge, but due to their nature, the 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, 2011, the Commission has informally disposed of 312 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 (233 CASES)**

JUDICIAL BRANCH INVOLVED	NUMBER OF CASE FILES	PERCENT OF ALL CAUTIONS
Supreme Court	0	0%
Court of Appeals	0	0%
District Court	64	27%
Metropolitan Court	25	11%
Magistrate Court	86	37%
Municipal Court	57	25%
Probate Court	1	<1%

**MENTORSHIPS (73 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	35	48%
Municipal Court	28	38%
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 2011, 1 case was abated upon confidential stipulation with a judge to permanent resignation from judicial office. Historically, the Commission has disposed of 7 cases through informal stipulation.



## PROCEEDINGS BEFORE THE COMMISSION JULY 1, 2010–JUNE 30, 2011

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. In September 2009, the Supreme Court amended its rules to require automatic sealing of all Commission matters filed before the Commission had completed a trial and evidentiary record. All Supreme Court hearings, docket sheets, and orders were available to the public, unless

otherwise ordered by the Court

In May 2011, the Supreme Court amended its rule governing this matter. The Court requires that “[t]he contents, the fact of filing, and any other information about any request for temporary suspension, stipulated discipline, or interim relief shall remain confidential until the Court determines that confidentiality is no longer required and enters an unsealing order on its own initiative or grants a motion to unseal pursuant to Paragraph I of Rule 12-314 NMRA.” The Court further changed its docket sheets in sealed matters so they only include the case number and docket pleadings only as sealed pleadings. The Court also has codified that “Any person or entity who knowingly discloses any material obtained from a court record sealed pursuant to this rule may be held in contempt or subject to other sanctions as the Court deems appropriate.”

### FORMAL PROCEEDINGS

In FY 2011, the Commission concluded 20 cases by formal proceedings before the Commission and/or the New Mexico Supreme Court. All public (non-confidential) cases filed with the Supreme Court and/or completed in FY 2011 are summarized below:

**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 Fietze 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 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.

On August 30, 2010, the Supreme Court issued an order unsealing the Supreme Court file in Judge Guillory's case before the Court.

On September 9, 2010, the Commission filed with the Supreme Court a *Motion to Accept Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings*. Judge Guillory agreed that his resignation would be permanent and that he would never again hold or seek judicial office in New Mexico in the future. Judge Guillory further agreed to never seek, accept appointment to, or serve pro tempore for any New Mexico judicial office in the future. Judge Guillory agreed to submit a letter to the New Mexico Secretary of State which requested that his name be removed from the ballot for the November 2010 election for Dona Ana County Magistrate Judge. The Commission agreed in the Stipulation to Permanent Resignation to abate and close the pending matter against Judge Guillory. On September 17, 2010, the Supreme Court issued an order accepting the *Motion to Accept Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings*.

On December 27, 2010, the Supreme Court published a *Formal Reprimand* against Judge Guillory in the New Mexico Bar Bulletin, Vol. 40, No. 52. The *Formal Reprimand* was pursuant to the Court's January 6, 2010 order accepting the *Second Petition for Discipline Upon Stipulation*, in which the Court was asked to issue a formal reprimand.

In its *Formal Reprimand*, the Court found that Judge Guillory's admitted conduct in the *Second Petition for Discipline Upon Stipulation* violated multiple provisions of the Code of Judicial Conduct and constituted willful misconduct. The Court found that Judge Guillory "repeatedly displayed improper demeanor with

court staff, colleagues, and defendants appearing before him in the courtroom.” The Court found that Judge Guillory violated the most basic tenet of judicial conduct—that a judge shall “uphold the integrity and independence of the judiciary.”

The Court also found that Judge Guillory failed to perform judicial duties when he refused to arraign defendants, improperly sentenced individuals and failed to complete arraignment forms. Judge Guillory violated the Code of Judicial Conduct when he engaged in *ex parte* communications on numerous occasions with litigants, parties, officers and bails bondsmen. Judge Guillory created an appearance of impropriety when he took naps at his desk during the lunch hour within view of court staff and the public and when he fell asleep on the bench while waiting for paperwork from his clerk. They further found that Judge Guillory violated several Code provisions when he commented on the evidence in a criminal trial within earshot of the jury.

**MATTER OF HON. JAVIER LOZANO**  
***Columbus Municipal Court Judge***  
***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 2011. Subsequent events will be reported in the Commission's Annual Report for FY 2012.

### **CONFIDENTIAL INQUIRY**

After a trial, the Commission entered an Order for Conditional Informal Disposition against a judge concerning issues of due process in contempt, sentencing, probation, and probation violation matters, and improper involvement in a domestic violence matter to benefit a private party. The judge consented to, and was ordered to complete, the following measures:

- A. Complete a one-year supervised probation and informal mentorship concerning all substantive and procedural issues addressed in the Commission's order, including but not limited to, obligations and responsibilities under the Code of Judicial Conduct, contempt, sentencing, probation and probation violations.
- B. Attend and complete at the judge's own expense the "Ethics for Judges" course sponsored by the National Judicial College within six months.
- C. Complete a Domestic Violence Training Course through the New Mexico Coalition against Domestic Violence, the Judicial Education Center, or another entity approved by the Commission within one year.
- D. Reimburse the Commission costs of \$2,000.00.

The judge completed all ordered measures in January 2011 and the matter was closed.

### **MATTER OF HON. ROBERT M. SCHWARTZ**

***Second Judicial District Court, Bernalillo County***

***JSC Inquiry No. 2009-081***

***Supreme Court Docket No. 32,422***

***2011-NMSC-019, 149 N.M. 721, 255 P.3d 299***

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.

On October 12, 2010, the parties appeared before the Supreme Court for oral argument. The Supreme Court granted the Commission's Petition for Discipline. The Court found that Judge Schwartz committed willful misconduct in office and issued discipline in the form of a:

- 1) \$6,000 fine;
- 2) Public Reprimand;
- 3) Requirement to complete a course concerning sexual harassment prevention; and
- 4) Requirement to take appropriate leave during future medication transitions.

The Court took under advisement the Commission's request that the Court order Judge Schwartz to pay the Commission's costs of his trial on the merits. The Court indicated it would publish the formal reprimand in the Bar Bulletin and a formal reported opinion in the matter.

On November 1, 2010, the Supreme Court issued an order approving the sexual harassment prevention course Judge Schwartz was to complete. On December 15, 2010, the Commission filed a Notice of Completion of Course, notifying the Court that Judge Schwartz had completed the *New Mexico Judicial Branch Harassment, including Sexual, Discrimination and Retaliation* course through the Administrative Office of the Courts.

On May 31, 2011, the Court issued a formal opinion in this matter, *In the Matter of Robert Merle Schwartz*, 2011-NMSC-019, 149 N.M. 721, 255 P.3d 299. In its opinion, the Court explained its finding of willful misconduct committed by Judge Schwartz. The Court stated that after briefing and at the conclusion of oral argument on October 12, 2010, they had announced their decision from the bench to adopt the Commission's recommendations that Judge Schwartz receive a formal public reprimand for committing willful judicial misconduct in violation of the Code of Judicial Conduct, complete a course regarding sexual harassment, and take appropriate leave from work during all future medication transitions. The Court pointed out that they rejected the Commission's recommendation that Judge Schwartz be suspended for

sixty days without pay and had announced that Judge Schwartz would instead be required to pay a fine of \$6,000. The Court issued their Opinion to further explain their decision and to provide guidance for future cases.

The Court pointed out that the willful judicial misconduct at issue arose by Judge Schwartz's untimely recusal after initiating a romantic relationship with an assistant public defender who had cases pending before him. The Court found that Judge Schwartz had made dishonest statements from the bench concerning his reasons for recusing.

This assistant public defender was not employed or supervised by Judge Schwartz, but as a judge, he was in a position of authority over her in his courtroom and decided if she won or lost cases. The Court noted that Judge Schwartz had engaged in a lunch with the assistant public defender that was not a professional lunch. At some point during the lunch Judge Schwartz gave the assistant public defender a gift of a pair of purple latex gloves and a book written by an author with the same name as Judge Schwartz, entitled, "The One Hour Orgasm." The gift was intended by Judge Schwartz and understood by the assistant public defender to be a self-deprecating joke because the author and Judge Schwartz shared the same name. The Court further outlined the facts of numerous encounters between the assistant public defender over a weekend and following Monday, prior to presiding over two of the assistant public defender's cases on Tuesday, of the same week.

Judge Schwartz disputed the Commission's findings of fact and conclusions of law. The Court held:

Our review of the record in this matter, however, shows that the findings relevant to our decision are supported by clear and convincing evidence. We agree with the Commission that the evidence supports the Commission's conclusions that Judge Schwartz violated Rule 21-100 (upholding the \*304 integrity and independence of the judiciary), Rule 21-200(A) (requiring that a Judge shall "act in a manner that promotes public confidence in the integrity and impartiality of the judiciary"), Rule 21-400(A)(1) (requiring disqualification when a judge's impartiality might reasonably be questioned), and Rule 21-500(A)(1)-(4) (requiring a judge to conduct extra-judicial activities to minimize conflict with judicial obligations), and that he committed willful misconduct in office. Specifically, we agree that the evidence supports a conclusion that Judge Schwartz violated Rule 21-400(A)(1), which states that a judge should recuse from a case if his impartiality might be reasonably questioned.

2011-NMSC-019 at ¶¶14-15.

The Court went on to hold that, "We are not suggesting that a judge is prohibited from becoming romantically involved with an attorney, but before initiating such a relationship the judge must terminate any professional relationship by recusing from any cases in which an attorney is or has been involved." 2011-NMSC-019 at ¶ 17. The Court found that "not only did Judge Schwartz fail to recuse in a timely manner, he also made rulings in some cases after announcing his intention to recuse." *Id.* at ¶ 19. Under the law, a judge has no authority to take action in a case after announcing his recusal.

The Court agreed with the Commission in its finding that Judge Schwartz had made statements from the bench which were not credible reasons for his recusals. The Court agreed with the Commission that Judge Schwartz violated Rule 21-100 and Rule 21-200, which contain "the overarching and interrelated principles that inform our Code of Judicial Conduct and ensure the rule of law." *Id.* at ¶ 23. Rule 21-200(A) requires judges to avoid impropriety and the appearance of impropriety, to "promote public confidence in the integrity and impartiality of the judiciary." The Court held further:

Even though the gift of the book was given and received as a joke, because of its sexual nature it was an inappropriate gift for a judge to give to an attorney who practiced before him. We



recognize that no allegations of sexual harassment were made in this case and that Judge Schwartz was not the assistant public defender's supervisor. However, Judge Schwartz was in a position of considerable authority, having power to rule in cases the assistant public defender argued before him. By giving a gift that was inappropriate for a judge to give an attorney practicing before him, by then failing to recuse in a timely manner, making rulings after having recused, and stating dishonest reasons for recusal, Judge Schwartz damaged the public's confidence in the integrity and impartiality of the judiciary.

Id at ¶ 23. The held that Judge Schwartz' conduct reflected "poorly upon the integrity of the judiciary." Id at ¶ 26.

The Court imposed the disciplined outlined above and also indicated that it would address the matter of costs in a separate order.

On June 29, 2011, Judge Schwartz filed a Motion to Alter or Amend Judgment to Permit Charitable Contribution in Lieu of Fine. He asked the Court to permit him to pay the \$6,000 fine money to a legal-related nonprofit organization, rather than the State of New Mexico's general fund. On July 12, 2011, the Commission responded in opposition, stating that it would be inappropriate for Respondent to choose which agency should receive a Court-imposed fine.

On July 13, 2011, the Court issued an Order which modified its previous Order and required Judge Schwartz to pay \$6,000 to the Jury and Witness Fee Fund administered by the Administrative Office of the Courts. It further ordered Judge Schwartz to pay the full requested costs of \$5,013.40 to the Commission no later than July 31, 2011. Judge Schwartz complied with the order and timely paid his fine and costs. On July 26, 2011, the Commission filed with the Court a Notice of Receipt of Costs, indicating that Judge Schwartz had paid the costs as ordered by the Court.

**MATTER OF HON. LUPE FUENTEZ**

***Dexter Municipal Court Judge***

***JSC Inquiry No. 2010-109***

***Supreme Court Docket No. 32,501***

Judge Fuentez was arrested and charged with embezzlement under \$250.00 from the Roswell Municipal Court, where Fuentez worked as a clerk. The embezzlement was alleged to have occurred on or about July 1, 2010. On July 16, 2010, the Commission petitioned the Supreme Court to immediately and temporarily suspend Fuentez without pay. The Supreme Court issued a show cause order to the judge, requiring a response before August 2, 2010. On August 5, 2010, Supreme Court granted the Commission's petition and ordered immediate suspension without pay after respondent failed to respond. On December 10, 2010, and prior to the adjudication of the underlying criminal charges, the Commission moved the Supreme Court for an Order approving a *Stipulation to Permanent Resignation from Judicial Office In Lieu of Further Disciplinary Proceedings*, in which Respondent agreed to permanently resign and never hold judicial office in New Mexico effective at 5:00 p.m. on the day following the Supreme Court's entry of an Order accepting the stipulation. On December 27, 2010, Supreme Court approved the stipulation. The judge resigned permanently, effective December 28, 2010 at 5:00 p.m.

**MATTER OF HON. SAM SANCHEZ**  
***Eighth Judicial District Court, Taos County***  
***JSC Inquiry Nos. 2009-124, 2010-009, 2010-017, & 2010-064***  
***Supreme Court Docket No. 32,557***

On August 19, 2010, the Commission filed under seal in the New Mexico Supreme Court a Petition for Discipline Upon Stipulation in Inquiry Nos. 2009-124, 2010-009, 2010-017, & 2010-064 against Judge Sam Sanchez (Respondent).

The matter was pending before the Judicial Standards Commission pursuant to the Notice of Formal Proceedings issued on April 22, 2010. Respondent filed a Response to the Notice of Formal Proceedings on May 6, 2010. On August 9, 2010, the Commission and Judge Sanchez (Respondent) entered into a Stipulation Agreement and Consent to Discipline (Stipulation).

In the Stipulation, Judge Sanchez admitted that the following facts were true:

1. On January 27, 2009, Defendant Bau pled guilty to one count of Criminal Sexual Penetration and one count of Criminal Sexual Contact of a Minor. The child victim in the case was related to Defendant Bau. On April 30, 2009, Respondent sentenced Defendant Bau to six years on each count, consecutive to each other, for a total sentence of twelve years in the Department of Corrections. On July 17, 2009, Defendant Bau filed a Motion to Reconsider Sentence. The court continued several settings of the hearing for the Motion to Reconsider Sentence. The Motion to Reconsider Sentence hearing (“hearing”) was ultimately held on Thursday, November 19, 2009.
2. The hearing began at approximately at 3:30 pm. The six people, who included members of the victim’s family, sat on one side of the courtroom. There were about 45 individuals in support of Defendant Bau sitting on the other side of the courtroom. In addition Defendant Bau’s attorney, four people addressed the court. The Defendant’s attorney detailed the results of a psychological evaluation of Defendant Bau and made arguments in support of the Motion. The Defendant’s presentation lasted approximately 40 minutes.
3. Three members of the victim’s family spoke for about ten minutes asking the court to not reduce the sentence and explaining the impact on their entire family, including both the Defendant and victim.
4. The Respondent addressed the Defendant Bau for approximately one minute and explained that Bau was responsible for all the pain and damage to the entire family. The Respondent announced that the Court would deny the Motion to Reconsider Sentence. The bailiff then said, “All rise,” as the Respondent got up to leave the courtroom. Ten seconds later, the Respondent instructed the approximately 45 individuals in support of Defendant Bau to remain seated. Supporters of Defendant Bau began yelling. Approximately 15 seconds after the Respondent had requested the individuals to remain seated, the Respondent then said, “That’s enough!”
5. A supporter of Defendant Bau then said, “We love you Dominic!” Another said, “State’s evidence proves the victim was not a virgin.” A supporter of Defendant Bau raised their arms, but did not approach the bench or the Defendant or become physically confrontational.
6. Approximately 30 seconds after the Respondent had made the order to remain seated, he said, “I’ll hold everyone in contempt and jail you all. I’ll just send each and every one of you to jail right now.” A member of the public said, “We’ll all go.” In immediate response to the statement, “We’ll all go,” and less than sixty seconds after court was in recess, the Respondent replied, “You’ll go [to jail]? Take them all to jail, each and every one one of them.”

7. After the Respondent had ordered everyone to jail and the crowd was quieting, a female member of the public said to the Respondent, "I didn't say nothing." The Respondent replied, "I'm sorry. No one should have said anything. I asked you to sit down and be quiet. I'm sorry."

8. Members of law enforcement were called. The law enforcement officers began processing all of the approximate 45 people to be taken to detention centers. Members of Defendant's Bau's family requested that the Respondent allow the release of approximately eight elderly and ill people. The Respondent agreed to release these elderly and ill individuals prior to signing the Orders of Contempt for the remaining people. The Respondent signed orders of contempt for a total of 32 individuals in support of Defendant Bau. The Respondent abused the contempt power by ordering the incarceration of the 32 supporters of Defendant Bau without first determining a sufficient factual and legal basis to charge each person individually with contempt of court. The Respondent's contempt orders noted that each person was "to be held until further order of the Court," without giving a definite term of sentence for their contempt.

9. On Friday, November 20, 2009, the Respondent did not set any hearings for the 32 individuals found in contempt. The Respondent drove to Albuquerque to attend a judges' meeting. On that same day, the Office of the Public Defender filed in the Supreme Court a Petition for Emergency Writ of Prohibition or Writ of Superintending Control. Later in the day, the Supreme Court issued an Order immediately releasing the 32 individuals.

10. There were a limited number of microphones in the court room, therefore perhaps not all of the statements made by the courtroom spectators were recorded.

11. Respondent contends that he acted out of concern for the safety of the victim's family and of the potential for a riot in the court room. The courtroom is not the most conducive to courtroom security.

Judge Sanchez further admitted and the Commission found that his admitted conduct constituted willful misconduct in office and provided sufficient basis for the New Mexico Supreme Court to impose the stipulated discipline.

Judge Sanchez had stipulated to be disciplined for his actions by receiving a 30-day unpaid suspension and a formal reprimand from the Supreme Court.

On August 19, 2010, Judge Sanchez faxed a *pro se* letter to the Supreme Court stating that he would like to start his 30-day suspension on September 4, 2010. He said that he had arranged for a very light docket that month. He wrote that the Commission had agreed to this arrangement.

On August 20, 2010, the Commission filed in the Supreme Court a response to Judge Sanchez's letter. The Commission pointed out that in the Stipulation, it had not agreed to the proposed date to begin Judge Sanchez's suspension, but rather took no position in the matter.

The Supreme Court held a hearing on the Stipulation on August 30, 2010. Both sides presented oral argument. The Court inquired about the thoughts and feelings of the people who were arrested regarding the appropriate sanction to be imposed in this matter. The Commission informed the Court that it was unknown what each and every member of the 32 people felt about the matter. The Court also had concerns about suspending a judge in a very busy judicial district. On the same day, after considering the pleadings and oral arguments, the Court denied the Petition for Discipline Upon Stipulation. The Court further ordered that the matter be remanded back to the Commission for a hearing, findings and recommendations to the Court. The Court also unsealed the file.

On December 6, 2010 through December 9, 2010, the Commission held a hearing on the merits. The Commission heard from 26 witnesses. The Commission made 82 separate findings of fact. On March 14,

2011, the Commission filed its Findings of Fact and Conclusions of Law in this matter. The Commission found, among other things, that all the facts Judge Sanchez had previously admitted to were true. They found that Judge Sanchez had abused his contempt powers and misrepresented what his intentions were regarding his release of the 32 imprisoned people. They also found that Judge Sanchez committed willful misconduct by failing to determine a sufficient factual and legal basis to charge the 32 people individually with contempt of court before ordering their incarceration.

After three full days of testimony at the hearing in December, the Commission also found that Judge Sanchez had violated the Code of Judicial Conduct and committed willful misconduct. The Commission recommended to the Supreme Court that they impose discipline for Judge Sanchez's misconduct consisting of 30 days unpaid suspension from work, a formal public reprimand and to assess 30% of the Commission's costs and expenses incurred in this matter.

On March 21, 2011, the Commission filed a Petition for Discipline with the Supreme Court. The Commission also filed all the trial exhibits, the record proper, and a Certified Memorandum of Costs. The Court ordered Judge Sanchez to file a response to the Commission's Petition for Discipline by April 8, 2011. The Commission was ordered to file a reply by April 7, 2011.

On April 20, 2011, the Court held a hearing to consider the Petition for Discipline. In his written Response to Petition for Discipline and orally before the Supreme Court, Judge Sanchez argued that he had not misrepresented what his intentions were regarding the release of the imprisoned people and did not abuse his contempt powers by holding the audience members in contempt. He also argued that he did not commit willful misconduct. In reply, the Commission pointed out to the Court that at the December hearing on the merits, Judge Sanchez had admitted that he did not make any individual findings of fact. The Commission informed the Court that Judge Sanchez had previously admitted to the Commission that he had committed willful misconduct, but had claimed otherwise to the Supreme Court.

On April 20, 2011, the Court listened to the oral argument of the parties. After deliberating, the Court made an oral pronouncement that it was taking the entire matter under advisement. The Court said it was considering removing Judge Sanchez from office, and a removal could negatively impact Judge Sanchez's judicial retirement. The Court stated that if Judge Sanchez were to resign from judicial office by the end of April, then they would take his resignation into account prior to making its findings in this matter.

On April 29, 2011, Judge Sanchez permanently resigned from judicial office.

On May 16, 2011, the Court issued its order in this matter. The Court found that clear and convincing evidence was introduced to establish that Judge Sanchez

. . . intentionally and without any justification in law or fact convicted and jailed without any determination of individual guilt or any semblance of providing due process of law a total of 32 courtroom spectators, an unknown fraction of whom had created a brief courtroom disturbance; that he thereby intentionally convicted and jailed indefinitely an unknown number of innocent people; and that he knowingly violated the due process rights of all of the jailed spectators[.]

The Court concluded that Judge Sanchez abused his judicial powers and committed serious willful misconduct in office by intentionally jailing innocent people and entering criminal convictions and depriving people of their liberty without any effort to conform to "even the most fundamental requirements of due process of law."

The Court concluded that because Judge Sanchez had resigned permanently from office on April 29, 2011, they did not need to determine whether it was necessary to remove him from judicial office pursuant to Article 6, Section 32 of the New Mexico Constitution.

The Court also accepted Judge Sanchez's permanent resignation from judicial office, and ordered that he would never again be permitted to hold, become a candidate for, or be permitted to accept appointment to any judicial office in the future, including as a *pro tempore* judge. Finally, the Court ordered Judge Sanchez to pay costs of \$1,115.16 to the Commission within 90 days, which he did. On July 19, 2011, the Supreme Court issued a full opinion of Sanchez's conduct in the underlying case, *Concha v. Sanchez*, 2011-NMSC-031, -- N.M. --, -- P.3d --.

**MATTER OF HON. JAMES LOCATELLI**

***Las Cruces Municipal Court***

***JSC Inquiry Nos. 2010-010, 2010-017, 2010-019, 2010-133, 2010-135, & 2010-144***

***Supreme Court Docket No. 29,508***

On September 10, 2010, the Commission filed under seal a Verified Petition for Immediate Temporary Suspension in Inquiry No. 2010-135 against Judge James Locatelli (Respondent).

The Petition for Immediate Temporary Suspension alleged several actions by Respondent which violated the Code of Judicial Conduct, constituted willful misconduct in office and warranted suspension from office pending the Commission's on-going Inquiries against Respondent. The Petition for Immediate Temporary Suspension alleged:

A. Respondent said that he wanted to inflict bodily injury on Municipal Court Judicial Manager, Lisa Alamaguer, in retaliation for her cooperation with the Judicial Standards Commission (JSC)'s then pending inquiries against him. Respondent admitted to staff that he knew battering Ms. Alamaguer would be wrong, and that he would probably spend time in jail for this crime, but spending time in jail "would be worth it."

B. In response to fear of possible retaliation and injury to Judicial Manager, Lisa Alamaguer, the Las Cruces Municipal Court changed the lock on the exterior courthouse door adjacent to Ms. Alamaguer's office, preventing Respondent from entering the courthouse through this door.

C. Respondent's threats of retaliation stemmed from Judicial Manager Alamaguer's role as a witness in Petitioner's on-going Inquiry into Respondent's improper ex parte dismissal of criminal, traffic and other cases.

D. To set the Respondent's actions in context, the Petitioner submitted the facts and circumstances leading up to Respondent's threats. In early 2010, Ms. Alamaguer filed a verified complaint with the Petitioner alleging that Respondent had improperly dismissed one traffic case to benefit a social friend of the Respondent. Petitioner issued a Notice of Formal Proceedings to the Respondent in this matter. After conducting a limited investigation, Petitioner amended the Notice of Formal Proceedings to include two additional cases which Respondent improperly dismissed for the same individual.

E. In June 2010, Petitioner's staff continued to investigate the Respondent's dismissal of criminal cases at arraignment. Petitioner's staff traveled to Las Cruces, New Mexico and met with Judicial Manager Alamaguer. At Petitioner staff's request, Ms. Alamaguer provided court-database-generated spreadsheets indicating which criminal and traffic cases Respondent had dismissed at arraignment without both parties present for the year 2009 and January through June 2010.

F. Staff reviewed this information and determined that Respondent improperly dismissed more than 650 criminal and traffic cases in 2009 without giving the prosecuting party the opportunity to be heard, and that Respondent improperly dismissed more than 150 criminal and traffic cases from January

through June 2010 without giving the prosecuting party the opportunity to be heard. Through investigation, Petitioner's staff determined that Respondent also dismissed ex parte several criminal or traffic cases for family members of his Las Cruces Municipal Court bailiff from 2007 until 2010.

G. On August 25, 2010, on its own motion, Petitioner issued a Notice of Preliminary Investigation in Inquiry No. 2010-119.

H. Based on Respondent's statement to court clerk Sandra Olayo, he incorrectly believed that Ms. Almaguer had filed a second complaint against him with the Petitioner to form the basis for the Petitioner's Notice of Preliminary Investigation issued on August 25, 2010. Respondent became outraged on the belief that Judicial Manager Almaguer had filed a second complaint against him with Petitioner. Because of her cooperation with Petitioner, Respondent threatened to harm Ms. Almaguer.

I. Because of Respondent's statements and prior displays of improper demeanor and intimidation, Judicial Manager Almaguer was afraid for her personal safety.

On September 16, 2010, the Supreme Court ordered Respondent to file a written response to the Commission's Petition for Temporary Suspension by October 1, 2010 and set a hearing in the matter for October 20, 2010. On September 30, 2010, the Respondent filed his Response to Petition for Immediate Temporary Suspension. In his response, the Respondent denied the relevant facts allegations contained in the Commission's Petition for Immediate Temporary Suspension.

On October 19, 2010, the Commission filed a Supplement to Verified Petition for Immediate Temporary Suspension. The Respondent, Hon. James Locatelli, was alleged to have committed additional acts that may constitute willful misconduct in office and/or persistent failure or inability to perform judicial duties. The additional allegations were summarized as follows:

A. On August 26, 2010, Presiding Las Cruces Municipal Court Judge Melissa Miller-Byrnes spoke with Respondent and asked him to notify her if he needed anything from any Las Cruces Municipal Court staff members in order to prepare his response to the Judicial Standards Commission. Judge Miller-Byrnes informed Respondent that she would make sure that the appropriate staff would assist him.

B. After September 2, 2010, Judge Miller-Byrnes communicated to Respondent that if he needed anything from Judicial Manager Lisa Almaguer or Lead Clerk Sandra Olayo, Respondent should e-mail Judge Miller-Byrnes and she would make the appropriate staff member available to assist him.

C. On September 8, 2010, Judge Miller-Byrnes provided the Petitioner an affidavit regarding threats Respondent told to Lead Clerk Sandra Olayo regarding Judicial Manager Lisa Almaguer on September 2. On September 9, 2010, Judicial Manager Lisa Almaguer provided the Petitioner an affidavit regarding Respondent's threats against her.

D. Petitioner filed its petition with this Court on Friday, September 10, 2010, which included affidavits from Judicial Manager Lisa Almaguer, Lead Clerk Sandra Olayo and Presiding Judge Melissa Miller-Byrnes. Petitioner e-mailed a copy of the petition to Petitioner near the close of business on that Friday.

E. On the next business day, Monday, September 13, 2010, Respondent sought out Judicial Manager Lisa Almaguer with no legitimate court business.

F. Judicial Manager Almaguer interpreted Respondent's actions as means for him to alert her that he was watching her wherever she was at the Las Cruces Municipal courthouse.

On October 20, 2010, the New Mexico Supreme Court held a hearing to consider the Commission's Petition for Immediate Temporary Suspension. Both sides presented oral argument. The Court considered all the pleadings and arguments, deliberated and then granted the Commission's Petition. The Court ordered the Respondent to be immediately suspended without pay until further order of the Court.

On November 1, 2010, the Commission and Respondent entered into a Stipulation to Permanent Resignation from Judicial Office Effective November 20, 2010 in Lieu of Further Disciplinary Proceedings (Stipulation). On that same day, the Commission filed with the Supreme Court a Motion to Accept Stipulation to Permanent Resignation from Judicial Office Effective November 20, 2010 in Lieu of Further Disciplinary Proceedings.

In the Stipulation, the parties agreed as follows:

A. Respondent agreed to permanently resign as Judge of the Las Cruces Municipal Court, Las Cruces, New Mexico effective at 5 pm on November 20, 2010. Upon acceptance of this stipulation by the New Mexico Supreme Court, Respondent shall submit duplicate original letters of resignation to the Chief Justice of the New Mexico Supreme Court, and to the Mayor and City Counsel of the City of Las Cruces. Respondent shall concurrently provide a copy of the resignation letter to the Commission. Upon resignation, 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 Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings and acceptance by the Supreme Court, the Commission would abate and close all matters currently pending before the Commission (Inquiry Nos. 2010-010, 2010-017, 2010-119, 2010-133, 2010-135 and 2010-144).

On November 5, 2010, the Supreme Court issued an order which accepted Respondent's resignation and the other terms of the Stipulation. On November 20, 2010, Judge Locatelli permanently resigned from judicial office.

**MATTER OF HON. DWIGHT CRENSHAW**  
***Lea County Magistrate Court***  
***JSC Inquiry No. 2010-113***  
***Supreme Court Docket No. 32,748***

The Respondent and the Commission entered into a Stipulation to Permanent Retirement from Judicial Office on December 6, 2010. On December 10, 2010, the Commission filed a Petition to Accept Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings with the Supreme Court. The petition provided in part:

1. Respondent agrees to permanently resign as Judge of the Lea County Magistrate Court effective close of business on December 31, 2010. Upon acceptance of this stipulation by the New Mexico Supreme Court, Respondent shall submit duplicate original letters of resignation to the Chief Justice of the New Mexico Supreme Court and to the Governor. Respondent shall concurrently provide a copy of the resignation letter to the Commission. Upon resignation, 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.

2. The Commission will file with the New Mexico Supreme Court a Motion to Accept Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings attaching a copy of tis Stipulation as an exhibit. The Commission will file the Motion under seal pursuant to Rule 27-104(B) NMRA 2010.

3. Upon granting the Motion to Accept Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings, the Supreme Court will unseal the entire Supreme Court file in this matter pursuant to Rule 27-104(B).

4. Upon execution of this Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings and acceptance by the Supreme Court, the Commission will abate and close this matter (Inquiry No. 2010-113).

\* \* \*

7. It is in the best interest of justice and the integrity of the New Mexico Judiciary that the Supreme Court issue an order accepting Respondent Hon. Dwight Crenshaw’s permanent resignation from judicial office.

During the week of December 10, 2010 Respondent mailed his letter of resignation to the Governor and to the Supreme Court effective December 31, 2010. On December 28, 2010 the Supreme Court granted the Commission’s Petition to Accept Permanent Resignation from Office in Lieu of Further Disciplinary Proceedings. The Court also ordered that the entire file shall be unsealed except that one shall remain sealed.

**MATTER OF HON. ROBERT E. ROBLES**

***Court of Appeals***

***JSC Inquiry No. 2011-022***

***Supreme Court Docket No. 32,854***

On February 16, 2011, Hon. Robert E. Robles was arrested for Aggravated Driving While Intoxicated and Reckless Driving. On February 17, 2011, the Commission filed under seal a Verified Petition for Immediate Temporary Suspension in the New Mexico Supreme Court against Judge Robles (Respondent). The Petition for Immediate Temporary Suspension (Petition) alleged several actions by Respondent which violated the Code of Judicial Conduct, constituted willful misconduct in office and warranted suspension from office pending the Commission’s on-going Inquiries against Respondent. The Petition for Immediate Temporary Suspension alleged:

1. On or about February 16, 2011 at 1:15 am, Respondent was allegedly driving under the influence of intoxicating liquor. Respondent was driving at a high rate of speed on Jefferson Street in Albuquerque and ran a red light. Albuquerque Police Department Officer Hunt had to swerve onto a sidewalk to avoid hitting Respondent. Officer Jason Hunt got out of his police car and spoke with Respondent. Respondent exhibited signs of intoxication. Officer Hunt called Officer Daniel Carr, an officer who investigated Driving While Intoxicated (DWI) cases.

2. Officer Carr noticed that Respondent had blood-shot and watery eyes, slurred speech and a strong odor of alcohol. Respondent admitted that he had consumed alcohol prior to driving. Officer Carr administered standardized Field Sobriety Tests to Respondent. Based on the tests, Respondent showed



signs of impairment. Officer Carr then drove Respondent in his police car to administer a breath alcohol test. As Respondent was getting out of the police car, he lost his balance and nearly fell over. As he walked into the door of the building, Respondent tripped over a step, fell forward and crashed into Officer Carr as he was opening the door.

3. After following the appropriate procedures, Officer Carr administered a breath alcohol test. Respondent had .20 blood alcohol concentration, an amount which enhances the crime to Aggravated Driving Under the Influence. Officer Carr then filed a criminal complaint against Respondent charging him with Aggravated Driving Under the Influence of Intoxicating Liquor or Drugs and Reckless Driving (DWI). Respondent was arrested and booked into the Metropolitan Detention Center. He bonded out of jail later that morning.

4. In the afternoon of February 16, 2011, Respondent phoned the Executive Director of the Judicial Standards Commission and self-reported his violation of the Code of Judicial Conduct relating to his arrest for DWI. Respondent also said that he had informed the Chief Judge of the Court of Appeals, and that Respondent had “put himself on unpaid leave.”

In its Petition, the Commission deferred to the Court to determine if any temporary suspension imposed should be paid or unpaid.

On February 17, 2011, the New Mexico Supreme Court ordered Judge Robles to file a response to the Petition by February 25, 2011. On February 18, 2011, the Commission filed with the Court a Stipulation for Temporary Suspension (Stipulation) in which Judge Robles agreed that it was appropriate for the Court to suspend him pending the criminal prosecution against him. In the Stipulation, the parties agreed, among other things:

1. Respondent acknowledges that his continued service in a judicial capacity while he is being prosecuted by the State and investigated by the Commission on the stated allegations would create an apparent conflict of interest and that deference to Respondent’s rulings, especially in criminal cases, would be undermined. Moreover, Respondent acknowledges that his continued judicial service would create a significant appearance of impropriety and erosion of public confidence in the integrity and impartiality of the judiciary and in the orderly administration of justice.

2. Based on the foregoing, the Respondent and Petitioner Judicial Standards Commission, hereby stipulate that Respondent will be temporarily suspended from judicial office pending completion of the State’s criminal prosecution and the Commission’s disciplinary proceedings in this matter.

3. The parties leave the issue of whether such temporary suspension should be with or without pay to the discretion of the Supreme Court.

Later in the day on February 18, 2011, the Court issued an order approving the parties’ stipulation that Judge Robles be suspended pending the criminal prosecution and ordered Judge Robles be suspended without pay until “resolution of this Inquiry or until further order of the Court.” Also on February 18, 2011, the Court issued a second order unsealing the Petition and Stipulation.

On March 28, 2011, Judge Robles pled and was convicted in the Metropolitan Court, Bernalillo County, of Driving Under the Influence of Intoxicating Liquor or Drugs, First Offense, in cause number D-4-DR-1100640.

On May 13, 2011, the parties entered into a Stipulation to Permanent Retirement from Judicial Office Effective June 1, 2011 and Consent to Discipline (Stipulation to Retirement). It provided in pertinent part the following:

1. Respondent agrees to permanently retire as judge of the Court of Appeals for the State of New Mexico effective at the close of business on June 1, 2011.

2. Respondent agrees to admit the following facts:

(A) On or about February 16, 2011, Respondent was driving a vehicle in Albuquerque, New Mexico under the influence of intoxicating liquor. Respondent's alcohol concentration was greater than eight one-hundredths within three hours of driving the vehicle and the alcohol concentration resulted from alcohol consumed before or while driving the vehicle.

(B) On February 16, 2011, Respondent was arrested for and charged with Aggravated Driving Under the Influence of Intoxicating Liquor or Drugs and Reckless Driving. On March 28, 2011, Respondent pled and was convicted of Driving Under the Influence of Intoxicating Liquor or Drugs, First Offense.

3. Respondent admits that this admitted conduct violates the following Canons of the Code of Judicial Conduct: Canons 21-100 NMRA; 21-200(A) NMRA; 21-300(B)(2) NMRA; and 21-500(A)(1-4) NMRA of the Code of Judicial Conduct.

4. Respondent agrees that his admitted conduct constitutes 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.

5. 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.

6. Respondent agrees to accept a formal reprimand from the Supreme Court concerning the conduct admitted in this Stipulation to Permanent Retirement and Consent to Discipline. Formal reprimands are published in the Bar Bulletin.

On the same day, May 13, 2011, the Commission filed with the Court a Motion to Accept Stipulation to Permanent Retirement from Judicial Office Effective June 1, 2011 and Consent to Discipline. The Motion attached a copy of the Stipulation to Retirement and requested the Court to accept the terms of the parties agreement.

On May 16, 2011, the Supreme Court issued an order which accepted Judge Robles' agreement to permanent retirement from judicial office and the other terms of the Stipulation to Retirement. The Court also unsealed the file in this matter.

On May 31, 2011, the Court issued an eight page formal written reprimand of Judge Robles. In its reprimand, the Court outlined the facts of Judge Robles' Driving While Intoxicated (DWI) prosecution. The Court noted that there were more than 17,000 DWI cases adjudicated in New Mexico in 2010. The Court cited its order that it had issued in 2004, In the Matter of Reporting Judicial Misconduct Involving Unlawful Drugs, 04-8200. In that order the Court had emphasized the "public confidence in the integrity and impartiality of the judiciary depends on a judge's respect for and compliance with the law at all time." According to the Court, the public confidence in the judiciary should not be "trivialized, inasmuch as deference to the judgments and rulings of courts depends upon public confidence in the integrity and independence of judges." The Court held that a citizen who serves as a judge is charged with "the responsibility of conforming to a higher standard of personal behavior than the ordinary citizen." It further stated that a

“judge’s conduct of personal behavior must be beyond reproach.” Judges whose personal behaviors are conformed to the highest societal standards, “fulfill their obligation to uphold the integrity of the judiciary and promote the public’s confidence in our justice system.” The Court agreed that it would be difficult for the public to have confidence in a judge who has been convicted of DWI.

The Court held, despite Judge Robles’s “impeccable job performance history,” it accepted his permanent retirement and acceptance of discipline. The Court stated that the purpose of disciplining a judge who has committed willful misconduct is to “reaffirm and restore, when necessary, public confidence in the administration of justice and to preserve the integrity and independence of the judiciary.” According to the Court, the discipline must be designed to that the misconduct is neither “permitted nor condoned,” and sufficient to deter the judge from repeating the conduct and must discourage other judges from engaging in similar misconduct.

On June 1, 2011, Judge Robles permanently retired from judicial office. On June 15, 2011, the Court’s formal reprimand outlined above was published in the Bar Bulletin, Vol. 50, No. 23, p.15 (2011).

**MATTER OF HON. RACHEL WALKER**  
***Bernalillo County Metropolitan Court***  
***JSC Inquiry No. 2010-026***  
***Supreme Court Docket No. 32,910***

The Judicial Standards Commission (Commission) issued a Notice of Formal Proceedings in this matter on August 25, 2010. The Inquiry was based on Judge Walker’s abuse of the contempt power in a hearing in a criminal case, *State v. George Padilla*, DW 2317-09 on November 2, 2009.

On November 2, 2010, Judge Walker was not retained as a Metropolitan Court Judge by the voters of Bernalillo County in a retention election.

On March 13, 2011, the Commission and Judge Walker (Respondent) entered into a Stipulation Agreement and Consent to Discipline (Stipulation Agreement). In the Stipulation Agreement, Respondent admitted the following:

1. On November 2, 2009, during a hearing in *State v. George Padilla*, DW 2317-09, Respondent admits that she failed to be patient, dignified and courteous in proceedings in this case. During the proceeding Respondent held defense attorney Roman Romero in direct contempt. Respondent raised her voice several times. Respondent yelled, “Shut up! Shut up!” Respondent called defense attorney Roman Romero a liar. Respondent told criminal defendant George Padilla that she questioned Mr. Romero’s ability to represent him. Respondent referred to Mr. Romero’s clients as “poor and unfortunate” to have Mr. Romero as their attorney. On November 2, 2009, Respondent refused to recuse herself from hearing Mr. Romero’s cases.
2. On November 2, 2009, during the contempt hearing against attorney Roman Romero, Respondent held Mr. Romero’s attorney, Dennis Montoya, in direct contempt. Respondent failed to be patient, dignified and courteous in proceedings with Dennis Montoya. Respondent raised her voice several times during a hearing while addressing Mr. Montoya. Respondent challenged Mr. Montoya and Mr. Romero several times to “call the Judicial Standards Commission” and to report Respondent’s conduct to their “buddies” at the Commission.

Respondent also admitted that her conduct violated the Canons of the Code of Judicial Conduct. Respondent agreed that her admitted conduct constituted willful misconduct in office and provided sufficient basis for

the New Mexico Supreme Court to impose discipline against Respondent pursuant to Article VI, §32 of the New Mexico Constitution.

Respondent agreed to accept the following formal 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. If Respondent returns to the New Mexico judicial office at any time in the future, Respondent shall complete a twelve-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.
3. If Respondent returns to the New Mexico judicial office at any time in the future, Respondent shall complete an ethics course at the National Judicial College. The Commission shall recommend the course, for consideration and approval by the Supreme Court. Respondent agrees to pay all costs, travel expenses, and tuition associated with attending and completing this course at the National Judicial College.

In the Stipulation Agreement, the Commission agreed, upon receipt of the anticipated disciplinary order from the Supreme Court, to abate the matter, pending Respondent's potential return to New Mexico judicial office.

On March 17, 2011, the Commission filed under seal in the New Mexico Supreme Court a Petition for Discipline Upon Stipulation, which requested the Court to accept the Stipulation Agreement and impose the recommended discipline. On March 24, 2011, the Supreme Court issued an order accepting the Stipulation Agreement and imposing the recommended discipline outlined above. On April 5, 2011, the Court ordered the Supreme Court file in this matter unsealed.

On May 9, 2011, the Supreme Court issued its formal reprimand of Judge Walker. The Court accepted the findings of facts and conclusions of law of the Commission. The Court agreed with the Commission that Judge Walker's conduct constituted willful misconduct in office. The Court found that Judge Walker repeatedly displayed improper demeanor with counsel and the defendant appearing before her in the courtroom. The Court found "particularly troubling" Judge Walker's conduct in *State v. Padilla* and the contempt hearing against defendant's counsel. Judge Walker failed to show the defendant, the attorney, and the attorney who represented the first defense attorney during the contempt proceeding, the "patience and courtesy expected of a judge in the courtroom." The Court held, "[m]ost importantly, [Judge Walker] violated 'the most basic tenet of judicial conduct—that a judge shall uphold the integrity and independence of the judiciary.'" They found that Judge Walker's conduct in yelling at people in her courtroom, were actions that erode public confidence in the judiciary. The Court also set for the conditions for her return to the bench, which had been stipulated to by the parties. The Court formally reprimanded Judge Walker for her "unacceptable conduct." On June 1, 2011, the Court's Formal Reprimand was published in the Bar Bulletin, Vol. 50, No. 21., pg.22.

**MATTER OF HON. JOHN SANCHEZ**  
***Mora County Magistrate Court***  
***JSC Inquiry Nos. 2009-070, 2009-098, 2010-024, & 2010-076***  
***Supreme Court Docket No. 32,903***

The Commission initiated matters pursuant to the Notice of Formal Proceedings and Answers filed in each inquiry number. In Inquiry Number 2009-070, the Notice of Formal Proceeding was filed on August 25, 2010 and Judge Sanchez (Respondent) filed his Answer on September 13, 2010. In consolidated Inquiry Numbers 2009-098 & 2010-024, the Notice of Formal Proceeding was filed on August 25, 2010 and the Respondent's Answer was filed on September 13, 2010. In Inquiry Number 2010-076, the Notice of Formal Proceeding was filed on September 3, 2010 and the Respondent's Answer was filed on September 22, 2010.

On March 14, 2011, the Commission and Judge Sanchez entered into an Amended Stipulation Agreement and Consent to Discipline. Judge Sanchez admitted the following:

1. Judge Sanchez failed to recuse himself prior to making rulings in a criminal case with his nephew, Daryl Sanchez, in *State v. Daryl Sanchez*, MR-37-2009-0110. Judge Sanchez arraigned his nephew in the case. Judge Sanchez set conditions of release of an unsecured appearance bond. Respondent altered the standard conditions of release and ordered that this nephew be allowed to leave the county of Mora during the pendency of his case.

2. Judge Sanchez ordered and signed an order appointing the Public Defender Department to represent his nephew in *State v. Daryl Sanchez*, MR-37-2009-0110, even though his nephew was not indigent and did not qualify for Public Defender representation based on income.

3. Judge Sanchez's admitted conduct set forth violated the Canons of the Code of Judicial Conduct. Judge Sanchez agreed that his admitted conduct as set forth constituted willful misconduct in office and provided sufficient basis for the New Mexico Supreme Court to impose discipline against Judge Sanchez pursuant to Article VI, §32 of the New Mexico Constitution.

4. Judge Sanchez agreed to accept the following formal discipline from the Supreme Court:

a. Twelve-Month Supervised Probation and Formal Mentorship. Judge Sanchez agreed to complete a twelve-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.

b. Complete a Course from the National Judicial College.

Judge Sanchez agreed to attend all sections and complete a course from the National Judicial College recommended by the Commission and approved by the Supreme Court. Respondent agrees that he will not teach any portion of the approved course from the National Judicial College. Respondent shall pay all costs, including travel and tuition associated with attending and completing this course at the National Judicial College.

c. Formal Reprimand. Judge Sanchez agreed to accept a formal reprimand from the Supreme Court concerning the conduct admitted in this Stipulation Agreement and Consent to Discipline.

The Commission requested that the Formal Reprimand not be published in the Bar Bulletin because at the time Magistrate Judges did not receive the Bar Bulletin and there would be little education value to other Magistrate Judges with a published formal reprimand against Judge Sanchez.

In exchange for Judge Sanchez's admissions of violations of the Code of Judicial Misconduct and Willful Misconduct, the Commission agreed to abate all proceedings in the other pending Inquiries before the Commission, Inquiry Numbers 2009-070 and 2010-076, pending successful completion of the terms of

the Stipulation Agreement. If Judge Sanchez successfully completes of the terms of the stipulation and the anticipated disciplinary order from the Supreme Court, the Commission agreed to close all of these Inquiry Numbers 2009-070, 2009-098, 2010-024 and 2010-076. If Judge Sanchez fails to comply with these detailed conditions, then his actions shall constitute a material breach of the Stipulation Agreement.

If Judge Sanchez violates any terms or provisions of this executed Stipulation Agreement and Consent to Discipline, Respondent agrees that all facts and charges admitted in this Stipulation Agreement and Consent to Discipline shall be deemed admitted by the Respondent and will be used against Respondent in future proceedings before the Commission and the Supreme Court.

On March 15, 2010, the Commission filed under seal in the New Mexico Supreme Court a Petition for Discipline upon Stipulation, requesting the Court to accept the terms of the parties' agreement for discipline in this matter.

On April 6, 2011, the Court held a hearing in this matter. Both the Commission and Judge Sanchez presented oral argument in the matter. The Court cautioned Judge Sanchez to abide by the terms of the Stipulation Agreement, and to recuse himself in matters which the Code requires him to do so. The same day, the Court issued an order which ordered Judge Sanchez to complete a 12-month supervised probation and formal mentorship. The Court ordered the Commission to recommend the probation supervisor/mentor to be appointed by the Court. The probation supervisor/mentor shall report the progress and outcome of the mentorship to the Court and the Commission. The Court ordered Judge Sanchez to complete a course approved by the Commission from the National Judicial College. The Court orally formally reprimanded Judge Sanchez in open court for his misconduct in this matter, and did not publish the reprimand in the Bar Bulletin. The Court also unsealed the Supreme Court file in this matter.

On June 22, 2011, the Supreme Court approved Hon. Karen P. Mitchell, Harding County Magistrate Judge, to serve as mentor and probation supervisor for Judge Sanchez, and further ordered her to report Judge Sanchez's progress to both the Commission and the Court. Judge Sanchez remains on probation until June 2012 and is in the process of taking a multi-week course via webinar at the National Judicial College.

This matter was ongoing at the end of FY 2011. Subsequent events will be reported in the Commission's Annual Report for FY 2012.

**MATTER OF HON. MICHAEL T. MURPHY**  
***Third Judicial District Court, Doña Ana County***  
***JSC Inquiry No. 2011-068***  
***Supreme Court Docket No. 32,933***

On April 5, 2011, the Commission filed under seal a Verified Petition for Immediate Temporary Suspension in Inquiry No. 2011-038 concerning Hon. Michael T. Murphy (Respondent). On April 11, 2011, the Supreme Court denied the Commission's petition.

On May 16, 2011, the Commission filed a Second Verified Petition for Immediate Temporary Suspension (Second Petition) with the Court. The Second Petition for Immediate Temporary Suspension alleged several actions by Respondent which violated the Code of Judicial Conduct, constituted willful misconduct in office and warranted suspension from office pending the Commission's on-going Inquiries against Respondent. The Petition for Immediate Temporary Suspension alleged, among other things:

1. On May 13, 2011, a grand jury in the Third Judicial District Court indicted the Respondent for four felony crimes. The Indictment alleged that the Respondent committed the crimes of Count 1: Demanding or

Receiving Bribe by Public Officer or Public Employee, a third degree felony; Count 2: Bribery of a Public Officer or Employee, a third degree felony; Count 3: Criminal Solicitation, a fourth degree felony; and Count 4: Bribery, Intimidation or Retaliation of a Witness, a third degree felony; and

2. The felony allegations contained in the Indictment concern acts of dishonesty. The Indictment places the Respondent's integrity, honesty and character at issue. Respondent's continued service in a judicial capacity while he is being criminally investigated by the State of New Mexico and investigated by the Commission on the stated allegations would create an apparent conflict of interest and place the public, law enforcement officers, and others with whom the judge interacts in an official capacity at risk. Deference to Respondent's rulings in all judicial matters, especially in criminal cases, would be undermined. Moreover, Respondent's continued judicial service would create a significant appearance of impropriety and erosion of public confidence in the integrity and impartiality of the judiciary and in the orderly administration of justice.

In its Second Petition, the Commission pointed out that the Court has held that "to allow a judge who is not truthful to remain on the bench betrays the public trust and threatens the integrity and independence of the judiciary as a whole." In re Rodella, 2008-NMSC-050, ¶ 36, 190 P.3d 338, 144 N.M. 617. In Rodella, relying upon In re Griego, 2008-NMSC-020, ¶ 21, 143 N.M. 698, 181 P.3d 690, this Court went on to hold that, "we cannot allow a judge who lacks credibility 'to preside over cases in which he is charged with weighing evidence and determining the credibility of others.' Id. "The conduct prescribed for judges and justices is more stringent than conduct generally imposed on other public officials." In re Romero, 100 N.M. 180, 668 P.2d 296, 299 (Sup.Ct. 1983).

Later in the day on May 16, 2011, the Supreme Court issued an order which granted the Second Petition and immediately suspended Judge Murphy from judicial office without pay. The Court also unsealed the petition pursuant to Rule 27-104(B)NMRA.

This matter was ongoing at the end of FY 2011. Subsequent reportable events will be provided in the Commission's Annual Report for FY 2012.

## **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 2011, the Commission issued private cautionary letters in 11 cases addressing the issues listed below:

1. A judge allegedly took action on a school truancy matter, which improperly created an appearance of impropriety. Specifically, the judge's actions may have falsely created the appearance that the judge was the final decision maker on school issues involving students, and usurped the principal's or school faculty's decision-making power where the matter was not properly before the judge. The Commission cautioned the judge concerning the alleged conduct.

2. A judge allegedly conducted *ex parte* communications orally and in writing with an out-of-state defendant on a traffic citation. The Commission cautioned the judge against having *ex parte* communications with defendants and to ensure that the opposing party is either present for the communication or, under proper circumstances, is copied on correspondence.

3. A judge allegedly delayed excessively in reviewing a petition for writ of *habeas corpus*. The Commission cautioned the judge to review and comply with the procedures and deadlines mandated by Rule 5-802(E) of the Rules of Criminal Procedure for the District Courts and reminded the judge of the required process before a response to such a petition is ordered.

4. A judge allegedly improperly criticized and demeaned a litigant. The Commission cautioned the judge to take care to treat all persons who appear before the judge or with whom the judge interacts in an official capacity with patience, dignity and courtesy, and to not demean or unfairly criticize anyone appearing before the judge.

5. A judge allegedly failed to be patient, dignified and courteous at all times to police homicide detectives when they sought the judge's approval for warrants on various occasions while the judge was serving as the on-call judge for approving warrants. The Commission reminded the judge that protecting the rights of defendants in such matters is only part of the judge's duty. In warrant matters, as in all other judicial matters, a judge must apply and enforce the law equally, fairly, and impartially to all parties concerned. The Commission further reminded the judge that at all times, a judge must respect and comply with the law, avoid impropriety, and avoid the appearance of impropriety.

6. A judge allegedly stated during a hearing that the judge would entertain a defendant's proposal to be sentenced to leave the State of New Mexico in lieu of incarceration. The Commission cautioned the judge to ensure that all sentences comply with the law and to avoid the appearance of impropriety.

7. A judge allegedly improperly criticized and demeaned a litigant. The Commission cautioned the judge to take care to treat all persons who appear before the judge or with whom the judge interacts in an official capacity with patience, dignity and courtesy, and to not demean or unfairly criticize anyone appearing before the judge.

8. A judge allegedly solicited a jury panel for political support for a bond issue to get a new courthouse. The Commission cautioned the judge to not solicit political support for any ballot measures or candidates while on the bench performing judicial duties, particularly from people who were compelled to be in the courtroom for jury service or any other court business.

9. A judge allegedly failed to ensure that all campaign materials and advertisements were in compliance with the Code of Judicial Conduct prior to publication and dissemination. The judge also allegedly failed to ensure that the campaign committee did not disclose the identity or source of funds raised by the judge's campaign committee. The Commission cautioned the judge to ensure all campaign activities complied with the Code of Judicial Conduct.

10. A judge allegedly failed to recuse from a pending matter in which the judge previously served as a prosecutor prior to judicial office. The Commission cautioned the judge to review all pending dockets to ensure that all cases the judge previously prosecuted are identified for timely recusal. The judge was also cautioned not to issue orders in matters where the judge has recused, and to avoid situations where the judge's impartiality could reasonably be questioned. The judge was further cautioned to base judicial decisions on facts before the court and not on the judge's extra-judicial prior experience and opinion, noting that such action may reveal bias and partiality requiring recusal and is prohibited by the Code of Judicial Conduct. Finally, the judge was cautioned to avoid the appearance of impropriety that arose from court staff's immediate notification to the judge of the Commission's request for a copy of a court file, and the judge's taking action to remedy incorrect documents in the file prior to their submission to the Commission.

11. A judge allegedly engaged in improper *ex parte* communications on the telephone with the spouse of a defendant and called the employer of the caller to report the caller's alleged improper behavior



on the telephone. The Commission cautioned the judge not to engage in any *ex parte* communications concerning matters pending before the court unless permitted by 21-300(B)(7) NMRA. The judge was also cautioned to avoid the appearance of impropriety by not taking any actions that may appear retaliatory towards anyone.

***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 2011, 1 judge was referred and/or completed informal remedial measures concerning 1 case, which is discussed below.

1. A judge allegedly had an improper *ex parte* communication with a party and her attorney after the judge terminated a telephone conference with the other pro se party. The Respondent entered into a Consent Decree, in which the Commission referred the judge to complete a mentorship which was successfully completed.

***INFORMAL STIPULATIONS.*** The Commission may enter into stipulation agreements in confidential matters (not filed in the Supreme Court) concerning various matters. In FY 2011, the Commission entered into 1 confidential stipulation with a judge, as stated below.

1. In August 2010, the Commission accepted a *Stipulation to Permanent Retirement from Judicial Office in Lieu of Further Disciplinary Proceedings* from a Judge. The Judge agreed never to again hold, become a candidate for, run for or stand for election to any New Mexico judicial office in the future. The judge also agreed never to seek, accept appointment to, or serve *pro tempore* for any New Mexico judicial office. The Commission agreed to close its pending inquiry against this Judge because the allegations against the judge, if proven, would not have caused the Commission to seek removal. The Commission chose to keep the proceedings confidential.

#### ***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 may be ordered and is 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, 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 assignee.

***ALL 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).

**Matter of Schwartz**, 2011-NMSC-019, 149 N.M. 721, 255 P.3d 299 (2011).

#### **OTHER RELATED 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).

**Concha v. Sanchez**, 2011-NMSC-031, -- N.M. --, -- P.3d -- (2011).

#### **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 2011, the State Legislature appropriated \$731,300.00 to the Commission from the general fund for operations, investigation, and prosecution of judicial misconduct.

In the 2010 regular session, the Commission obtained a new, non-reverting fund granted by the Legislature starting in FY 2011 into which the Commission can deposit the investigation and trial cost reimbursements collected from judges, most often by order of the Supreme Court. The Legislature granted the authority for the Commission to collect up to \$25,000.00 per year and retain the sums in this fund. In FY 2011 the Commission collected a total of \$2,115.16 of investigation and trial cost reimbursements as follows: \$1,115.16 from former Eighth Judicial District Court Judge Sam B. Sanchez, which originated by Supreme Court Order issued in FY 2011; and \$1,000.00 from a judge in a confidential inquiry that originated in FY 2010.

In FY 2011, the Commission's expenditures totaled \$717,230.17. Due in large part to staff vacancies during the year, the Commission did not expend \$14,069.83 of its FY 2011 appropriation, which was reverted to the general fund. A summary categorization of the Commission's expenditures is provided below.

### FY 2011 EXPENDITURES

DESCRIPTION	AMOUNT	PERCENTAGE
Employee Compensation	\$422,106.07	58.9%
Employee Benefits & Taxes	146,625.59	20.4%
Employee Training & Licensing	9,584.45	1.3%
Commission Travel	5,564.24	0.8%
Investigation & Prosecution	12,158.47	1.7%
Contractual Services	18,565.53	2.6%
Rent, Telecom, IT & Overhead	88,695.00	12.4%
Equipment, Supplies & Postage	13,930.82	1.9%
<b>TOTAL</b>	<b>\$717,230.17</b>	<b>100%</b>



**FY 2011 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 with the Supreme Court. Fines typically are deposited in the general fund, unless otherwise ordered by 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 non-reverting cost-recovery fund.

In FY 2011 the Commission collected a total of \$2,115.16 in reimbursements for investigation and trial costs expended in two matters: (1) \$1,000.00 in a confidential inquiry (total of \$2,000.00 collected in the matter); and (2) \$1,115.16 from former Eighth Judicial District Judge Sam B. Sanchez.

DESCRIPTION	FINE	COST REIMBURSEMENT COLLECTED IN FY 2011
Confidential JSC Inquiry	\$ 0.00	\$ 1,000.00
Sam B. Sanchez, Former 8th DCT JSC Inquiry Nos. 2009-124, et al.	0.00	1,115.16
<b>TOTAL</b>	<b>\$ 0.00</b>	<b>\$ 2,115.16</b>

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 annual interest of \$536.35 that accrued in FY 2011, the total amount due from Mr. Griego is now \$8,313.46. To date, Mr. Griego’s obligation to reimburse the Commission remains outstanding. The Commission recorded judgment liens with county clerks and, due to the outstanding liens is currently a party in a civil lawsuit concerning possible foreclosure on a property owned by Mr. Griego and his wife. The debt to the Commission remains outstanding.

**FY 2011 BUDGET APPROPRIATION COMPARED TO FY 2011 EXPENDITURES**

FY 2011 Approved Budget	\$ 731,300.00	
Total FY 2011 Expenditures		\$ (717,230.17)
FY 2011 Reversion to General Fund		(14,069.83)
Total Expenditures and Reversion		\$ (731,300.00)

*Note: Reversion represents 1.9% 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
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%
2011	\$731,300.00	\$717,230.17	\$14,069.83	\$0.00	2%

