



ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION  
of the  
SUPREME COURT OF ILLINOIS

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Chicago  
April 29, 2010

To the Honorable the Chief Justice  
and Justices of the Supreme Court  
of Illinois:

The annual report of the Attorney Registration and Disciplinary Commission for 2009 is submitted to the Court, to the members of the Bar of Illinois, and to the public in accordance with Supreme Court Rule 751.

The report is a statement of activities of the Commission for calendar year 2009 and an accounting and audit of the monies received and expended during the twelve-month period that ended December 31, 2009.

Respectfully submitted,

Benedict Schwarz II, Chair  
Derrick K. Baker  
John R. Carroll  
Joan Myers Eagle  
R. Michael Henderson, Vice Chair  
Brian McFadden  
James R. Mendillo, Commissioners

Jerome Larkin, Administrator

# 2009 Annual Report of the ARDC

## I. ARDC Mission Statement

On April 16, 2010, the ARDC Commissioners formally recognized that the mission of the ARDC is to promote and protect the integrity of the legal profession, at the direction of the Supreme Court, through attorney registration, education, investigation, prosecution, and remedial action. The Commissioners also approved the following more detailed Mission Statement:

As an administrative agency of the Supreme Court of Illinois, the ARDC assists the Court in regulating the legal profession through attorney registration, education, investigation, prosecution and remedial action.

Through our annual registration process, we compile a list of lawyers authorized to practice law. We provide ready access to that list so that the public, the profession and courts may access lawyers' credentials and contact information.

We educate lawyers through seminars and publications to help them serve their clients effectively and professionally within the bounds of the rules of conduct adopted by the Court. We provide guidance to lawyers and to the public on ethics issues through our confidential Ethics Inquiry telephone service.

The ARDC handles discipline matters fairly and promptly, balancing the rights of the lawyers involved and the protection of the public, the courts and the legal profession. Grievances are investigated confidentially. Disciplinary prosecutions are adjudicated publicly and result in recommendations to the Court for disposition. Our boards consist of independent, diverse groups of volunteer lawyers and non-lawyers who make recommendations in disciplinary matters.

We advocate for restitution and other remedial action in disciplinary matters. We seek to provide reimbursements through our Client Protection Program to those whose funds have been taken dishonestly by Illinois lawyers who have been disciplined.

## II. Educational and Outreach Programs

The ARDC continues to provide professional responsibility training and ethics seminars to the profession and the public. The inclusion of an MCLE requirement for Illinois lawyers and the adoption of the new Rules of Professional Conduct have brought added focus and efforts on educating the Illinois bar on their ethical duties. Following the adoption of the new Rules of Professional Conduct on July 1, 2009, the ARDC undertook increased statewide efforts to educate Illinois lawyers regarding these changes prior to its effective date of January 1, 2010. Those efforts included sponsoring CLE accredited seminars, providing Commission lawyers and staff as speakers at hundreds of seminars across the state, operating an ethics hotline and issuing publications that serve as a resource for Illinois lawyers seeking to comply with their ethical duties.

### A. CLE Accredited Seminars Sponsored by the Commission

In 2009, the ARDC, as an accredited MCLE provider in Illinois, presented a seminar entitled *What the New Rules of Professional Conduct Will Mean for Your Practice* to educate Illinois lawyers about

the most significant changes to the new Illinois Rules of Professional Conduct prior to its effective date on January 1, 2010. Presented at three separate locations, the seminar was also broadcast as a live webcast on October 14, 2009, which was recorded and later posted to the ARDC website as an on-demand recorded seminar available for CLE credit. During 2009, over 2,000 lawyers had the opportunity to earn two hours of ethics and professionalism MCLE credit without charge at one of the following seminars:

- Carbondale, IL (September 10, 2009): Co-sponsored with Southern Illinois University (SIU) School of Law, with opening remarks by Justice Lloyd A. Karmeier, the seminar was attended by approximately 250 lawyers from the 20<sup>th</sup>, 2<sup>nd</sup> and 1<sup>st</sup> Circuits of the Fifth Judicial District;
- Chicago, IL (October 14, 2009): Presented in-person and broadcast as a webinar with opening remarks by Chief Justice Thomas R. Fitzgerald, more than 200 lawyers from the First Judicial District attended in-person in Chicago and more than 1,700 lawyers have viewed the recorded webinar, which continues to be available on the ARDC website at [www.iardc.org](http://www.iardc.org); and
- Chicago, IL (December 3, 2009): Approximately 100 lawyers attended the live event in Chicago, co-sponsored with the following Chicago-area minority bar associations:

Arab-American Bar Association of Illinois  
Asian American Bar Association of the Greater Chicago Area  
Black Women Lawyers Association of Greater Chicago  
Chinese American Bar Association of Greater Chicago  
Cook County Bar Association  
Filipino American Bar Association of Chicago  
Hispanic Lawyers Association of Illinois  
Indian-American Bar Association of Chicago  
Korean American Bar Association of Chicago  
Muslim Bar Association of Chicago  
Pakistani American Bar Association  
Puerto Rican Bar Association of Illinois  
Women's Bar Association of Illinois.

Additionally, the ARDC continues to present twice a year the ARDC *Professionalism Seminar* for lawyers who have become involved in disciplinary proceedings. This course, taught by a select faculty of distinguished lawyers and other professionals, focuses on the Rules of Professional Conduct and its practical day-to-day application in operating a law office and in resolving the common ethical dilemmas faced by all lawyers.

## B. Speaking Engagements

An important part of the ARDC's outreach efforts has been to offer experienced staff to speak to lawyer and citizen groups. In 2009, 29 ARDC Commissioners and staff members made 201 presentations to bar associations, government agencies, law firms, and other organizations. Presentations were made to 32 different county and regional bar associations in every area of the state. While many of the programs focused on the new Rules, others addressed a variety of issues related to lawyer regulation and issues faced by practitioners. As a result of these efforts, many lawyers had the opportunity to meet with members of the ARDC to pose questions about the new Rules. Attendees typically earned CLE professional responsibility/ethics credit.

## C. Ethics Inquiry Program

The Commission's Ethics Inquiry Program, a telephone inquiry resource, continues to serve Illinois attorneys each year who are seeking help in resolving ethical dilemmas. The goal of the Program is to help lawyers understand their professional obligations and assist them in resolving important issues in their practice. The Program provides lawyers with information about professional responsibility law, legal precedent, bar association ethics opinions, law review articles and practical guidelines; the Program does not provide legal advice or a binding advisory opinion. In the last few years, the program has experienced a steady increase in the number of calls received. In 2009, staff lawyers responded to 4,166 ethics inquiries, an increase of more than 30% since 2006. Questions about the reporting rule continue to be the greatest area of inquiry posed to the Commission's Ethics Inquiry Program (*see* discussion on Lawyer Reports on Page 30). The top 10 subjects of inquiry during 2009 included:

<u>Subject of Inquiry</u>	<u># of calls</u>
Duty to report misconduct.....	411
Maintaining client confidences.....	225
Multi-jurisdictional practice of law .....	179
Handling client trust accounts .....	156
Conflicts (Former client).....	153
Conflicts (Multiple representation).....	124
Communication with represented persons.....	112
Retention/ownership of client files .....	96
Conflicts (Lawyer's own interest) .....	95
Registration .....	88
Termination of representation .....	84

Lawyers with inquiries are requested to present their questions in the hypothetical form, and callers may remain anonymous if they so choose, although no record is made of the identity of the caller or the substance of the specific inquiry or response. To make an inquiry, please call the Commission offices in Chicago (312-565-2600) or Springfield (217-522-6838). Additional information about the program can be obtained at: [www.iardc.org/ethics.html](http://www.iardc.org/ethics.html).

## D. Publications

Each year the Commission publishes and distributes free of charge thousands of copies of the rules governing Illinois lawyers as well as the *Client Trust Account Handbook*, which details a lawyer's duties under Rule 1.15. Following the adoption of the new Rules of Professional Conduct, emails were sent to approximately 50,000 attorneys in August 2009, announcing the publication and availability of the new 2010 *Rules of Professional Conduct* as well as the revised *Client Trust Account Handbook*. The Commission now has two publications containing the new Rules: *Illinois Rules of Professional Conduct of 2010*, a 120-page booklet containing the new Rules, comments and a topical index; and *Rules Governing the Legal Profession and Judiciary in Illinois*, a 200-page booklet which contains all the rules regulating the legal profession in Illinois, including the Illinois Code of Judicial Conduct and Illinois Supreme Court Rules on admission and discipline. More than 18,000 printed copies of the new Rules booklets have been distributed to lawyers in addition to publishing the new Rules on the ARDC website.

The Commission also re-published the *Client Trust Account Handbook*. The *Handbook* is cited in Comment [3] of Rule 1.15 of the Rules of Professional Conduct and was recognized by the Illinois Supreme Court in the *Dowling v. Chicago Options* opinion dealing with advanced fees. This is the sixth edition of the *Handbook* and the Commission has distributed more than 100,000 copies to lawyers and law schools since its first publication in 1994.

The foregoing publications are available on the ARDC website ([www.iardc.org](http://www.iardc.org)) and in printed format. To request a printed copy of any publication, please e-mail [newrules@iardc.org](mailto:newrules@iardc.org) with your name and mailing address or call the ARDC Chicago or Springfield offices at 312-565-2600 or 217-522-6838.

## E. Commission Website

The ARDC website ([www.iardc.org](http://www.iardc.org)), first launched in October 2001, continues to be a source of information regarding all aspects of the regulation of the legal profession in Illinois and recent developments affecting Illinois lawyers. The site attracts up to 156,000 visits each month, and in 2009 visitors totaled more than 1.6 million.

In addition, more than 48,000 lawyers took advantage of the online registration program for the 2010 registration year. The number of lawyers who registered online through the website's registration function significantly increased from 37% in 2009 to 57% for the 2010 registration year, due in large part to improvements that were made to the registration form and online process. The most visited feature is the Lawyer Search function, which had over 479,000 visits last year, enabling visitors to search the Master Roll for certain basic public registration information, including business address and public disciplinary information about Illinois lawyers. The site also includes information about the ARDC investigative process and how to request an investigation, a schedule of public hearings and arguments on public disciplinary matters pending before the Hearing and Review Boards, and a searchable database of disciplinary decisions issued by the Supreme Court and reports filed by the disciplinary boards. Also available on the site is information about the Client Protection Program and claim forms as well as information about the Ethics Inquiry Program, and links to other legal ethics research sites.

### III. Registration Report

#### A. Master Roll Demographics

The Master Roll of Attorneys registered to practice law in Illinois for the year 2009 contained the names of 84,777 attorneys as of October 31, 2009. After that date, the Commission began the 2010 registration process, so that the total reported as of October 31, 2009, does not include the 2,310 attorneys who first took their oath of office in November or December 2009. The 2009 legal population in Illinois saw a slight increase of 1% over 2008, continuing a trend of steady but modest increases in the Illinois lawyer population since 2001. *See* Chart 25A, at page 29. The number of newly admitted lawyers, however, increased over the past five years at twice the rate of the growth of the total lawyer population. The number of newly admitted lawyers increased 17% since 2004, compared with an 8.5% increase in the total lawyer population during that same time period. Any gains in the overall lawyer population, however, were offset by the increased number of lawyers removed from the Master Roll each year since 2006, particularly in the number of lawyers electing retirement status. *See* Chart 7 on Page 14. Chart 1 shows the demographics for the lawyer population in 2009.

**Chart 1: Age, Gender and Years in Practice for Attorneys Registered in 2009**

<b>Gender</b>	
Female .....	35%
Male.....	65%
<b>Years in Practice</b>	
Fewer than 5 years.....	16%
Between 5 and 10 years .....	14%
Between 10 and 20 years .....	27%
Between 20 and 30 years .....	23%
30 years or more .....	20%
<b>Age</b>	
21-29 years old.....	7%
30-49 years old.....	52%
50-74 years old.....	39%
75 years old or older .....	2%

Chart 2 shows the breakdown by the registration categories set forth in Supreme Court Rule 756.

**Chart 2: Registration Categories for 2009**

<u>Category</u>	<u>Number of Attorneys</u>
Admitted between January 1, 2008, and October 31, 2009.....	3,150
Admitted between January 1, 2006, and December 31, 2007 .....	5,199
Admitted before January 1, 2006 .....	62,322
Serving active military duty.....	255
Serving as judge or judicial clerk.....	1,618
Birthday before December 31, 1933.....	1,299
In-House Counsel under Rule 716 .....	414
Foreign Legal Consultant under Rule 713 .....	14
Legal Service Program Counsel under Rule 717.....	3
Pro Bono Authorization under Rule 756(j).....	9
Inactive status .....	<u>10,494</u>
<b>Total attorneys currently registered</b>	<b>84,777</b>

Charts 3 and 4 show the distribution by judicial district, circuit and county of the 62,474 registered active and inactive attorneys who reported a principal business address in Illinois. The distribution of the attorney population in Illinois saw little change in 2009. Of the 102 counties, 37 counties experienced a slight increase in the number of attorneys from 2008 to 2009, 50 saw a slight decrease and 15 remained the same. Cook County and the Fifth District attorney population decreased slightly in 2009 and the Second District experienced the largest increase in 2009 with 1.3%.

**Chart 3: Registration by Judicial Districts: 2005-2009**

	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>		<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
<b>First District</b>											
Cook County .....	42,510	42,142	43,026	43,761	43,653	<b>Fourth District</b>					
<b>Second District</b>						5 <sup>th</sup> Circuit .....	262	257	247	249	252
15 <sup>th</sup> Circuit .....	212	200	203	205	200	6 <sup>th</sup> Circuit .....	866	860	853	851	857
16 <sup>th</sup> Circuit .....	1,334	1,325	1,360	1,380	1,423	7 <sup>th</sup> Circuit .....	1,252	1,230	1,244	1,240	1,256
17 <sup>th</sup> Circuit .....	768	761	782	794	807	8 <sup>th</sup> Circuit .....	200	198	190	197	188
18 <sup>th</sup> Circuit .....	4,086	3,952	4,015	4,075	4,142	11 <sup>th</sup> Circuit .....	<u>643</u>	<u>643</u>	<u>643</u>	<u>662</u>	<u>649</u>
19 <sup>th</sup> Circuit .....	<u>3,520</u>	<u>3,383</u>	*2,919	*2,987	3,014	<b>Total</b>	<b>3,223</b>	<b>3,188</b>	<b>3,177</b>	<b>3,199</b>	<b>3,202</b>
22 <sup>nd</sup> Circuit	---*	---*	<u>564</u>	<u>577</u>	<u>561</u>						
<b>Total</b>	<b>9,920</b>	<b>9,621</b>	<b>9,843</b>	<b>10,018</b>	<b>10,147</b>	<b>Fifth District</b>					
<b>Third District</b>						1 <sup>st</sup> Circuit.....	453	440	444	448	453
9 <sup>th</sup> Circuit .....	205	198	198	191	187	2 <sup>nd</sup> Circuit.....	305	296	288	291	288
10 <sup>th</sup> Circuit .....	916	896	894	911	930	3 <sup>rd</sup> Circuit .....	714	725	714	703	689
12 <sup>th</sup> Circuit .....	860	866	887	913	926	4 <sup>th</sup> Circuit .....	253	244	241	238	241
13 <sup>th</sup> Circuit .....	323	320	316	327	323	20 <sup>th</sup> Circuit .....	<u>776</u>	<u>764</u>	<u>785</u>	<u>783</u>	<u>780</u>
14 <sup>th</sup> Circuit .....	512	514	500	503	506	<b>Total</b>	<b>2,501</b>	<b>2,469</b>	<b>2,472</b>	<b>2,463</b>	<b>2,451</b>
21 <sup>st</sup> Circuit .....	<u>160</u>	<u>156</u>	<u>153</u>	<u>156</u>	<u>149</u>	<b>Grand Total</b>	<b>61,130</b>	<b>60,370</b>	<b>61,466</b>	<b>62,442</b>	<b>62,474</b>
<b>Total</b>	<b>2,976</b>	<b>2,950</b>	<b>2,948</b>	<b>3,001</b>	<b>3,021</b>						

\* **Note:** Effective December 4, 2006, McHenry County parted from the 19th Judicial Circuit to form the 22nd Judicial Circuit of Illinois when the Illinois legislature amended the Circuit Courts Act, 705 ILCS 35/1.

Another 22,303 attorneys reported a business address outside Illinois but registered as either active (64%) and able to practice under the auspices of their Illinois license or inactive (36%). The number of lawyers reporting a business address outside of Illinois continues to make up 26% of all lawyers with an Illinois license. Those 22,303 attorneys with an out-of-state business address are not included in Charts 3

and 4.

**Chart 4: Registered Active and Inactive Attorneys by County for 2008-2009**

<u>Principal Office</u>	<u>Number of Attorneys</u>		<u>Principal Office</u>	<u>Number of Attorneys</u>		<u>Principal Office</u>	<u>Number of Attorneys</u>	
	<u>2008</u>	<u>2009</u>		<u>2008</u>	<u>2009</u>		<u>2008</u>	<u>2009</u>
Adams	128	122	Hardin	6	4	Morgan	39	40
Alexander	8	8	Henderson	5	5	Moultrie	13	12
Bond	13	11	Henry	50	48	Ogle	48	46
Boone	49	51	Iroquois	24	23	Peoria	774	799
Brown	9	10	Jackson	210	210	Perry	20	20
Bureau	40	38	Jasper	7	6	Piatt	27	25
Calhoun	5	5	Jefferson	108	107	Pike	10	10
Carroll	14	15	Jersey	17	16	Pope	6	6
Cass	10	10	Jo Daviess	40	36	Pulaski	6	4
Champaign	540	552	Johnson	9	9	Putnam	8	7
Christian	35	37	Kane	1,123	1,146	Randolph	26	27
Clark	11	12	Kankakee	132	126	Richland	22	24
Clay	15	15	Kendall	85	94	Rock Island	366	369
Clinton	26	26	Knox	61	60	Saline	41	39
Coles	96	102	Lake	2,987	3,014	Sangamon	1,129	1,140
Cook	43,761	43,653	LaSalle	214	215	Schuyler	11	9
Crawford	21	21	Lawrence	18	17	Scott	6	7
Cumberland	9	10	Lee	42	43	Shelby	17	17
DeKalb	172	183	Livingston	45	43	St. Clair	679	677
DeWitt	18	16	Logan	29	31	Stark	7	8
Douglas	23	24	Macon	230	228	Stephenson	61	60
DuPage	4,075	4,142	Macoupin	34	37	Tazewell	109	105
Edgar	20	18	Madison	690	678	Union	27	26
Edwards	5	6	Marion	44	47	Vermilion	113	110
Effingham	48	47	Marshall	13	11	Wabash	13	13
Fayette	17	18	Mason	11	11	Warren	22	20
Ford	12	13	Massac	13	14	Washington	20	20
Franklin	55	54	McDonough	43	43	Wayne	13	14
Fulton	42	42	McHenry	577	561	White	15	13
Gallatin	5	6	McLean	551	537	Whiteside	79	79
Greene	15	16	Menard	13	11	Will	913	926
Grundy	73	70	Mercer	8	10	Williamson	128	137
Hamilton	10	9	Monroe	38	36	Winnebago	745	756
Hancock	18	17	Montgomery	29	28	Woodford	25	25

## B. Mandatory Disclosures in Annual Registration

Since 2007, lawyers must provide *pro bono*, trust account and malpractice insurance reports during the annual registration process as required by Supreme Court Rule 756. Pursuant to Supreme Court Rule 756(g), a lawyer is not registered if the lawyer fails to provide any of this information. The information reported by individual attorneys concerning voluntary *pro bono* service and trust accounts is confidential under Supreme Court Rule 766 and is not reported as part of a lawyer's listing under "Lawyer Search" on the ARDC website ([www.iardc.org](http://www.iardc.org)). Malpractice insurance reports are shown on the website along with a lawyer's public registration information displayed under "Lawyer Search." The reports received for the 2009 registration year regarding *pro bono* activities, trust accounts and malpractice insurance are presented below.

### 1. Report on Pro Bono Activities in 2009 Registration

Under Supreme Court Rule 756(f), Illinois lawyers are required to report voluntary *pro bono* service and monetary contributions on their registration form. While *pro bono* service and contributions are voluntary, the required report serves as an annual reminder to Illinois lawyers that *pro bono* legal service is an integral part of lawyers' professionalism. See IRPC (2010), *Preamble*, Comment [6A]. Despite a downturn in the economy, there was a slight increase in both the number of lawyers providing *pro bono*



legal services and the hours of services as well as the number of lawyers making monetary contributions to legal aid organizations and the amount contributed. For the lawyers registered for 2009, 27,200 attorneys indicated that they had provided *pro bono* legal services, as defined by Rule 756, totaling, in the aggregate, 2,197,041 *pro bono* legal service hours, including 1,113,778 hours of legal service provided directly to persons of limited means, an increase of 2.1% over 2008. 57,577 attorneys indicated that they had not provided *pro bono* legal services, 9,449 of whom indicated that they were prohibited from providing *pro bono* legal services because of their employment. Chart 5A provides a three-year breakdown of the *pro bono* hours reported under Rule 756. The reported information does not include hours that legal service or government lawyers provide as part of their employment.

**Chart 5A: Report on Pro Bono Hours (2007-2009)**

	2007	2008	2009
Type of Pro Bono Services	Service Hours	Service Hours	Service Hours
Legal services to persons of limited means	1,100,323	1,102,907	1,113,778
Legal services to enumerated organizations designed to address needs of persons of limited means	325,088	301,680	375,260
Legal services to enumerated organizations in furtherance of their purposes	637,128	714,308	660,022
Training intended to benefit legal service organizations or lawyers providing <i>pro bono</i> services	58,715	73,450	47,981
<b>TOTAL:</b>	2,121,254	2,192,345	2,197,041

Chart 5B provides a breakdown of monetary contributions of that same three-year period. 14,156 lawyers reported in 2009 making contributions to organizations that provide legal services to persons of limited means, an increase of nearly 1.6% over 2008. The amount contributed in 2009, \$14,901,582, however, was nearly a 1% increase over 2008. The reported information does not include the \$42 portion of the registration fee paid by most active status lawyers and remitted to the Lawyers Trust Fund, which distributes grants to programs providing legal assistance in civil matters to low-income Illinois residents. From the 2009 registration year, \$2,647,902 was remitted to the Lawyers Trust Fund.

**Chart 5B: Monetary Contributions to Pro Bono Service Organizations (2007-2009)**

	2007	2008	2009
<b>Amount Contributed</b>	<b>\$17,615,482</b>	<b>\$14,779,088</b>	<b>\$14,901,582</b>
Number of lawyers who made contributions	12,637	13,929	14,156

## 2. Report on Trust Accounts in 2009 Registration

Supreme Court Rule 756(d) requires all Illinois lawyers to disclose whether they or their law firm maintained a trust account during the preceding year and to disclose whether the trust account was an IOLTA (Interest on Lawyer Trust Account) trust account, as defined in Rule 1.15 of the Rules of

Professional Conduct. If a lawyer did not maintain a trust account, the lawyer was required to disclose why no trust account was maintained. Chart 6A sets forth the responses received from the 84,777 lawyers who were registered for 2009. Fifty-two percent of all lawyers reported on their 2009 registration that they or their law firms maintained a trust account sometime during the preceding 12 months. Of those who reported that they or their law firm did not maintain a trust account, nearly half explained that they were prohibited from an outside practice, because of their full-time employment in a corporation or governmental agency.

**Chart 6A: Trust Account Disclosure Reports in 2009 Registration**

<b>A. Lawyers with Trust Accounts:</b> .....	44,217
80.3% with IOLTA trust accounts	
19.7% with non-IOLTA trust accounts	
<b>B. Lawyers without Trust Accounts:</b> .....	40,560
Full-time employee of corporation or governmental agency (including courts) with no outside practice .....	20,049
Not engaged in the practice of law.....	9,869
Engaged in private practice of law (to any extent), but firm handles no client or third party funds .....	7,680
Other explanation .....	2,962

### 3. Report on Malpractice Insurance

Supreme Court Rule 756(e) requires Illinois lawyers to report whether they carry malpractice insurance coverage and, if so, the dates of coverage for the policy. Only sitting judges or magistrates who are exempt from paying a registration fee are exempt from this reporting requirement. The rule does not require Illinois lawyers to carry malpractice insurance in order to practice law in Illinois. Chart 6B shows the responses received from lawyers including the responses for who were registered for 2009, with about 54% of all lawyers reporting for the 2009 registration year that they have malpractice insurance, 2% more than first reported in 2005, when the malpractice disclosure requirement began.

**Chart 6B: Malpractice Disclosure Reports: 2005-2009**

Lawyer Malpractice Insurance	2005	2006	2007	2008	2009
<b>Yes</b>	41,767 (51.9%)	42,445 (51.8%)	44,203 (53.7%)	45,278 (53.9%)	45,498 (53.7%)
<b>No</b>	38,716 (48.1%)	39,461 (48.2%)	37,364 (46.3%)	38,630 (46.1%)	39,279 (46.3%)

#### 4. MCLE Compliance

Chart 7 shows the number of lawyers who were removed from the Master Roll for the 2005 through 2009 registration years. Starting with the 2009 registration year, lawyers for the first time were removed from the Master Roll for failure to report compliance with the general MCLE requirements. Of the more than 52,00 lawyers with last names beginning A through M, only 681 lawyers were removed in January 2009, a total of 1.3% as reported in the *2008 Annual Report* (see Page 4). The second reporting group of approximately 35,000 lawyers with last names beginning N through Z were required to report MCLE compliance by July 31, 2009. In January 2010, 311 active and inactive status lawyers or .09% of the second reporting group were removed by the ARDC for the 2010 registration year for non-compliance. Also removed for the 2010 registration year were 29 newly admitted lawyers who failed to comply with the MCLE Basic Skills course requirement set forth in Supreme Court Rule 793.

After introduction of the MCLE requirements in 2006, the ARDC began to track the reasons for removal from the Master Roll, including the number of lawyers changing to Retired status, which would exempt those lawyers from the MCLE requirements. While the number of lawyers changing to Retired status has nearly doubled since 2006, the percentage of those lawyers changing from Active to Retired status, a little over 60%, has remained fairly constant since 2006. Thus, it does not appear that a greater percentage of lawyers who elect to go on Retired status are doing so in order to avoid the MCLE requirements.

Chart 7 shows the trend of removals from the Master Roll between 2005 and 2009.

**Chart 7: Removal from the Master Roll of Attorneys: 2005 – 2009 Registration Years**

<i>Reason for Removal</i>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>
Unregistered	*	1,372	429	961	1,132
Deceased	*	274	648	373	322
Retired	*	521	847	901	996
Disciplined	*	55	60	45	44
MCLE Non-compliance					680**
Basic Skills Non-compliance				8***	52
<b>Total</b>	<b>1,198</b>	<b>2,222</b>	<b>1,984</b>	<b>2,288</b>	<b>3,226</b>

\*data not broken down into separate categories for these years

\*\*2008 was the first year of reporting of MCLE hours

\*\*\*2007 was the first year of reporting Basic Skills course requirement

## IV. Report on Disciplinary and Non-Disciplinary Matters

### A. Investigations Initiated in 2009

During 2009, the Commission docketed 5,834 investigations, a 1% decrease as compared to the number of investigations docketed in 2008. Those 5,834 investigations involved charges against 3,976 different attorneys, representing about 5% of all registered attorneys. About 21% of these 3,976 attorneys were the subject of more than one investigation docketed in 2009, as shown in Chart 8.

**Chart 8: Investigations Docketed in 2009**

<i>Investigations per Attorney</i>	<i>Number of Attorneys</i>
1 .....	3,128
2 .....	549
3 .....	161
4 .....	56
5 or more.....	<u>82</u>
	Total: 3,976
<i>Gender</i>	<i>Years in Practice</i>
Female .....	Fewer than 10 years....
Male.....	10 years or more.....
22%	16%
78%	84%

Charts 9 and 10 report the classification of investigations docketed in 2009, based on an initial assessment of the nature of the misconduct alleged, if any, and the type of legal context in which the facts apparently arose. Chart 9 reflects that the top four most frequent areas of a grievance make up more than 80% of all grievances and are typically related to client-attorney relations: neglect of the client's cause (37%); failure to communicate with the client (17%); fraudulent or deceptive conduct, including lying to clients (15%); and excessive or improper fees (14%).

**Chart 9: Classification of Charges Docketed in 2009 by Violation Alleged**

<i>Type of Misconduct</i>	<i>Number*</i>	<i>Type of Misconduct</i>	<i>Number*</i>
Neglect .....	2,158	Improper communications with a party known to be represented by counsel or with unrepresented party .....	36
Failing to communicate with client, including failing to communicate the basis of a fee .....	993	Failing to preserve client confidences or secrets .....	36
Fraudulent or deceptive activity, including lying to clients, knowing use of false evidence or making a misrepresentation to a tribunal or non-client .....	857	Failing to supervise subordinates .....	29
Excessive or improper fees, including failing to refund unearned fees .....	844	Improper division of legal fees/partnership with nonlawyer .....	28
Conduct prejudicial to the administration of justice, including conduct that is the subject of a contempt finding or court sanction .....	354	Threatening criminal prosecution or disciplinary proceedings to gain advantage in a civil matter .....	22
Improper management of client or third party funds, including commingling, conversion, failing to promptly pay litigation costs or client creditors or issuing NSF checks.....	294	Aiding a nonlawyer in the unauthorized practice of law .....	15
Improper trial conduct, including using means to embarrass, delay or burden another or suppressing evidence where there is a duty to reveal .....	238	Bad faith avoidance of a student loan .....	11
Conflict of Interest: .....	208	Practicing after failing to register .....	10
Rule 1.7: Concurrent conflicts .....	152	Sexual harassment/abuse or violation of law prohibiting discrimination .....	7
Rule 1.8(a) Improper business transaction with client .....	9	Failing to report misconduct of another lawyer or judge.....	6
Rule 1.8(c) Improper preparation of instrument benefiting lawyer... 2		Inducing/assisting another to violate the Rules .....	5
Rule 1.8(d) Financial assistance to client.....	8	Incapacity due to chemical addiction or mental condition.....	4
Rule 1.8(e) Improper aggregate settlement for multiple clients .....	1	Failing to maintain an appropriate attorney-client relationship with disabled client.....	4
Rule 1.8(h): Improper agreement to limit/avoid disciplinary action .....	4	Improper <i>ex parte</i> communication with judge.....	4
Rule 1.9: Successive conflicts.....	31	Improper employment where lawyer may become a witness.....	3
Rule 1.11 Former government lawyer.....	1	False statements about a judge, jud. candidate or public official ....	3
Filing frivolous or non-meritorious claims or pleadings .....	198	Improper extrajudicial statement .....	2
Failing to properly withdraw from representation, including failing to return client files or documents.....	191	Failure to pay taxes.....	2
Criminal activity, including criminal convictions, counseling illegal conduct or public corruption.....	135	Investigation of bar applicant .....	2
Failing to provide competent representation .....	121	False statements in a bar admission or disciplinary matter.....	2
Not abiding by a client's decision concerning the representation or taking unauthorized action on the client's behalf.....	95	Failure to maintain records under Rule 769.....	2
Improper commercial speech, including inappropriate written or oral solicitation.....	50	Failing to comply with Rule 764 .....	1
Practicing in a jurisdiction where not authorized .....	85	Failing to pay child support .....	1
Prosecutorial misconduct .....	75	Abuse of public office to obtain advantage for client .....	1
		Assisting a judge in conduct that violates the judicial code .....	1
		Furthering application of unqualified bar applicant.....	1
		No misconduct alleged.....	303

\*Totals exceed the number of requests for investigations docketed in 2009 because in many requests more than one type of misconduct is alleged.

Consistent with prior years, the top subject areas most likely to lead to a grievance of attorney misconduct are criminal law, domestic relations, tort, and real estate, as shown in Chart 10.

**Chart 10: Classification of Charges Docketed in 2009 by Subject Area**

<i>Area of Law</i>	<i>Number</i>
Criminal/Quasi-Criminal.....	1,404
Domestic Relations.....	936
Tort (Personal Injury/Property Damage).....	545
Real Estate/Landlord-Tenant.....	444
Probate.....	319
Labor Relations/Workers'Comp.....	236
Bankruptcy.....	234
Contract.....	213
Debt Collection.....	152
Civil Rights.....	112
Immigration.....	84
Corporate Matters.....	49
Local Government Problems.....	36
Tax.....	33
Patent and Trademark.....	20
Social Security.....	14
Adoption.....	8
Mental Health.....	1
No Area of Law Identified:	
Criminal Conduct/Conviction of Attorney.....	21
Personal misconduct.....	25
Other.....	67
No misconduct alleged.....	206
Undeterminable.....	279

### B. Investigations Concluded in 2009

If an investigation does not reveal sufficiently serious, provable misconduct, the Administrator will close the investigation. If an investigation produces evidence of serious misconduct, the case is referred to the Inquiry Board, unless the matter is filed directly with the Supreme Court under Rules 757, 758, 761, 762(a), or 763. The Inquiry Board operates in panels of three, composed of two attorneys and one nonlawyer, all appointed by the Commission. An Inquiry Board panel has authority to vote a formal complaint if it finds sufficient evidence to support a charge, to close an investigation if it does not so find, or to place an attorney on supervision under the direction of the panel pursuant to Commission Rule 108. The

Administrator cannot pursue formal charges without authorization by an Inquiry Board panel.

About 5% of investigations concluded in 2009 resulted in the filing of formal charges. Charts 11 and 12 show the number of investigations docketed and terminated during 2005 to 2009, and the type of actions that terminated the investigations in 2009.

**Chart 11: Investigations Docketed: 2005-2009**

<b>Year</b>	<b>Pending January 1<sup>st</sup></b>	<b>Docketed During Year</b>	<b>Concluded During Year</b>	<b>Pending December 31<sup>st</sup></b>
2005	1,944	6,082	6,185	1,841
2006	1,841	5,801	5,746	1,896
2007	1,896	5,988	6,070	1,814
2008	1,814	5,897	6,127	1,584
2009	1,584	5,834	5,551	1,867

**Chart 12: Investigations Concluded in 2009**

<b>Concluded by the Administrator:</b>	
Closed after initial review.....	1,322 (No misconduct alleged)
Closed after investigation.....	3,883
Filed at Supreme Court pursuant to Supreme Court Rules 757, 758(b), 761, 762(a), 763 and 774.....	32
<b>Concluded by the Inquiry Board:</b>	
Closed after panel review.....	79
Complaint or impairment petition voted...	226
Closed upon completion of conditions of Rule 108 supervision.....	9
<b>Total.....</b>	<b>5,551</b>

### ***1. Timeliness of Investigations Concluded in 2009***

Of the 5,551 investigations concluded in 2009, 5,237 investigations were concluded by the Administrator. Charts 13A through C show the average number of days that the 5,237 investigations concluded in 2009 were pending before either being closed or filed in a formal action. In keeping with the Commission's policy that disciplinary matters be handled expeditiously, codified in Commission Rule 1, Charts 13A through C show the time periods required to conclude investigations. Chart 13A shows that 1,322, or 25%, of the 5,237 investigations concluded in 2009 were closed after an initial review of the complainant's concerns. Ninety-six percent of these 1,322 investigations were concluded within 60 days of the docketing of the grievance. The five staff lawyers who make up the Intake division of the Administrator's staff review most incoming grievances and perform the initial inquiry into the facts to determine whether the written submissions from complainants, read liberally, describe some misconduct by a lawyer. Generally, closures made after an initial review are completed without asking the lawyer to respond, although the lawyer and complainant are typically apprised of the determination.

***Chart 13A***

<b>1,322 Investigations Closed After Initial Review in 2009</b>			
<b><i>Average Number of Days Pending Prior to Closure:</i></b>			
<b>Fewer than 10 days</b>	<b>10 - 20 days</b>	<b>21 - 60 days</b>	<b>More than 60 days</b>
<b>76%</b>	<b>6%</b>	<b>15%</b>	<b>3%</b>

In the remaining 3,915 investigations closed in 2009 by the Administrator, the staff determined that an investigation was warranted, and, in most cases, these investigations began with a letter from Intake counsel to the lawyer named in the grievance, enclosing a copy of the complainant's submission and asking the lawyer to submit a written response. The lawyer's written response was usually forwarded for comment to the complainant, and the file was reviewed by Intake counsel after the complainant's reply was received or past due. If, at that stage, the submissions and any back-up documentation obtained demonstrated that the lawyer did not violate professional conduct rules, or at least that a violation could not be proved, Intake counsel closed the file. If counsel determined that more expansive investigation was warranted, the file was reassigned to Litigation counsel who primarily handle investigations that require more extensive investigation or are more likely to lead to formal proceedings.

Chart 13B shows that for the 3,915 investigations closed after a determination to conduct an investigation was made, 2,707, or 69%, were closed by Intake counsel, with 70% of those closed within 90 days of receipt. Chart 13C indicates that 31% were closed by Litigation counsel. 61% of the files referred to Litigation counsel were closed within six months, notwithstanding the fact that investigations at this level are more extensive and time consuming, in order to determine if the filing of formal action is warranted based on the evidence produced during the investigation. How long it takes before an investigation is resolved is influenced by whether the lawyer has addressed all concerns raised during the investigation, whether other sources are cooperating with the ARDC's requests for information, the complexity of the issues, and the amount of information and documents that ARDC counsel must review.

**Chart 13B**

<b>2,707 Investigations Concluded in 2009 by the Intake Staff After Investigation</b>			
<i>Average Number of Days Pending Prior to Closure:</i>			
Fewer than 90 days	Between 90 to 180 days	Between 180 - 365 days	More than 365 days
70%	21%	5%	4%

**Chart 13C**

<b>1,208 Investigations Concluded in 2009 by the Litigation Staff After Investigation</b>			
<i>Average Number of Days Pending Prior to Closure:</i>			
Fewer than 90 days	Between 90 - 180 days	Between 180 - 365 days	More than 365 days
34%	27%	23%	16%



## 2. Oversight Review of Investigations Closed

Pursuant to Supreme Court Rule 751(e)(3), the Commission conducts a review of a representative sample of investigative matters concluded by the Administrator without reference to the Inquiry Board. The Commissioners have delegated the initial review to its Oversight Committee, which consists of 104 current and former Inquiry and Hearing Board members (*see Back Cover*). The Oversight Committee reviews about 6% of the investigations closed by the Administrator's staff each year. The representative samples are of closed investigations selected by computer from two types of investigative closures: those closure decisions that the complaining witness has challenged (20%); and those where no such challenge was received (80%). The Oversight review is a quality assurance analysis, not an appeal of the closure decision. The analysis provided by the Oversight Committee members is helpful to the Commission and Administrator in formulating approaches to the pending caseload. In 2009, the Oversight Committee reviewed 286 closed investigations, disagreeing with some aspect of how the investigation was handled in only 9 investigations.

### C. Hearing Board Matters

Once an Inquiry Board panel authorizes the filing of charges, a formal complaint setting forth all allegations of misconduct pending against the attorney is filed, and the matter proceeds before a panel of the Hearing Board. The Hearing Board functions much like a trial court in a civil case, and each panel is comprised of three members, two lawyers and one nonlawyer, appointed by the Commission. The Commission has hired an adjudication staff separate from the Administrator's office to provide legal assistance to the Hearing Board. Upon filing and service of the complaint, the case becomes public. The panel chair presides over pre-hearing matters. In addition to complaints alleging misconduct filed pursuant to Supreme Court Rule 753, and complaints alleging conviction of a criminal offense under Rule 761, the Hearing Board also entertains petitions for reinstatement pursuant to Rule 767, petitions for transfer to inactive status because of impairment pursuant to Rule 758, and petitions for restoration to active status pursuant to Rule 759. Chart 14 shows the activity before the Hearing Board in 2009. There were 137 cases added to the Hearing Board's docket in 2009. Of those, 131 were initiated by the filing of a new disciplinary complaint.

**Chart 14: Matters Before the Hearing Board in 2009**

<b>Cases Pending on January 1, 2009</b> .....	170
<b>Cases Filed or Reassigned in 2009:</b>	
<i>Disciplinary Complaints Filed:</i> *	
➤ Rules 753, 761(d).....	131
<i>Reinstatement Petitions Filed:</i>	
➤ Rule 767.....	4
<i>Petition for Restoration to Active Status Filed:</i>	
➤ Rule 758 .....	1
<i>Remanded by Supreme Court for limited hearing regarding restitution         on Rule 767 Reinstatement Petition .....</i>	1
<b>Total New Cases Filed or Reassigned</b> .....	137
<b>Cases Concluded During 2009</b> .....	135
<b>Cases Pending December 31, 2009</b> .....	172
* The number of cases filed at Hearing is significantly lower than the number of matters voted by Inquiry, because multiple investigations against a particular attorney in which the Inquiry Board has voted a complaint are consolidated into a single complaint for purposes of filing at the Hearing Board.	

Chart 15 shows the demographics of the 131 lawyers who were the subject of a formal complaint in 2009.

**Chart 15: Profile of Lawyers Charged in Disciplinary Complaints Filed in 2009**

<b>Years in Practice</b>	<b># of Complaints Filed</b>	<b>% of Complaints Filed</b>	<b>% of Lawyer Population</b>
Fewer than 5 .....	4.....	3%.....	16%
Between 5 and 10.....	11.....	8%.....	14%
Between 10 and 20 .....	35.....	28%.....	27%
Between 20 and 30 .....	35.....	26%.....	23%
30 or more.....	46.....	35%.....	20%
<b>Age:</b>			
21-29 years old.....	0.....	0%.....	7%
30-49 years old.....	42.....	32%.....	52%
50-74 years old.....	86.....	66%.....	39%
75 or more years old .....	3.....	2%.....	2%
<b>Gender:</b>			
Female .....	10.....	8%.....	35%
Male .....	121.....	92%.....	65%

Chart 16 shows the types of misconduct alleged in the 131 disciplinary complaints filed during 2009, and Chart 17 indicates the areas of practice in which the alleged misconduct arose. The allegations of fraudulent or deceptive activity, failure to communicate and neglect of a client's case, most frequently seen in initial charges as reported in Charts 9 and 10, are also among the most frequently charged in formal complaints.

**Chart 16: Types of Misconduct Alleged in Complaints Filed Before Hearing Board in 2009**

<i>Type of Misconduct</i>	<i>Number of Cases*</i>	<i>% of Cases Filed*</i>	<i>Type of Misconduct</i>	<i>Number of Cases*</i>	<i>% of Cases Filed*</i>
Fraudulent or deceptive activity .....	47	36%	Misrepresentation to third persons .....	6	5%
Failure to communicate with client .....	42	32%	Not abiding by client's decision or taking unauthorized action on client's behalf .....	6	5%
Neglect/lack of diligence .....	40	31%	Aiding unauthorized practice by nonlawyer ...	4	3%
In many cases where neglect was charged, the neglect was accompanied by one or both of the following:			Unauthorized practice after failure to register	4	3%
Misrepresentation to client .....	23		Improper commercial speech, including improper direct solicitation .....	3	2%
Failure to return unearned fees .....	14		Improper communication with a represented person .....	3	2%
Improper handling of trust funds .....	32	24%	Assisting client in criminal/fraudulent conduct .....	2	2%
Criminal conduct/conviction of lawyer .....	23	18%	Breach of client confidences .....	2	2%
Conflict of interest .....	21	16%	False statement about judge .....	2	2%
Rule 1.7: concurrent conflicts .....	10		Improper threat of prosecution .....	2	2%
Rule 1.8(a): improper business transaction with client .....	1		Improper withdrawal from employment without court approval or avoiding prejudice to client .....	2	2%
Rule 1.8(c): improper instrument benefiting the lawyer .....	5		Inducing/assisting another to violate rules .....	2	2%
Rule 1.8(d): improper financial assistance to client .....	2		Unauthorized practice after MCLE removal ...	2	2%
Rule 1.8(h): improper limitation on client's ARDC complaint .....	1		Bad faith avoidance of student loan .....	1	1%
Rule 1.9: successive conflicts .....	2		Failure to report another lawyer's misconduct	1	1%
False statement or failure to respond in bar admission or disciplinary matter .....	21	16%	Failure to maintain records under Rule 769 ...	1	1%
Excessive or unauthorized fees .....	17	13%	Failure to supervise employees .....	1	1%
Offering false evidence or making false statements to tribunal .....	15	11%	Practicing in a jurisdiction without authority ..	1	1%
Pursuing/filing frivolous or non-meritorious claims or pleadings .....	11	8%	Unauthorized practice after suspension .....	1	1%
Failure to provide competent representation .	10	8%			

\* Totals exceed 131 disciplinary cases and 100% because most complaints allege more than one type of misconduct.

**Chart 17: Subject Area Involved in Complaints Filed Before Hearing Board in 2009**

<i>Subject Area</i>	<i>Number of Cases*</i>	<i>% of Cases Filed*</i>	<i>Subject Area</i>	<i>Number of Cases*</i>	<i>% of Cases Filed*</i>
Tort .....	25	19%	Deceptive, threatening or offensive conduct not arising out of a legal representation.....	5	4%
Real Estate.....	23	18%	Immigration .....	5	4%
Criminal Conduct/Conviction .....	20	15%	Bankruptcy.....	5	4%
Domestic Relations .....	18	14%	Corporate Matters.....	3	2%
Probate .....	16	12%	Civil Rights.....	2	2%
Criminal .....	10	8%	Adoption.....	1	1%
WorkersøComp/Labor Relations .....	8	6%	Patent/Trademark .....	1	1%
Contract.....	8	6%	Debt Collection .....	1	1%

\*Totals exceed 131 disciplinary complaints and 100% because many complaints allege several counts of misconduct arising in different areas of practice.

Chart 18 shows the type of action by which the Hearing Board concluded 122 disciplinary cases and 13 reinstatement petitions during 2009.

**Chart 18: Actions Taken by Hearing Board in Matters Terminated in 2009**

<b>A. Disciplinary Cases: Rules 753 &amp; 761(d)</b>	
Case closed by filing of petition for discipline on consent other than disbarment.....	48
Recommendation of discipline after hearing ..	50
Case closed by filing of motion for disbarment on consent.....	8
Case closed by administration of a reprimand to respondent.....	7
Recommendation of dismissal after hearing.....	1
Complaint dismissed with prejudice .....	2
Case closed by death of respondent .....	3
Case closed by filing of petition for transfer on consent to disability inactive status .....	3
<b>Total Disciplinary Cases .....</b>	<b>122</b>
<b>B. Reinstatement Petitions: Rule 767</b>	
Recommendation of Petition denied .....	1
Recommendation of Petition allowed with conditions.....	6
Petition withdrawn.....	4
Petition stricken w/out prejudice .....	1
Recommendation of Petition allowed after hearing on remand on restitution.....	1
<b>Total Matters Terminated .....</b>	<b>135</b>

Of the 122 disciplinary cases closed in 2009, 52% were closed by the filing in the Supreme Court of a pleading as an agreed matter for

discipline on consent. Of the remaining 51 disciplinary cases that went to hearing, nearly half of those matters proceeded as default hearings because the lawyer-respondent did not appear and was not represented by counsel.

#### D. Review Board Matters

Once the Hearing Board files its report in a case, either party may file a notice of exceptions to the Review Board, which serves as an appellate tribunal. The Review Board is assisted by a legal staff hired by the Commission that is separate from the Administratorø's office and the Hearing Boardø's adjudication staff. Chart 19 shows activity at the Review Board during 2009.

**Chart 19: Actions Taken by the Review Board in 2009**

<b>Cases pending on January 1, 2009 .....</b>	<b>29</b>
<b>Cases filed during 2009:</b>	
Exceptions filed by Respondent .....	16
Exceptions filed by Administrator .....	12
Exceptions filed by both .....	2
<b>Total.....</b>	<b>30</b>
<b>Cases decided in 2009:</b>	
Hearing Board reversed on findings and/or sanction .....	19
Hearing Board affirmed .....	10
Notice of exceptions withdrawn .....	1
Notice of exceptions stricken .....	1
<b>Total .....</b>	<b>31</b>
<b>Cases pending December 31, 2009 .....</b>	<b>28</b>

## E. Supreme Court Matters

### 1. Disciplinary Cases

The Supreme Court has sole authority to sanction attorneys for misconduct, except for a reprimand, which can be imposed in a disciplinary case without order of the Court by either the Hearing or Review Board. In 2009, there were 137 disciplinary sanctions issued against 134 lawyers. The Court entered 130 sanctions against 127 lawyers (three lawyers were disciplined twice in 2009) and the Hearing Board administered seven reprimands. See Chart 18. Other than Board reprimands, the Hearing and Review Board issue reports that include recommendations to the Supreme Court for disposition. Chart 20 reflects the nature of the orders entered.

**Chart 20: Disciplinary Sanctions Ordered by the Supreme Court in 2009**

Disbarment.....	26
Suspension .....	73*
Probation.....	14
Censure.....	12
Reprimand.....	5
Total	130

\*In addition to the 73 suspensions, the Court also ordered 7 interim suspensions, as reported in Chart 22 at (F) and (J).

An element frequently seen in discipline cases is that the lawyer-respondent is impaired by an addiction to alcohol or other substance or suffers some type of mental disease or disorder. From data collected by ARDC staff, there has been a steady increase since 1998 in the number of disciplined lawyers identified as suffering from an impairment, either suspected or fully admitted by the lawyer. In a study of lawyers sanctioned between 1998 and 2007, the number of sanctioned lawyers with impairments rose from 24% for 1998-2002 to 32% for 2003-2007. See *ARDC 2007 Annual Report*, at Page 28. In 2009, 34.6% of the sanctioned lawyers were identified as suffering from a substance or mental impairment, with the number of lawyers impaired by mental disorders (25) outnumbering those with chemical dependency problems (20). This shift from impaired lawyers suffering the effects of alcohol and drug abuse to lawyers impaired by psychological problems was also reported by The Lawyers Assistance Program (LAP). LAP reported that in 2009, 44% of LAP's caseload involved psychological issues versus chemical dependency problems (26%) and that depression is the single most frequently reported problem. See *LAP's 2009 Annual Report* at <http://www.illinoislap.org/annual-report>.

Supreme Court Rule 772 permits an attorney to be placed on probationary status when the lawyer has committed an act of professional misconduct occasioned by a disability such as substance abuse or mental illness or by practice deficiency. The ARDC did a study of the 25-year period since the Supreme Court first imposed probation in a disciplinary case in 1981 and found that probation was imposed in 10.25% of the lawyers sanctioned during that time period. Fifty-nine percent of the lawyers placed on probation during the past 25 years suffered from substance abuse/dependence or a mental impairment. See *ARDC 2006 Annual Report*, at Page 17. The study found that attorneys placed on probation were likely to successfully comply with the terms of probation 86.4% of the time. Of the 134 lawyers disciplined in 2009, 14 lawyers or 10.7% were placed on probation; seven were placed on probation because of law office management deficiencies, four because of a mental impairment, and three because of substance abuse. In 2009, the Court revoked probation in two matters where the lawyers were placed on probation because of substance abuse or mental impairment and failed to comply with treatment or reporting conditions. The ARDC is currently monitoring 26 lawyers placed on disciplinary probation, 20 of which have impairment conditions. In addition to monitoring lawyers on disciplinary probation, the ARDC is currently monitoring five lawyers who were conditionally admitted under Supreme Court Rule 701.

Charts 21A and 21B provide demographic information on the 134 lawyers disciplined in 2009 (the 127 lawyers sanctioned by the Court and the seven lawyers reprimanded by the Hearing Board).

**Chart 21A: County of Practice of Lawyers Disciplined in 2009**

County	Number Disciplined	County	Number Disciplined
Cook.....	60	Marshall.....	1
Out-of-State.....	26	DeKalb.....	1
DuPage.....	11	Cumberland.....	1
Lake.....	4	Vermilion.....	1
Sangamon.....	3	Champaign.....	1
Kane.....	3	Edwards.....	1
McHenry.....	3	Will.....	1
McHenry.....	3	McDonough.....	1
Winnebago.....	3	LaSalle.....	1
Madison.....	2	Knox.....	1
Rock Island.....	2	Macon.....	1
Saint Clair.....	2	Williamson.....	1

**Chart 21B: Profile of Lawyers Disciplined in 2009**

Years in Practice	# of Lawyers Discipline	% of Lawyers Disciplined	% of Lawyer Population
Fewer than 5.....	1.....	1%.....	16%
Between 5 and 10.....	13.....	10%.....	14%
Between 10 and 20.....	33.....	25%.....	27%
Between 20 and 30.....	37.....	27%.....	23%
30 or more.....	50.....	37%.....	20%
<b>Age:</b>			
21-29 years old.....	1.....	1%.....	7%
30-49 years old.....	43.....	32%.....	52%
50-74 years old.....	89.....	66%.....	39%
75 or more years old.....	1.....	1%.....	2%
<b>Gender:</b>			
Female.....	14.....	10%.....	35%
Male.....	120.....	90%.....	65%

Disciplinary cases reach the Court in several ways. Chart 22 reflects the disciplinary actions taken by the Supreme Court in the varying procedural contexts in which those matters are presented.

**Chart 22: Orders Entered by Supreme Court in Disciplinary Cases in 2009**

<p><b>A. <u>Motions for disbarment on consent: Rule 762(a)</u></b>  Allowed..... 16  Denied without prejudice ..... <u>1</u>  Total ..... 17</p>	<p><b>E. <u>Motions to approve and confirm report of Hearing Board: Rule 753(d)(2)</u></b>  Allowed..... 26  Denied..... <u>0</u>  Total..... 26</p>
<p><b>B. <u>Petitions for discipline on consent: Rule 762(b)</u></b>  Allowed:  Suspension..... 31  Suspension stayed in part,  probation ordered ..... 3  Suspension stayed in its entirety,  probation ordered ..... 5  Censure ..... <u>9</u>  Total..... 48  Denied..... 0  Total ..... 48</p>	<p><b>F. <u>Petitions for interim suspension due to conviction of a crime: Rule 761(b)</u></b>  Rule enforced and lawyer suspended ..... 3  Rule discharged ..... <u>0</u>  Total ..... 3</p>
<p><b>C. <u>Petitions for leave to file exceptions to report and recommendation of Review Board: Rules 753(e)(1) and 761</u></b>  Allowed and more discipline imposed  than recommended by Review Board..... 4  Denied; dismissal as recommended  by Review Board ..... 1  Denied and same discipline imposed  as recommended by Review Board ..... <u>7</u>  Total..... 12</p>	<p><b>G. <u>Petitions for reciprocal discipline: Rule 763</u></b>  Allowed..... 17  Denied..... <u>0</u>  Total ..... 17</p>
<p><b>D. <u>Motions to approve and confirm report of Review Board: Rule 753(e)(6)</u></b>  Allowed..... 10  Denied, and more discipline imposed  than recommended by Review Board..... <u>2</u>  Total ..... 12</p>	<p><b>H. <u>Petitions for reinstatement: Rule 767</u></b>  Allowed with conditions ..... 2  Petition withdrawn..... 4  Remanded to Hearing Board..... <u>1</u>  Total ..... 7</p>
	<p><b>I. <u>Motions to revoke probation: Rule 772</u></b>  Allowed, probation revoked  and respondent suspended ..... 2  Denied ..... <u>0</u>  Total ..... 1</p>
	<p><b>J. <u>Petitions for interim suspension: Rule 774</u></b>  Rule enforced and lawyer suspended ..... 4  Rule discharged ..... <u>0</u>  Total ..... 4</p>

Chart 23 tracks the type of misconduct that led to the sanctions entered by the Court (130) and Hearing Board reprimands administered (7) in 2009.

**Chart 23: Misconduct Committed in the 137 Disciplinary Cases Decided in 2009<sup>1</sup>**

Types of Misconduct	Number of Cases in Which Sanctions Were Imposed				
	Disbarment	Suspension <sup>2</sup>	Probation <sup>3</sup>	Censure	Reprimand <sup>4</sup>
<b>Total Number of Cases:</b>	<b>26</b>	<b>81</b>	<b>6</b>	<b>12</b>	<b>12</b>
Improper management of client or third party funds, including commingling and conversion.....	10	23	0	0	2
Neglect or lack of diligence .....	8	29	1	5	3
Fraudulent or deceptive activity.....	17	46	2	3	2
Criminal conduct by the lawyer .....	13	19	3	0	1
Failure to communicate with client, including failure to communicate basis of a fee .....	7	30	2	8	4
Failure to provide competent representation .....	0	9	1	4	2
Fee violations, including failure to refund unearned fees .....	6	19	0	2	1
Failure to cooperate with or false statement to disciplinary authority.....	8	9	1	1	3
Not abiding by a client's decision concerning the representation or taking unauthorized action on the client's behalf .....	1	5	0	2	0
Improper withdrawal, including failure to return file.....	3	7	0	1	0
Conflict of interest (1.7(a): between current clients) .....	1	2	0	2	0
Conflict of interest (1.8(d): advancing/guaranteeing improper financial assistance to client).....	0	1	0	1	0
Conflict of interest (1.7(b): lawyer's own interests) .....	2	5	0	0	1
Conflict of interest (1.8(a): improper business transaction with client) .....	0	2	0	1	1
Conflict of interest (1.9: former client).....	0	3	0	1	0
Conflict of interest (1.10: imputed disqualification).....	0	1	0	0	0
Inducing/assisting another lawyer's misconduct .....	0	2	0	1	0
Filing false, frivolous or non-meritorious claims or pleadings or presenting false evidence.....	2	7	0	2	1
Counseling/assisting a client in criminal or fraudulent conduct.....	0	2	0	0	0
Misrepresentation to a tribunal.....	3	3	0	1	0
Misrepresentation to clients to cover up neglect.....	6	15	0	1	0
Aiding the unauthorized practice of law by nonlawyer.....	0	1	0	1	0
Aiding disbarred lawyer in unauthorized law practice.....	0	1	0	0	0
False statements about judge or public official .....	1	1	0	2	0
Improper gift or loan to judge.....	0	1	0	0	0
Misrepresentation to third persons .....	1	2	0	0	0
Improper employment where lawyer may be witness.....	0	1	0	0	0
Breach of client confidences.....	0	0	0	0	0
Practice after failure to register .....	2	3	0	0	0
Practice after removal for noncompliance w/MCLE .....	0	1	0	0	0
Practice during period of suspension.....	0	1	0	0	0
Improper solicitation or advertising.....	0	2	0	0	0
Improper communication with represented person.....	0	1	0	0	1
Failure to supervise lawyer's employees .....	1	0	0	0	1
Failure to comply with Rule 769.....	0	1	0	0	0

1 Totals exceed 137 cases because in most cases more than one type of misconduct was found.  
2 Includes 71 suspensions and eight suspensions stayed in part by probation and two probations revoked and suspension ordered.  
3 Suspensions stayed entirely by probation.  
4 Includes seven Hearing Board reprimands.



## 2. *Non-Disciplinary Actions*

In addition to activity in disciplinary cases, the Supreme Court entertains pleadings in non-disciplinary matters that affect an attorney's status. Chart 24 reflects the orders entered in such cases during 2009.

**Chart 24: *Non-Disciplinary Actions by the Supreme Court for 2009***

<b>B. Rule 758</b>	
Motion for transfer to disability inactive status on consent:	
Allowed.....	6
Denied.....	<u>0</u>
Total.....	6
<b>A. Rule 759</b>	
Petitions for restoration to active status:	
Allowed.....	1
Denied.....	<u>0</u>
Total.....	1

### 3. Registration and Caseload Trends (1995-2009)

Charts 25A and 25B show the registration and caseload trends for the past fifteen years.

**Chart 25A: Registration Growth and Disciplinary Investigations (1995-2009)**

	Number of Registered Attorneys	% of Growth Over Prior Year	Investigations Docketed	Closure By Administrator No Misconduct Alleged	Closure By Administrator After Investigation	Closure By Inquiry Board After Investigation	Complaint Voted By Inquiry Board*
1995	67,121	3.0%	6,505	1,359	5,134	73	277
1996	68,819	2.5%	6,801	1,364	4,946	76	300
1997	70,415	2.3%	6,293	1,202	5,018	81	342
1998	72,149	2.5%	6,048	1,352	4,414	58	272
1999	73,514	1.9%	5,877	1,131	4,268	69	231
2000	73,661	0.2%	5,716	1,146	4,319	87	224
2001	74,311	0.9%	5,811	1,077	4,318	55	273
2002	75,421	1.5%	6,182	1,350	4,360	96	334
2003	76,671	1.7%	6,325	1,396	4,332	61	353
2004	78,101	1.9%	6,070	1,303	4,539	90	320
2005	80,041	2.5%	6,082	1,460	4,239	102	317
2006	81,146	1.4%	5,801	1,319	4,076	76	215
2007	82,380	1.5%	5,988	1,508	4,117	125	279
2008	83,908	1.9%	5,897	1,441	4,305	104	228
2009	84,777	1.0%	5,834	1,322	3,891	79	226

\*Totals are higher than number of complaints filed because a complaint may be based on more than one investigation.

**Chart 25B: Disciplinary Proceedings (1995-2009)**

	Matters Filed With Hearing Board	Matters Concluded at Hearing Board	Matters Filed With Review Board	Matters Concluded at Review Board	Sanctions Ordered By Court
1995	113	137	35	32	148
1996	129	82	22	37	115
1997	129	131	32	24	117
1998	141	139	31	28	138
1999	123	112	28	24	116
2000	119	116	29	32	120
2001	137	129	28	28	123
2002	131	122	36	30	126
2003	141	125	35	30	137
2004	156	170	45	41	149
2005	144	134	28	47	167
2006	108	132	25	23	144
2007	144	121	32	29	120
2008	134	137	31	26	135
2009	137	135	30	31	130

## F. Illinois Supreme Court Published Disciplinary Decision

The Illinois Supreme Court issued a published opinion in one disciplinary case in 2009, *In re John O. Cutright*, 233 Ill.2d 474, 910 N.E.2d 581, 331 Ill.Dec. 172 (Ill. June 4, 2009). Mr. Cutright, of Cumberland County, engaged in three separate acts of misconduct. First, he agreed to represent a woman who was serving as the executor of the estate of her late husband. The estate included an interest in a company named Triple C Thorostock. Later, an 86-year-old client came to the lawyer's office and told him that she wanted to forgive a \$312,900 debt owed to her by Triple C Thorostock. Mr. Cutright prepared a will and another document that served to forgive the debt. The client signed the documents. The lawyer never asked the client about her financial situation before drafting the documents. At the time of the drafting, the client was in the early stages of Alzheimer's disease. Although Mr. Cutright claimed that she was of sound mind, a probate court later determined that she lacked testamentary capacity. Second, the lawyer reviewed and signed, as paid preparer, certain income tax returns for companies in which now-disbarred Cumberland County Judge Robert Cochonour had an interest. Mr. Cutright, or persons in his office, also reviewed several tax returns for a probate estate in which the judge was acting as executor, along with the judge's individual tax returns for certain years. Mr. Cutright never billed the judge for these tax services. During this time period, however, he routinely appeared before the judge, not disclosing to opposing counsel that he was, without remuneration, reviewing tax returns in which the judge had an interest. Finally, as alleged in the last count, Mr. Cutright represented an executor of a decedent's estate. Litigation of a partition issue was necessary. The litigation resulted in the estate receiving \$14,095.50. A dispute later arose between the heirs. After the dispute arose, Mr. Cutright took no action on the estate for an 11-year period and failed to close the estate in a timely manner. The Hearing Board recommended that he be suspended for 120 days. The Review Board later recommended a six-month suspension. The Court, however, increased the recommended period of discipline. Mr. Cutright, who was licensed to practice in 1967, was suspended for two years.

## G. Duty to Report Lawyer Misconduct: Lawyer Reports: 2003-2009

Rule 8.3 of the Rules of Professional Conduct requires Illinois lawyers to report certain instances of lawyer or judicial misconduct. The Illinois Supreme Court's opinion in *In re Himmel*, 125 Ill.2d 531, 533 N.E.2d 790 (1988), established that an attorney's failure to report his unprivileged knowledge of another attorney's serious wrongdoing warranted a suspension from the practice of law. The attorney was prosecuted under Rule 1-103 of the Illinois Code of Professional Responsibility, superseded in 1990 by Rule 8.3, a substantively identical ethics standard. The adoption of the 2010 Rules did not substantially change the duties of Rule 8.3.

Since the *Himmel* decision, the Illinois ARDC has received more than 11,000 reports filed by lawyers and judges against members of the Illinois bar. (See *2007 Annual Report of the ARDC*, pages 25-27, for a twenty-year history of *Himmel* reporting statistics.) An average of 500 reports has been made each year. Although investigations opened as a result of attorney reporting are usually concluded without the filing of formal disciplinary charges, an average of 20.3% of the formal disciplinary caseload between 2003 and 2009 included a charge generated as a result of a lawyer or judge filing an attorney report. Since 2007, more than a quarter of formal complaints included at least one investigation initiated from a report made by an attorney.

The chart below tracks attorney report filings from 2003 through 2009.

**Attorney Reports: 2003-2009**

Year	Number of Grievances	Numbers of Attorney Reports	Percent of Attorney Reports to Grievances	Number of Complaints Voted	Number of Complaints Voted Involving Attorney Reports	Percent of Attorney Reports to Formal Complaints
2003	6,325	510	8.1%	353	44	12.5%
2004	6,070	503	8.3%	320	42	13.1%
2005	6,082	505	8.3%	317	47	14.8%
2006	5,800	435	7.5%	217	35	16.1%
2007	5,988	525	8.8%	284	82	28.9%
2008	5,897	542	9.1%	228	69	30.2%
2009	5,837	489	7.7%	226	60	26.5%
<b>Totals for 2003-2009</b>	41,999	3,509		1,945	379	
<b>Average For 2003-2009</b>	6,000	495	8.3%	278	54	20.3%

## V. Client Protection Program Report

The Supreme Court of Illinois created the Client Protection Program in 1994 to reimburse clients who lost money as the result of the dishonest conduct of an Illinois lawyer who has been disciplined or is deceased. The Program does not cover losses resulting from professional negligence or malpractice and does not consider claims involving fee or contract disputes. Commission Rules 501 through 512 govern the administration of the Program.

The purpose of the Client Protection Program is to promote public confidence in the administration of justice and the integrity of the legal profession. The Program was originally part of the Disciplinary Fund budget, but, since 2007, the Program has been funded by an annual assessment paid by each lawyer and remitted to the Client Protection Program Trust Fund. Rule 756 sets the assessment amount at \$25 per lawyer. The per-award limit is \$75,000 and the per-lawyer limit is \$750,000.

In light of the separate, stable funding provided to the Program by the per-lawyer assessment, and in order to provide a true picture of the cost of the Program, the Commission determined that it was appropriate for the Program to bear its own administrative costs. In 2009, the Client Protection Program Trust Fund reimbursed the Disciplinary Fund in the amount of \$249,996 for the administrative costs of the Program, including salaries, office overhead, and investigative expenses necessary to the adjudication of claims in the Client Protection Program. In 2009 the Program collected \$1,753,929 (\$1,574,140 from assessments, \$142,350 from reimbursement, and \$37,440 from interest). The Program approved 81 claims against 35 lawyers and paid a record \$1,091,473 to claimants as shown in the chart below. Eight approvals were for the \$75,000 maximum, and 36 were for \$2,500 or less. The "Claims Denied" figure for 2009 includes 70 claims that were closed as ineligible under the Rules (involved lawyer neither disciplined nor deceased) or withdrawn, and six claims that were closed after the involved lawyer reimbursed the claimant's loss. The six claims reimbursed by the involved lawyers amounted to

approximately \$18,350. The claims concluded in a given year, as shown in the chart below, may include claims filed in prior years and carried over.

***Client Protection Program Claims: 2002-2009***

Year	Claims filed	# Claims Approved	# Claims Denied	For Claims Approved, # Respondent Attys	Total Amounts Paid
2002	187	57	86	31	\$215,564
2003	208	68	83	31	\$477,595
2004	357	153	113	40	\$617,772
2005	242	179	132	46	\$951,173
2006	222	111	69	38	\$843,054
2007	217	90	138	44	\$697,358
2008	224	102	122	56	\$1,029,220
2009	188	81	125	35	\$1,091,473

The chart below provides a summary of the claims approved in 2009, by type of misconduct and area of law. For the type of misconduct involved in the 81 approved claims, unearned fee claims constituted 69% of approvals and 23% of payouts; conversion claims were 24% of approvals and 55% of payouts; improper loan claims were 4% of approvals and 8% of payouts; and fraud claims were 3% of approvals and 14% of payouts.

***Classification of Approved Client Protection Claims in 2009***

<b><i>Type of Misconduct:</i></b>	
Failure to refund unearned fees .....	56
Conversion .....	20
Improper Loan .....	3
Fraud .....	2
<b><i>Area of Law</i></b>	
Bankruptcy .....	23
Labor Employment .....	13
Family Law.....	7
Personal Injury/WorkersøComp .....	6
Criminal/Quasi-Criminal.....	6
Probate/Trusts.....	6
Real Estate.....	5
Immigration.....	5
Contract.....	2
Investments.....	2
Debt Collection.....	2
Corporate.....	2
Civil Rights.....	1
Tax.....	1

## VI. Commission Appointments

### A. ARDC Commissioners

#### 1. *Retirement of John P. Kujawski*

John P. Kujawski, who served as an ARDC Commissioner for nine years, concluded his service as a Commissioner, after reaching the maximum number of terms of service. Mr. Kujawski, a trial lawyer in O'Fallon, brought to the Commission the experience and insights that he gained as a respected prosecutor for the Office of the St. Clair County State's Attorney before entering private practice. He is a nationally recognized trial lawyer who handles Federal Employers' Liability Act (FELA) cases, Illinois and Missouri Workers' Compensation matters, medical malpractice claims, product liability cases, maritime negligence and general negligence issues.

During his tenure on the Commission, Mr. Kujawski was active in fostering the development of ARDC educational programs throughout the state in order to inform lawyers about attorney regulation and professional ethics and to minimize inadvertent practice mistakes.

#### 2. *Appointment of James R. Mendillo as Commissioner*

The Illinois Supreme Court appointed James R. Mendillo of Belleville to serve as a Commissioner of the ARDC, effective January 1, 2010. Mr. Mendillo is a partner in the Belleville firm of *Freeark, Harvey, Mendillo, Dennis, Wuller, Cain & Murphy, PC*. A trial attorney, Mr. Mendillo has substantial experience in the following types of cases: automobile; employment discrimination; construction accidents; insurance and bad faith; products liability; railroad grade crossings; Fair Credit Reporting Act; legal, dental, and medical malpractice; federal tort claims; and domestic relations. A past President of the St. Clair County Bar Association, he is also a member of the Bar Association of Metropolitan St. Louis, the St. Clair County and Illinois State Bar Associations, the Missouri Bar Association, the

Illinois and American Trial Lawyer Associations. He received his undergraduate degree from the University of New Haven and received a J.D. from the Washington University Law School in 1974. He is admitted in both Illinois and Missouri. Mr. Mendillo previously served for over three years as an ARDC Hearing Board member.

#### 3. *R. Michael Henderson Named Commission Vice-Chairperson*

Effective January 1, 2010, the Court appointed Commissioner R. Michael (Mickö) Henderson as Vice-Chairperson of the ARDC Commissioners. Mr. Henderson's appointment marks the first time in ARDC history that the Court has appointed a Vice-Chairperson. He has long served the ARDC with distinction, first being appointed a Commissioner on January 1, 2003, to complete the term of the Honorable Tobias G. Barry. Mr. Henderson is of counsel to the firm of *Quinn, Johnston, Henderson, Pretorius & Cerulo*, located in Peoria and Springfield. He is a well-respected trial and appellate lawyer who defends product liability claims (including automotive, aviation, agricultural, consumer and industrial issues), professional negligence matters (including physician and attorney malpractice), and defamation actions. Mr. Henderson is a Past President of the Peoria County Bar Association, a Past-President of the Illinois Association of Defense Trial Counsel, a member of the Illinois State Bar Association Board of Governors from 1988 to 1994, a former Secretary of the Illinois State Bar Association, a member of the Illinois Bar Foundation Board of Directors for several years, and the President of the Lawyers Trust Fund of Illinois from 1997 to 1999. He received his undergraduate degree from the University of Illinois and earned his J.D. from the Loyola University School of Law in Chicago in 1969.

### B. Review Board

#### 1. *Death of John W. Rapp, Jr.*

On February 26, 2010, the Commission was saddened by the death of John W. Rapp, Jr., who served as chair of the Review Board. Justice

Rapp was a retired judge from Carroll County who served as a circuit judge in Carroll County beginning in 1970, and was Chief Judge of the 15<sup>th</sup> Circuit Court from 1982 until 1998, when he was appointed to the Illinois Appellate Court for the Second District. He was admitted in 1965 and received his J.D. from Loyola University School of Law in Chicago. Justice Rapp had been a member of the Review Board since January 2002 and was appointed chair in 2004.

### **2. David F. Rolewick Named as Chair**

The Court appointed David F. Rolewick as chair of the Review Board after the passing of John W. Rapp, Jr. A founding partner of the Wheaton law firm of *Rolewick & Gutzke, P.C.*, Mr. Rolewick has served on the Review Board since 2006. Prior to his appointment to the Review Board, he was a Hearing Board chair beginning in 1994. In 2001, he was appointed by the Illinois Supreme Court to serve as Chairman of the Special Supreme Court Committee on Professionalism, and he was then named as Chairman of the Supreme Court Commission on Professionalism. He has served in numerous positions in the Illinois State Bar Association and in 2006, he was elected to serve as a Director of the Illinois Bar Foundation. Mr. Rolewick was admitted to practice in Illinois and received his J.D. in 1971 from the Loyola University School of Law in Chicago.

### **3. Appointment of Keith E. Roberts, Jr.**

In March 2010, Keith E. (öChuckö) Roberts, Jr. was appointed by the Court to fill the vacancy created by the death of John W. Rapp, Jr. Mr. Roberts had been a Hearing Board chair since 2007. He is the name partner in the Wheaton law firm of *Roberts and Associates, P.C.* where he concentrates his practice in commercial litigation and family law. Mr. Roberts served as President of the DuPage County Bar Association (2005-06) and was appointed to the ABA House of Delegates in 2004. He was admitted in 1983 and received his J.D. from Northern Illinois University.

## **C. Commission Lawyers**

### ***Death of Rosalyn B. Kaplan***

On March 5, 2010, the Commission was saddened by the death of Rosalyn B. Kaplan, Chief of Appeals and Ancillary Litigation for the ARDC. Ms. Kaplan came to the ARDC in February 1995, and was instrumental in the creation of an appellate litigation division at the ARDC. Before joining the ARDC, Ms. Kaplan worked for the Illinois Attorney General's Office and later became Solicitor General of the State of Illinois in 1991, where she oversaw the office's criminal and civil appeals divisions for four years under former Attorney General Roland W. Burris. At the ARDC, Ms. Kaplan supervised appeals for the Commission and reviewed all Supreme Court filings. She was a former president of the Illinois Appellate Lawyers Association (1998-99) and a long-time member of the ISBA Administrative Law Section Council. Ms. Kaplan was a 1981 graduate of The John Marshall Law School.

## **VII. Financial Report**

The Commission engaged the services of Legacy Professionals LLP to conduct an independent audit as required by Supreme Court Rule 751(e)(6). The audited financial statements for the year ended December 31, 2009, including comparative data from the 2008 audited statements, are attached. In addition, a five-year summary of revenues and expenditures as reported in the audited statements appears after the text in this section.

The Commission continues to recognize its responsibility to prudently administer the Disciplinary Fund. At the time that the Commission sought the present registration fee structure, which became effective for the 2007 registration year, it was projected that the requested fee structure would support Commission operations through at least 2010. Current projections suggest that the present fee structure may support Commission operations through 2012, depending on the impact of the recent economic recession.

While recent economic conditions have been

very challenging, 2009 registration receipts increased by approximately 2% over 2008, higher than the 1% increase in the underlying fee paying population. In addition, year to date registration compliance for the year 2010 compares very favorably to the 2009 experience. 2,858 fee paying attorneys were recently removed from the Master Roll for failure to register for the year 2010, compared to 5,668 removals a year ago. This represents a 50% reduction in removals. We believe this significant reduction is largely due to improvements in our registration process, including significantly expanded efforts to make the registration process more efficient and user friendly. This includes the use of technology and other efforts to aggressively reach out to attorneys prior to the removal date. We will make additional improvements and enhancements in the years ahead.

On February 23, 2009, the ARDC removed from the Master Roll 5,668 fee paying attorneys who had not registered for the year 2009. This represented a material reduction from the 7,236 fee paying lawyers that were removed on February 11, 2008 for the year 2008. By the end of the 2009 registration cycle on October 31, 2009, the number of fee paying lawyers who still had not registered was 1,132, down dramatically from the 5,668 original removal number and up from 961 for the previous year. (See Chart 7 on 14). As one can see from the 2009 registration experience, many attorneys initially removed from the Master Roll later register and pay their fees and accrued penalties, and are therefore restored to the Roll. In this economy, it is unclear whether lawyers recently removed from the Master Roll will return in the same proportion as in 2009, though it is encouraging that many removed in 2010 have now registered, with the number still unregistered reduced to 1,813, significantly less than the initial removal amount of 2,858.

On January 8, 2009, the ARDC removed 680 fee paying attorneys who did not report compliance with MCLE requirements. This

covered all attorneys with a last name between the letters A through M. 292 of those attorneys have now reported compliance and have been returned to the Master Roll. The remaining 388 attorneys represent approximately \$69,000/year in lost ARDC revenues. On January 15, 2010, the ARDC removed 311 fee paying attorneys, covering the letters N through Z. 78 of those attorneys have now reported compliance. The remaining 233 attorneys represent approximately \$44,000/year in lost ARDC revenues.

The Commission continues to hold the line on expenses. Staff size has remained constant during 2009 and is at its lowest total since 2001. Experience suggests, however, that the ARDC caseload may increase in the years following the recent economic downturn, much as it did in the years following the recessionary period of 2001-2003. In the years following that recession, staff size was increased modestly to meet record caseload demands. The Commission will continue to manage its expenditures carefully.

Since the adoption of the current fee structure effective in 2007, funding for the Client Protection Program (CPP) comes from the dedicated \$25 portion of the \$289 annual registration fee paid by active status attorneys who have been registered for 3 years or more. During 2009, the Commission determined that CPP expenses should be paid from that separate Client Protection Fund instead of the ARDC Disciplinary Fund. (See Page 31.) For 2009, the Client Protection Fund reimbursed the Disciplinary Fund \$249,996 for the administrative costs of the Program.



**ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION  
OF THE SUPREME COURT OF ILLINOIS**

**FIVE YEAR SUMMARY OF OPERATIONS**

	<u>2009</u>	<u>2008</u>	<u>2007</u>	<u>2006</u>	<u>2005</u>
<b>REVENUE</b>					
Investment income					
Interest	\$ 404,491	\$ 802,501	\$ 817,805	\$ 694,296	\$ 463,744
Net unrealized appreciation (depreciation) in fair value of investments	(88,650)	(23,251)	197,389	(9,666)	(10,906)
Registration and program fees and delinquent charges	16,595,386	16,290,057	15,926,372	12,367,335	12,158,815
Costs reimbursements collected	81,735	103,721	94,244	80,237	128,036
Administrative expense reimbursement from Client Protection Program	249,996	238,970	-	-	-
Client Protection Program reimbursements	142,350	51,706	25,058	43,543	34,785
Total revenue	<u>17,385,308</u>	<u>17,463,704</u>	<u>17,060,868</u>	<u>13,175,745</u>	<u>12,774,474</u>
<b>EXPENSES</b>					
Salaries and related expenses	10,092,645	9,583,868	8,877,241	8,671,001	8,688,348
Travel expenses	112,305	119,617	128,499	93,443	105,353
Library and continuing education	238,515	258,008	230,042	174,870	152,474
General expenses and office support	1,741,152	1,988,682	1,840,648	1,931,622	1,953,714
Computer expenses	237,875	225,154	304,775	236,231	212,009
Other professional and case-related expenses	789,303	899,202	939,268	944,733	983,152
Client Protection Program direct expenses	1,106,343	1,033,592	698,829	843,305	951,173
Administrative expense reimbursement to Registration and Discipline	249,996	238,970	-	-	-
Depreciation and amortization expense	186,105	170,149	157,942	154,605	171,091
Total expenses	<u>14,754,239</u>	<u>14,517,242</u>	<u>13,177,244</u>	<u>13,049,810</u>	<u>13,217,314</u>
CHANGE IN NET ASSETS BEFORE EFFECT OF ADOPTION OF FASB STATEMENT No. 158	2,631,069	2,946,462	3,883,624	125,935	(442,840)
EFFECT OF ADOPTION OF RECOGNITION PROVISIONS OF FASB STATEMENT No. 158	-	-	(394,306)	-	-
CHANGE IN NET ASSETS	2,631,069	2,946,462	3,489,318	125,935	(442,840)
<b>UNRESTRICTED NET ASSETS</b>					
Beginning of year	<u>11,587,605</u>	<u>8,641,143</u>	<u>5,151,825</u>	<u>5,025,890</u>	<u>5,468,730</u>
End of year	<u>\$ 14,218,674</u>	<u>\$ 11,587,605</u>	<u>\$ 8,641,143</u>	<u>\$ 5,151,825</u>	<u>\$ 5,025,890</u>
<b>OTHER INFORMATION AT YEAR END</b>					
Number of active and registered attorneys	84,771	83,881	82,380	81,146	80,041
Registration fees					
More than one year and less than three years	\$ 105	\$ 105	\$ 90	\$ 90	\$ 90
More than three years	\$ 205	\$ 205	\$ 180	\$ 180	\$ 180
Inactive/out of state	\$ 105	\$ 105	\$ 90	\$ 90	\$ 90

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**2009 COMMISSIONERS**

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Derrick K. Baker, Chicago	Benedict Schwarz, II, <i>Chairman</i> , West Dundee	John Paul Kujawski, O'Fallon
John R. Carroll, LaGrange	Joan Myers Eagle, Chicago	Brian McFadden, Springfield
	R. Michael Henderson, Peoria	

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**2009 BOARD MEMBERS**

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**Review Board**

	John Walter Rapp, Jr. <i>Chairman</i>		
Daniel P. Duffy	Bruce J. Meachum	Terrence V. O'Leary	David F. Rolewick
Stuart R. Lefstein	Gordon B. Nash, Jr.	William R. Quinlan	Thomas A. Zimmerman, Jr.

**Hearing Board**

	Arthur B. Smith, <i>Chairman</i>		
	Champ W. Davis, Jr., <i>Assistant Chairman</i>		
Ziad Alnaqib*	Johnny A. Fairman, II	Arden J. Lang*	Eric A. Reeves*
Jack O. Asher, <i>Chair</i>	Tiffany M. Ferguson*	Vincent A. Lavieri*	Charles E. Reiter, III
Albert C. Baldermann*	James P. Fieweger*	Sang-yul Lee, <i>Chair</i>	Kurt E. Reitz
Joseph A. Bartholomew, <i>Chair</i>	Mark Fitzgerald*	Harvey N. Levin*	Lon M. Richey, <i>Chair</i>
Lawrence S. Beaumont, <i>Chair</i>	Andrea D. Flynn	Juliette N. Lilie*	Yolanda L. Ricks
Brian W. Bell*	Jay A. Frank*	Jose A. Lopez	Keith E. Roberts, Jr., <i>Chair</i>
Mary Pat Benz, <i>Chair</i>	William T. Gabbard*	Judith N. Lozier*	Randall Rosenbaum*
George P. Berbas*	John L. Gilbert, <i>Chair</i>	Mark D. Manetti*	Marshall R. Rowe*
Carolyn Berning*	Richard A. Green*	Claire A. Manning*	Eddie Sanders, Jr.*
Frederich J. Bingham*	Michael C. Greenfield, <i>Chair</i>	Lee A. Marinaccio*	Devlin J. Schoop
Patrick M. Blanchard, <i>Chair</i>	John A. Guzzardo, <i>Chair</i>	Richard J. Mark*	Leonard J. Schrager*
Michael L. Bolos, <i>Chair</i> *	Harry M. Hardwick*	George Marron, III*	George M. Shur*
Debra J. Braselton, <i>Chair</i> *	Marla S. Harris*	Richard Matzdorff*	Geraldine C. Simmons*
Philip G. Brinckerhoff*	Audrey Hauser*	Pamela Hammond McDavid	Modupe A. Sobo*
Kenn Brotman, <i>Chair</i>	Wendell D. Hayes	Heather A. McPherson	John M. Steed, III, <i>Chair</i>
Terrence M. Burns, <i>Chair</i>	Paul C. Hendren, <i>Chair</i>	Adrienne D. Mebane	Roma J. Stewart*
Joseph J. Calvanico	Terence M. Heuel*	James R. Mendillo*	Paula S. Tillman*
Julian C. Carey*	Roxanna M. Hipple*	Edward J. Miller*	Donald D. Torisky
Robert A. Chapman*	William E. Hornsby, Jr., <i>Chair</i>	Stephen S. Mitchell, <i>Chair</i>	Jeffrey S. Torosian
Yehuda C. Cohen*	Edward W. Huntley*	Michelle M. Montgomery*	Katheryn H. Ward*
Bonita Coleman*	Donald Ray Jackson*	Donna L. Moore*	Joycelynn Watkins-Asiyanbi*
Richard Corkery*	Ellen L. Johnson*	Ronald S. Motil	Shelby Webb, Jr.*
Bonnie K. Curran	Bernard Judge	Jessica A. O'Brien*	John B. Whiton, <i>Chair</i>
David A. Dattilo*	Joel A. Kagann*	Nam H. Paik*	Fran McConnell Williams*
William M. Dickson*	Larry R. Kane*	Roberta Parks*	Robert A. Wilson
Brigid A. Duffield, <i>Chair</i>	Mark L. Karasik, <i>Chair</i>	Kenneth A. Peters*	David A. Winter*
Ken Dunkin*	Henry T. Kelly, <i>Chair</i>	Donald A. Pettis, Sr.	Henry P. Wolff*
John F. Early	Charles E. King, Sr.*	Carl E. Poli*	Thomas P. Young*
Albert O. Eck, Jr.*	K.F. Kitchen, II*	Arlette G. Porter*	William Yu*
Matthew J. Egan*	Cheryl M. Kneubuehl*	Thomas J. Potter*	Richard W. Zuckerman, <i>Chair</i>
Ted L. Eilerman	Leo H. Konzen, <i>Chair</i>	James B. Pritikin, <i>Chair</i>	

**Inquiry Board**

Paul M. Lisnek, <i>Chair</i> *	Lee J. Schoen, <i>Chair</i> *	Thomas E. Eimerman*	Maritza Martinez*
J. William Lucco, <i>Chair</i> *	Zafar A. Bokhari*	Ralph Johnson*	Willis Rollin Tribler*
David S. Mann, <i>Chair</i> *	James D. Broadway*	Sharon L. Law*	Norvell P. West*

\*Also serves on Oversight Committee

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**2009 OVERSIGHT COMMITTEE**

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Louis T. Ascherman	William F. Carmody	Dennis S. Nudo
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**2009 CLIENT PROTECTION REVIEW PANEL**

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James D. Parsons, <i>Chair</i> *	Patrick T. Driscoll, Jr.*	Roy Ellis Hofer*	John C. Keane*
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## 2009 COMMISSION STAFF

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### 2009 ADMINISTRATOR'S STAFF

Jerome Larkin, *Administrator*

James J. Grogan, *Deputy Administrator/Chief Counsel*

Gina M. Abbateamarco, *Senior Litigation Counsel*

Christine P. Anderson, *Litigation Group Manager*

Mary F. Andreoni, *Ethics Education Counsel*

Peter L. Apostol, *Litigation Counsel*

Deborah L. Barnes, *Senior Litigation Counsel*

Lea S. Black, *Litigation Counsel*

Cass R. Buscher, *Senior Litigation Counsel*

John R. Cesario, *Sr. Counsel, Intake & Receiverships*

Denise L. Church, *Senior Litigation Counsel*

Meriel R. Coleman, *Senior Litigation Counsel*

Eileen W. Donahue, *Director, Client Protection Program*

James A. Doppke, Jr., *Senior Litigation Counsel*

Alicia F. Duncan, *Senior Litigation Counsel*

Myrrha B. Guzman, *Senior Intake Counsel*

Kenneth G. Jablonski, *Clerk*

Rosalyn B. Kaplan, *Chief, Appeals & Ancillary Litigation*

Tracy L. Kepler, *Senior Litigation Counsel*

Scott A. Kozlov, *Senior Litigation Counsel*

Albert B. Krawczyk, *Senior Litigation Counsel*

Karyn A. Laabs, *Intake Counsel*

Wendy J. Muchman, *Litigation Group Manager & Director of  
Outreach*

James L. Needles, *Senior Intake Counsel*

Vick Paul, *Director of Finance*

Thomas Peters, *Registrar*

Gary S. Rapaport, *Senior Litigation Counsel*

Scott Renfroe, *Litigation Group Manager*

Susan F. Rhodes, *Senior Counsel, Appellate Division*

Peter L. Rotskoff, *Litigation Group Manager & Director of  
Outreach*

Claudia R. Silva, *Litigation Counsel*

Melissa A. Smart, *Senior Litigation Counsel*

Steven R. Splitt, *Senior Counsel, Appellate Division*

Marita C. Sullivan, *Senior Litigation Counsel*

Richard S. Thomas, *Administrative Counsel*

Athena T. Taite, *Senior Litigation Counsel*

Eva Tramutolo, *Director, Human Resources & Administrative  
Services*

Robert J. Verrando, *Senior Litigation Counsel*

Althea K. Welsh, *Intake Group Manager*

Elliott Welsh, *Chief Information Officer*

Marcia T. Wolf, *Senior Litigation Counsel*

Allison L. Wood, *Litigation Counsel*

Dorothy B. Zimbrakos, *Senior Litigation Counsel*

Selwyn Zun, *Probation Counsel*

### 2009 ADJUDICATION STAFF

Blair S. Barbour, *Counsel, Adjudication Services*

Robert E. Davison, *Counsel, Adjudication Services*

Mary C. Gilhooly, *Counsel, Adjudication Services*

Kathryn Hall, *Counsel, Adjudication Services*

Jennifer R. Kahley, *Counsel, Adjudication Services*

Pamela J. Kempin, *Counsel, Adjudication Services*

Pamela K. Nelson, *Counsel, Adjudication Services*

Daniel N. Malato, *Senior Counsel, Adjudication Services*

Maureen E. Mulvenna, *Director, Adjudication Services*

M. Jacqueline Walther, *Counsel, Adjudication Services*

**ATTORNEY REGISTRATION AND DISCIPLINARY  
COMMISSION OF THE SUPREME COURT OF ILLINOIS**

FINANCIAL STATEMENTS

DECEMBER 31, 2009

**REPORT OF INDEPENDENT AUDITORS**

To the Commissioners of  
Attorney Registration  
and Disciplinary Commission  
of the Supreme Court of Illinois

We have audited the accompanying statements of financial position of Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois (the Commission) as of December 31, 2009 and 2008 and the related statements of activities and of cash flows for the years then ended. These financial statements are the responsibility of the Commission's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform an audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by the Commission's management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois as of December 31, 2009 and 2008 and the changes in net assets and cash flows for the years then ended, in conformity with accounting principles generally accepted in the United States of America.

*Legacy Professionals LLP*

April 16, 2010

**ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION  
OF THE SUPREME COURT OF ILLINOIS**

**STATEMENTS OF FINANCIAL POSITION**

DECEMBER 31, 2009 AND 2008

ASSETS	<u>2009</u>	<u>2008</u>
<b>CURRENT ASSETS</b>		
Cash and cash equivalents	\$ 1,078,784	\$ 546,707
Short-term investments	28,303,641	25,114,984
Accrued interest receivable	37,927	115,829
Accounts receivable	78,731	7,735
Prepaid expenses	<u>76,166</u>	<u>72,278</u>
Total current assets	29,575,249	25,857,533
PROPERTY AND EQUIPMENT - net	1,649,284	1,245,034
LONG-TERM INVESTMENTS	<u>1,703,029</u>	<u>2,034,460</u>
Total assets	<u>\$ 32,927,562</u>	<u>\$ 29,137,027</u>
<b>LIABILITIES AND NET ASSETS</b>		
<b>CURRENT LIABILITIES</b>		
Cash overdraft	\$ 1,399	\$ 1,427
Accounts payable and other accruals	340,314	322,058
Amounts held for others	1,978,522	1,497,546
Accrued vacation	366,611	345,150
Deferred registration and program fees	13,537,519	12,693,071
Current portion of net postretirement benefit obligation	12,420	9,018
Deposits	<u>7,481</u>	<u>11,665</u>
Total current liabilities	<u>16,244,266</u>	<u>14,879,935</u>
<b>LONG-TERM LIABILITIES</b>		
Net postretirement benefit obligation	633,131	614,959
Deferred rent expense	<u>1,831,491</u>	<u>2,054,528</u>
Total long-term liabilities	<u>2,464,622</u>	<u>2,669,487</u>
Total liabilities	18,708,888	17,549,422
UNRESTRICTED NET ASSETS	<u>14,218,674</u>	<u>11,587,605</u>
Total liabilities and net assets	<u>\$ 32,927,562</u>	<u>\$ 29,137,027</u>

See accompanying notes to financial statements.

**ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION  
OF THE SUPREME COURT OF ILLINOIS**

**STATEMENTS OF ACTIVITIES**

YEARS ENDED DECEMBER 31, 2009 AND 2008

	2009			2008
	<u>Registration and Discipline</u>	<u>Client Protection Program</u>	<u>Total</u>	<u>Total</u>
<b>REVENUE</b>				
Investment income				
Interest	\$ 367,051	\$ 37,440	\$ 404,491	\$ 802,501
Net (depreciation) in fair value of investments	<u>(88,650)</u>	<u>-</u>	<u>(88,650)</u>	<u>(23,251)</u>
Total investment income	278,401	37,440	315,841	779,250
Registration and program fees and delinquent charges	15,021,246	1,574,140	16,595,386	16,290,057
Cost reimbursements collected	81,735	-	81,735	103,721
Administrative expense reimbursement from Client Protection Program	249,996	-	249,996	238,970
Client Protection Program reimbursements	<u>-</u>	<u>142,350</u>	<u>142,350</u>	<u>51,706</u>
Total revenue	<u>15,631,378</u>	<u>1,753,930</u>	<u>17,385,308</u>	<u>17,463,704</u>
<b>EXPENSES</b>				
Salaries and related expenses	10,092,645	-	10,092,645	9,583,868
Travel expenses	112,305	-	112,305	119,617
Library and continuing education	238,515	-	238,515	258,008
General expenses and office support	1,741,152	-	1,741,152	1,988,682
Computer expenses	237,875	-	237,875	225,154
Other professional and case-related expenses	789,303	-	789,303	899,202
Client Protection Program direct expenses				
Awards	-	1,091,473	1,091,473	1,029,220
Administrative	-	14,870	14,870	4,372
Administrative expense reimbursement to Registration and Discipline	-	249,996	249,996	238,970
Depreciation and amortization expense	<u>186,105</u>	<u>-</u>	<u>186,105</u>	<u>170,149</u>
Total expenses	<u>13,397,900</u>	<u>1,356,339</u>	<u>14,754,239</u>	<u>14,517,242</u>
CHANGE IN NET ASSETS	2,233,478	397,591	2,631,069	2,946,462
<b>UNRESTRICTED NET ASSETS</b>				
Beginning of year	<u>10,254,233</u>	<u>1,333,372</u>	<u>11,587,605</u>	<u>8,641,143</u>
End of year	<u>\$ 12,487,711</u>	<u>\$ 1,730,963</u>	<u>\$ 14,218,674</u>	<u>\$ 11,587,605</u>

See accompanying notes to financial statements.

**ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION  
OF THE SUPREME COURT OF ILLINOIS**

**STATEMENTS OF CASH FLOWS**

YEARS ENDED DECEMBER 31, 2009 AND 2008

	<u>2009</u>	<u>2008</u>
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Change in net assets	\$ 2,631,069	\$ 2,946,462
Adjustments to reconcile change in net assets to net cash provided by (used in) operating activities		
Net unrealized loss on investments	136,563	41,722
Depreciation and amortization expense	186,105	170,149
(Increase) decrease in assets		
Accounts receivable and accrued interest receivable	6,906	54,186
Prepaid expenses	(3,888)	7,045
Increase (decrease) in liabilities		
Accounts payable and other accruals	18,256	(2,553)
Amounts held for others	480,976	101,008
Accrued vacation	21,461	27,182
Deferred registration and program fees	844,448	367,712
Deposits	(4,184)	14
Net postretirement benefit obligation	21,574	62,648
Deferred rent expense	(223,037)	(26,786)
Net cash provided by operating activities	<u>4,116,249</u>	<u>3,748,789</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Purchases of investment securities	(36,439,136)	(21,197,438)
Maturities of investment securities	33,445,347	18,028,131
Purchases of property and equipment	(590,355)	(644,955)
Net cash (used in) investing activities	<u>(3,584,144)</u>	<u>(3,814,262)</u>
<b>CHANGE IN CASH AND CASH EQUIVALENTS</b>	532,105	(65,473)
<b>CASH AND CASH EQUIVALENTS - net of cash overdrafts</b>		
Beginning of year	<u>545,280</u>	<u>610,753</u>
End of year	<u>\$ 1,077,385</u>	<u>\$ 545,280</u>

See accompanying notes to financial statements.



**ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION  
OF THE SUPREME COURT OF ILLINOIS**

**NOTES TO FINANCIAL STATEMENTS**

DECEMBER 31, 2009 AND 2008

**NOTE 1. GENERAL PURPOSE DESCRIPTION**

The Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois (Commission) was created by the Illinois Supreme Court (Court) under Rules 751 through 756 of the Court effective February 1, 1973, and subsequent additional rules and amendments. The Commission and the Office of the Administrator (Administrator) maintain the Master Roll of Attorneys, and investigate and prosecute claims against Illinois attorneys whose conduct might tend to defeat the administration of justice or bring the Court or the legal profession into disrepute, and collect and administer the Disciplinary Fund and collect and remit funds due to other entities as provided in Rules 751 and 756.

Recent amendments to those rules and additional significant rules of the Court impacting the Commission's operations are as follows:

- Rule 756(a), as amended, sets the annual registration and program fees for active lawyers licensed to practice law for three years or more at \$289, and the annual registration fees for active lawyers licensed to practice between one and three years and inactive lawyers at \$105. The charge for late payment of annual registration fees is \$25 per month for every month that fees are delinquent. The Rule requires that the Commission, as part of the annual \$289 fee, collect and remit the following amounts to the following other Supreme Court entities that are not administered by the Commission: \$42 to the Lawyers Trust Fund, \$10 to the Supreme Court Commission on Professionalism, and \$7 to the Lawyers Assistance Program Fund.
- Rule 780(b) provides for the establishment of the Client Protection Program ("Program") and set forth that the purpose of the Program "is to promote public confidence in the administration of justice and the integrity of the legal profession by reimbursing losses caused by the dishonest conduct" of Illinois lawyers who have been disciplined. Since the Program's inception, the Commission has administered the Client Protection Program and has maintained a separate Client Protection Fund account. Amended Rule 756 provides that \$25 of the \$289 registration fee be set aside for the Client Protection Program to fund awards made by the Client Protection Program. Prior to the Rule 756 amendment, the Commission funded payment of awards by making an annual allocation from the Disciplinary Fund. The Commission includes in its general budget allocations for administrative expenses of the Program to be paid from the Disciplinary Fund. The Program reimburses the Commission for the cost of administering the Program.

**NOTE 1. GENERAL PURPOSE DESCRIPTION (CONTINUED)**

- Rule 756(f) provides that as part of the annual registration process, lawyers must provide information about voluntary hours and money contributed to *pro bono* legal services. Lawyers who do not provide the information will be deemed not to be registered until they do. Pursuant to an amendment to Supreme Court Rule 766, the information about voluntary *pro bono* contributions is deemed confidential and is to be reported publicly only in the aggregate.

**NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

**Basis of Accounting** - The financial statements of the Commission have been prepared on the accrual basis of accounting.

**Basis of Presentation** - In order to conform to provisions of generally accepted accounting principles, the Commission, as a not-for-profit entity, is required to report information regarding its financial position and activities in three classes of net assets: unrestricted net assets, temporarily restricted net assets and permanently restricted net assets. The Commission does not have any temporarily restricted or permanently restricted net assets.

A breakdown by program in the statement of activities is provided for 2009 only and is for additional analysis purposes only. The net assets of the Commission's programs, both individually and in total, are considered to be unrestricted.

**Cash and Cash Equivalents** - For purposes of the statement of cash flows, cash and cash equivalents include all deposits in checking and savings accounts.

**Accounts Receivable - Cost Reimbursements and Client Protection Program**

**Reimbursements** - The Commission fully reserves reimbursements owed by attorneys under its Cost Reimbursement Program and the Client Protection Program. Whether the Commission can fully collect all reimbursements is dependent upon each identified attorney's ability to pay and the current economic environment. Therefore, the Commission records these reimbursements as revenue under the cost recovery method when the reimbursements are received.

**Property and Equipment** - Property and equipment are stated at cost. Major additions are capitalized while replacements, maintenance and repairs which do not improve or extend the lives of the respective assets are expensed currently. Depreciation and amortization are provided over the estimated useful lives of the assets or asset groups, based on the straight-line method. Upon disposal of assets, gains or losses are included in income. Leasehold improvements are amortized over the shorter of their estimated useful lives or the remaining lease period.

**NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)**

The estimated useful lives of the property and equipment are as follows:

	<u>Years</u>
Computer and related equipment	3 - 10
Office furniture and equipment	5 - 13
Library	7
Leasehold improvements	7 - 15

**Investments** - The investments of the Commission are reported at fair value. The fair value of a financial instrument is the amount that would be received to sell that asset (or paid to transfer a liability) in an orderly transaction between market participants at the measurement date (the exit price).

U.S. Government obligations are traded in active markets on national securities exchanges and are valued at closing prices on the last business day of each period presented.

U.S. bank certificates and money market funds are valued at cost which approximates fair value due to their liquid or short-term nature.

**New Accounting Pronouncement** - During 2009, the Financial Accounting Standards Board (FASB) established the FASB Accounting Standards Codification as the official source of authoritative generally accepted accounting principles (GAAP.) The Codification, which changes the referencing of financial standards, supersedes current authoritative guidance and is effective for financial periods ending after September 15, 2009. The Codification is not intended to alter existing GAAP and it is not expected to result in any changes in accounting practice for the Commission.

**Amounts Held for Others** - Amounts held for others at December 31, 2009 and 2008 consist of funds collected for the Lawyers Assistance Program Fund of \$234,712 and \$177,646, the Lawyers Trust Fund of \$1,408,485 and \$1,066,100, and the Supreme Court Commission on Professionalism of \$335,325 and \$253,800 respectively, which were remitted subsequent to year end.

**Deferred Registration and Program Fees** - The Commission is funded by an annual registration fee assessed on Illinois attorneys which includes a \$25 fee for the Client Protection Program. The annual fee for the subsequent year is billed before November 1 and is due January 1. Deferred registration and program fees represent the fees for next year received in the current year.

## **NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)**

**Deposits** - Portions of these funds are the reinstatement deposits that accompany the petition of any attorney who is filing for reinstatement under Rule 767. The amount the attorney actually owes is assessed at the conclusion of the proceedings. Reinstatement deposits held at December 31, 2009 and 2008 were \$5,658 and \$8,500 respectively. The remaining deposits consist of funds owed by any attorney, who has been the subject of a disciplinary proceeding or who is in receivership, to the attorney's former clients who have not been located. At December 31, 2009 and 2008, the amounts held were \$1,823 and \$3,165 respectively.

**Deferred Rent Expense** - Deferred rent expense consists of a combination of "free rent" and past and future lease incentive payments from the landlord. The Commission is recognizing operating lease expense on the straight-line basis over the term of the lease.

**Income Taxes** - The Internal Revenue Service has determined that the Commission is exempt from Federal income taxes as an instrumentality of the State of Illinois.

**Use of Estimates** - The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires the Commission to make estimates and assumptions that affect certain reported amounts and disclosures in the financial statements. Actual results may differ from those estimates.

**Functional Allocation of Expenses** - The Commission has allocated certain administrative expenses, such as salary costs, among the various programs benefited. These allocations have been based on management's estimate of time incurred on these programs or other reasonable and consistent methodologies (See Note 4).

**Subsequent Events** - Subsequent events have been evaluated through April 16, 2010, which is the date the financial statements were available to be issued.

**Reclassifications** - Certain prior year amounts have been reclassified to conform to the current year presentation.

## **NOTE 3. COST REIMBURSEMENTS**

The Commission receives cost reimbursements for investigative and disciplinary costs from disciplined attorneys. Cost reimbursements are billed at the time that discipline is imposed by the Court. Such billings may not reflect the total costs or match the period in which the investigative disciplinary costs were incurred. The Commission is limited to \$1,000 in cost reimbursements for each discipline case, absent exceptional circumstances. During the years ended December 31, 2009 and 2008, the Commission regularly sought entry of judgments by the Court. Interest accrues upon the unsatisfied portions of those judgments at a rate of 9% per annum, from the date of judgment until satisfied, as provided by 735 ILCS 5/2-1303. The Commission has also established payment plans for disciplined attorneys.

**NOTE 4. FUNCTIONAL EXPENSES BY NATURAL CLASSIFICATION**

An analysis of the Commission's functional expenses, by natural classification, is as follows for the years ended December 31, 2009 and 2008:

	2009			
	Program			
	Registration and <u>Discipline</u>	Client <u>Protection</u>	Administration and <u>Support</u>	<u>Total</u>
Salaries and related expenses	\$ 8,463,512	\$ 206,667	\$ 1,422,466	\$ 10,092,645
Travel expenses	87,192	478	24,635	112,305
Library and continuing education	191,153	3,995	43,367	238,515
General expenses and office support	1,420,454	17,248	303,450	-
Computer expenses	190,641	3,984	43,250	237,875
Other professional and case-related expenses	745,052	3,546	40,705	789,303
Client Protection Program direct expenses:				
Awards	-	1,091,473	-	1,091,473
Administrative	-	14,870	-	14,870
Administrative expense reimbursement to Registration and Discipline	-	-	249,996	249,996
Depreciation and amortization expense	149,150	3,117	33,838	186,105
Total expenses	<u>\$ 11,247,154</u>	<u>\$ 1,345,378</u>	<u>\$ 2,161,707</u>	<u>\$ 14,754,239</u>

**NOTE 4. FUNCTIONAL EXPENSES BY NATURAL CLASSIFICATION (CONTINUED)**

	2008			
	Program			Total
	Registration and Discipline	Client Protection	Administration and Support	
Salaries and related expenses	\$ 7,942,534	\$ 197,805	\$ 1,443,529	\$ 9,583,868
Travel expenses	94,497	410	24,710	119,617
Library and continuing education	205,211	4,180	48,617	258,008
General expenses and office support	1,606,530	28,020	354,132	1,988,682
Computer expenses	179,081	3,647	42,426	225,154
Other professional and case-related expenses	809,034	2,152	88,016	899,202
Client Protection Program direct expenses:				
Awards	-	1,029,220	-	1,029,220
Bank fees	-	4,372	-	4,372
Administrative expense reimbursement to Registration and Discipline	-	-	238,970	238,970
Depreciation and amortization expense	135,332	2,756	32,061	170,149
Total expenses	<u>\$ 10,972,219</u>	<u>\$ 1,272,562</u>	<u>\$ 2,272,461</u>	<u>\$ 14,517,242</u>

**NOTE 5. INVESTMENTS**

The following summary presents fair value for each of the investment categories.

	<u>2009</u>	<u>2008</u>
U.S. Treasury notes and bills	\$ 9,433,386	\$ 10,589,501
U.S. bank certificates	10,141,000	9,148,000
Money market funds	10,432,284	7,411,943
Total	<u>\$ 30,006,670</u>	<u>\$ 27,149,444</u>

**NOTE 5. INVESTMENTS (CONTINUED)**

The following table breaks down the maturities of securities held as of December 31, 2009 and 2008:

	<u>2009</u>	<u>2008</u>
Short-term investments	\$ 28,303,641	\$ 25,114,984
Long-term investments	<u>1,703,029</u>	<u>2,034,460</u>
Total	<u>\$ 30,006,670</u>	<u>\$ 27,149,444</u>

Short-term investments are readily liquid investments that mature within one year. Long-term investments are holdings with maturities in excess of one year.

**NOTE 6. FAIR VALUE MEASUREMENTS**

The Commission is subject to the requirements of the *Fair Value Measurements and Disclosures* Topic of the FASB Accounting Standards Codification, which established a fair value hierarchy that prioritizes the used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1 measurements) and the lowest priority to unobservable inputs (Level 3 measurements). The three levels of the fair value hierarchy are described below:

**Basis of Fair Value Measurement**

- Level 1      Unadjusted quoted prices in active markets that are accessible at the measurement date for identical, unrestricted assets or liabilities
  
- Level 2      Quoted prices in markets that are not considered to be active or financial instruments for which all significant inputs are observable, either directly or indirectly
  
- Level 3      Prices or valuations that require inputs that are both significant to the fair value measurement and unobservable

**NOTE 6. FAIR VALUE MEASUREMENTS (CONTINUED)**

The following tables set forth, by level within the fair value hierarchy, the Commission's investment assets at fair value as of December 31, 2009 and 2008. As required, assets and liabilities are classified in their entirety based on the lowest level of input that is significant to the fair value measurement. The Commission did not own any assets that required measurement using Level 3 inputs as of December 31, 2009 and 2008.

<u>Fair Value Measurements at 12/31/09 Using</u>				
	<u>Total</u>	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
U.S. Treasury notes and bills	\$ 9,433,386	\$ 9,433,386	\$ -	\$ -
U.S. bank certificates	10,141,000	-	10,141,000	-
Money market funds	<u>2,033,422</u>	<u>-</u>	<u>2,033,422</u>	<u>-</u>
Total	<u>\$ 21,607,808</u>	<u>\$ 9,433,386</u>	<u>\$ 12,174,422</u>	<u>\$ -</u>

<u>Fair Value Measurements at 12/31/08 Using</u>				
	<u>Total</u>	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
U.S. Treasury notes and bills	\$ 10,589,501	\$ 10,589,501	\$ -	\$ -
U.S. bank certificates	9,148,000	-	9,148,000	-
Money market funds	<u>6,797,815</u>	<u>-</u>	<u>6,797,815</u>	<u>-</u>
Total	<u>\$ 26,535,316</u>	<u>\$ 10,589,501</u>	<u>\$ 15,945,815</u>	<u>\$ -</u>



## NOTE 7. PROPERTY AND EQUIPMENT

Property and equipment at December 31, 2009 and 2008 consist of the following:

	<u>2009</u>	<u>2008</u>
Office furniture and equipment	\$ 1,308,133	\$ 1,292,982
Computer and related equipment	1,976,706	1,441,205
Library	94,957	88,888
Leasehold improvements	<u>427,661</u>	<u>427,075</u>
	3,807,457	3,250,150
Less accumulated depreciation and amortization	<u>(2,158,173)</u>	<u>(2,005,116)</u>
Property and equipment - net	<u>\$ 1,649,284</u>	<u>\$ 1,245,034</u>

## NOTE 8. LEASE COMMITMENTS

The Commission leases its Chicago and Springfield offices under operating lease agreements. The Chicago office lease expires in May 2015. This lease provides for a minimum annual base rent plus related taxes and operating expenses. In addition, the lease provided 32 months “free rent” with the first rent payment made on January 1, 1996. Under the terms of an amendment, base rent was reduced from December 2003 through May 2008, and the landlord provided certain rent concessions, a portion of which was applied in early 2009, with the remaining portion available for use in 2010.

The Springfield office lease, which began in November 2002, has a term of 10 years and provides for a minimum annual rent. The lease gives the Commission the option to renew the lease for another five-year period. Under the terms of an amendment effective November 2007, additional storage space was leased, with increased payments for the remaining life of the original lease.

Rent expense under all lease agreements was \$981,015 in 2009 and \$1,272,871 in 2008.

**NOTE 8. LEASE COMMITMENTS (CONTINUED)**

Future minimum lease payments, including the estimated liability for taxes and operating expenses, relating to lease agreements in excess of one year are:

	<u>Springfield</u>	<u>Chicago</u>	<u>Total</u>
Year ending December 31,			
2010	\$ 92,767	\$ 1,241,999	\$ 1,334,766
2011	93,055	1,418,822	1,511,877
2012	78,748	1,463,062	1,541,810
2013	-	1,508,889	1,508,889
2014	-	1,556,141	1,556,141
Remaining	-	665,496	665,496
	<u>\$ 264,570</u>	<u>\$ 7,854,409</u>	<u>\$ 8,118,979</u>

**NOTE 9. POSTRETIREMENT BENEFIT OBLIGATION**

On August 9, 1985, the Commission formed a trust to replace the Medicare coverage lost by its employees when the Social Security Administration ruled that Commission employees were ineligible for benefits.

The Commission committed to pay the future cost of Medicare premiums for former employees who were employed by the Commission and met certain criteria before March 31, 1986. Furthermore, the Commission agreed to pay eligible former employees' reimbursement credits for supplemental medical and hospitalization insurance coverage beginning at age 65. Therefore, the Commission records a liability associated with its employees' lost Medicare coverage and supplemental health benefits for retirees.

The following sets forth information with respect to this benefit obligation as of and for the years ended December 31, 2009 and 2008. The benefit obligation for the year ended December 31, 2009 was actuarially determined by Watson Wyatt Worldwide. Because there were no significant changes in the underlying data, coverage provisions or assumptions, the benefit obligation at December 31, 2008 was estimated by the Commission based on the 2007 actuarial valuation.

	<u>2009</u>	<u>2008</u>
Accumulated benefit obligation at end of year	\$ 2,501,100	\$ 2,345,259
Fair value of Trust assets	<u>1,855,549</u>	<u>1,721,282</u>
Total net postretirement benefit obligation	<u>\$ (645,551)</u>	<u>\$ (623,977)</u>

**NOTE 9. POSTRETIREMENT BENEFIT OBLIGATION (CONTINUED)**

Net periodic benefit costs for 2009 and 2008 are comprised of the following:

	<u>2009</u>	<u>2008</u>
Service cost	\$ 87,798	\$ 73,132
Interest cost	102,983	121,994
Actual return on plan assets	26,761	(62,231)
Benefits paid	(11,992)	(9,900)
Amortization	<u>(63,596)</u>	<u>22,589</u>
Net periodic benefit cost	<u>\$ 141,954</u>	<u>\$ 145,584</u>

The latest key assumptions utilized by the consulting actuary are as follows:

Actuarial cost method	Projected unit credit method
Actuarial assumptions	Mortality - RP-2000 projected to 2009 Discount rate - 6% for 2009; 6.25% for 2008 Retirement will occur between ages 55 and 65 Medical trend ultimate - 4.5%

Assumed health care cost trend rates have a significant effect on the amounts reported for health care benefits. The effect of a 1% increase in health care cost trend rates (medical trend ultimate) would be an increase of \$40,600 on total service cost and interest cost components and an increase of \$411,300 on the postretirement benefit obligation.

The liability will increase or decrease in future years due to changes in eligible employees, benefits paid, and possible changes in assumptions based on experience factors and applicable discount rates.

**NOTE 9. POSTRETIREMENT BENEFIT OBLIGATION (CONTINUED)**

The Commission maintains investments in a separate account for the Medicare replacement reserve. The assets at fair value as of December 31, 2009 and 2008 are as follows:

	<u>2009</u>	<u>2008</u>
U.S. Treasury notes and bills	\$ 860,154	\$ 854,107
U.S. bank certificates	781,000	846,000
Money market funds	204,621	9,621
Accrued interest receivable	<u>9,774</u>	<u>11,554</u>
	<u>\$ 1,855,549</u>	<u>\$ 1,721,282</u>

The assets are invested in a conservative manner necessary to meet expected future benefits earned, to maintain an investment portfolio that minimizes risk through prudent asset allocation parameters, and to achieve asset returns that are competitive with like institutions employing similar investment strategies.

The Commission expects to contribute \$117,680 to the Medicare replacement reserve in 2010.

Actuarially determined net benefit payments for each of the next five years and the five years thereafter are as follows:

2010	\$ 27,349
2011	28,849
2012	29,313
2013	41,978
2014	45,248
2015 - 2019	<u>350,143</u>
	<u>\$ 522,880</u>

#### **NOTE 11. EMPLOYEE BENEFIT PLANS**

The Commission maintains a defined contribution retirement plan and trust for the benefit of all eligible employees. The Commission provides enhanced retirement plan contributions due to the Social Security Administration ruling that Commission employees are not eligible for benefits. Employee contributions are not permitted under the plan's provisions. The Commission contributes 18% of compensation for eligible employees, which totaled \$1,267,161 in 2009 and \$1,249,876 in 2008. The Commission also pays the plan's administrative expenses, which totaled \$101,296 in 2009 and \$96,200 in 2008.

The Commission also maintains a Section 457 savings plan which is entirely funded by voluntary pre-tax employee contributions. The Commission paid the savings plan's administrative expenses, which totaled \$3,496 in 2009 and \$3,766 in 2008.

#### **NOTE 12. LITIGATION**

Various complaints and actions are periodically filed against the Commission. At December 31, 2009, the Commission believes that pending matters do not present any serious prospect for negative financial consequences.